Planning and Environment Act 1987

Panel Report

Cardinia Planning Scheme Amendment C234
Pakenham East Precinct Structure Plan

10 September 2018

VICTORIA State Government | Planning Panels Victoria

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Cardinia Planning Scheme Amendment C234

Pakenham East Precinct Structure Plan

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Michael Ballock, Chair

Tanya Burdett, Member

John Hartigan, Member

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List of Abbreviations

Act	*Planning and Environment Act 1987*
Amendment	Cardinia Planning Scheme Amendment C234
CFA	Country Fire Authority
DDO	Design and Development Overlay
DEDJTR	Department of Economic Development, Jobs, Transport and Resources
DELWP	Department of Environment, Land, Water and Planning
DET	Department of Education and Training
DTPLI	Department of Transport, Planning and Local Infrastructure (former)
EPA	Environment Protection Authority
EVC	Ecological Vegetation Class
FO	Floodway Overlay
FUS	Future Urban Structure Plan
GCP	Growth Corridor Plans

GRZ	General Residential Zone
GWMP	Green Wedge Management Plan
ICP	Infrastructure Contributions Plan
ICO	Infrastructure Contributions Plan Overlay
IPO	Incorporated Plan Overlay
LCC	Local Convenience Centre
LPPF	Local Planning Policy Framework
LTC	Local Town Centre
MSS	Municipal Strategic Statement
NRZ	Neighbourhood Residential Zone
NVPP	Native Vegetation Precinct Plan
Pakenham East	Pakenham East Precinct Structure Plan area
PIP	Precinct Infrastructure Plan
PLC Act	*Planning and Environment Amendment (Public Land Contributions) Act 2018*
PSP	Precinct Structure Plan
RCZ	Rural Conservation Zone
RGZ	Residential Growth Zone
SPPF	State Planning Policy Framework
SUZ	Special Use Zone
TfV	Transport for Victoria
UFZ	Urban Floodway Zone
UGB	Urban Growth Boundary
UGZ	Urban Growth Zone
VPO	Vegetation Protection Overlay
VPA	Victorian Planning Authority
VPP	Victoria Planning Provisions

Overview

Amendment summary	
The Amendment	Cardinia Planning Scheme Amendment C234
Common name	Pakenham East Precinct Structure Plan
Brief description	The Amendment incorporates three new documents into the Cardinia Planning Scheme titled *Pakenham East Precinct Structure Plan 2017*, the *Pakenham East Native Vegetation Precinct Plan 2017* and the *Small Lot Housing Code 2014*. The Amendment also rezones the majority of land to Urban Growth Zone Schedule 5 to facilitate the development of the land generally in accordance with the Precinct Structure Plan and makes a number of other consequential changes to support the implementation of the Precinct Structure Plan.
Subject land	The Amendment applies to approximately 630 hectares of land generally bound by Deep Creek and Ryan Road to the west, Mount Ararat Road to the east and the Princes Freeway to the south.
The Proponent	The Victorian Planning Authority
Planning Authority	The Victorian Planning Authority
Exhibition	15 January to 23 February 2018
Submissions	Number of Submissions: 75 Resolved: 19

Panel process	
The Panel	Michael Ballock (Chair), Tanya Burdett, John Hartigan
Directions Hearing	30 April 2018, Victorian Planning Authority
Panel Hearing	30 May 2018, Victorian Planning Authority 31 May to 1 June 2018, Cardinia Shire offices 25 June to 3 July 2018, Planning Panels Victoria.
Site inspections	Unaccompanied, 25 May 2018
Appearances	Refer to Appendix B
Citation	Cardinia PSA C234 [2018] PPV
Date of this Report	10 September 2018

Executive summary

(i) Summary

Cardinia Planning Scheme Amendment C234 seeks to incorporate the Pakenham East Precinct Structure Plan and Native Vegetation Precinct Plan into the Cardinia Planning Scheme. In addition, the Amendment proposes to make a number of consequential changes to the planning scheme including:

- removing most of the existing zones and overlays affecting the land
- applying the Urban Growth Zone to most of the area covered by the PSP
- replacing the Floodway Overlay with the Land Subject to Inundation Overlay.

The area covered by the Pakenham East Precinct Structure Plan includes approximately 630 hectares of land located adjacent to the Urban Growth Zone in Melbourne's south-east.

The Pakenham East forms the eastern extent of the South-East Growth Corridor, extending along the northern boundary of the Princes Freeway east of the main centre of Pakenham. Pakenham East is expected to provide for over 7,100 dwellings supporting between 20,000 and 22,200 residents.

The Precinct Structure Plan is a long-term plan for the future urban development of the land. It includes a Precinct Infrastructure Plan, which details what is to be included within the Infrastructure Contributions Plan.

Following the exhibition of the Amendment and during the Panel Hearing process, the Victorian Planning Authority worked with submitters, landowners, government agencies and Cardinia Shire Council to resolve issues raised in submissions. This process resulted in the Victorian Planning Authority proposing a number of changes to the exhibited documents which were detailed in the *List of Changes – Precinct Structure Plan 4 July 2018* and *List of Changes – Ordinance and NVPP 4 July 2018*. However, some issues remained unresolved.

The key unresolved issues related to:

- the items included in the Precinct Infrastructure Plan which would be funded through the Infrastructure Contributions Plan
- the Future Urban Structure Plan in the PSP and the alternative proposed by Parklea which had an interest in substantial land holdings in the area
- the width of the drainage reserves along Deep Creek and Hancocks Gully
- the predicted traffic generated by the development of Pakenham East and the impacts on Ryan Road and the intersections with the Princes Highway.

Other issues related to the application of the Heritage Overlay, the vegetation identified for retention by the Native Vegetation Precinct Plan, lot sizes in interface areas, the collector road network, the extent of road infrastructure allowable within the gas pipeline easements, a proposed access road through Hilltop Park, bushfire management and the acquisition of school sites.

The Panel concludes that the Precinct Infrastructure Plan as exhibited, with the correction of an omission, is appropriate and subject to the more detailed recommendations in this report, no further changes are required.

The Panel is satisfied that the exhibited Future Urban Structure Plan is consistent with the role for Pakenham East envisaged in policy and with the Precinct Structure Planning Guidelines. The Panel does not accept that the alternative proposed by Parklea would deliver a better outcome.

The Panel considers that the matter of drainage reserve widths is one of detail that is best resolved at a later stage. However, the Precinct Structure Plan should provide the flexibility to enable consideration of alternative, detailed drainage proposals.

The Panel acknowledges that the development of the Pakenham East will substantially increase traffic volumes on existing roads. While the experts failed to agree on the appropriate design of the intersections with the Princes Highway, the Panel considers that this is a matter of detail that will ultimately be determined by VicRoads.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Cardinia Planning Scheme Amendment C234 be adopted as exhibited subject to the following:

1. **Adopt the changes to the exhibited documents proposed in the *List of Changes – Precinct Structure Plan 4 July 2018* submitted as Document 137 and in the *List of Changes – Ordinance and NVPP 4 July 2018* submitted as Document 136 by the Victorian Planning Authority where matters are not specifically addressed by other recommendations of this Report.**

2. **Review the provisions and schedules of the Amendment to ensure they are consistent with the changes to the planning scheme introduced by Amendment VC148 prior to the finalisation of the Amendment.**

3. **Amend Plan 7 – Road Network Plan of the Pakenham East Precinct Structure Plan by changing the classification of the extension of connector street B north of the Princes Highway from local access street level 2 to connector street.**

4. **Amend item IN-01 in Table 8 of the Pakenham East Precinct Structure Plan to change the description to purchase of land (Ultimate treatment) and construction of a primary arterial to connector road T-intersection (interim treatment). The figures updated in column Ultimate land from 50 per cent to 100 per cent and in column Interim construction from 50 per cent to 100 per cent for the construction of a T-intersection.**

5. **Amend the Note to Plan 9 – Integrated Water Management of the Pakenham East Precinct Structure Plan by adding the words:**

   In relation to the Ryan Road drainage scheme the width of the waterway/drainage assets east of Deep Creek must be a minimum of 50 metres and a maximum of 100 metres from the eastern top bank of Deep Creek.

6. **Amend Plan 9 – Integrated Water Management of the Pakenham East Precinct Structure Plan to show the overland flood flow path as determined by Melbourne Water.**

7. **Replace the Floodway Overlay over Deep Creek with the Land Subject to Inundation Overlay.**
8. **Replace the Rural Conservation Zone Schedule 2 with the Urban Growth Zone Schedule 5.**
9. **Delete the Incorporated Plan Overlay Schedule 2.**
10. **Update the Native Vegetation Precinct Plan prior to the finalisation of the Amendment to:**
    a) **accord with the changes affected by VC138**
    b) **include a requirement that where possible offsets are to be created in Cardinia Shire to the satisfaction of the Responsible Authority and subject to the approval of the Department of Environment, Land, Water and Planning**
    c) **review the status and health of trees identified to be retained.**
11. **Clarify the reference to primary school in requirement R51 of the Pakenham East Precinct Structure Plan.**
12. **Replace requirement R79 with the following:**

    Where a local access street is determined to be required to cross a waterway, including where shown on Plan 7, the proponent must construct local access street culverts to the satisfaction of the responsible authority.
13. **Amend Plan 3 – Future Urban Structure of the Pakenham East Precinct Structure Plan by adding a diagram as shown in Figure 7 of this report.**
14. **Replace the fifth dot point of the Pakenham East Precinct Structure Plan requirement R7 with the following:**

    No more than 2.0 metres in overall height for a staggered retaining wall to avoid unreasonable overshadowing of secluded private open space and habitable room windows.
15. **Amend Table 4 of the Pakenham East Precinct Structure Plan to reduce the shop floorspace of the Local Convenience Centre from 4,100 square metres to 3,500 square metres.**
16. **Amend the reference in the Pakenham East Precinct Structure Plan requirements R22 and R33 from 4,100 square metres to 3,500 square metres.**
17. **Replace the exhibited Urban Growth Zone Schedule 5 with the Panel Preferred version shown in Appendix D.**

1 Introduction

1.1 The Amendment

(i) Amendment description

Cardinia Planning Scheme Amendment C234 (the Amendment) as exhibited proposes to incorporate the Pakenham East Precinct Structure Plan (the PSP) and the Pakenham East Native Vegetation Precinct Plan (NVPP) into the Cardinia Planning Scheme. The Amendment also rezones the majority of land to Urban Growth Zone Schedule 5 (UGZ5) to facilitate the development of the land generally in accordance with the PSP and makes a number of other consequential changes to the Cardinia Planning Scheme to support the implementation of the PSP.

More specifically, the Amendment makes the following changes to the Cardinia Planning Scheme:

- Introduce Schedule 5 to Clause 37.07 (UGZ5) and rezone the majority of the land within the Pakenham East Precinct Structure Plan area (Pakenham East) to UGZ5. This Schedule includes controls to facilitate land use and development generally in accordance with the PSP. [You have used precinct with capitals elsewhere]
- Introduce Schedule 8 to Clause 37.01 Special Use Zone (SUZ8) and rezone land within the transmission line easement to SUZ8 generally in accordance with the PSP.
- Rezone land within the Amendment area and within 50 - 100 metres of the midline of Deep Creek to Rural Conservation Zone Schedule 2 (RCZ2).
- Introduce Clause 32.07 Residential Growth Zone (RGZ). This will allow the use and development controls in the RGZ to be applied to Pakenham East via the UGZ5.
- Amend the Schedule to Clause 43.01 Heritage Overlay to insert HO275, HO276 and HO277 and apply heritage controls to the following heritage places identified in the East Pakenham Precinct Post Contact Heritage Assessment, October 2017:
  - HO275 - 'Carinya', 32 Mount Ararat South Road, Nar Nar Goon
  - HO276 - 140 Ryan Rd, Pakenham
  - HO277 - *Pyrus communis* (Pear Tree), 40 Dore Road, Pakenham
- Introduce Schedule 2 to 43.03 Incorporated Plan Overlay (IPO2) and apply the IPO2 to land rezoned RCZ2 as part of this Amendment. The IPO2 requires that use and development within the RCZ2 is carried out generally in accordance with the PSP.
- Delete the Environmental Significance Overlay Schedule 1 (ESO1) from land within the Amendment area.
- Delete the Design and Development Overlay Schedule 1 (DDO1) from land within the Amendment area.
- Delete the Vegetation Protection Overlay Schedule 1 (VPO1) from land within the Amendment area.
- Amend the Schedule to Clause 52.16 to include reference to the Pakenham East NVPP.
- Amend the Schedule to 61.03 to update the planning scheme maps.

- Amend the Schedule to Clause 66.04 to require referrals for planning permit applications within the Pakenham East Local Town Centre (LTC) to the Victorian Planning Authority.
- Amend the Schedule to Clause 66.06 to require notice to be given to the licensee for certain uses within the gas pipeline measurement lengths within the Amendment area.
- Amend the Schedule to Clause 81.01 to include three new Incorporated documents titled:
  - Pakenham East Precinct Structure Plan, December 2017
  - Pakenham East NVPP, December 2017
  - *Small Lot Housing Code, August 2014*.

In response to submissions the Victorian Planning Authority (VPA) proposed changes to the exhibited documents. Where appropriate, these changes are discussed in detail in this report.

(ii) The subject site

The Amendment applies to approximately 630 hectares of land generally bound by Deep Creek and Ryan Road to the west, Mount Ararat Road to the east and the Princes Freeway to the south, as shown in Figure 1.

Figure 1 The subject site (Pakenham East Precinct Structure Plan – Plan 3 - Future Urban Structure Plan)

1.2 Panel process

The Amendment was prepared by the VPA as Planning Authority and applies to Pakenham East. As exhibited it proposes to:

- incorporate the PSP into the Cardinia Planning Scheme
- rezone the majority of land to UGZ5
- make a number of other consequential changes to the planning scheme to support the implementation of the PSP.

The Amendment was on public exhibition between 15 January and 23 February 2018, with 74 submissions received, most requesting changes to the Amendment. The VPA referred submissions raising unresolved issues to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 6 April 2018 and comprised Michael Ballock (Chair), Tanya Burdett and John Hartigan.

A Directions Hearing was held on 30 April 2018. The Panel directed that conclaves of experts on drainage matters and traffic and transport be held before the Hearing.

Following the Directions Hearing, the Panel undertook an inspection of the subject site and its surrounds.

The Panel met in the offices of the VPA, Cardinia Shire Council and Planning Panels Victoria from 30 May to 1 June and 25 June to 3 July 2018 to hear submissions about the Amendment. Those in attendance at the Hearings are listed in Appendix B.

On 4 June 2018 the Panel issued the following additional directions:

1. *The Victorian Planning Authority provide a copy of the Marshall Day Acoustics report dealing with Noise attenuation measures to be undertaken along Princes Freeway. This report must be circulated to all parties to the Hearing (as per the attached circulation list) no later than close of business on 2.00pm on Tuesday 12 June 2018*
2. *The Victorian Planning Authority should consult with VicRoads to establish agreed trip generation assumptions including:*
   - *standard density lots trip generation rates*
   - *medium density lots trip generation rates*
   - *the percentage of trips in the AM and PM peaks*
   - *the percentage reduction for internal trips.*

   This information must be circulated to all parties to the Hearing (as per the attached circulation list) no later than close of business on 2.00pm on Monday 18 June 2018
3. *LendLease Communities may call an expert on transport and traffic as part of its submission to the Hearing. The expert's report must be must be circulated to all parties to the Hearing (as per the attached circulation list) no later than close of business on 2.00pm on Tuesday 12 June 2018*

On 5 July 2018 the Panel issued the following further directions:

> *At the conclusion of the Hearing the VPA submitted a final list of changes proposed to the PSP. Parklea sought leave to respond to these changes on the basis that matters it thought resolved had changed.*
>
> *The Panel directed that Parklea could respond to those matters raised in the VPA list of PSP changes which it thought were resolved. The Panel directed that this opportunity should be given to all parties.*

The only matters to be addresses are those changes in the attached VPA list of changes to the PSP and only those matters believed to be resolved by the parties. This is not an opportunity to make further submissions but to respond to changes in the attached list.

Responses should be directed to PPV and the VPA and must be received by 4:00pm Monday 9 July 2018.

The VPA will be given the opportunity to reply to the responses received by the Panel by 4:00pm Wednesday 11 July 2018

(i) Revisions to the Amendment

The VPA proposed various changes to the Amendment in response to submissions and evidence. The VPA documented its final changes in the *List of Changes – Precinct Structure Plan 4 July 2018* (Document 137), the *List of Changes – Ordnance and NVPP 4 July 2018* (Document 136) and *Summary of Submissions 4 July 2018* (Document 138). These documents were circulated to all parties after the Hearing.

For the purposes of this report, the Panel refers to the exhibited version of the Amendment as the 'exhibited Amendment' and the VPA's final changes to the Amendment contained in the *List of Changes – Precinct Structure Plan 4 July 2018* as the 'Final List of PSP Changes' and the *List of Changes – Ordnance and NVPP 4 July 2018* as the 'Final Ordinance and NVPP'.

The Panel has used the 4 July 2018 version or the final Amendment as its starting point for considering unresolved submissions. These submissions are discussed in sections 3 and 4 of this report.

(ii) Statements of agreed opinions and facts

As part of the Panel process, the Panel directed that two expert conclaves be held in relation to:

- Traffic engineering (report dated 29 May 2018, Document 11)
- Drainage (report dated 24 May 2018, Document 14)

The outcomes of theses conclaves are discussed in the sections dealing with traffic and drainage issues.

1.3 Background to the proposal

The Urban Growth Boundary (UGB) designates the long-term limits of urban development and where non-urban values and land uses should prevail in Metropolitan Melbourne, as outlined by Plan Melbourne 2017-2050. The UGB first came into effect in 2002 in conjunction with the release of Melbourne 2030. The metropolitan strategy established a long-term plan for land within the UGB, including the intention to review the boundary at an appropriate time in the future.

In May 2011, the Minister for Planning announced a new process to help address the shortage of metropolitan land supply, known as the Growth Areas Logical Inclusions Review process. This identified land for investigation that had the potential to be included within the UGB which included land within Pakenham East.

On 13 September 2012, Amendment C190 was gazetted which expanded the UGB, rezoning land in the Cardinia, Casey, Hume, Melton, Mitchell, Whittlesea and Wyndham Planning Schemes. Amendment C190 sought to implement the high-level government policy to facilitate Melbourne's growth for the following 20 years, particularly through having 20 to 25 years' worth of land supply in growth areas for Melbourne. Plan Melbourne 2017-2050 and the Plan Melbourne Implementation Plan outlines a target of 1.6 million new homes and 1.5 million new jobs over the next 35 years, and sets a strategy for supporting jobs, housing and transport, while building on Melbourne's legacy of distinctiveness, livability and sustainability. Melbourne's Southern Region is anticipated to deliver 105,000 jobs by 2031 and 125,000 new homes in Greenfields areas up to 2051.

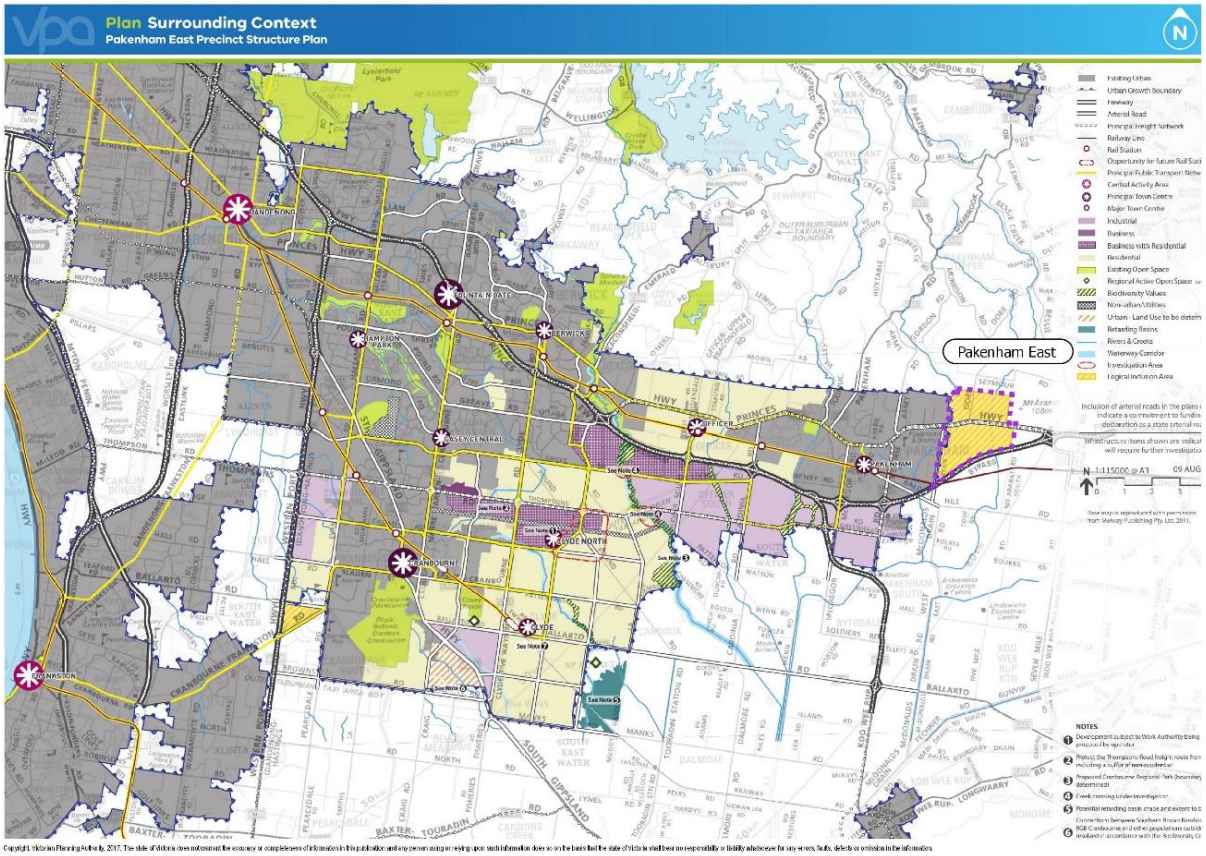

Figure 2: Plan of the Southeast Growth Corridor and Pakenham East Precinct

As the Pakenham East township/Precinct? (Figure 2) was included in the UGB after 2010, it does not benefit from the Melbourne Strategic Assessment that evaluated the impacts of the Victorian Government's urban development program for Melbourne on matters of national environmental significance (protected under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* - EPBC Act). Clause 52.16 of the Cardinia Planning Scheme therefore required the development of the NVPP. The NVPP has been prepared concurrently with the PSP. It identifies:

- native vegetation to be protected and the native vegetation that can be removed, destroyed or lopped without a planning permit
- the offsets that must be provided by landowners wishing to commence works prior to removing the native vegetation which can be removed.

The NVPP will be incorporated into the Cardinia Planning Scheme under Clause 81.01 (Incorporated documents) and is a separate document to the PSP.

The PSP includes a Precinct Infrastructure Plan (PIP), which details what is to be included within the Infrastructure Contributions Plan (ICP) and the essential infrastructure required to support development of Pakenham East. The ICP is a separate document which will be incorporated into the Cardinia Planning Scheme and implemented through Schedule 1 to Clause 45.10 of the Cardinia Planning Scheme. The ICP applies to the same land as the PSP. Table 8 - Precinct Infrastructure in the PSP identifies which infrastructure projects are to be funded through the ICP. The *Ministerial Direction on the Preparation and Content of Infrastructure Contribution Plans* (ICP Direction) establishes the allowable items to be funded through an ICP.

A new public land contribution regime was introduced in Victoria in February 2018 with the passing of the *Planning and Environment Amendment (Public Land Contributions) Act 2018* (PLC Act) by the Victorian Parliament. The PLC Act came into effect in July 2018 with a default commencement date of 1 September 2018 under section 2(2) of the PLC Act. This will replace the existing provisions of Part 3AB of the *Planning and Environment Act 1987* (the Act) with a regime that is intended to equally spread the cost of securing public land across an ICP area. The VPA advised that the ICP would be prepared in accordance with the new PLC Act.

The PSP is a long-term plan for future urban development of the site. It describes how the land is expected to be developed, and how and where services are planned to support development. The Plan provides a high-level structure to guide subsequent detailed planning and development and thus will be subject to further refinement through this process.

The PSP provides a guide for the delivery of an urban environment that will be a logical extension of the existing established residential areas adjacent to Pakenham East. The PSP and the Amendment to implement it enables the transition of 'urban identified' land to urban land giving effect to necessary applied zone provisions to allow development to occur in accordance with the Plan.

The VPA informed the Panel that it would finalise an ICP, based on the items that are detailed in the PIP. If a standard levy is applied the ICP and associated Infrastructure Contribution Overlay will be introduced to the scheme by the Minister via a 'section 20A Amendment' which is exempt from notice requirements but must involve consultation with the local authority.

1.4 Summary of issues raised in submissions

The key issues raised in the submissions of the various parties are briefly summarised as follows:

- the items included in the PIP and the distribution of the levies proposed to be collected by the ICP
- the final Future Urban Structure Plan and the appropriateness of the alternative proposed by Parklea Developments Pty Ltd (Parklea)
- the proposed width and use of the drainage reserves

- traffic generation and the design of intersections as well as the designation of the boulevard connector street and other road network matters.

Submissions also raised a number of specific Amendment issues related to:

- zones and overlays
- open space
- Hilltop Park
- the Native Vegetation Precinct Plan
- bushfire management
- the timing of acquisition of school sites
- Lot 37 access issues
- slope and topography
- gas pipeline easements
- lot sizes in Interface Areas
- Council's recommendations
- impacts on Nar Nar Goon.

1.5 Issues dealt with in this report

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

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

1.6 Final view of the Amendment

As with other PSP amendments, the VPA proposed comprehensive changes to the Amendment following its consideration of submissions and evidence, including changes that were refined and provided during, as well as, after the Hearing. These changes are documented in the Final List of PSP Changes and Final List of Ordinance and NVPP Changes. Both documents are dated 4 July 2018. A number of the changes, in response to submissions, contained in the Final List of Ordinance and NVPP Changes have been incorporated into the Panel Preferred UGZ5 (Appendix D).

The Panel has considered all the proposed changes to the exhibited Amendment in both lists. The Panel supports the changes where proposed in these lists with the exception of those matters where the Panel makes specific recommendations discussed in detail in this report.

1.7 Recommendation

The Panel makes the following recommendations:

1. **Adopt the changes to the exhibited documents proposed in the *List of Changes – Precinct Structure Plan 4 July 2018* submitted as Document 137 and in the *List of Changes – Ordinance and NVPP 4 July 2018* submitted as Document 136 by the**

Victorian Planning Authority where matters are not specifically addressed by other recommendations of this Report.

2 Planning context

The VPA provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed Council's response and the policy context of the Amendment and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

The Amendment was based on the planning scheme as it was at that time. The Panel notes that Amendment VC148 was gazetted on 31 July 2018 which has generated substantial change to the structure and content of policy in the scheme. The assessment by the Panel was undertaken using the planning scheme as it was before Amendment VC148.

(i) State Planning Policy Framework

The VPA submitted that the Amendment is supported by the following clauses in the SPPF:

- Clauses 11.01 Activity centres, 11.02 Urban growth, 11.03 Open space – The Amendment incorporates a PSP to direct how Pakenham East should accommodate residential growth and the relevant infrastructure to support this growth.
- Clause 12.01 Biodiversity – The Amendment will incorporate the NVPP into the planning scheme, which identifies vegetation to be protected (retained) or removed in the PSP area.
- Clause 13.03 Soil degradation, Clause 13.05 Bushfire – The Amendment ensures land that has been identified as potentially contaminated will require further investigation if proposed to be developed for a sensitive use. The response to bushfire risk in Pakenham East will be principally managed through the *Building Regulations 2006* at the time of house construction, however, the Amendment requires site management during subdivision development to minimise the potential spread of any bushfire. This will be implemented via a requirement incorporated into the UGZ5.
- Clause 15.01 Urban environment, Clause 15.02 Sustainable design, Clause 15.03 Heritage – The Amendment delivers a PSP that guides urban development so that it provides for a livable and diverse community that integrates and is well connected to existing and establishing communities.
- Clause 16.01 Integrated housing – New residents will have access to existing services and employment opportunities within the community and in the established Pakenham Township.
- Clause 17.01 Commercial – The Amendment provides for a new Local Town Centre (LTC) and new local convenience centre (LCC) providing essential services and potential employment opportunities for residents within Pakenham East.
- Clause 18.01 Land use and transport planning, 18.02 Movement networks – The precinct's road network will integrate with the existing and planned arterial road network. The proposed road network provides a robust structure for traffic and transport movement within and through Pakenham East, while being responsive to environmental and topographical constraints.

- Clause 19.02 Community infrastructure, 19.03 Development infrastructure – A comprehensive ICP will be implemented via a separate, subsequent amendment to the Cardinia Planning Scheme.

(ii) Local Planning Policy Framework

The VPA submitted that the Amendment supports the following local planning objectives:

- Clause 21.03 Settlement and Housing: Provides for a diversity of housing types and densities, including increased housing density around activity centres.
- Clause 21.04 Economic Development: Provides local employment opportunities to meet the needs of the local population.
- Clause 21.05 Infrastructure: Provides for the coordinated provision of infrastructure and the collection of infrastructure contributions.
- Clause 21.06 Particular Uses and Development: Provides additional Requirements and Guidelines to ensure high quality urban design and a functional built environment.
- Clause 22.04 Highway Development: Provides for high standard of design associated with development along highways, and does not impede the efficient and safe movement of traffic

The Panel accepts the Council's analysis and acknowledges that the policy context supports the Amendment.

(iii) Other planning strategies or policies used in formulating the Amendment

Plan Melbourne

The Growth Corridor Plans (GCP), produced by the VPA, were released by the Minister for Planning in June 2012. The GCP are high-level integrated land use and transport plans that provide a strategy for the development of Melbourne's growth corridors over the next 30 to 40 years.

These plans guide the delivery of key housing, employment and transport infrastructure and open space in Melbourne's newest metropolitan suburbs.

The GCP identifies:

- the intended long-term pattern of land use and development
- committed transport networks as well as network options for investigation
- committed regional open space networks as well as investigation sites
- opportunities for creating green corridors.

The GCP informs the development and review of local planning schemes and the preparation of future strategies, structure plans and other planning tools. They also provide a strategic basis for infrastructure and service planning as well as sequencing of land release.

The preparation of PSPs is the primary vehicle for the implementation of the GCP.

The South-East Growth Corridor, which includes the municipalities of Casey and Cardinia, is expected to accommodate a population of 230,000 people with a capacity to provide 86,000 jobs. The Shire of Cardinia is expected to accommodate up to 42,000 lots and 118,000 people, including the Pakenham East PSP. The Growth Corridor Plan does not designate any future land use for the Pakenham East precinct, though the Logical Inclusions Advisory

Committee report envisaged that Pakenham East would contribute to residential supply in Cardinia.

2.2 Planning scheme provisions

(i) Zones

The UGZ applies to land that has been identified for future urban development within the UGB. The UGZ sits within the suite of zones within the Victorian Planning Provisions. It has been specifically designed to implement an incorporated PSP and ensure that future development accords with the approved PSP. As Pakenham East was a logical inclusion and is not currently zoned UGZ, this Amendment will rezone the land in Pakenham East to UGZ with applied zones to implement the PSP.

Land use	Applied zone
Primary arterial road	Clause 36.04 – Road Zone Category 1
Small local enterprise precinct	Clause 34.02 – Commercial 2 Zone
Local town centre Local convenience centre	Clause 34.01 – Commercial 1 Zone
Residential on a lot wholly within walkable residential catchment boundary (once subdivided)	Clause 32.07 – Residential Growth Zone
All other land	Clause 32.08 – General Residential Zone

Table 1: Table 1 of the Urban Growth Zone - Applied zone provisions

The UGZ includes zone provisions that seek to provide certainty about the nature of future development, streamline the approval process and ensure that any land use and development within a precinct does not prejudice its future growth.

2.3 Ministerial Directions and Practice Notes

(i) Ministerial Directions

Council submitted that the Amendment meets the relevant requirements of the following Ministerial Directions:

The Form and Content of Planning Schemes (s7(5))

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

Direction No. 1 Potentially Contaminated Land

Ministerial Direction No. 1 does not strictly apply to most of the land affected by the Amendment as the Amendment is proposing to rezone land that has typically been used for various agricultural uses rather than industrial uses.

A precautionary desktop environment site assessment has been carried out for all of the land, as to whether or not it meets the definition of 'potentially contaminated land'. The assessment identified three areas of high risk for contamination. The assessment has also identified a number of medium risk sites within Pakenham East.

The Amendment, through the provisions of the UGZ5, will require further investigation, assessment and remediation of these sites should it be used and developed for a sensitive land use (e.g. residential, preschool and primary school, child care).

Direction No. 9 - Metropolitan Strategy

Direction 9 has been considered in preparing this Amendment and the Amendment complies with this direction. The Amendment will facilitate the development of land within the UGB of Metropolitan Melbourne consistent with the direction of the Metropolitan Planning Strategy.

Direction No. 11 - Strategic Assessment of amendments

This direction seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment.

Direction No. 12 - Urban Growth Areas

Parts 4, 5, and 6 of Ministerial Direction 12 require that when preparing an amendment to introduce or change provisions in a schedule to the UGZ, a planning authority must evaluate:

- the implementation of any relevant Growth Area Framework Plan
- the application of the Precinct Structure Planning Guidelines
- the intended outcomes of the precinct structure plan
- translation of the provisions once development anticipated by the precinct structure plan is substantially complete.

(ii) Planning Practice Notes

The Panel notes that the following Planning Practice Notes are relevant to the Amendment:

- PPN30 Potentially Contaminated Land
- PPN46: Strategic Assessment Guidelines
- PPN47: Urban Growth Zone.

The planning authority did not specifically address these Planning Practice Notes. However, the Panel has satisfied itself that the Amendment is consistent with the relevant Planning Practice Notes.

2.4 Discussion

Amendment VC148 was introduced into the Victoria Planning Provisions and all planning schemes on 31 July 2018. It replaces the State Planning Policy Framework with an integrated Planning Policy Framework, changes clause numbers throughout the planning scheme and makes other changes from the Smart Planning program. The assessment for this Amendment was completed before Amendment VC148 was introduced. Any planning scheme clause numbers referred to in this report reflect clauses which existed before Amendment VC148 was introduced.

The VPA should review the Amendment against the new planning provisions before progressing it further.

The basis for the Amendment is well established in the State and Local Planning Policy Frameworks of the day as well as the more detailed strategies associated with Plan Melbourne and the requirements of Ministerial Direction 12.

2.5 Conclusion

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified. It should proceed, subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

2.6 Recommendation

The Panel makes the following recommendations:

2. **Review the provisions and schedules of the Amendment to ensure they are consistent with the changes to the planning scheme introduced by Amendment VC148 prior to the finalisation of the Amendment.**

3 Threshold issues

3.1 Traffic and transport

(i) The issues

The issues are:

- the classification and alignment of the boulevard connector street
- the design of the connector street intersections with the Princes Highway (intersections A (IN-02), B (IN-03) and C (IN-04))
- traffic impacts on Ryan Road, the cross-section for Ryan Road and its possible truncation north of Canty Lane
- the design of the Ryan Road/Princes Highway intersection (IN-01)
- whether a roundabout is required at the Canty Lane/Ryan Road intersection (IN-05)
- the classification and cross-section for the extension of connector street B to the north of the Princes Highway
- the cross-sections for Dore Road
- whether part of connector street A can be constructed within the gas pipeline easement
- whether a new interchange to provide direct access to the Princes Freeway from the PSP area is justified.

(ii) Evidence and submission

Classification of boulevard connector street

The exhibited PSP on Plan 7 – Road Network Plan shows a boulevard connector street looping though the PSP area south of the Princes Highway from intersections A and C with the Highway. Parklea submitted that the classification of this street should be changed from boulevard connector to arterial road and thereby included in the ICP. The street's classification is dealt with in this section and its inclusion or not in the ICP is discussed in section 3.2 below.

Parklea submitted that there is no definition of 'connector street – boulevard' and the VPA had artificially defined it and then relied upon its own definition to exclude the street from the ICP. Parklea submitted that the boulevard (or at least the section between intersections A and B, according to Mr Higgs' evidence) should be classified as a Council arterial road because:

- it will provide the main connection between the LTC and the LCC to the wider State declared road network within the meaning of a local arterial road under Council's Road Management Plan
- it will carry traffic volumes of more than 7,000 vehicles per day, which places it in the category of an arterial road for the purposes of Clause 56.06 of the Cardinia Planning Scheme (Table C1), Council's road classification hierarchy under its Road Management Plan and Appendix B of the VPA Engineering Design and Construction Manual (Table 24).

Parklea cited the evidence of Mr Higgs that the boulevard would need to function as an arterial road in that the network would fail if it was removed, which Mr Higgs argued was ...

a valid test of what constitutes an arterial network element. Mr Higgs argued that an arterial road is not necessarily an arterial because it has four or more lanes or because of the volume of traffic it carries. He added that that there are many "arterial" roads that have two lanes and have very low volumes of traffic using them, for example, Monbulk-Seville Road. Mr Higgs referenced Cardinia Shire Council's standard cross-sections for *Subdivisional Streets – Minimum Non-Urban Road Standards* and suggested that Council recognised that a road as he described can be 'arterial'.

Mr Higgs' evidence, on behalf of Parklea, was that the boulevard connector street between intersections A and B was arterial because:

- its closure would result in a failure of the network
- the alignment passes through a number of ownerships
- if not completed emergency services would be severely impacted
- projected high volumes will require special design solutions
- without the road significant areas of the PSP will be more than 1.5 kilometres from the Princes Highway.

Mr Higgs concluded that the

> *... Boulevard Connector between intersections A and B on the Princes Highway should be classified as a Council arterial and thus included in the ICP funding.*

The VPA submitted that the boulevard connector street does not have the role of an arterial road within the PSP and the pattern of land ownership, its forecast traffic volumes nor the mile grid network factors warrant its reclassification to arterial road. The VPA argued that Mr Higgs placed undue weight on volumes compared with other documents unrelated to the growth areas and the absence of a traditional one mile grid road network caused by the Princes Freeway to the south. In closing submissions, the VPA noted that there is typically no direct access from abutting properties onto an arterial road and the reclassification of the street from boulevard connector to arterial would have significant consequences for abutting properties including access and land take.

Council argued that submissions made on behalf of Parklea should not be accepted because they confused the test for collector roads abutting fragmented land with tests for arterial roads and Parklea's arguments regarding what constituted an arterial road relied heavily on extraneous documents.

Council noted that the Council document referred to by Mr Higgs relates to non-urban arterial roads and trucks often travel on small roads that perform an arterial function, but such roads are not relevant to the classification of a road within the PSP.

Alignment of boulevard connector street

In his statement of evidence, Mr Higgs raised concerns over the gradient of the boulevard connector street through the central part of the PSP. He stated that on his analysis, gradients on sections of the boulevard connector would exceed the desirable gradients for cyclists based on AustRoads Guidelines. He recommended that the boulevard connector street be realigned to achieve grades that meet the desirable criteria in the AustRoads Guidelines.

The VPA cited examples of gradients comparable to those that could occur over parts of the boulevard connector street and suggested that such gradients were an acceptable outcome that could be refined through further detailed design of the boulevard.

The VPA submitted that:

> *… the PSP is a high-level document and that the requirement under the UGZ is that development meets the test of general accordance with the PSP. Ultimately it is open to a future subdivider to amend the location of the East–West connector as it traverses north-east direction to maximise the use of contours. Any relocation will be required to facilitate an appropriate interface with the exhibited secondary school, indoor recreation and active open space. Consideration could be given to providing a more southerly route on the Future Urban structure however, it is at this time and stage of planning unnecessary. At the time land is subdivided and lots created for the secondary school site and the active open space the balancing of these 'three masters', road alignment, active open space and school, would dictate the subdivision design.*

Council submitted that the alignment and gradient of the boulevard connector would be resolved as a matter of design detail.

In responding to the Final List of PSP Changes, ERM for the Blazevic family advised that they did not support the Parklea proposal. ERM was not opposed, however, to aligning the boulevard connector street through their property provided that the alignment depicted in the final PSP allows sufficient room for lot frontages to fit between the boulevard connector street and their property boundary with property 33 to the west.

Design of connector streets/Princes Highway intersections

At the request of the Panel, a conclave of traffic experts was held prior to the commencement of the Hearing. A conclave statement was submitted at the Hearing (Document 11) which indicted that agreement was not reached on the trip generation assumptions or consequently on the exact intersection layouts. It was agreed at the conclave that the best mechanism for resolving the intersection layouts would be for the VPA and Transport for Victoria to agree on the modelling assumptions. This was done and subsequently the VPA's expert, Mr Richardson (Jacobs), and Council's expert, Mr Abdou, (TrafficWorks) undertook independently further analysis and intersection layout design that resulted in two sets of intersection conceptual designs being presented to the Panel.

The VPA submitted that:

> *Ryan Road is the only contentious one and the Panel needs to make a call based on safety vs vehicle flow. They could adopt either layout for A and B, but the TrafficWorks Connector C is much too large and the Jacobs layout should be preferred.*

The VPA noted the comments from Mr Richardson that the difference in the intersection layouts can be summarised as follows:

> *Ryan Road - Trafficworks have longer turning lanes on the Princes Highway (they could have tried to reduce them), Jacobs has additional capacity on the*

> *north approach. Trafficworks can get away with only 50m left slip due to the saturation flow assumption and lower traffic volumes. It is very likely that traffic will redistribute itself to Ryan Road thus requiring a larger footprint.*
>
> *Connector A - both layouts are very similar.*
>
> *Connector B - Jacobs has longer lanes on the south approach, this will be due to the saturation flow difference*
>
> *Connector C - Trafficworks footprint is much larger in general, probably due to not actively looking to reduce the footprint, only increasing capacity as stated in Ali's letter.*

In its closing oral submissions, the VPA suggested that the Panel should make a recommendation to the effect that the intersection layout designs including the lane lengths should be resolved through discussions involving the VPA, VicRoads and Council.

Council submitted that:

> *The resolution of lane lengths between Mr Richardson and Mr Abdou should not be a cause for too much concern. Council is content for the Panel to note this issue in its reasons and recommend that it be resolved through detailed design, to the satisfaction of VicRoads. Council's position is consistent with the SMEC drawings. Mr Higgs was comfortable with the modelling carried out by Mr Abdou. It seems that assumptions about when cars start decelerating may be to partly to blame for the discrepancy. It is clearly desirable to ensure there is sufficient room to brake, but at the same time, cars should use the lane to decelerate, rather than braking before they merge into a turn lane.*

The design of the Ryan Road/Princes Highway intersection (IN-01) is discussed further below.

Impacts on Ryan Road

Several submissions were made by residents of Ryan Road and the surrounding area raising concerns over the impacts on Ryan Road of the projected increase in traffic volumes due to development in the PSP area.

Ryan Road is a two-lane local road providing access to the low density residential and farming properties along its length and adjoining streets and to the Ryan Road Childcare Centre located on the corner of the Princes Highway. It currently carries low volumes of traffic.

Traffic analyses forecast that when Pakenham East is fully developed by 2046, Ryan Road will carry between 6,600 and 7,300 vehicles per day south of the Princes Highway. Ryan Road will be upgraded ultimately to a two-lane connector street north of Canty Lane to cater for the projected traffic volumes.

The VPA submitted that:

> *The VPA agrees that the PSP will herald a range of changes to the experience of residents in Ryan Road. Perhaps most demonstrably while currently Ryan Road represents the end of development after which farming uses exist, a new urban fabric will be created by the PSP. It is part and parcel of creating this new PSP area that traffic volumes will increase on Ryan Road to existing*

> *residents. Because of the nature of development on the west side of Ryan Road these changes will be manageable from a traffic perspective. The development to the west is not of a regular urban form and therefore there are setbacks and a less direct interface with the road.*
>
> *When evaluating the amenity impacts upon those residence in Ryan Road, it is also important to recognise the improved amenity those residents will enjoy which offsets some of the more negative impacts. These residents will have a sizeable Local Convenience Centre with a supermarket situated only a few hundred metres from Ryan Road. There will be new schools and other community facilities available all of which are improvements to amenity. In all the VPA considers the amenity impacts to be acceptable in the context where the PSP area was introduced into the UGB via a logical inclusion.*

Ryan Road/Princes Highway intersection layout (IN-01)

The Panel was presented with two alternative schematic layouts for Ryan Road with its intersection with the Princes Highway. Based on the agreed trip generation rates and traffic analyses, these layouts were modified to the layouts shown in the exhibited PSP.

The layout prepared by Mr Richardson has double left turn lanes from Ryan Road south onto the Princes Highway. This is the layout preferred by the VPA.

The alternative design prepared by Mr Abdou incorporates a left hand slip lane instead of the double left turn lanes. The Abdou design is preferred by Council and supported by Mr Higgs. Council tabled an aerial photograph with the Abdou intersection layout superimposed (Document 44).

The VPA submitted in closing that:

> *There has been much debate concerning the intersection at Ryan Road with the Princes Highway. The VPA does not intend to recount this evidence for the Panel but observes that its position regarding the alternative designs remains unchanged. It regards a left slip lane adjacent to the childcare centre and on the active transport route is a poorer design outcome in terms of safety. Accordingly it does not support the left slip lane design.*

Mr Richardson concluded that double left turn lanes are preferred over a left hand slip lane to minimise disruption to the Ryan Road Childcare and Swim School and for pedestrian and bicycle safety.

Council submitted that:

> *Mr Abdou will give evidence that it is possible to provide for a slip lane within the existing road reserve of Ryan Road without unacceptable impacts on the child care centre.*
>
> *Mr Richardson admitted that he had not considered the amount of space available in the road reserve in any detail.*
>
> *Whereas Mr Abdou considers the slip lane to be safe and efficient, Mr Richardson has concerns about its safety. Mr Abdou's view is that the safety issue for pedestrians and cyclists is manageable.*

> *TfV, Mr Richardson and Mr Abdou all agree that a slip lane is more efficient than double left hand turns without a slip lane.*

In closing, Council submitted that the Panel should support the Abdou design in accordance with his evidence because the layout with a left hand slip lane:

- achieves a superior average delay (20 seconds compared with 80 seconds)
- it can be achieved within the existing reservations
- any land take can be resolved through the ICP process
- it is supported by Transport for Victoria and Mr Higgs.

Evidence was also presented to the Panel on the apportionment in the ICP between the Pakenham East PSP and the land to the north of the intersection to meet its construction costs. The issue of apportionment is discussed in section 0 below.

Ryan Road cross-section

The VPA circulated an alternative typical cross-section for Ryan Road (Document 54) to the one in Appendix C of the exhibited PSP. The VPA stated its intention to adopt the alternative cross-section for the entire length of Ryan Road.

In his supplementary report (Document 81), Mr Higgs stated:

> *Apart for there being no parking provided this section will be adequate for the areas where on-road cycling lanes are warranted, say AADT above about 3,000, and it will be a bus route. The bus route is only nominated north of Canty Lane. Between Canty Lane and the east–west Access Street nominated in the PSP the traffic volume will be above about 3,000 vpd and separate cycling facilities of some sort will be warranted but 2 x 3.5metre wide traffic lanes are not warranted. Parking will be needed regularly on the eastern side and perhaps minimally to serve the western side of the street. With the wide verge available on the western side a bike path as originally proposed is a better solution than the one now offered.*
>
> *Where AADT will be less than 3,000 a 7.3 metre carriageway will be adequate to accommodate both traffic and car parking demands. Footpath and cycling facilities will need to be in addition.*

Mr Higgs included with his statement cross-sections for Ryan Road north and south of Canty Lane. Parklea submitted that the Higgs cross-sections should be adopted.

The VPA submitted that:

> *Ryan Road serves an important function in the proposed road network for the PSP. It is necessary for a bike path to operate along the full length of Ryan Road, especially to provide bicycle and pedestrian paths to connect to the shared use path to Pakenham Train Station.*

The VPA indicated that it proposed to update the cross-sections for the north and south parts of Ryan Road as detailed in the Final List of PSP Changes. This document states:

> *Include additional cross-section for Ryan Rd North and South of Canty Lane. The difference between the north and south, is that north of Canty Lane 3.5m lanes are required, where south of Canty Lane 3m lanes are required. The*

> *Road reserve will (be) maintain(ed) as 24m for the length. Both cross-sections will maintain car parking on the eastern side.*

Truncation of Ryan Road

Several submitters from the Ryan Road area requested that Ryan Road be truncated north of Canty Lane to minimise the increase in traffic on Ryan Road and to protect the amenity of the existing residents. Mr Sartori submitted that if Ryan Road was not truncated, it should be constructed as a boulevard connector street.

In his expert witness statement, Mr Richardson provided an analysis of the impacts should Ryan Road be truncated north of Canty Lane. He stated that with truncation, most traffic to and from south of Canty Lane would be displaced onto connector street A to access the Princes Highway, significantly increasing traffic volumes on connector A from 10,000 to 16,000 vehicles per day. This would cause failure of the connector A/Princes Highway intersection and the function of connector A would need to be upgraded to an arterial level. He noted that existing residents south of Canty Lane would be significantly disadvantaged by the reduction in connectivity and would be required to travel further to access the Prince Highway.

Council submitted that it relies on the evidence of Mr Abdou and others which does not support the truncation of Ryan Road because it will put too much pressure on other intersections, resulting in premature failure and capacity problems.

Roundabout at Canty Lane/Ryan Road intersection (IN-05)

The VPA submitted that a roundabout was a preferable safety outcome and:

> *The VPA position is that a roundabout can be fully contained within the PSP as it provides better transport efficiency and pedestrian safety. The VPA's internal engineering advice is that a roundabout can be accommodated within the PSP and broadly within the existing road network.*

Council submitted that:

> *A roundabout will be funded through the ICP. There is no future chance to plan for a roundabout after houses are built. It is now or never. In the event that the land to the west is developed, a roundabout will be a more resilient option into the future.*

Mr Higgs stated in his written evidence that there was no need for a roundabout at the Ryan Road/Canty Lane intersection. In his opinion, a simple priority T-intersection would provide adequately for the likely traffic movements.

Parklea submitted that it relied upon the opinion of Mr Higgs and noted that a roundabout would need to be located entirely within the PSP area and the road reserve as all adjacent land is in multiple ownership.

Classification and cross-section for Connector B extension north of Princes Highway

Lendlease Communities (Lendlease) noted that there was general agreement among the experts that the extension of connector street B north of the Princes Highway would operate with volumes well above its exhibited classification (of local access street level 2) and should be reclassified. Lendlease submitted that the experts also agreed that a connector street

trafficable width of 3.5 metres could be accommodated within the existing 20 metres road reserve.

Lendlease noted that a shared path was normally a standard requirement within a connector street cross-section. It submitted, however, that with a shared path less than 100 metres to the west along the waterway corridor (WI-01), a shared path along connector street B (north) should not be required. Lendlease added that the other traffic experts agreed with Mr Walsh that the shared path was not needed but in the spirit of cooperation, it had sought to provide a shared path along connector street B (north) which would increase the road reserve from 20 metres to 20.7 metres (Document 102). Lendlease noted that Council's traffic engineer was "amendable" to the cross-section but the VPA was not satisfied because it did not provide for safety reasons the usually required 4.5 metre distance between the property line and a shared path. Lendlease noted that the PSP Guidelines do not require a 4.5 metre buffer. It stated that the removal of parking from one side of the road (as shown on the reconfigured VPA cross-section to incorporate on-road cycle paths within a 21 metre reserve) was not Lendlease's preferred option.

Lendlease requested that PSP Plan 7 – Road Network Plan be amended to illustrate a different cross-section to the PSP standard cross-section for connector street B north of the Princes Highway with the amended cross-section for connector street B having two 3.5 metre lanes within a 20 metre road reserve.

In closing, the VPA submitted that:

> *Connector B has a volume that exceeds the warrant for a connector road and it is by default therefore a connector road. The PSP provides an adequate process for variation of cross-sections to the satisfaction of the Council within R70. It is apparent from the discussions to date that the Council will at least entertain an alternate cross-section in this location. It is not necessary or appropriate to determine the issue today. This issue is one of a number of implementation matters which landowners are seeking to have determined in the short term to in effect constrain the discretion of the Council. This is not the purpose of the PSP or a PSP Panel hearing. It is appropriate where the PSP includes a mechanism that is acceptable and functional that these matters be deferred until a later time.*
>
> *On the specifics of the matter the proposed shared path on the alternative does not demonstrate adequate separation from the lot frontages. The VPA cannot support this reduction on grounds of safety.*

Council submitted that:

> *In relation to the section for Connector B, the Panel should not find that a bicycle path is not required. Mr Walsh did not carry out any analysis of bike volumes along this road to justify any view that the shared path is not warranted.*
>
> *The location of Connector B, adjoining the signalised intersection, highlights that it is an appropriate location for off-road or on-road bicycle lanes. He accepted that the difference between it and a local access street did not relate to the carriage way widths. But Mr Walsh did not articulate a convincing*

reason why this road should be treated differently than the typical connector street section.

The catchment for Connector B is clearly skewed to the north and west but Mr Walsh seemed reluctant to admit what was obvious. It is, plainly, undesirable to direct bike riders further east to the other shared path, given that most of the catchment is further west and would be required to take an indirect route and then double back to the signals. An appropriate requirement or guideline can be drafted to regulate access to the eastern side of this road, to prevent direct access, to provide an appropriate setting for the bike/shared path.

Dore Road cross-section

Lendlease requested that the exhibited PSP Plan 7 – Road Network Plan be amended to illustrate the location of different road cross-sections and additional cross-sections be included in PSP Appendix C: Road Cross-sections for Dore Road north and Dore Road south.

Lendlease tabled a cross-section for Dore Road north (of the proposed reserve) which it stated had been agreed with the VPA (Document 100) and two cross-sections for Dore Road south (Documents 101 and 102). Mr Walsh in oral evidence indicated that Document 101 had come from the VPA and that Lendlease could agree to it.

In the Final List of PSP Changes, the VPA states that the Panel version will be amended to include in PSP Appendix C: Road Cross-Sections *additional cross-sections for Dore Road north and south, as agreed with Lendlease and Council*.

Council acknowledged Lendlease's desire for a smaller road reservation was being considered by the VPA and Council. It noted that a cross-section of 20.7 metres had been supported between Lendlease, Council and the VPA.

Connector street A constructed within gas pipeline easement

Parklea requested that connector street A be constructed in part within the Origin Energy north–south gas pipeline easement. Mr Higgs in his supplementary statement (Document 81) referred to cross-section 4 – Standard Boulevard in the exhibited PSP in Appendix C: Road Cross-Sections. He noted that while the gas easement was not shown, a service road or park edge street parallel with the easement would be needed on the eastern side if the PSP proposal was adopted. He proposed an alternative arrangement which would include the gas pipe within the road median with appropriate clearances to the pipe and adequate maintenance access. In his opinion, the form of the street adjacent to the gas easement should not be locked down pending negotiations with the relevant agency (Origin Energy).

The VPA noted that on PSP Plan 8 – Public Transport and Path Network, the gas easement is utilised for a shared pathway in the southern portion of the PSP and that pathway will then sit alongside the boulevard connector A. It was unclear, however, how much of the road infrastructure could sit within the easement. The VPA provided an extract from the Donnybrook – Woodstock PSP which included a cross-section showing a bikeway and pedestrian path within the APA gas pipeline easement (Document 129).

The VPA submitted that:

The VPA invites a recommendation that would see it work with Origin Energy and Council to maximise the extent of road infrastructure that can be included

> *within the north–south gas easement. It is expected that this will include ancillary road items such as shared path, nature strips (which may need to be modified to remove trees) but in any case this will assist with improving the efficiency of land use in the area.*

Council submitted that:

> *While the idea of locating the gas easement within a road median for Connector A is appealing, this has been investigated and found not to be feasible, due to the age of the infrastructure within the easement.*

Freeway interchange

Several submissions from residents to the west of Ryan Road and community groups questioned why a new interchange with the Princes Freeway was not included in the PSP to provide a direct southern connection to the road network in the PSP area. Submitters expressed concern over congestion at the Healesville-Koo Wee Rup Road freeway interchange which they argued would worsen with the population growth in the area. The traffic impact on Ryan Road from development within the PSP area was also raised as a justification for the construction of a southern connector from the PSP area to provide a direct link to the Princes Freeway. In his supplementary submission (Document 141) on behalf of residents of the Ryan Road area, Mr Sartori called on the Panel to recommend that a southern connector be constructed direct to the freeway.

In its Part A submission, the VPA responded that:

> *A traffic modelling study was undertaken by Cardinia Shire Council to investigate options for improving the connectivity of the arterial road network to the Princes Freeway.*
>
> *…*
>
> *The results of the study showed that the provision of the proposed interchange at Pakenham East would have a relatively minor impact on the arterial road network in the Pakenham area. The interchange would only have a localised impact … Without the proposed interchange, travel speeds would be on average 3km/hour lower on the Princes Highway. The Princes Freeway, however, would operate at a higher level of service, that is better, with higher speeds and lower traffic demands east of Cardinia Road.*
>
> *From these results, it was determined that the cost of the proposed interchange outweighed the benefits relative to other priorities for the road network in the Pakenham and Cardinia's Urban Growth Area.*

Council noted that the traffic experts did not support the need for an additional freeway interchange.

(iii) Discussion

Classification of boulevard connector street

The essence of the argument put by Mr Higgs for the reclassification of the boulevard connector street to arterial road was that the forecast traffic volumes were higher than the

standard for a connector street (at 7,000 vehicles per day) and the road would function as an arterial and should be so classified.

The Panel was not persuaded by these arguments. The street will be constructed as a boulevard connector that will have the capacity to accommodate the predicted traffic volumes. The determining factor in its capacity will be the design of its intersection with the Princes Highway not the mid-block capacity provided by one traffic lane in each direction. The Panel notes also that nobody argued that more than one mid-block lane was needed.

Mr Higgs made reference to Council's standard cross-sections for *Subdivisional Streets – Minimum Non-Urban Road Standards* and gave the Monbulk-Seville Road as an example of a low volume arterial road. As noted by Council, this Council standard and the cited example relate to non-urban areas and the Panel does not consider them to be relevant to determining the classification of roads within the content of a PSP.

The Panel concurs with the submissions made by the VPA. It does not support the reclassification of the boulevard connector street to arterial road.

Alignment of boulevard connector street

PSPs are strategic documents and the road network plans in PSPs are by necessity subject to refinement as the process unfolds for the development of PSP areas. The alignment of the boulevard connector street shown in the exhibited PSP should therefore be considered as indicative and subject to further assessment at a more detailed design stage.

On the analysis presented by Mr Higgs, there may be a need for realignment of the boulevard connector to take into account the topography of the area. The gradients of the bike paths may be an issue for the future but the Panel agrees with the VPA and Council that it was unnecessary at this stage to adjust the alignment of the connector boulevard to that shown in the exhibited PSP.

The Panels considers that there is scope within the PSP process for the alignment of the boulevard connector to be revised prior to its construction and that the appropriate time to do that is at the design stage when the requirements of the adjacent school and other infrastructure can be considered.

Design of connector streets/Princes Highway intersections

The evidence presented to the Panel was, in its view, inconclusive on the preferred intersection layout design of the connector streets A, B and C with the Princes Highway. There were significant variations to the designs of intersections B and C due to different assumptions being used by the two traffic experts as inputs into their modelling.

The Panel is not in a position to determine which of the layouts should be adopted and, in any event, as noted by the VPA, it is not necessary for the Panel to make a determination on this matter.

The appropriate road authority should determine the design layout of these intersections after further analysis and consultation between the VPA, Council and Transport for Victoria.

Impacts on Ryan Road

The Panel understands the concerns expressed by residents of Ryan Road and other streets to the west. Ryan Road is, however, within the Urban Growth Area and development of

Pakenham East will occur over time. As a consequence, there will be a significant increase in traffic using Ryan Road and this will inevitably have an impact on the amenity of existing residents.

The issue is whether any steps can be taken to ameliorate the impact on Ryan Road residents. As discussed below, closure of Ryan Road is not an option. Ryan Road will be constructed to a connector street standard including the provision of on street parking and bike lanes. The detailed design of the road, including its verges and street planting, will present an opportunity to lessen traffic impacts although the Panel accepts that this opportunity is limited and will not satisfy all the concerns of Ryan Road residents.

The Panel notes that development of Pakenham East will provide Ryan Road residents with access to more community facilities, a convenience centre and schools.

Ryan Road/Princes Highway intersection layout

The Panel was presented with alternative designs for the intersection of Ryan Road and the Princess Highway. Two of the three traffic experts argued that it was necessary to incorporate a left hand slip lane from Ryan Road onto the Highway because of the volume of traffic expected to make this movement. The VPA's expert disagreed and argued that two left turn lanes controlled by traffic signals would be safer for pedestrians and cyclists and could provide a satisfactory level of service at the intersection.

The Panel considers that the layout with two left turns lanes is preferable for safety reasons but it accepts that incorporating a slip lane may be necessary to deal with expected left turn volumes and ensure an acceptable level of service for the intersection.

The Panel is not entirely satisfied that a left slip lane can be constructed without affecting access to the Ryan Road Childcare Centre or requiring land acquisition. It was not clear from the photograph with an overlay of the proposed intersection presented to the Panel that there would be no adverse impacts on the childcare centre.

Further analysis and intersection design should be done before a final decision is made on the intersection layout.

Ryan Road cross-section

The exhibited cross-section and the alternative circulated by the VPA both have a road reserve of 24 metres. The alternative version replaced the two-way off-road bike path on the western side with on-road bike lanes on each side and reduced the traffic lanes from 3.5 metres to 3.0 metres.

The VPA subsequently advised that there should be separate cross-sections for Ryan Road with the major difference being 3.5 metre lanes to the north of Canty Lane and 3.0 metre wide lanes to the south. The Panel notes that the road bike lanes and parking on the eastern side will be included along the full length of Ryan Road.

Mr Higgs suggested that a lane width of 3.0 metres would be sufficient to cater for expected traffic volumes over the entire length of Ryan Road. North of Canty Lane, Ryan Road is designated as 'bus capable' and in the Panel's view, this justifies a wider lane of 3.5 metres which can be accommodated within the 24.0 metre road reserve.

The Panel endorses the revised cross-sections proposed by the VPA and their addition to a revised PSP.

Truncation of Ryan Road

Closure of Ryan Road to the north of Canty Lane would obviously limit traffic volumes on Ryan Road and preserve the amenity of residents along the street. Its closure would, however, have significant implications for traffic conditions on the PSP road network notably on the operation of connector A and its intersection with the Princes Highway.

Ryan Road will carry significantly more traffic than it does now, but it will be an important link in the overall PSP road network. It should remain open to traffic.

Roundabout at Canty Lane/Ryan Road intersection

The exhibited PSP on Plan 7 – Road Network Plan shows a roundabout at the intersection of Ryan Road and Canty Lane. Both roads are classified in the PSP as 'connector street'. The roundabout is included in the PSP PIP and will therefore be funded in the ICP.

The classification for the two roads suggests that the volume of traffic through the intersection would justify a roundabout as the appropriate means to control traffic flows. The alternative would be a T-intersection. No traffic analysis was presented to the Panel to demonstrate how a T-intersection would function.

It is normal practice in PSPs for a roundabout to be constructed at the intersection of two connector streets to facilitate turning movements and improve safety. The Panel notes that the predominant traffic movements will be to and from Canty Lane rather than straight through the intersection on Ryan Road.

The Panel notes the advice of the VPA that a roundabout could be constructed within the road reserve. The Panel considers that a roundabout is the appropriate approach to control traffic through the intersection and should be retained in the PIP for funding in the ICP.

Classification and Cross-section for Connector B extension north of Princes Highway

There was agreement by all parties that the extension of connector street B north of the Princes Highway should be reclassified as a 'connector street'. The Panel has no difficulties with this change and supports it.

The issue is whether a cross-section for connector street B north which is different to the standard connector street cross-section should be added to the PSP. The VPA says that a separate cross-section is not needed as the PSP provides a process for cross-sections to be varied subject to the satisfaction of the Council. The Panel agrees with the VPA on this point. It would be unworkable for separate cross-sections to be included for every section of road along which a landowner may wish to implement a modification to the standard cross-section.

The Panel also agrees with Council that the evidence presented did not justify the deletion of the bike path along this section of road. The Panel is not convinced that an off-road two-way bike path on connector street B (north) would be a significant duplication of the bike path to the east abutting waterway WI-01.

An alternate cross-section was submitted by Lendlease showing a shared path 0.5 metres from the property line. The Panel has serious reservations about locating a shared path so

close to the property line. There would be potential conflicts between pedestrians and cyclists using the shared path and vehicles entering and leaving abutting properties and, in the Panel's view, could compromise the safety of path users and introduce an unacceptable safety risk.

There will be scope for a future developer of the land to put a case to vary the cross-section including removing the bike path at the subdivision stage and the Panel considers that to be the appropriate course.

Dore Road cross-section

The Panel understands that there is agreement on the cross-section for Dore Road adjacent to and north of Hilltop Park (LP-01) and this cross-section will be added to the PSP.

It less clear to the Panel which cross-section should be adopted for Dore Road south. There is a material difference in the two cross-sections for the southern section presented at the Hearing. Document 101 shows two on-road bike lanes and parking only on one side whereas Document 102 has parking on both sides and a shared off-road path 2.5 metres wide and 0.5 metres from the property line. As discussed above with respect to the cross-section for connector street B (north), the Panel has significant concerns with a separation of only 0.5 metres from the property line. It prefers for safety reasons the cross-section which includes on-road bike lanes.

The Panel supports the inclusion of an agreed cross-section for Dore Road south in the PSP. The VPA, Council and Lendlease should continue discussions on this matter.

Connector Street A constructed within gas pipeline easement

There was agreement among all the parties that as much as possible of connector street A should be constructed within the gas pipeline easement. Council did suggest that the age of the pipeline infrastructure could limit the use of the easement for road purposes.

Use of the easement would have benefits in terms of the efficient use of land. The Panel strongly supports further discussions between the VPA and Origin Energy to determine how much of the street infrastructure could be constructed within the gas easement.

Freeway interchange

A previous study undertaken by Council concluded that the cost would outweigh the benefits of constructing an additional interchange with the Princes Freeway to provide direct access into the Pakenham East PSP area. The study also concluded that an additional interchange would have an adverse impact on the level of service on the freeway through increased travel times. No evidence was presented to the Panel to call into question the findings of the previous study.

(iv) Conclusions

The Panel concludes:

- the road looping through the PSP south of the Princes Highway classified in the exhibited PSP as a 'boulevard connector street' is not an arterial road and a change to its classification to 'arterial road' is not warranted on the evidence presented to the Panel

- the final alignment of the boulevard connector road should be determined at the detailed design stage when the requirements with respect to the school, other PSP infrastructure and the road design including gradients can be resolved
- the design of the intersections of connector streets A, B and C with the Princes Highway should be determined by the responsible road authority after further analysis and consultation between the VPA, Council and Transport for Victoria
- the forecast increase in traffic on Ryan Road is significant and will have an impact on the current amenity of residents of Ryan Road, but this is an inevitable consequence of Ryan Road becoming part of the road network critical to development within an Urban Growth Area
- further analysis and intersection design work is needed to determine the optimal layout of the Ryan Road/Princes Highway intersection (IN-01) including the impacts on the Ryan Road Childcare Centre regarding safe access and any land acquisition
- the cross-sections for Ryan Road north and south of Canty Lane should be updated as proposed by the VPA in its Final List of PSP Changes to the PSP and incorporated in the revised PSP
- Ryan Road is a critical part of the PSP road network and should not be truncated north of Canty Lane
- a roundabout at the Ryan Road/Canty Lane as shown in the exhibited PSP should be retained and funded through the ICP
- the extension of connector street B to the north of the Princes Highway should be reclassified from 'local access street level 2' to 'connector street' and the standard PSP connector street cross-section which includes an off-road two-way bike path applied to that section of street subject to further consideration at the subdivision design stage
- it is desirable for part of connector street A to be constructed within the gas pipeline easement to minimise the land needed for the street outside the easement
- the VPA should have discussions with Origin Energy to maximise the amount of infrastructure that can be located in the gas easement
- the PSP should be updated to include cross-sections for Dore Road north and south as agreed by the VPA, Council and Lendlease
- a new interchange with the Princes Freeway south of the Pakenham East PSP area is not warranted

(v) Recommendations

The Panel makes the following recommendations:

3. Amend Plan 7 – Road Network Plan of the Pakenham East Precinct Structure Plan by changing the classification of the extension of connector street B north of the Princes Highway from local access street level 2 to connector street.

3.2 Infrastructure Contributions Plan and Precinct Infrastructure Plan

(i) The issues

The issues are:

- whether additional projects are included in the list of ICP funded projects in Table 8 of the exhibited PSP
- whether the Panel should make recommendations on the adequacy of the community and recreation levy and, if appropriate, the means to address this issue.

(ii) Background

The VPA submitted the:

> *… Pakenham East ICP sets out the requirements for development proponents to contribute towards basic and essential infrastructure required to support development of the precinct. The ICP is a separate document incorporated into the Cardinia Planning Scheme and implemented through Schedule 1 to Clause 45.10 of the Cardinia Planning Scheme. The ICP applies to the same land as the PSP. Table 8 – Precinct Infrastructure in the PSP, identifies which infrastructure projects are to be funded through the ICP. The Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans establishes the allowable items to be funded through an ICP.*

The Pakenham East ICP will be introduced via a separate amendment and will introduce the associated Infrastructure Contributions Overlay into the Cardinia Planning Scheme and associated Schedule 1, applying it to land within the Amendment area. The VPA informed the Panel that it did not anticipate that the ICP would include a supplementary levy and on that basis a standard ICP would be prepared and approved by the Minister for Planning under section 20A of the Act.

The VPA submitted that it had used a standard set of "*benchmark costs"* that provided sufficient confidence that the infrastructure to be funded through the ICP can be funded through a standard levy. The benchmark costs have been established by assessing the background data currently available to the VPA in order to provide baseline infrastructure cost data and therefore to standardise the cost estimation of PSPs.

In addition, the VPA advised the Panel that the PLC Act introduced a new public land contribution regime in Victoria with the purpose *"to equally spread the cost of securing public land across an Infrastructure Contributions Plan area*." The VPA advised the Panel that the ICP would be prepared in accordance with the changes introduced by the new PLC Act.

The VPA submitted that given the land required for infrastructure funded through the ICP will either be transferred, or an in-kind payment made as established in the PLC Act and that the community and recreation levy is capped there was no need for a supplementary levy.

A number of submissions made reference to the ICP Direction. A revised ICP Direction came into effect on 2 July 2018, the second last day of the Hearing. The Panel provided the VPA, Council and submitters with the opportunity to make a further submission on the impact of any changes in the ICP Direction.

(iii) Evidence and submissions

Funding of community infrastructure

Council submitted that all community infrastructure should be fully funded by the ICP. Council added that the VPA agreed that there would be a surplus in the transport funds collected under the ICP but a shortfall in the community infrastructure funds.

Council submitted that its key issues in relation to the ICP were:

- *funding of community and recreational infrastructure identified in the Precinct Infrastructure Plan*
- *the need for the Minister to exercise his discretion to allow surplus funds in the transport budget for the ICP to be used to fund the deficit in the community & recreation budget, consistent with the discretion conferred by the Ministerial Direction for Infrastructure Contributions*
- *ensuring that additional projects advocated by other submitters are not allowed to undermine the ability of Council to fund the projects described in the PIP, as exhibited.*

Council added that the budget for the community and recreation projects identified in the PIP would contain a "*significant deficit"*, while the transport component would contain a significant surplus. The expected surplus in the transport category was not sufficient to fund the expected shortfall in the community and recreation budget.

Council argued that Clause 11 of Annexure 1 to the ICP Direction provides the Minister for Planning with the ability to increase the amount of the total standard levy rate that may be used for community and recreation infrastructure. Council added that the VPA, as planning authority, by exhibiting the Amendment *must be taken to agree that the items in the allowable items in the PIP 'are to be provided' for in the ICP and that 'to provide for' must be interpreted as 'funded by' the ICP.*

Mr Shipp, on behalf of Council, gave evidence that a number of the proposed ICP items would be classified as supplementary items "*including three bridges (BR-01, BR-02, BR-03), one connector road (RD-01), one intersection (IN-05) and one set of pedestrian signals across the Princes Highway (PS-01)."*

He stated that the PSP document clearly sets out the infrastructure list and land budget of the future ICP. However, given supplementary items are not proposed to be funded, it was necessary to establish whether the standard levy was sufficient to fund the infrastructure. If the levy was insufficient then a supplementary levy should be considered. Mr Shipp observed that cost estimates were not included as part of the Amendment.

His evidence was that Council and the VPA has prepared indicative cost estimates and the:

> *… cost estimates prepared by Council and the VPA indicate that the ICP is expected to have a funding shortfall in the community and recreation category of between $20.5m and $39.2m and a funding surplus in the transport category of between $20.5m and $23.9m.*

He added that the community and recreation infrastructure costs could further increase if residential densities exceeded the PSP minimum requirement of a minimum average of 22 dwellings per hectare. His evidence was that the three conditions required for the Minister

to increase the standard levy rate for community and recreation infrastructure had been met and that:

> *… it would be appropriate for the Minister to increase the levy, subject to cost estimates for all community and recreation items being finalised and agreed.*

Mr Shipp considered it premature to include any supplementary transport allowable items until the cost estimate for all infrastructure items had been prepared.

Finally, Mr Shipp noted:

> *… that Table 8 does not include item CI-04 (land for indoor recreation) which is shown in the Precinct Infrastructure Plan (Plan 11, page 64) - this appears to be an omission which should be corrected.*

Council submitted that in this regard the Panel should recommend that:

> *the Minster confirm that:*
> - *he has or will exercise his discretion to approve the imposition of a full standard levy for the purposes of funding all infrastructure listed in the draft PIP exhibited with the PSP*
> - *he will not reduce the 'standard levy' payable to account for a surplus in the transport project category budget*
> - *the planning authority responsible for preparing the ICP will ensure that the ICP provides for delivery of all the PIP items in the PSP, as required by clause 12 of the Ministerial Direction*
> - *no changes be made to the draft PIP that would have the result that a supplementary levy would be required, or that would prejudice the ability to fund PIP projects from the standard levy.*

The VPA submitted that community items within ICPs are not fully funded despite the Council's view that all items of community and recreation infrastructure must be fully funded. The VPA argued that the evidence of Mr Shipp acknowledged that there are occasions under the ICP system where community and recreation infrastructure were not fully funded.

The VPA stated that the ICP system was based on:

- *An ability for nominated transport items to be funded by a standard levy or supplementary levy if the transport costs exceed the amount collected by the ICP transport construction levy*
- *the inability to fund supplementary community items*
- *An as of right ability to transfer excess community infrastructure funds to transport infrastructure but a limitation on the contrary redirection such that it requires Ministerial consent.*

The VPA's position was that new clause 11 in the ICP Direction provided that unused community levy funds can be utilised for transport items but the use of transport levy funds for community items requires a separate Ministerial discretion. The VPA concluded:

> *It is not appropriate that this Panel comment on a matter of Ministerial discretion that is not the subject of any current amendment let alone the Amendment before it.*

Council submitted that the revised ICP Direction did not diminish its argument and the Minister's discretion to redirect funds collected by the levies was unchanged.

Boulevard connector street

Parklea informed the Panel that the boulevard connector street was not identified as an item to be funded under the ICP, but Ryan Road north of Canty Lane, a connector street, was to be funded by the ICP. Parklea argued that the boulevard connector street, for the purpose of the ICP Direction, was a Council arterial road and should be included in the items funded by the ICP.

Whether the boulevard connector street should be reclassified to 'arterial' is discussed above in section 3.1 Traffic and Transport.

The VPA submitted that the exemptions provided in the ICP Direction do not extend to ordinary boulevard connectors and, if the Panel accepts that the boulevard connector street is not an arterial road, then it can only be included in the ICP where it abuts fragmented land which was not a feature of the Parklea land. This view was supported by the evidence of Mr Shipp who stated:

> *I do not consider that the connector boulevard traverses areas of fragmented ownership such that its delivery would be compromised if not included in the ICP – it is therefore my view is that this item should not be included in the ICP.*

ERM submitted that the alignment of the boulevard connector street was not on land that was fragmented and the funding of the road through the ICP was not justified. In addition, including the road in the ICP would:

> *place unnecessary pressure on the transport component of the fund and would ultimately not benefit the broader community.*

With respect to the ICP Direction, Parklea submitted:

> *The Ministerial Direction does not change the need for a PSP to identify works, services and facilities required for the proper development of land in a PSP area.*

Parklea continued to prosecute the case that a boulevard connector street was properly classified as a 'Council arterial road' and consequently a standard levy allow item as identified in Table 3 of Annexure 1 of the ICP Direction.

Parklea added:

> *Regardless of the Panel's recommendation in relation to whether the boulevard connector road may be funded by a standard levy or Supplementary Levy, it is clear that the land which will be used for the boulevard connector road will be part of the "land component" of Parklea's contribution pursuant to the ICP.*

Parklea added that the ICP Direction amendments provided for the inclusion of 'minor culverts' as an allowable item in a supplementary levy. Parklea noted:

> *The construction of the boulevard connector road requires the construction of two anticipated "minor culverts" – one over the Deep Creek overland flow area, and another over Hancocks Gully.*

Parklea submitted that Table 8 of the PSP should reference these culverts as ICP items funded through the standard levy.

In response the VPA submitted that the argument relied on by Parklea was similar to that put to the Panel during the Hearing. The VPA responded that it relied on its previous submissions and that the:

> *… boulevard connector is not such a road (and really bears no relationship to the items listed in Table 5). If anything the new direction makes this clear through the inclusion of what is now a generic category of 'arterial road'.*

With respect to the land required for the boulevard connector street the VPA stated:

> *Clearly if the item is not an arterial road it is not appropriate to include the land. It is observed that Parklea continues to pursue a contribution of all of the land for the road notwithstanding it clearly would ordinarily be required to provide the standard width of a connector road.*

With respect to the addition of culverts to Table 8 the VPA submitted these are new items not supported by any clear argument about what is or is not "*a relevant culvert or which makes the case for inclusion under the new criteria*."

Deep Creek Bridge road

XWB Consulting, on behalf of Paul and Penny Carney, submitted that the bridge across Deep Creek was an ICP item. However, the road through the southern portion of the Deep Creek Reserve to the bridge was not included in the ICP. XWB Consulting argued that the road was not required for access to the land, the Princes Highway provided a suitable alternative and there was not a reasonable nexus to the development of the land. The submission stated that the road should be included in the ICP because the bridge is considered to be in fragmented ownership and the *same should apply to the local access road to the extent that it is within the drainage reserve associated with Deep Creek.* Alternatively, the road should be removed from the PSP.

The VPA submitted it is yet to finalise ICP funded length of the bridge so that the land owner is "*not unreasonably required to undertake bridge works across the drainage corridor to link to the ICP funded item."*

Ryan Road/Princes Highway intersection IN-01

Ferati Holdings Pty Ltd (Ferati) submitted that it has an interest in the land on the north side of intersection IN-01 and west of Deep Creek. This land was not within the PSP area. Ferati submitted that it supported the construction of a T-intersection designed to accommodate a future northern connection funded by the ICP. The ICP proposed a 50 per cent funding of this intersection.

Ferati proposed that the northern leg of intersection IN-01 and a road connecting it to bridge BR-02 should be included in a supplementary levy and be fully funded by the ICP.

Mr Gnanakone's evidence, on behalf of Ferati, estimated that 25 per cent of the traffic through intersection IN-01 would be generated by development on the north side of the Princes Highway. These estimates were consistent with the assessment of TfV and VicRoads. His evidence was that a signalised intersection was an appropriate treatment of the

intersection and that the contribution from the land to the north should not exceed 25 per cent.

The conclave of traffic experts considered this intersection and concluded:

> *It was agreed by all experts that the current wording for funding requirements of IN-01 (that is 50 per cent ICP contribution) should be amended. Suggestions put forward included:*
> - *75 per cent funded by the ICP, 25 per cent funded by other parties outside the ICP for this PSP*
> - *ICP funds the initial T-intersection (which would be designed to accommodate a future addition of a northern leg)*
> - *Jim Higgs agreed that 50 per cent seemed too high for the northern development and that the specifics would need to be the subject of a deal to be made.*

(iv) Discussion

Funding of community infrastructure

The Panel acknowledges that it appears there will be a surplus in the transport infrastructure funds collected under the ICP but a shortfall in the community and recreation infrastructure. In this respect, the Panel accepts the submission of the VPA that community and recreation items are not fully funded. The imposition of a cap on the community and recreation levy will mean that, in some circumstances, this infrastructure will not be fully funded.

Nevertheless, the ICP Direction provides a mechanism that allows surplus funds in the transport levy to be applied to the community and recreation levy, subject to a separate Ministerial discretion.

This discretion is dealt with in clause 12 of Annexure 1 in the ICP Direction which states:

> *The Minister may increase the amount specified in clause 10 in relation to a particular Infrastructure Contributions Plan if:*
>
> *(a) the Minister is satisfied that the community and recreation construction to be funded by the increased amount is essential to the orderly development of the land in the ICP area*
>
> *(b) no supplementary levy is being imposed to fund transport construction*
>
> *(c) the total standard levy rate (comprising the amounts allocated to community and recreation and transport construction) is not increased.*

This clause enables the Minister to increase the levy rate for community and recreation infrastructure provided he is satisfied that all three conditions are met. Mr Shipp's evidence was that all three conditions had been met and Council invited the Panel to make recommendations that this discretion should be used.

However, it is not the role of the Panel to provide recommendations to the Minister on whether or how he should exercise his discretion with respect to changes to the levy rate for community and recreation. The role of the Panel is to consider and make recommendations on the Amendment. If there is a concern with the community and recreation levy then it is

up to Council and the planning authority to make the case to the Minister that there is an issue with the community and recreation levy that could be addressed by the discretion provided in clause 12.

Boulevard connector street

Consideration of the nature of the boulevard connector street is dealt with in section 1 above and concludes that the road in not an arterial road. The Panel notes that the Parklea land ownership plan provided as Document 79 shows that with the exception of three land holdings near the intersection with Ryan Road, the route of the boulevard connector street is entirely within land fully or partly owned by Parklea. While there is no qualification of the term fragmented land, the ICP Direction in outlining the criteria for applying a supplementary item provides the following:

- *the item, normally provided by a developer to develop the land for urban purposes, is on or adjoins land in fragmented ownership*
- *the fragmented land ownership makes the delivery of the item by the developer difficult.*

Given the Parklea interest in the land around the road (see Figure 4), the Panel supports the evidence of Mr Shipp that the boulevard connector street does not traverse land that is in fragmented ownership. On this basis the boulevard connector street is not an ICP supplementary item.

The Panel agrees with the submission of the VPA that if the road is not an arterial road then the land component is not an item included in the ICP. The Panel notes that Parklea have raised the matter of minor culverts which can be included as ICP items funded through the standard levy. Parklea's submission acknowledges that the land required to construct the culverts may be sufficient to classify then as 'major culverts' which are not able to be funded through the standard levy.

In these circumstances it is apparent to the Panel that the final classification of these culverts will be subject to more detailed design considerations than the Panel has before it. In these circumstances is premature for the Panel to recommend whether the culverts required are minor or major and whether they should be included in the ICP. This is a matter that Parklea should address with the VPA before the final PIP is prepared.

Deep Creek bridge road

In the Panel's view the land leading to bridge BR-01 is held in one ownership and consequently not fragmented. While the bridge itself is included in the ICP because of fragmented ownership the same argument does not apply to the road leading to it. The ICP Direction in Table 5 allows the inclusion of local roads as a supplementary item if a number of conditions are met. The most relevant of these conditions are outlined above and deal with fragmented land ownership. In the Panel's view there is no fragmentation of land ownership and insufficient justification to include this road in the ICP.

Ryan Road/Princes Highway intersection IN-01

The Panel notes the conclusion of the conclave of traffic experts that supported amendment of the wording of the funding requirements of intersection IN-01. The Panel accepts the evidence of Mr Gnanakone that 75 per cent of the traffic volume using this intersection can be attributed to the PSP. This assessment is also supported some of the other members of

the conclave. The Panel agrees with this conclusion. In the Panel's view, which was supported by the evidence of Mr Gnanakone, the most efficient and cost-effective method of addressing this matter is to develop the intersection as a T-intersection fully funded by the ICP. This would then allow the northern leg of this intersection to be developed when the land to the north is developed.

The Panel understands that BR-02 is a pedestrian and cycling bridge and does not support the Ferati submission for a road connection from IN-01 to bridge BR-02.

The Panel agrees with Mr Shipp's observation that Table 8 does not include item CI-04 (land for indoor recreation) which is shown in the PIP and appears to be an omission which should be corrected. The Panel notes that the VPA Final List of PSP Changes includes the addition of CI-04 to Table 8.

(v) Conclusions

The Panel concludes:

- a deficit in the community and recreation levy and how this may be addressed is not a matter for the Panel
- there is insufficient justification to include the boulevard connector street in the PIP and Table 8 of the PSP
- the VPA should consider the two culverts identified by Parklea before the finalisation of the ICP
- there is insufficient justification for including the Deep Creek bridge road in the PIP
- Table 8 of the PSP should be amended to include 75 per cent of the land and interim construction of intersection IN-01 as a T-intersection.

(vi) Recommendations

The Panel makes the following recommendations:

4. Amend item IN-01 in Table 8 of the Pakenham East Precinct Structure Plan to change the description to purchase of land (Ultimate treatment) and construction of a primary arterial to connector road T-intersection (interim treatment). The figures updated in column Ultimate land from 50 per cent to 100 per cent and in column Interim construction from 50 per cent to 100 per cent for the construction of a T-intersection.

3.3 The Future Urban Structure plan

(i) The issue

The issues are whether:

- the Parklea alternative Future Urban Structure Plan is preferable to the exhibited version
- the changes to the Future Urban Structure Plan recommended by the VPA are appropriate.

(ii) Background

The VPA provided the following summary of the PSP

> *The Pakenham East PSP is a long-term plan for future urban development of the site. It describes how the land is expected to be developed, and how and where services are planned to support development. The Plan provides a high-level structure to guide subsequent detailed planning and development and thus will be subject to further refinement through this process.*
>
> *The PSP provides a guide for the delivery of an urban environment that will be a logical extension of the existing established residential areas adjacent to the precinct. The PSP, and Amendment to implement the Plan, enables the transition of 'urban identified' land to urban land giving effect to necessary applied zone provisions to allow development to occur in accordance with the Plan.*

Prior to the commencement of the Hearing, Parklea submitted an alternative Future Urban Structure Plan (FUS). This plan is shown in Figure 3. Parklea invited the Panel to recommend amendment of the FUS to accord with this alternative.

The alternative FUS is essentially made up of the following elements:

- Splitting the sports reserve SR-02
- Relocating the government secondary school
- Realigning the boulevard connector street.

The alignment of the boulevard connector street is discussed in section 3.1 above.

Figure 3 Parklea alternative Future Urban Structure Plan

(iii) Evidence and submissions

Parklea informed the Panel that it had been engaged as project manager for lots 29 to 35, 38, 39, 41, 46, 48 and 49 (Figure 4). The company has varying degrees of full ownership, part ownership or no ownership interest in these lots.

Figure 4 Parklea land ownership (Document 79)

Parklea added that:

> *Each landowner decision as to the development of its land will be based on the personal circumstances, tax exposure and investment ability of each landowner.*

The alternative FUS proposed the relocation of the government secondary school to the east and splitting open space SR-01 which, it was submitted, provided for the efficient siting of open space abutting the gas transmission easement and a second area adjacent to an area of uncredited open space and drainage. It argued that these alternative locations had flatter topography.

Parklea added that the:

> *… alternative location enables the more efficient, logical and cost-effective development of the residential areas within the southern half of the Precinct, in circumstances where development in the short term is likely to commence in the west whereas the school is likely to be required over the long-term.*

The VPA submitted that the PSP provided sites for two primary schools and one secondary school in accordance with the Department of Education and Training (DET) standard provision ratios. It added:

> *The locations are adjacent to the connector road network, neighbouring higher densities within the walkable catchment, and co-located with community facilities and open space. Constraints within the precinct such as slope and gas pipeline measurement lengths have affected the location of the proposed sites.*

Relocating the government secondary school

The VPA submitted that the exhibited location of the school is more central and provides better access for Pakenham East. Pakenham East will constitute 80 per cent of the student catchment. The exhibited location of the school would be accessible via active and public transport and is positioned to encourage these modes over private vehicle access.

The VPA considered that the relocation of the school would decrease the residential catchment of the LTC. Ultimately the preparation of precinct structure plans is a balancing exercise. There are more positive attributes to the exhibited location than the alternate location presented by Parklea particularly with regard to catchment.

DET submitted that if development proceeds as anticipated it will need 8.4 hectares of land to deliver a government secondary school within Pakenham East. DET identified the following advantages of the proposed secondary school site stating that it:

- *is more central to the surrounding local school catchment that would apply if a future government secondary school were delivered in this location (Note: approximately 80% of the catchment of this school would be within the Pakenham East PSP area)*
- *supports the principles of colocation with other community assets*
- *has stronger active transport accessibility, due to its central location and connections with the active transport network*
- *provides greater community facility sharing opportunities if the secondary school is collocated with the entire sporting reserve, rather than only 3.8 hectares (as would be the case in the proposed alternative Future Urban Structure).*

Parklea submitted that the PSP FUS nominated land on lots 33 and 38 as a future government secondary school, adjacent to a large tract of open space on lots 33 and 39. Parklea recommended relocating the secondary school to land on lot 35 and to split the tract of open space in two which it identified as AOS 1 on lot 39 and AOS 2 on lot 37. Lot 37 also included the indoor recreation facility. Parklea did not have an interest in lot 37. In addition, the proposal shifted AOS 1 to the west to abut the gas transmission easement.

Parklea added that there were a number of arguments that supported the alternative proposal:

- The exhibited school location is located on two lots in different ownership. Parklea manages both lots, but there is no guarantee this arrangement will continue into the future or that the two owners will develop at the same time. The alternative proposal is in single ownership.

- The exhibited school site has a fall of 11 metres from north to south and the alternative location a fall of 5 metres from northeast to southwest. The greater slope will result in greater construction costs and make access difficult by bicycle.
- The key catchment role of the proposed school should be to service both the population of Pakenham East as well as the Pakenham North-East small area and the alternative location is more accessible to these catchments.
- The alternative location for the school is better served by public transport options, as it is in close proximity to the LTC and the Princes Highway.
- The alternative location enables the more efficient, logical and cost-effective development of the residential areas within the southern half of Pakenham East.

Mr Panozzo's evidence, on behalf of Parklea, was that the primary catchment area for this future Government Secondary College will be both Pakenham East and the Pakenham North-East small area. In addition, the school would attract a *significant number of enrolments from the rural and semi-rural communities to the east, north-east and south-east of the PSP area such as Nar Goon and Garfield*. Mr Panozzo identified this as a key secondary catchment area for the proposed school. From this analysis he concluded that Pakenham East would make up approximately 50 per cent of the school's entire catchment.

Mr Panozzo stated that the eastern rural communities of this catchment would be heavily reliant on both private motor vehicle and public transport options to travel to the school. His "*strong belief*" was that the alternative location was superior because it is better served by public transport. He also considered that the alternative location, which is closer to the Princes Highway, provided superior walking and cycling options.

Mr Atkinson's evidence was that the alternative location was better designed to respond to the existing topography and *future grading requirements*. His evidence mainly focused on landscape and planting, however, he added that the proposal would create a second open space area adjacent to the alternative location of the school that would also link to the drainage reserve.

Mr Lee's evidence was that his calculations confirmed the LCC would have difficulty achieving the scale of development proposed in the PSP which was 4,100 square metres. He added that the supermarket opportunity would be reduced to a mid-sized store.

He concluded:

> *Small neighbourhood centres such as this are often difficult to develop successfully because of the preference – especially in outer urban communities – to direct a larger share of weekly shopping to centres containing a full-line supermarket.*
>
> *The relocation of the possible future government secondary school and part of the designated AOS would enable more residential development to occur within the catchment likely to be served by the LCC.*
>
> *My analysis of June 2017, confirmed in revised calculations conducted for the exhibited FUS, shows that the retail development potential would be close to the envisaged 'target' of 4,100 sqm if the school were relocated, therefore helping to establish a more successful shopping precinct and provide amenity for early residents within the PSP.*

The VPA submitted that the exhibited school location was superior because it provided better active transport options for the primary 80 per cent of students coming from Pakenham East. The VPA informed the Panel that DET had advised that it expected the remaining 20 per cent of the catchment to come from the suburban areas west of Pakenham East which was closer to the exhibited secondary school location.

The VPA added that it was not appropriate to relocate to school to enable land owners to better stage the roll out of their land holding. In addition:

> *… PSPs are planned for the ultimate build out, and if we planned all of Melbourne around the staging of specific land holdings than we would be creating substandard places to live for all Victorians well into the future.*

Council submitted that the evidence provided to the Panel did not demonstrate that there is a "*fundamental flaw"* in the PSP. In Council's view the exhibited location of the secondary school and active open space reserve achieved efficiencies in terms of delivery costs and mode shift to sustainable modes of transport.

The exhibited school location has a local access street along its eastern and southern boundary, which provides access to the second car park and more efficient access and egress. The alternative location as well as AOS 1 and AOS 2 had a higher risk of congestion because of their direct links to the boulevard connector street.

Council added that the topography of the site should not be a significant concern, especially as the distance to the town centre is just over 1200 metres and the slope is a maximum of 10 metres of elevation. In Council's view it *is not unreasonable to expect many children to navigate a 10m hill on one way to or from the secondary school or sports reserve for a distance of up to one kilometre.*

ERM informed the Panel that the alternative location for the school would result in the proposed AOS 2 being largely located on the Blazevic land. In addition, the relocation of the school site did not achieve any strategic advantages and would result *in a more isolated setting with increased travel distances for the majority of students.*

At the conclusion of its submission Parklea presented a revised alternative FUS (Document 92) which proposed a single open space area co-located with the school and indoor sports facility in a similar location to the exhibited FUS but moved further west to abut the boundary of the gas easement (Figure 5).

Figure 5 Revised Parklea alternative Future Urban Structure Plan

The VPA responded to this revised alternative FUS as follows:

> *The VPA observes that this location was largely considered during agency consultation in April 2017 when DET indicated it did not support the acquisition of the school site in a similar layout to that in the FUS3 also abutting the Princess freeway with apparent noise implications and with access to only two frontage roads, rather than three which is inconsistent with the PSP Guidelines which support all three roads on the boundary of a school site.. The VPA's recent enquiries with DET on the FUS3 indicate that these concerns remain on the FUS3. It is important that an appropriate school site is identified in a position acceptable to DET. This will encourage rather than hinder land acquisition.*

Splitting the sports reserve

Mr Panozzo's evidence was that the two open space areas proposed by the alternative FUS would not adversely impact on the functioning of organised sport. He added:

> *I believe the proposed AOS 2 reserve is of sufficient size to accommodate two soccer playing fields and four outdoor netball courts. I would add, however, that AOS 2 will also be able to potentially accommodate another sport during the summer season. For example, if the two soccer playing fields where overlaid by an oval, then cricket could comfortably be played at the reserve during summer.*

Mr Panozzo concluded that providing three locations for active open space in Pakenham East included more of the area in a one kilometre catchment.

Mr Atkinson, on behalf of Parklea, gave evidence that the minor relocation of the proposed AOS 1 would "*benefit from a slighter flatter zone as it moves out of the area with more slope."* In addition, this area of open space would be better integrated with the gas easement. He stated that the location of AOS 2 adjacent to the school would meet the standard of adjoining schools and community facilities.

Mr Atkinson concluded:

> *Given the sensitive approach to recreational design and the strategic integration proposed, it is anticipated that there will be no negative impacts to the broader neighbourhood at these locations. Both areas of AOS provide flexibility for future uses.*

The revised alternative FUS submitted by Parklea at the conclusion of its submission proposed a single active open space area moved further west from the exhibited location to abut the gas transmission line easement.

Council submitted that adoption of the alternative FUS would require a fundamental review of the PSP and added that there was not a significant shortcoming in the PSP that would warrant such a review. Council observed that AOS 2 would not meet Standard S13 which requires a minimum of 8 hectares. Mr Atkinson acknowledged this point.

Council argued that splitting the open space would result in parents having to travel to different venues. However, the exhibited open space provision would provide parents with the opportunity of "*walking from game to game at the same venue to see their kids play, than to make multiple car trips and waste time finding a car park."*

Mr Simon's evidence, on behalf of Council, was that the exhibited SR-02 active open space did not allow for senior sized ovals in accordance with the Council's *Recreation Reserve Facility Standards Policy* and that the configuration of the sporting facilities was not functional. Mr Simon stated that although the VPA had agreed to increase the size of this reserve by 0.5 hectares to 14.1 hectares, the only workable solution to achieve proper size, orientation and car parking was to modify the shape of the land and increase the area by a further 0.2 hectares.

Council concluded that:

> *Mr Simon's statement reflects the need for 455 car parking spaces, and the preparation of a revised plan by the VPA to provide an additional 0.2 Ha of land to accommodate the increased car parking requirement. The car parking shortfall can be seen at regional sports facilities such as Point Cook on a weekend where overflow car parking spills onto the road reserves for significant distances. Mr Simon suggests further 0.2 Ha of land is needed.*

The VPA submitted that the location of SR-02 has limited slope with the steepest gradient around 1:17 on the northeast boundary. This grade was not considered problematic in the delivery of a sports reserve. In addition, splitting the open space would not result in the efficient delivery of facilities:

> *The VPA does not consider Parklea's proposed increase in the number of sports reserves to be beneficial as it reduces the ability for sharing facilities. The relocation of the active open space to the west negatively impacts on the*

active transport accessibility to the sports reserve. The proposed AOS 2 does not meet Council's standards. A larger sports reserve, as proposed in the exhibited PSP, allows for greater flexibility of use as there is more area to work with. The indoor recreation centre will be retained as located in the exhibited PSP.

(iv) Discussion

Relocating the government secondary school

The central elements of the alternative FUS were the relocation of the government secondary school to the east and splitting the abutting open space into two parcels. As discussed above, the realignment of the boulevard connector street is a matter of design detail.

Mr Panozzo's argument was, in effect, that a greater proportion of the catchment coming from the east of Pakenham East was a justification for relocating the school closer to that direction. However, he acknowledged that most of the students attending the school from the east would travel either by car or public transport.

My Higgs estimated that the travel time difference between the two school sites would be in the order of 2-3 minutes by vehicle. In the Panel's view this would seem to make very little overall difference to the travel times of those coming from the east.

DET submitted that 80 per cent of the catchment of the proposed school would be within Pakenham East and it expected that the established urban area to the west would make up most of the remainder of the catchment. Mr Panozzo's evidence was that 50 per cent of the catchment would be within Pakenham East with the remainder coming from the east and northeast.

However, in cross-examination, Mr Panozzo acknowledged that his calculations were based on census data and not the actual population expected within the Pakenham East. He also confirmed that the anticipated population projected in the PSP was the equivalent of 80 per cent of the benchmark of 9,000 dwelling requirement for a secondary school. Given the area of developable land within Pakenham East and the expected density of 22 dwellings per hectare, the Panel accepts the position of DET that Pakenham East will form most of the catchment of the new school.

All submitters agreed that the co-location of the school with active space was a practical and desirable outcome. The evidence presented to the Panel supported this view as well.

The Panel acknowledges that the topography may present a challenge to cyclists as well as construction. However, in the Panel's view the slopes and gradients likely to be encountered are not uncommon in metropolitan Melbourne or substantial enough to warrant relocating the school.

Splitting the sports reserve

In the Panel's view splitting SR-02 appears to have little merit. Mr Simon's evidence was that the area of SR-02 was inadequate to accommodate all the facilities required. The Panel accepts this evidence and notes that the VPA has adopted Mr Simon's recommendations.

Therefore, it is difficult to see how splitting the sports reserve would provide an improved outcome. From the evidence presented to the Panel and the responses in cross-examination it became clear to the Panel that the proposed AOS 2, which would be co-located with a relocated school, has substantial design and configuration issues. Not the least of these was the separation of the AFL ovals from the netball courts. In cross-examination, Mr Panozzo had some difficulty in explaining the additional flexibility provided by AOS 2 as well as the justification for the separation of AFL and netball facilities.

The Panel agrees with the Council that there is nothing fundamentally wrong with the exhibited FUS to warrant a revision as proposed by Parklea in the alternative FUS. To some extent Parklea acknowledged this position by submitting a further revision to its proposed FUS (Document 92).

However, in the Panel's view, the alignment of the active open space along the gas transmission line has some merit. The Panel notes the version 3 alternative FUS (Document 92) proposed this change and acknowledges that, from the perspective of more efficient use of valuable urban land, the location of the open space abutting the gas easement results in a desirable outcome and warrants furthered consideration. Nevertheless, the Panel accepts the submission of the VPA that this option results in a school with two road frontages which is inconsistent with PSP Guidelines and exposes the school to potential noise issues from the Princes Freeway.

Therefore, the Panel supports the FUS as exhibited with the changes agreed in the Final List of PSP Changes.

(v) Conclusions

The Panel concludes:

- the exhibited location of the government secondary school is appropriate.
- the sports reserve SR-02 should be provided in one location
- the exhibited FUS is appropriate
- further consideration should be given to locating SR-02 next to the gas transmission line easement.

3.4 Drainage

(i) The issues

The primary issue is whether the width of the drainage reserves on the east side of Deep Creek and Hancocks Gully can be reduced from the widths shown on Plan 09 – Integrated Water Management of the exhibited PSP.

Secondary issues relate to:

- the size of water assets WI-02 and WI-04 and whether a new water asset within the powerline easement at the northern end Hancocks Gully could be added to reduce the size of WI-02 within the Hancocks Creek drainage scheme
- whether PSP Plans 3 and 9 should delineate the extreme overland flood flow path provision as outlined in the Ryan Road drainage scheme to the south of Canty Lane.

(ii) Evidence and submissions

Drainage widths

An expert witness statement was prepared by Ms Mag for the VPA. Ms Mag explained the analysis of three possible drainage strategies for the PSP area and concluded that:

> *The concept design plans formulated in 2015 were used to set the drainage reserves detailed in the PEPSP. Further work to bring the drainage assets designs to the functional design standards (in 2016 and 2017) confirmed that enough space had been allocated in the PEPSP to ensure all drainage elements can meet all authority requirements going forward.*
>
> *I conclude that Amendment C234 is appropriate having regard to allowing adequate drainage reserves to ensure enough space to develop the waterway, wetland and retarding basin functional designs to a detailed design standard, while ensuring all MWC, Council and other authority requirements are met going forward.*

Three expert witness statements were prepared by Mr Bishop for Auscare Commercial Pty Ltd and Earldean Pty Ltd (Auscare & Earldean) (property 28), P and P Carney (properties 10, 11 and 14) and Lendlease (properties 7, 8 and 9). In his statements, Mr Bishop concluded with respect to the drainage corridor widths that:

- The present waterway corridor (along Deep Creek) appears to be excessive and that there is a reasonable opportunity to reduce the corridor to something between 50 metres and 100 metres through a refined design and confirmation of a reduced design flow
- There is no clear hydraulic justification for the provision of additional waterway width on the east side of Deep Creek compared to the west side through the subject site and the 1% AEP design flows can be accommodated through a modified floodway geometry in a corridor less than 100 metres wide on the east side of Deep Creek
- Some marginal reduction in waterway width (over Hancocks Gully) may be possible during detailed design if adequate performance and design standards can be demonstrated.

At the request of the Panel, a conclave of drainage experts including a representative of Melbourne Water was convened. The conclave considered several drainage and flood plain matters including the width of the drainage reserves along Deep Creek and Hancocks Gully. A statement from the conclave was submitted to the Panel (Document 14). The conclave recommended that the PSP (Plan 9) should show:

- a 100 metres corridor on the eastern side of Deep Creek while indicating that this could be reduced in the reach between Ryan Road and the Princes Highway through an appropriate design process and agreement with Melbourne Water and Council. The eastern corridor width should ultimately be no less than 50 metres from the eastern top of bank of Deep Creek
- a 100 metres corridor on the eastern side Deep Creek while indicating that this may be reduced marginally (conclave's emphasis) between the Princes Highway and the powerline easement through an appropriate design process and agreement with Melbourne Water and Council

- A minimum 55 metre reserve width for drainage purposes over Hancocks Gully
- The note on Plan 9 should allow for reduction in reserve areas if all Melbourne Water and Council requirements are met during the design process.

The VPA noted that Melbourne Water is the relevant authority with respect to drainage schemes and designs Development Services Schemes (DSSs) to masterplan the drainage and waterway infrastructure required to service urban development within a PSP area. The VPA submitted that:

> *DSSs are a conceptual design and provide for flexibility at functional design, subject to achievement of the DSS design objectives. In practice this permits a level of flexibility in the delivery of the systems. It is common practice that, notwithstanding the content of a DSS, Melbourne Water will accept at permit application stage, or before, proposed variations to a DSS where the alternate scheme still satisfies its functional and cost requirements. Ultimately the schemes will be approved/amended to ensure consistency between the PSP at gazettal and the final scheme design. The VPA acknowledges, as it has done in a number of PSP matters that it is important that the PSP provide an adequate level of flexibility to accommodate such changes. Frequently this is achieved through a note on the Plan 9 or its equivalent.*

The VPA noted that a conclave of the drainage experts had been held and in closing, submitted that:

> *The VPA has premised its case upon the inherent flexibility available to development proponents to vary the DSS approved designs. The evidence before the Panel from Mr Bishop supports this approach and confirms that it is the usual approach. Further the evidence is that the precise setback to Deep Creek is unknown.*
>
> *In these circumstances the VPA is content to adopt the following words at Plan 9 of the PSP at page 56 in addition to the existing note.*
>
> > *In relation to the Ryan Road drainage scheme the width of the waterway/drainage assets east of Deep Creek must be a minimum of 50 metres and a maximum of 100 metres from the eastern top bank of Deep Creek.*
>
> *This largely adopts the requested language.*

With respect to the width of the Hancocks Gully drainage reserve, the VPA noted that a 55 metre wide corridor could accommodate the required constructed waterway but that the extra 10 metres provides for other possible uses around the waterway. While Melbourne Water would consider a 55 metre wide corridor consistent with its guidelines, it had based the waterway corridor width of 65 metres on the expert opinion of Ms Mag.

The VPA submitted that:

> *In summary, VPA, Melbourne Water and Council recommend a 65m wide corridor to comply with the Melbourne Water Waterway Corridor Guidelines 2013, which provide for a holistic approach to waterway design by factoring in*

> *the broader community and environmental benefits that waterways provide in urban areas.*

Council submitted that, with respect to Hancocks Gully:

> *To the extent that the conclave statement provided agreement to reduce the waterway corridor to 55 metres, this was only for drainage purposes and did not take into account the shared paths or other planning considerations. The experts agreed that WSUD requirements had not been factored into that assessment*

Council added that Table 4 of the *Waterways Corridors, Guidelines for Greenfield Development* Areas within the Port Phillip and Westernport Region (Document 15) should be used arguing that the proposition that Table 3 be used was erroneous and ignored the provision of shared paths on either side of the waterway. It noted the evidence of Ms Mag that a 40 metre hydraulic width was required and therefore after allowing for shared paths and potentially higher standards of flood retention, a 65 metre wide corridor was a reasonable starting point for detailed design.

In closing, Council submitted that:

> *... the Panel should not be persuaded that there is likely to be major change to the drainage corridor ... the starting point should be to ask whether there is any proper basis to substantially reduce the area of land that will be regarded as being encumbered for drainage and flood management purposes.*

It added that Council remained of the view that a 65 metre corridor is appropriate for Hancocks Gully.

XWB Consulting for P and P Carney noted the conclave recommended that the 100 metres corridor on the eastern side of Deep Creek could be reduced marginally although the term "reduced marginally" was not defined in the conclave report. It submitted that in cross-examination, there was not a consensus in the responses of Ms Mag and Mr Bishop with Ms Mag suggesting more limited scope and Mr Bishop greater scope.

XWB submitted that:

> *We say that the 100 metre reserve is not fixed, and that there was agreement at the conclave that the width of the reserve could be reduced through an appropriate design process and through agreement with Melbourne Water and Council. The VPA has also acknowledged that the Drainage Service Schemes (DSS) are a conceptual design and provide flexibility at functional design subject to the achievement of DSS design objectives. As such the VPA acknowledges that it is important that the PSP provide an adequate level of flexibility to accommodate design changes. We urge the Panel to recommend that appropriate flexibility be built into the PSP in relation to the width of the Deep Creek Reserve.*
>
> *…*
>
> *Finally, we disagree with the last outcome of the conclave of experts to the extent that Council is also included in the note to Plan 9. We say these*

> *matters should be rightly left with Melbourne Water as the drainage authority to approve.*

Auscare & Earldean opined that the PSP ought reflect the agreed outcomes of the drainage experts' conclave and … *To the extent that it continues to refer to a drainage reserve of a 100 metre width, it is inconsistent with the agreed findings of the Conclave and furthermore, is likely to lead to unnecessary confusion and dispute concerning the area to be set aside for the floodway corridor.*

Auscare & Earldean submitted that there has been no compelling case made to substantiate the drainage width of 100 metres and noted that the DSS for Ryan Road is apparently yet to be finalised and accordingly can be updated to reflect the conclave outcomes.

It added that while detailed design and further modelling is required before the width of the floodway corridor will be known, this does not substantiate the insertion of the 100 metres width on PSP Plan 9.

Auscare & Earldean submitted further that the current note on Plan 9 does not provide the requisite degree of flexibility and that:

> *... the most appropriate course is to remove the designated widths from Plan 9 and instead, include a notation for each of the drainage schemes which identifies the agreed parameters within which the drainage reserve will be located.*

Auscare & Earldean sought a recommendation from the Panel that the drainage widths be deleted from PSP Plan 9 and that the note to Plan 9 be augmented with the following words:

> *In relation to the Ryan Road Drainage Scheme the width of the drainage reserve east of Deep Creek will be a minimum of 50 metres and a maximum of 100 metres from the eastern top of the bank of Deep Creek.*

Lendlease stated that following agreement at the conclave that drainage assets as presented in the PSP could be refined, Mr Bishop was asked (by Lendlease) to prepare a further assessment in which he found that the width of WI-01 (Hancocks Gully) could be redesigned to a minimum of 45 metres (see Document 108).

Lendlease acknowledged that Mr Bishop had applied Table 4 of the Waterways Corridors, Guidelines for Greenfield Development Areas within the Port Phillip and Westernport Region (Document 15) resulting in his agreement to a corridor width of 55 metres. It noted that under cross-examination, Mr Bishop agreed that Table 3 of those guidelines can be used in the context of the constructed waterway on Hancocks Gully with there being active edges on both sides of the corridor as shown on Appendix D of the exhibited PSP waterway cross-section.

Lendlease submitted that it was appropriate for the waterway to provide a width of 45 metres.

Water assets WI-02 and WI-04

In his written evidence and later additional analysis (Document 108), Mr Bishop concluded that the size of WI-02 could potentially be reduced through expansion of WI-04 or utilisation of a new asset in the powerline easement at the northern end of Hancocks Gully. He noted

that the current drainage strategy for Hancocks Creek DSS relies on two online wetlands and retarding basins treating runoff from development within the PSP area and the external upstream catchment. His proposed alternative could include a retrofit of an existing dam to create a retarding basin/wetland within the existing dam footprint which is located within the powerline easement and straddles the northern boundary of the PSP.

Ms Mag stated in her written evidence that the proposed strategy deliberately placed all drainage assets within the PSP area. She noted that use of the existing dam was originally considered but that Melbourne Water made it clear that it would not take responsibility for that existing asset (the dam) as part of the DSS. She added that:

> *In addition, placing retarding basins at the lowest point in the contributing catchments is best practice in regard to optimising asset size etc.*

At the experts' conclave, Ms Mag agreed that additional flood storage could occur in the powerline easement but that would need the agreement of Melbourne Water and Council. The conclave recommended that:

> *The note on Plan 9 should allow for reduction in reserve areas if all Melbourne Water and Council requirements are met during the design process. This must be proven on a catchment scale to the outfall of Hancocks Gully at the Freeway (that is to the WI-04 outfall)*

The VPA stated that Melbourne Water had expressed concerns with the proposal put by Lendlease (as set out by Mr Bishop) to accommodate some of the drainage assets outside the PSP area to the north. The VPA submitted that:

> *Melbourne Water does not support the use of drainage assets outside the PSP boundary where the natural topography of the catchment is appropriate for the location of stormwater treatment of retarding basin assets. A key rationale for this is the capacity of the DSS to control the necessary land and if required acquire the land.*

The VPA also noted that stormwater assets provide multiple benefits for the community including passive recreation, increased biodiversity and amenity and that there was a question of policy and legality with supporting urban development within UGZ land with assets located on land outside the UGZ.

Council submitted that:

> *More broadly, it is apparent that the drainage issues in this catchment need to be mindful of the potential for impacts in the Koo Wee Rup Flood Management District.*
>
> *Urban development should not cause or exacerbate flood risks in downstream environments.*

Lendlease submitted that the additional modelling by Mr Bishop had shown that drainage assets can be engineered in various cost-effective ways all of which constituted best practice design. It acknowledged the concerns of the VPA, Council and Melbourne Water with potential issues in utilising the existing dam to the north notwithstanding Mr Bishop's statement that the dam could be used in a cost-effective way.

Lendlease therefore proposed the adoption of an option proposed by Mr Bishop to reduce the size of the retarding basin WI-02 on the Lendlease land, ignoring the upstream existing dam. It submitted that:

> *Although the ultimate size of drainage assets can be refined during development stage, it is crucial to illustrate the most accurate representation of the asset at the strategic planning stage to ensure the alteration of the ICP public equalisation rate is minimised.*

In oral submissions at the Hearing, Mr James Taylor stated that he was a property owner to the south of the PSP and that Hancocks Gully runs through his property. He expressed strong support for the drainage strategy prepared by Ms Mag which he described as *"comprehensive"* and "*should not be tinkered with."* Mr Taylor submitted that modelling to determine the size of drainage assets should have a margin of error.

Overland flood flow path

Mr Bishop concluded that the existing hydraulic analysis did not appear to have fully resolved the significant break-out of floodplain flow to the south of Canty Lane in the 1 per cent AEP design flood.

The conclave of drainage experts recommended that the extreme flow overland flow path provisions should be clearly delineated on PSP Plans 3 and 9 between Deep Creek and water asset WI-07.

The VPA advised that Melbourne Water was satisfied for the overland flow path to be shown on PSP Plan 9, noting that the proportion of overland flow down the road would depend on the volume of fill placed in the area in and around Canty Lane (which would be addressed at the functional design of the subdivision).

Council submitted that:

> *The experts agreed that the PSP should be amended to provide greater detail regarding the need for an overland flow path, in the location described in the plans prepared by Stormy Water Solutions, between Deep Creek and WI-07.*

Council preferred that the extreme overland flow path provision be shown only on Plan 9. It suggested that this information did not need to be shown on Plan 3.

(iii) Discussion

The exhibited PSP Plan 9 – Integrated Water Management shows a drainage corridor width of 100 metres along Deep Creek, narrowing to 50 metres as the creek approaches Canty Lane, and a 65 metres wide waterway corridor along Hancocks Gully. A note to Plan 9 states that these waterway widths are subject to confirmation through detailed design to the satisfaction of Melbourne Water.

The Panel notes that as outlined by the VPA, the waterway management plan shown in a PSP is often subject to refinement as a result of detailed design work and modified to reflect the Development Services Scheme ultimately approved by Melbourne Water.

Submissions were made that the indicative waterway widths exhibited in the PSP should be reduced. All the drainage experts agreed that there was scope to reduce the waterway widths at the detailed design stage.

The Panels considers that the note to Plan 9 as exhibited already provides flexibility for the waterway widths to be reduced as a result of detailed design. The addition to the Plan 9 note of the words proposed by the VPA would emphasise this flexibility with respect to Deep Creek and should, in the view of the Panel, satisfy the parties who made submissions seeking clarity around design flexibility.

The outstanding issue is what, if any, indicative waterway widths should be shown on Plan 9. There seemed to be general agreement on 50-100 metres for Deep Creek when read in conjunction with the Plan 9 note, as amended. The conclave recommended 55 metres for Hancocks Gully but the VPA and Council both argued for 65 metres on the basis that in addition to drainage requirements, an allowance should be made for pathways and other amenity aspects of the waterways. A dissenting view was put by Auscare & Earldean. It argued no waterway widths at all should be shown on Plan 9.

The Panel agrees that widths shown on Plan 9 are indicative only and should be interpreted that way. In the Panel's view, the note to Plan 9 makes clear that there is flexibility and scope for a reduction in the waterway widths at the detailed design stage.

The Panel considers that the indicative waterway widths should be shown on PSP Plan 9. In the case of Hancocks Gully, there was much debate at the Hearing as to whether Table 3 or Table 4 of the Melbourne Water guidelines should be applied. No consensus was reached but in the Panel's view, nothing much turns on which Table is applied to estimate the width of the constructed waterway corridor. That will be resolved by detailed design after taking into account drainage requirements and providing for other aspects such as shared paths along the waterways.

While noting the advice of the conclave of experts that a minimum (Panel emphasis) of 55 metres should be used on Plan 9, the Panel agrees with the VPA and Council that a width of 65 metres should be retained at this stage for the reasons put forward by the VPA and Council.

Turning to the issue of the size of the wetlands/retarding basins WI-02 and WI-04, the Panel notes that in submissions at the Hearing, Lendlease did not pursue the option put by Mr Bishop that the refitting of the existing dam on the northern boundary could be used to reduce the size of WI-02. Putting that aspect to one side, the issue is whether the DSS could be redesigned to include an additional wetlands/retarding basin within the powerline easement thereby providing scope for a resizing of WI-02 and potentially WI-04.

It may be the case that a detailed design incorporating an addition retarding basin in the powerline easement could be prepared which satisfies the requirements of Melbourne Water and presumably with the agreement of the powerline company. The Panel agrees that such an outcome should not be ruled out at this stage. Flexibility is provided for changes at the detailed design stage. The Panel was not convinced, however, that sufficient analysis had been completed at this time to justify a reduction in the size of water asset WI-02 (as sought by Lendlease) to be shown on PSP Plan 9. The Panel was not presented with evidence that Melbourne Water had or would agree to such a change. The Panel is also mindful of the need to ensure that the design of the wetlands/retarding basins in the drainage scheme must be done on a holistic basis to mitigate any impacts of urban development on the area to the south of the PSP.

On the question of whether the overland flood flow path should be shown on relevant PSP plans, there was consensus that the flow path should be mapped. The only issue is whether the flow path should be shown on both plans 3 and 9 as recommended by the conclave of drainage experts. Melbourne Water has agreed for it to be mapped on Plan 9. The Panel agrees with Council that it is unnecessary to show the overland flow path on both Plan 3 – which is the FUS and Plan 9. The Panel considers Plan 9 to be the most relevant plan in this instance.

Conclusions

The Panel concludes:

- as with previous PSPs, there is flexibility for the PSP Plan 9 – Integrated Water Management to be updated to reflect the Development Services Schemes finally approved by Melbourne Water
- the note on Plan 9 as exhibited provides the flexibility for drainage assets and waterway widths to be modified at the detailed design stage subject to agreement with Melbourne Water
- the addition of the words to the note on PSP Plan 9 – Integrated Water Management proposed by the VPA will add emphasis to this flexibility and should be included in the note to PSP Plan 9
- the waterway widths shown on the exhibited PSP Plan 9 should be retained noting that the widths shown are indicative and can be reduced through detailed design and agreement with Melbourne Water
- the size of the water assets WI-02 and WI-04 as shown on the exhibited PSP Plan 9 should not be reduced unless and until there is agreement with Melbourne Water following detailed design of the drainage scheme
- the overland flood flow path should be mapped by Melbourne Water and added to PSP Plan 9.

(iv) Recommendations

The Panel makes the following recommendations:

5. **Amend the Note to Plan 9 – Integrated Water Management of the Pakenham East Precinct Structure Plan by adding the words:**

   In relation to the Ryan Road drainage scheme the width of the waterway/drainage assets east of Deep Creek must be a minimum of 50 metres and a maximum of 100 metres from the eastern top bank of Deep Creek.

6. **Amend Plan 9 – Integrated Water Management of the Pakenham East Precinct Structure Plan to show the overland flood flow path as determined by Melbourne Water.**

4 Amendment issues

4.1 Zones and overlays

(i) The issues

The issues are:

- whether the zones and overlays applied in the vicinity of Deep Creek are appropriate
- whether the application of the Heritage Overlay is appropriate
- should gaming machines be prohibited in the shopping centre complex including Pakenham East LTC and LCC Centre?

(ii) Background

The VPA advised that the exhibited Amendment would rezone the land in the electricity transmission line easement to SUZ8, land within 50-100 metres of the midline of Deep Creek to RCZ2 and the remainder of Pakenham East to the UGZ5. The applied zones are shown in Table 2

Use?	Applied Zone
Primary arterial road	Road Zone Category 1
Small local enterprise precinct	Commercial 2 Zone
Local town centre Local convenience centre	Commercial 1 Zone
Residential on a lot wholly within walkable residential catchment boundary (once subdivided)	Residential Growth Zone
All other land	General Residential Zone

Table 2 Applied zones in the exhibited Urban Growth Zone Schedule 5

In its opening submission the VPA recommended that the zoning along Deep Creek be included in the UGZ5 because the primary purpose of the land was a drainage corridor and not a conservation area.

(iii) Evidence and submissions

Deep Creek

The VPA submitted that the UFZ was too restrictive while the UGZ provided some flexibility for landowners to review the drainage land requirements. The VPA added that it and Melbourne Water agreed that, if the drainage corridor was adjusted, there might be "*awkward spaces between the UFZ land and the location of active open space*."

The VPA observed that there was a Floodway Overlay along the Deep Creek which extended onto land shown for residential development. The VPA advised that the Floodway Overlay (FO) prohibits subdivision on land within the overlay and that the map deleting the FO had been omitted from the exhibited Amendment.

The VPA noted that while the deletion of this overlay was an omission from the exhibited Amendment its presence serves to prevent the residential development of land as envisaged by the PSP. Consequently, it proposed instead to replace the FO with the Land Subject to Inundation Overlay (LSIO), which would accord with similar other sections of the Deep Creek area both north and south of the PSP site.

The VPA submitted that it and Melbourne recognised the issue raised by Council and proposed the following additional requirement in response:

> *Any reduction in waterway corridors / drainage assets shown on Plan 9 must result in additional local park(s) being provided to ensure the ICP public land equalisation rate is not altered for the overall PSP area. Waterway corridors / drainage assets must not be reduced where it would result in residential land being created between the waterway corridor / drainage asset and a sports reserve or local park.*

Council noted that the exhibited Amendment included a proposal to rezone land along the Deep Creek to the Rural Conservation Zone. It did not propose a change to the existing FO over much of Deep Creek, a control which *applies to mainstream flooding in both rural and urban areas…[which] convey active flood flows or store floodwater in a similar way to the UFZ, but with a lesser flood risk*.

Council submitted that it did not support the rezoning of the land covered by the LSIO to the UGZ5. Council tendered a broad scale zoning map (Document 59) of the Cardinia Shire to support its submission and argued that the plan showed that the Urban Floodway Zone had been applied to watercourses throughout the municipality. It added that:

> *In the northern part of the precinct the land in the LSIO is wedged between an active sports reserve and the waterway. A residential outcome in this area would be isolated and out of place. It would not provide for an appropriate interface between the active open space and the waterway.*

Council advised the Panel that, in the absence of a final drainage strategy informed by flood modelling, it was premature to reduce the existing FO and recommended the Public Park and Recreation Zone and Urban Floodway Zone as alternates. It submitted the risk was that any reduction in the land required for drainage could result in an increase in the UGZ5. If this occurred, Council submitted, it could create an area of land between the reserve SR-01 and the waterway where the applied zone would be GRZ. Council added:

> *If Melbourne Water is subsequently persuaded to reduce the Floodway Overlay, it may provide this advice to the Minister. As the government has a conflict of interest in applying the UGZ, because it will raise GAIC funds, it is important that the Panel scrutinise any change from the Rural Conservation Zone to the Urban Growth Zone. It should base its decision on the drainage evidence, rather than the 'whole of government position' advanced by the VPA.*

XWB Consulting submitted that it supports the proposal by VPA to replace the FO along Deep Creek with a LSIO, on the basis that without this change "*large areas of land identified in the PSP for residential development could not be subdivided*." XWB Consulting informed the Panel that the same approach was adopted in Amendment C92 to the Cardinia Planning

Scheme for the Cardinia Road Precinct Structure Plan and Amendment C149 to the Cardinia Planning Scheme for the Officer Precinct Structure Plan.

XWB Consulting opposed the application of the RCZ to the Deep Creek Corridor because it provided no flexibility with the boundary of the reserve. It submitted that the Deep Creek Reserve should be included in the UGZ5.

Heritage Overlay

The Amendment identified three places for inclusion in the Heritage Overlay, all of which were regarded as of local heritage significance. These places were:

- 32 Mount Ararat South Road, Nar Nar Goon (HO275)
- 140 Ryan Road, Pakenham (HO276)
- Pear tree on Dore Road (HO277).

At the Hearing the VPA advised the Panel that it proposed to delete 140 Ryan Road, Pakenham (HO276) and 32 Mount Ararat South Road, Nar Nar Goon (HO275) from the exhibited Amendment. The VPA informed the Panel that 140 Ryan Road, Pakenham been legally demolished and damage to 32 Mount Ararat South Road, Nar Nar Goon was such that the Heritage Overlay was no longer appropriate.

SR Holdings Investment Group Pty Ltd (SR Holdings) sought to have HO275 removed from the Amendment because the building no longer represented local heritage significance. Evidence provided by Mr Peter Barrett confirmed that damage to the house, Carinya, has compromised its heritage value. In addition, structural engineering evidence provided by Mr Shabanpoor found that there were various structural issues including age, termite infestation and moisture as well as partial collapse of the house that would impact retention of the structure. SR Holdings advised the Panel that a demolition permit had been sought after the owners had been issued with a stop work notice issued by Council.

Council expressed concern that, while the site was nominated for heritage control, the present state of the building meant that it could not be retained. Council requested that the site be excised from the UGZ and be made the subject of a note clarifying that the PSP does not apply to that area of land, for the purposes of the UGZ. Council submitted that the Panel make a finding that:

> *The application of a Heritage Overlay would have been justified, but for the damage that occurred to the structure.*

In its closing submission Council went on to suggest:

> *However, if the Panel does not accept that submission, it should at least consider whether a Design and Development Overlay could be supported on an interim basis to allow a more fulsome argument about the merits of re-creating heritage to be had.*

SR Holdings recommended that:

- *Cardinia Shire Council confirm in writing that it supported the removal of the Heritage Overlay from the site and consequential updates to the PSP and ordinance*
- *the Panel having no objection to the above*
- *no other changes to the exhibited Amendment be made that impact on 32 Mount Ararat South Road.*

The VPA submitted that it proposed to delete the site 32 Mount Ararat South Road, Nar Nar Goon (HO275) from the exhibited Amendment and the Heritage Overlay in its Final List of PSP Changes.

Lendlease submitted that it would be highly problematic to retain the pear tree on Dore Road (HO277), given the steepness of the site and likely impact of earthworks in the area. The VPA in its response to submissions did not support this position.

Ms Chantelle McLachlan requested that a number of historical references be corrected in the background report *Post Contact Heritage Assessment October 2017* and not added as an addendum to the report, because she felt that the latter would get "*lost"*.

Ms McLachlan also referred to the Lendlease submission and noted the old English Oak Tree located in the north-west of the northern homestead is identified as of "high amenity value" in the background reports by Context and John Patrick. She requested that the VPA investigate the tree's retention at the detailed subdivision stage. While Lendlease sought no specific action for the PSP, Ms McLachlan requested the addition of guidelines on how the tree can be utilised in development with community amenity value rather than on a private property or in a nature strip.

Council confirmed it supported efforts to protect this tree and suggested that the PSP could potentially create a site-specific control.

The VPA accepted Council's submission and proposed to show the tree location on Plan 2 - Precinct Features. Lendlease submitted that the placement of the tree in subsequent layout plans could be investigated at the detailed subdivision stage.

(iv) Discussion

Deep Creek

As discussed above, the Panel accepts the view that changes will occur as detailed assessments and applications take place within the framework established by the PSP. In the case of waterways, where changes are proposed by landowners they need to be assessed and approved by the relevant servicing authority, in this case Melbourne Water.

The Panel acknowledges that the VPA and Melbourne Water agree with the outcome sought by Council which is to prevent any potential residential development between sports reserve SR-01 and the Deep Creek drainage corridor. The VPA, with Melbourne Water, initially proposed a change to the requirements of the PSP as discussed above. In the Final List of PSP Changes the VPA further refined these requirements to state:

> *Where ultimate drainage design increases the area available for residential development, a proportion of credited open space must be provided, equal to the Public Land Equalisation Rate as specified in the Pakenham East ICP to the satisfaction of the responsible authority.*
>
> *Waterway corridors/drainage assets must not be reduced where it would result in residential land being created between the waterway corridor/drainage asset and a sports reserve or local park.*

In the Panel's view this change appropriately addresses the issue identified by Council.

The Panel notes from the Final List of PSP Changes the VPA proposal to remove the RCZ2, as well as the IPO2. The land would then be in the UGZ, with LSIO over the Deep Creek area. The Panel agrees that the prime purpose of the land is as a drainage corridor. This view is supported by the evidence of a number of experts, in different fields. From this perspective the Panel agrees that the most appropriate zone for the land is the UGZ in combination with the LSIO.

Heritage

The Panel accepts the submission by the VPA that the property at 140 Ryan Road has been demolished in accordance with the relevant permits and, as a consequence, there is no point in proposing the Heritage Overlay on this site.

A similar argument applies to the property at 32 Mount Ararat South Road, Nar Nar Goon. The Panel does not support the submission of Council to excise the site from the UGZ and PSP. Given that both Council and the VPA have agreed not to proceed with the application of the Heritage Overlay to this site, the Panel sees little benefit in making an assessment whether the Heritage Overlay would have been justified for the site, as requested by Council.

This leaves one remaining Heritage Overlay of the original three proposed, and over a tree rather than a built structure. The Panel notes the inclusion of such sites are now required through the recent VC148 to include a statement of significance and may also include heritage design guidelines and application requirements, strengthening the need for new permit conditions provisions in Schedule 5 to Clause 37.07, as proposed in Document 146.

The Panel notes that these changes have been included in the Final List of PSP Changes.

(v) Conclusions

The Panel concludes:

- the replacement of the FO with the LSIO is appropriate
- the deletion of HO275 and HO276 is appropriate
- the replacement of the RCZ2 in the exhibited Amendment with the UGZ5 is appropriate
- the removal of the IPO2 from the exhibited Amendment is appropriate
- the proposed changes to deal with land between sports reserve SR-01 and Deep Creek are appropriate.

(vi) Recommendations

The Panel makes the following recommendations:

7. **Replace the Floodway Overlay over Deep Creek with the Land Subject to Inundation Overlay.**
8. **Replace the Rural Conservation Zone Schedule 2 with the Urban Growth Zone Schedule 5.**
9. **Delete the Incorporated Plan Overlay Schedule 2.**

4.2 Open space provision and location

(i) The issues

The issues are whether:

- the size, layout and location of local sports reserves SR-01 and SR-02 are appropriate
- there is a need to provide a potential future sports reserve outside Pakenham East.

(ii) Background

Council, the DET, other organisations as well as affected landowners made submissions in relation to open space provision. The VPA advised that it had reached agreement with Council and that Council's concerns had been largely resolved.

Most submissions related to the larger open space areas including local sports reserve and recreation sites, particularly SR-01 (northern sports reserve), SR-02 (southern sports reserve) and LP-01 (northern local Hilltop Park).

Sports reserve SR-02 is dealt with substantively in section 0 with respect to the FUS. Local park LP-01 is dealt with in section 4.3, particularly in regards the road proposal running through the site. This section focuses mainly on SR-01.

(iii) Evidence and submissions

SR-01

XWB Consulting proposed that SR-01 should be reconfigured to make an allowance for more residential land, with the effect of maximising yield for the landowners. XWB submitted that the trees at the northern end of the reserve which were marked for retention under the NVPP had little conservation value. The removal of these trees would then enable the reconfiguration of SR-01 and reduce the land take necessary for the reserve.

Mr Simon's evidence made only passing reference to SR-01. However, he agreed the concept layout and potential utilisation of the reserve could be further optimised, for example soccer fields are better located side by side, and closer to club rooms. Mr Simon observed that one of the constraints on the land was the native vegetation shown for retention and the gas easement. This matter is discussed in more detail in section 4.4 below.

XWB Consulting also expressed concern that the retained vegetation and gas transmission line easement are treated as exclusive elements rather than integrated into the network of parks and facilities.

Council submitted that "*there may be opportunities to maximise the efficiency of the use of the SR-01"* and recommended the Panel review yield on a precinct-wide basis. It submitted that the overall level of credited open space is less than 6 per cent required by the PSP Guidelines.

The VPA expressed similar reluctance to reduce active open space, which throughout Pakenham East accounts for 5.49 per cent rather than the recommended 6 per cent. It submitted that "*it is not necessary that the concept plans utilise each and every square metre*

of the active open space at this time", recognising the concept stage will be followed by detailed design and likely variation from what is shown in the PSP.

SR-02

The VPA advised the Panel that it accepted Mr Simon's evidence and agreed to reconfigure and increase the size of SR-02 by an additional 0.7 hectares to accommodate the required sports facilities, amend the PIP table and is satisfied of Council's assessment. Mr Simon provided the Panel with a revised concept plan which included shared car parking with the school and the potential opportunity for joint use facilities (Appendix 2 in Document 69).

Potential future sports reserve

Due to the under provision of active open space recommended in the PSP Guidelines, the FUS shows a potential future sports reserve outside the PSP area.

Mr Simon submitted that the reference was included:

> *as the total provision of 23.68ha for sporting facilities (or 5.42% of the NDA) is less than the VPAs own provided standard of 6% of the NDA and validated by the fact that the total provision for sports facilities in the Pakenham East PSP is less than the planning standard referred to in the VPAs own community facilities reference document, the Planning for Community Infrastructure in Growth Areas* (Document 69).

David Young argued that there was a need for more community and sporting facilities. Mr Young also asserted that there are not enough facilities for the planned mix of population especially for soccer and basketball.

Ante Krstulovie, the owner of the land, submitted that the property is unsuitable for such a reserve owing to topography.

In response, the VPA stated that the location of this facility is a 'place-marker' and would be subject to more detailed investigations and analysis. Council agreed with this assessment.

(iv) Discussion

SR-01

The Panel is satisfied that the concept demonstrates that the required active recreation facilities can be accommodated within SR-01, noting however, the Council and XWB reservations on how certain facilities are positioned. The Panel agrees with the VPA position that the final configuration of SR-01 will be subject to a detailed design – PSP Figure 3 is a concept.

Section 4.4 of this Report recommends a review of the vegetation in the NVPP. The outcome of this review may, in turn, permit a substantial reconfiguration of the plan for SR-01. Given the slight under provision of sporting facilities and based on the VPA and Council position regarding detailed planning to follow the concept plans set out in the PSP, the Panel does not support any reduction in the size of SR-01.

SR-02

The Panel accepts the evidence of Mr Simon and acknowledges that while a reconfiguration of SR-02 as per Council's suggestion (Appendix 2 of Document 69) may be more optimal, as with SR-01, the final plan will be subject to a detailed design. The Panel notes that the VPA

has agreed to review the concept and increase the area of the reserve by a total of 0.7 hectares in the Final List of PSP Changes.

Potential future sports reserve

Based on information presented, the Panel supports the designation of a potential future sports reserve in addition to the PSP area. The Panel notes the VPA position that this would need to be subject to separate planning and detailed analysis to determine specific siting and facilities.

(v) Conclusions

The Panel concludes:

- the layout and location of specific facilities for SR-01 and SR-02 are appropriate for this concept-level stage, and may be altered in the detailed design stage
- the size of sports SR-01 is appropriate
- SR-02 should be increased in size by 0.7 hectares from the exhibited plan
- Plan 3 of the PSP should retain a reference to a potential future sports reserve.

4.3 Hilltop Park (LP-01)

(i) The issue

The issue is whether an access road through Hilltop Park (LP-01) should be shown on the PSP Figure 5 – Hilltop Park Concept Plan.

(ii) Background

Lendlease submitted an alternative layout for the Hilltop Park LP-01 that incorporated a local access road through the park located in the "saddle" between the two ridges within the park area. In a supplementary statement (Document 104), Mr Walsh stated that:

> *The purpose of this vehicle link is to provide a convenient connection for local residents to the east of the reserve to access the reserve car park (on the west side of the reserve) without needing to travel via Dore Road. Similarly, the proposed link will also provide connection to/from the primary school for dwellings located to the northwest of the reserve.*

(iii) Evidence and submissions

Mr Walsh's evidence was that he considered the link appropriate given that it would provide local access only, would carry only low volumes and be suitably treated to target low speeds and provide for pedestrian priority at identified crossing points.

In oral evidence at the Hearing, Mr Walsh stated that he considered a vehicle link to be acceptable from a safety perspective with a minimum trafficable width and treatment to give pedestrians priority at crossing points. Under cross-examination, he agreed that if parking was provided on both sides of the reserve (as shown on the concept plan submitted by Lendlease as Document 105 – Figure 6), the link would not be needed to provide easier access to car parking at the reserve. He reiterated his view that the link would still be of benefit to residents to the northwest of the reserve by providing a more direct link to the proposed primary school in the northeast of the PSP.

Figure 6: Lendlease Hilltop Schematic Masterplan proposal

Lendlease argued that the commentary of Mr Simon about "*a road splitting the park into two"* was misleading. Lendlease stated that its intent was to create not a major road but a connection or access that provided shared space to facilitate access while prioritising pedestrian access. Lendlease noted that Hilltop Park was not a local park. It was a large park and destination that could divide the future communities unless a connection was provided through it. Lendlease added that there was nothing unusual in having a traffic link through a large park and cited Koornang Park in Elsternwick as an example where a through road "delineates" the park in half which does not impede the usability of the park but provides a connection.

Lendlease requested that PSP Figure 5 be replaced by the Hilltop Schematic Masterplan (Document 105 – Figure 6 above) with the following annotation:

> *Potential for a vehicle link through Hilltop Park to be designed and approved to the satisfaction of the responsible authority*

Council argued that the evidence in support of the link was not strong and the matter should be left for the subdivision process. Council submitted that:

> *Mr Simon has responded to the Lendlease proposal to dissect the park with a road. He does not support it.*
>
> *It is submitted that the Panel need not make any specific ruling about delivery of a road at this location. The open space can be reconfigured by agreement*

> *through a works in-kind arrangement, if a compelling case is put forward at the subdivision stage.*

In the Final List of PSP Changes, the VPA proposed that an additional note be included on PSP Figure 5 – Hilltop Concept Plan saying that there was potential for an access street to cross Hilltop Park to be designed and approved to the satisfaction of the responsible authority.

The VPA Final List of PSP Changes also proposed that Hilltop Park (LP-01) be reduced by one hectare as shown in Lendlease's concept plan for the park. Council submitted that:

> *Despite the submissions advanced for Lendlease, Council has not agreed to reduce the area of the Hilltop Park by 1 hectare. Council understands that this change affects the area set aside for a local access road along the northern boundary of the park.*

(iv) Discussion

Lendlease argued that it was not unusual to have a link road running through a park as large as the proposed Hilltop Park. It was put to the Panel that a link would provide access to the park's car parking for residents to the northwest of the park and would also improve access for those residents to the proposed primary school in the east of the PSP.

The Panel accepts that an access road could be designed to address safety concerns for people using the park by slowing traffic and giving priority to pedestrians and cyclists. In the Panel's view, designing a new park with a road running through it would be undesirable and a poor outcome unless there were strong arguments in favour of such a road. The Panel was not convinced by the submissions made or the evidence given that the benefits of the proposed link road would outweigh the impacts of having a trafficable road through Hilltop Park.

There are examples of parks in Melbourne which have roads running through them. However, the example given by Lendlease (Koornang Park in Elsternwick) is in an old established area, and not of particular relevance in the context of a PSP.

The park masterplan tabled (Document 105) by Lendlease clearly shows car parking on both sides of the park which negates one of the arguments put forward by Lendlease. Under cross-examination, Mr Walsh conceded that to be case. The Panel also considers that Lendlease's second suggested benefit of the proposed link road of improved access to the primary school for residents in the northwest part of the PSP area to be tenuous at best. With no link road, residents of the northwest area could access the school with relative ease and little extra travel by using Dore Road and the east–west connector street. The Panel notes that a purpose of a connector street is just that; to provide access to services such as schools for people living in the PSP area.

The Panel notes the submission by Council that the matter of a link road should be left to the subdivision stage when a link road could be considered if a compelling case where to be made at that time. The Panel does not consider it necessary to add a note to the PSP Hilltop Park concept plan as proposed by the VPA in its Final List of PSP Changes that an access road through the park could be approved by the responsible authority.

Other than Council opposing a reduction in the size of Hilltop Park, there is insufficient evidence before it for the Panel to determine the merits of reducing the park's area by one hectare. A reduction in the size of the park may be appropriate after a detailed design is prepared and agreed with Council.

(v) Conclusions

The Panel concludes:

- a compelling case for showing an indicative link road through Hilltop Park has not been made at this stage in the PSP process
- replacement of the Hilltop Park Concept Plan (Figure 5 in the exhibited PSP) with the alternative masterplan submitted by Lendlease is not justified
- it is unnecessary to include an additional note to the Hilltop Park Concept Plan indicating that an access road could be approved by the responsible authority
- a reduction in the size of Hilltop Park should be determined at the detail design stage.

4.4 Native Vegetation Precinct Plan

(i) The issues

The issues are:

- the need to update the NVPP to reflect the December 2017 guidance on Preparing a Native Vegetation Precinct Plan (DELWP, 2017)
- the characteristics of the native vegetation in Pakenham East, on certain sites in particular and its appropriateness for inclusion in the NVPP
- concern over loss of habitat and opportunity for enhanced conservation and habitat links between waterways and open space provision.

(ii) Background

The *Pakenham East – Native Vegetation Precinct Plan December 2017* prepared by Ecology and Heritage Partners identified some 530 scattered trees, with no nationally significant flora or fauna species recorded in the PSP area. The NVPP described the study area as:

> *highly modified within private land and is dominated by introduced pasture grasses for grazing. Good quality patches of native vegetation are located along road side reserves and riparian/creek lines. Remnant native vegetation comprises several poor to good quality patches. Some scattered indigenous trees are also present through the study area.*

The NVPP will be incorporated into the planning scheme and identifies:

- native vegetation to be protected and retained including remnant patches and scattered trees
- native vegetation that can be removed, destroyed or lopped
- offset requirements.

The VPA advised:

> *Amendment VC 138 was gazetted on 12 December 2017. The impact of the amendment was to introduce amendments to the management of native vegetation within Victoria.*
>
> *More Specifically VC 138 changed the VPPs as it introduced new incorporated documents into planning schemes. These included the replacement of the Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, (2013) with the new guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017).*
>
> *The NVPP for Pakenham East was prepared under the old regime. Given that the new guidelines have been introduced subsequent to exhibition it is important that the NVPP be updated to accord with the new guidelines. This is not a new issue it is one that has affected a number of PSPs prepared before VC138 but the carriage of which extends beyond gazettal of that amendment.*

(iii) Evidence and submissions

Updating the Native Vegetation Precinct Plan

In its opening submission, the VPA confirmed that the NVPP for Pakenham East was prepared under the *"old regime"*, and thus would need to be updated to accord with the 2017 Guidelines. Following an assessment of submissions received in relation to the NVPP, the VPA advised that the NVPP would be updated after the Hearing to ensure it complies with the current NVPP template and any changes in policy since the NVPP was completed.

It was further noted that this review would require a *survey of large trees for patches (required for offset calculations) and an updated native vegetation removal (NVR) report (formerly BIOR) from DELWP.*

The characteristics of the native vegetation

Chantelle McLachlan submitted that lot 6 contained a north–south double row of mature eucalypts. She added:

> *It is the belief of my family, that these trees were planted in the 1920s by brothers Richard and Wally Savage who leased the property from the then owner, Mary Dore.*

She added that the NVPP failed to mention these trees which are over 100 years old and that if nothing else they should be considered for their heritage value.

The VPA advised that it undertook a rapid assessment of properties in response to three submissions in particular and found that there was no case for considering a request for a row of planted trees to be included in the NVPP because they are non-indigenous to the area.

Jeff Latter, giving evidence on behalf of P and P Carney, concluded that there were a number of trees on the Carney property marked for retention that had failed. He stated that the NVPP should be amended to take account of tree failures. In addition, he recommended that Swampy Woodland Patch SW2 marked for retention had been extensively grazed and

was of little value. However, patch SW31 was located in uncredited open space and should be retained, even though it was shown to be removed.

Mr Latter also identified issues with large scattered trees within an urban area. His evidence was:

> *Trees should only be considered for retention when a substantial public exclusion area is provided. Substantial public exclusion area is likely to be a minimum of 1.5 times the tree height of trees to be retained in residential or high use public areas.*
>
> *The retention of trees within residential areas will affect the number of lots that will be created in the future subdivision of the land. This will be due to the need for substantial public exclusion zones and the creation of lots or reserves with an area of greater than 4000m2 for the trees to not be deemed lost.*

XWB Consulting submitted:

> *There is no analysis in the NVPP, PSP or elsewhere which weighs up the competing objectives of land for residential development and native vegetation protection, and determines what outcome favours net community benefit and sustainable development as required by Clause 10.01 of the State Planning Policy Framework in relation to integrated decision-making.*

Auscare & Earldean submitted that the areas allocated in the PSP for conservation and drainage reserves have not been substantiated. Auscare & Earldean recommended that:

> *The PSP documentation ought to be reviewed for consistency and clarity insofar as it describes reserves relating to conservation, drainage and waterways. Additionally, the Plan ought to be amended to make the relationship between the creek and the drainage reserve clear and to specify where the reserve commences.*

Brett Lane in giving evidence on behalf of Auscare & Earldean, informed the Panel that under Clause 52.16 of the Cardinia Planning Scheme – Native Vegetation Precinct Plan, a permit does not apply to the removal of 'planted vegetation' unless it is *planted or managed with public funding for the purpose of land protection or enhancing biodiversity unless the removal, destruction or lopping of the native vegetation is in accordance with written permission of the agency (or its successor) that provided the funding*.

Mr Lane observed:

> *It was readily evident that the modified reach of Deep Creek within the property had been revegetated via successive plantings over the last few decades or more. This vegetation is designated in the draft NVPP for the Pakenham East PSP as Vegetation Zone SRW6.*
>
> *The oldest plantings likely comprised eucalypts only but may have also included understorey trees and shrubs. It was evident that these larger eucalypts were planted as they were all at a similar distance from the creek channel and many of the trees were not indigenous to the region, such as Blue Gum.*

Auscare & Earldean submitted DELWP guidelines provide an opportunity for stating that a permit is not required for removal, destruction or lopping of native vegetation that does not qualify as a patch or a scattered tree and to set this out in the NVPP. For this reason, Auscare & Earldean requested that:

> *The NVPP ought to be revised insofar as it applies to the Auscare & Earldean land so that it distinguishes between remnant patches and scattered trees on the one hand and planted native vegetation on the other. To the extent that the land hosts planted vegetation, the NVPP ought reflect the DELWP Guidance and state that the permit is not required for its removal, destruction or lopping.*

Council submitted that:

> *The retention of trees to be retained or removed (subject to approval) is better assessed in conjunction with a subdivision design response.*
>
> *The evidence here is that some trees might be exempt, but others will need a permit.*
>
> *In this area [Deep Creek vicinity in particular], where there is shallow groundwater and inundation, integration of water sensitive urban design into road and drainage design will be appropriate and may provide opportunities to assess retention of trees or sedges at the subdivision stage.*

Council made reference to the recent Wollert PSP as an example of how trees can be retained within reserves in subdivision design.

The VPA advised the Panel that it had sought clarification from DELWP on whether planted native trees need to be retained and agreed to remove them from the updated NVPP, if it is confirmed they are not required to be retained. Nonetheless the VPA made clear that it did not support the position put forward by Mr Lane, and that whether a tree was planted or not was not a determinant of its biodiversity value. The VPA highlighted the exemptions under Clauses 52.17 and 52.16 are different and that only Clause 52.17 was relevant to the Amendment.

VPA stated that it remained unsatisfied that that the vegetation on the Auscare & Earldean properties was planted and therefore excluded from the NVPP. It added that the subdivision stage would be the more appropriate point at which to make decisions about vegetation retention.

Council suggested that regardless of any potential exemptions considered at subsequent stages, the area appears to have been planted for conservation purposes and Deep Creek Landcare continues to manage Melbourne Water Programs in the area including weed control and fire management, as well as maintenance fencing as required.

The VPA in its Final List of PSP Changes includes the following:

> *Removal of the 'conservation area' designation for native vegetation on Plan 3 – Future Urban Structure, except where native vegetation is to be retained within credited open space and uncredited open space / drainage. The underlying land use will therefore prevail. Instead the trees will be shown on the precinct features plan and in the NVPP. The NVPP will determine when*

> *these are needed to be maintained and allows for a permit to be granted to remove them where certain tests are met.*

The list also proposed to remove Figure 6 - Deep Creek Concept Plan.

The VPA Final Ordinance and NVPP Changes also includes the following change:

> *Update the NVPP with input from the relevant submitters to determine which trees are still remaining. Also seek advice from relevant submitters to provide any conclusive evidence on which trees have been planted to better inform the NVPP prior to approval. Review Parklea tree survey to provide input in the final NVPP.*

The nature and location of offsets

Council sought support for locally sourced offsets, relying on the evidence of Lincoln Kern (Practical Ecology) and requesting mapping from his report to be included in the NVPP. This report identified "significant potential" and potentially suitable habitat for offset purposes within the Cardinia Shire boundaries, although outside of the UGZ. The report also noted possible barriers to creating offsets given private ownership of most of the identified offset sites and areas throughout the municipality.

Council submitted that

> *The VPA will agree to include changes that clarify the availability of locally sourced offsets from the municipal district, to make it easier for developers to source offsets from suitable landholdings.*

Mr Kern's written evidence was provided to the Panel, however, on the basis that the VPA confirmed that offset mapping would be part of the final NVPP, the expert witness was not called by Council to present his evidence.

The VPA Final Ordinance and NVPP Changes provisions confirm that the proposed changes are as follows:

> *Will update the NVPP to meet the updated NVPP template subject to changes required by DELWP. Will include an offset statement that identifies offsets will be created in Cardinia Shire except where not agreed to by the Responsible Authority.*

Habitat links

The VPA noted that the majority of the proposed conservation areas are along Deep Creek and the Princes Highway, with a patch also located on Canty Lane which is made up of a group of established trees within a property.

The conservation areas shown in PSP Plan 3 - Future Urban Structure are shown in a greater level of detail on plans such as Figure 6 - Deep Creek Concept Plan with a notation that the extent of this area is to be confirmed.

A number of submitters, including Vivian Clarke, Gloria O'Connor and Gerard Cunningham, expressed concern with the vegetation and habitat loss likely to result from the PSP implementation and the lack of wildlife corridors. Others were concerned with loss of trees along Princes Highway to make room for road duplication and four signalised intersections.

Other habitat loss issues raised in submissions included:

- a 40 metre wide wildlife corridor linking the two wetlands along the north side of the Princes Freeway for movement of wildlife
- a 40 metre wide conservation area along the entire length of Hancocks Gully (north and south of Princess Freeway), fenced and locked
- replanting of road reserves and a biodiversity corridor linking Deep Creek and Hancocks Gully
- a wildlife corridor to connect Deep Creek Conservation Area with the wetland along Princes Freeway, abutting the future Government School
- a 10 metre wide wildlife corridor along the electricity transmission lines linking Deep Creek Conservation Area, Local Park 01 and Hancocks Gully Conservation Area.

The VPA responded to these submissions by referring to the report *Ecological Investigations for the Pakenham East Precinct January 2018* by Ecology and Heritage Partners Pty Ltd which contained flora and habitat hectare assessments and targeted flora and fauna surveys. The VPA also referenced the NVPP, the objectives of which include establishing additional habitat corridors and stepping stones (patches of native vegetation) along Hancocks Gully, newly created wetlands and hilltop reserves.

The VPA noted that for additional wildlife corridors between areas of open space to become habitat areas for wildlife and successful linkages, there needed to be some justification as to which species they are for and how these areas will provide that habitat.

Council viewed the issue of wildlife corridors as unresolved, noting the VPA response regarding justification and that if sufficient justification is provided, Council would suggest that the NVPP be amended to provide greater clarity regarding the relationship between offset and wildlife corridors.

Local groups including Back Creek Land Care Group, Cannibal Creek Land Care Group, and Cardinia Ratepayers & Residents Association, made submissions relating to widths of creek vegetation and conservation areas, noting the wetlands in the area could provide potential habitat for fauna including growling grass frog and other species. Ms Mag noted that ecological considerations as a nice 'dual use' of drainage spaces and schemes and are shown conceptually for this reason.

(iv) Discussion

Updating the Native Vegetation Precinct Plan and the characteristics of the native vegetation

As with most PSP processes, there has been significant discussion between the VPA, Council and various submitters regarding the identification of native vegetation within Pakenham East for retention and removal.

The Panel was invited by Auscare & Earldean to review the site, particularly in the vicinity of Deep Creek, to explore some of the above issues. However, the Panel considered that an accompanied site inspection was not necessary given the specialist expertise needed to undertake such a review and the commitment of the VPA to work with submitters and Council in reviewing the NVPP.

Given the status of the NVPP and the review required to bring it into alignment with the December 2017 Guidelines, it is considered appropriate that the review be completed prior to the finalisation of the Amendment to update the mapping, clarify the status of certain vegetation and identify the required offsets.

The Panel notes that there was little discussion on the VPA proposal to remove the conservation notation, the RCZ2 and the IPO2 over Deep Creek. These proposed amendments were included in the Final List of PSP Changes which was circulated to all parties.

The nature and location of offsets

The Panel notes section 8.2 of the *Pakenham East Background Report (January 2018)* by the VPA stated that the NVPP should: *clearly describe the type and amount of vegetation loss that must be offset, the type and location of offsets to be provided and the timeframe for implementing the offsets.*

Given the commitment given by the VPA and Council to work to review and update the NVPP and the evidence provided by Council to indicate that offsets can be found within the municipality, it is considered appropriate that the offsets should be set out in a revised NVPP, prior to finalisation.

Loss of habitat

The Panel was not provided with any evidence or detailed submission of the detailed nature sought by the VPA to justify the inclusion of wildlife corridors or linkages.

Nevertheless, the Panel sees merit in the proposal from various local landcare and residents' groups, and individual community members, to look for opportunities for connecting the various green spaces, waterways and conservation areas wherever possible. This could be worked out at subdivision stage, and as roadside details are designed, and in more detailed plans for the gas easement running north–south through the PSP area as well as the transmission line running east–west through the northern area of the PSP.

(v) Conclusion

The Panel concludes:

- the NVPP should be updated prior to the finalisation of the Amendment
- the update of the NVPP should include a review of the status and health of trees to be retained
- there is merit in developing habitat links wherever possible and this should be considered in more detail through the review of the NVPP and at more detailed planning stages including drainage assessments, subdivision and permit applications.

(vi) Recommendations

The Panel makes the following recommendations:

10. Update the Native Vegetation Precinct Plan to:
a) accord with the changes affected by VC138

b) include a requirement that offsets are to be created in Cardinia Shire to the satisfaction of the Responsible Authority and subject to the approval of the Department of Environment, Land, Water and Planning

c) review the status and health of trees identified to be retained.

4.5 Bushfire management

(i) The issue

The issue is whether the PSP appropriately prioritises the protection of human life as required in Clause 13.05 of the Cardinia Planning Scheme.

(ii) Background

The VPA informed the Panel that Amendment VC140 was gazetted on 12 December 2017 seeking to improve the planning system's response to bushfire. Among other things, VC140 inserted an updated State Planning Policy Framework at Clause 13 with the intent of making policy for bushfire clearer and more directive to enable a resilient response to settlement planning for bushfires. In addition, Amendment VC145 which made a number of administrative corrections was gazetted on 28 March 2018 and it updated Clause 13.05. The Panel notes that Clause VC148, implemented in July 2018, renumbered the Clause to 13.02.

(iii) Evidence and submissions

Mr Allan gave evidence that in accordance with the strategies for settlement in Clause 13.05 the key purpose of his report was to identify those parts of Pakenham East where the radiant heat flux is not expected to exceed 1.5kW/square metre and therefore where dwellings could be constructed to the BAL-12.5 standard. Mr Allan informed the Panel that all of Pakenham East is a designated Bushfire Prone Area, but no part is affected by the Bushfire Management Overlay.

Mr Allan stated:

> *It is likely that as development progresses, much of the land within the PSP area will become eligible to be excised from the BPA. DELWP review and excise areas from the BPA approximately every 6 months, particularly in growth areas where the hazard is removed as urban development is completed.*

Mr Allen informed the Panel that his report addressed the requirements of Clause 13.05, Planning Practice Note 64 *Local planning for bushfire protectio*n, Planning Advisory Note 68 *Bushfire State Planning Policy Amendment VC140* and Ministerial Direction 11 *Strategic assessment of amendments.* Mr Allan added that the landscape in one of a *low bushfire risk* where the risk can be mitigated to an acceptable level and development is appropriate.

With respect to the transmission line easement, Mr Allan's evidence was that it was important to ensure that long grass or other hazardous vegetation does not establish on the land. He said this could be achieved by a section 173 agreement that required the maintenance of the land in a low threat state. Alternatively, it could be achieved by the issue of Municipal Fire Prevention Notices.

Mr Allan concluded:

> *It is considered that development can appropriately prioritise the protection of human life and meet the objectives of Clause 13.05, largely by ensuring future dwellings will not be exposed to RHF above 12.5kW/square metre, which is commensurate with a BAL-12.5 construction standard. This would require a minimum 33 metre setback of buildings from areas of classified Woodland and a minimum 19m defendable space setback from classified Grassland. 20 metre setbacks are recommended from narrow (less than 20 metre wide) patches of vegetation e g along the Princes Highway.*

In cross-examination Mr Allan agreed that a perimeter road along the northern boundary of Pakenham East would be an appropriate treatment.

The VPA submitted that Mr Allan's evidence demonstrated that the development could appropriately prioritise the protection of human life. In practice management of the required separation distance is likely to occur through modified road cross-sections within the relevant parts of the PSP.

The VPA recommended amending the UGZ5 to include a requirement for a section 173 agreement mandating management for land in the northern electricity easement. In addition, the PSP should include road cross-sections that respond to the achievement of BAL - 12.5.

The Country Fire Authority (CFA) submitted:

> *All residential development must be set back from any bushfire hazard the minimum distance as specified in the recently updated Clause 13.05 (December 2017) of the Cardinia Planning Scheme. This is likely to impact the proposed residential areas located between the north boundary of the PSP area and the electricity easement running east to west. CFA recommends that this be added as a new objective under Bushfire, Biodiversity & Threatened Species (Page 14).*

(iv) Discussion

The Panel accepts the submission of the VPA that its role is to satisfy itself that the issue of bushfire management and the protection of human life can be prioritised over all other policy considerations. In this regard the Panel accepts Mr Allan's evidence and his conclusions which were largely unchallenged by the parties.

Both Mr Allan and the CFA agreed that a setback or road along the northern and eastern boundaries of Pakenham East is an appropriate treatment for this interface. The Panel supports this approach and notes that the VPA in the Final List of PSP Changes has proposed an additional section on Bushfire Management in the PSP to address this matter. The VPA also proposed an additional requirement in the UGZ 5 for a section 173 agreement to deal with the management of the land in the northern electricity transmission line easement. The Panel agrees with these proposed changes.

(v) Conclusions

The Panel concludes:

- the PSP appropriately prioritises the protection of human life as required in Clause 13.05
- the UGZ5 should be updated to include a section 173 requirement mandating management for land in the northern electricity transmission easement
- an additional section on Bushfire management should be introduced into the PSP
- the changes to the PSP proposed by the VPA are appropriate.

4.6 Acquisition of school sites

(i) The issues

The issue is whether it is appropriate to require the acquisition of a government school site within a specified time frame, similar to what applies to non-government schools.

(ii) Background

With respect to non-government schools, requirement R31 of the PSP states:

> *Where the responsible authority is satisfied that land shown as a non-government school site is unlikely to be used for a non-government primary school, that land may be used for an alternative purpose which is generally, consistent with the surrounding land uses and the provisions of the zone applied zone:*
>
> - *in order to satisfy the responsible authority that a site is unlikely to be used for a school, it is necessary to demonstrate that:*
> - *the application for an alternative use is not premature having regard to the extent of development in the surrounding residential area*
> - *the school site is no longer strategically justified having regard to the provision of schools in the locality, including land not within the Precinct Structure Plan, as appropriate*
> - *the landowner provides the responsible authority with evidence that:*
> - *genuine negotiations have been had with a range of educational providers, including the Lead Agency nominated in the Precinct Structure Plan, regarding the use of the site as a school and the sale of the site to the educational provider/s; and*
> - *the educational provider/s, including the Lead Agency nominated in the Precinct Structure Plan, do not intend to purchase the site, and use the site as a school.*

(iii) Evidence and submissions

Parklea submitted that requirement R51 should be amended so that it applied to land shown as a school and therefore included government schools. In addition, it proposed that the wording be amended so that this requirement could be triggered after 12 months from the completed development of 2,000 homes. It added that the reference to the Lead Agency nominated in the PSP should be removed.

Lendlease submitted that the location of a government primary school on the periphery of Pakenham East presents challenges in the "*timing of the State Government's decision to*

deliver the school." The submission supported the position put by Parklea that requirement R51 should equally apply to government schools.

In addition, Lendlease proposed that the early development of community infrastructure such as schools were a benefit to the community. It stated that the Growth Area Infrastructure Contributions – Works in Kind (GAIC-WIK) is a "*widely accepted mechanism that streamlines the delivery of key state infrastructure items including government schools."* Lendlease submitted that the PSP should encourage GAIC-WIK agreements between landholders and the State Government that will benefit the community. It proposed that PSP section 3.7 Infrastructure Delivery and Staging be amended to explicitly reference the early provision of government schools.

The VPA submitted that:

> *Requirement R51 establishes a rigorous process for ensuring all efforts are made to deliver non-government schools as strategically justified through the PSP prior to the land use reverting to the underlying applied zone*

The VPA added that it strongly opposed the changes proposed by Parklea and Lendlease. It argued that the private sector is not under any obligation to provide a school. However, the government has an obligation to acquire school sites and make schools available.

The VPA agreed that the designation of schools prevents the early development of the land. However, there is an expectation that the new population will create the demand for the schools. The VPA added that it is beyond the scope of the PSP to estimate with greater accuracy when infrastructure will be required.

(iv) Discussion

The Panel accepts that there is a fundamental difference between the provision of schools by the government and non-government sector. The State Government has a legislated obligation to provide schools. In the Panel's view government schools are a fundamental component of delivering public infrastructure to meet the needs of future communities in any PSP. In many ways schools are one of the essential building blocks of new communities.

For this reason, the Panel does not accept that it is necessary or prudent to attempt to constrain the time available for the development of a government school. In this respect the Panel supports the submission of the VPA which stated:

> *School sites have been identified to meet the future requirements of residential growth across the Pakenham East PSP and are intended to be acquired by DET, and subsequently developed into schools when local demand warrants their acquisition.*

The Panel notes that requirement R51 applies where a *non-government school site is unlikely to be used for a non-government primary school*. In the Panel's view there appears to be some confusion in the requirement which applies to a non-government site but only if used for a primary school. In the Panel's view the wording needs to be clarified by either referencing primary school sites or removing the reference to primary schools.

(v) Conclusions

The Panel concludes:

- the proposed changes requested to the wording of requirement R51 are not appropriate
- the wording of R51 should be clarified.

(vi) Recommendations

The Panel makes the following recommendation:

11. Clarify the reference to primary school in requirement R51 of the Pakenham East Precinct Structure Plan.

4.7 Lot 37 Mount Ararat Road South (Blazevic family)

(i) The issues

The issues are:

- whether relocation of local park LP-01 is appropriate
- should a local access street across Hancocks Gully be shown on PSP Plan 7.

(ii) Background

Lot 37 is located on the west side of Mount Ararat Road South.

(iii) Submissions

ERM, on behalf of the owners of lot 37, recommended that the following changes should be made to the exhibited PSP with respect to this property:

- provision of a local access street across Hancocks Gully to ensure the west portion of the land is not land locked
- the location of local park LP-11 be entirely within lot 37
- clarification of requirement R91 with respect to the final design
- clarification of the lot size requirements for the development interface with Mt Ararat South Road
- notification of any supplementary levy.

ERM added that it supported the findings of the Conclave of Drainage Experts to reduce the width of the Hancocks Gully constructed waterway corridor. This matter is discussed in section 4 above.

The VPA advised that it accepted this submission and agreed to changes to the relevant provisions of the PSP.

In response to the Final List of PSP Changes, ERM noted that not all of the agreed changes had been included in the document. ERM provided a response from the VPA acknowledging this omission and agreeing to amend requirement R79 to read (changes underlined):

> *Where a local access street is determined to be required to cross a waterway, <u>including where shown on Plan 7</u>, the proponent must construct local access street culverts to the satisfaction of the responsible authority.*

In addition, the response from the VPA agreed to include the following diagram (Figure 7) in the Final List of PSP Changes.

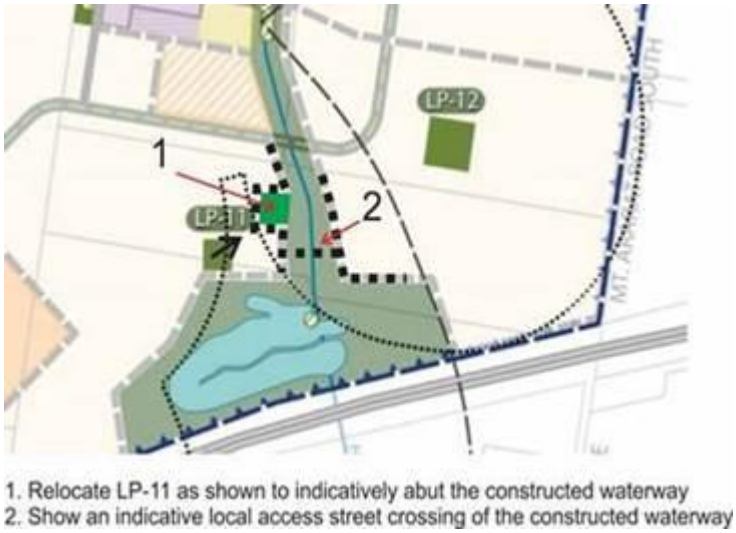

Figure 7: VPA proposed diagram for inclusion in the Final List of PSP Changes

(iv) Discussion

The Panel notes the VPA has accepted the submission and included some of the agreed changes in the Final List of PSP Changes. The Panel accepts that the location of LP-11 in one property is a sensible change and ensuring that the western portion of lot 37 is not 'land locked' because of the drainage reserve will enable development of the entire lot. The Panel supports the changes as an appropriate response to the submission.

The changes to requirement R79 are appropriate.

(v) Conclusions

The Panel concludes:

- The Final List of PSP Changes should be amended to include the changes to requirement R79 and the addition of Figure 7.

(vi) Recommendations

The Panel makes the following recommendations:

12. Replace requirement R79 with the following:

> ***Where a local access street is determined to be required to cross a waterway, including where shown on Plan 7, the proponent must construct local access street culverts to the satisfaction of the responsible authority*.**

13. Amend Plan 3 – Future Urban Structure of the Pakenham East Precinct Structure Plan by adding a diagram as shown in Figure 7 of this report.

4.8 Slope and topography

(i) The issue

The issue is whether Council's Guidelines for Slope Management in Subdivisions is an appropriate document for inclusion in the PSP.

(ii) Background

Council had prepared its *Guidelines for Slope Management, Cardinia Shire Council (December 2017)* and expressed concern that the lack of slope management guidelines in the PSP will lead to lot by lot slope treatment rather than a subdivision or subprecinct scale treatment.

(iii) Evidence and submissions

Council recommended inclusion of its slope management guidelines as an Incorporated document, to ensure a building envelop plan for subdivision or subprecinct scale planning, rather than site-specific retaining walls as permitted in the amended version of UGZ5 and requirement R7 of the PSP. Council submitted that an alternative approach could be to incorporate the principles of the slope management guidelines in the PSP, under Clause 81.01.

In addition, Council sought a permit trigger for earthworks in the UGZ which it submitted was consistent with other PSPs.

Council submitted that Mr Atkinson, in providing evidence for Parklea, provided "*clear support for the Slope Management Guidelines to achieve site responsive housing"* and noted similar support in the submission by XWB Consulting.

The VPA submitted that in response to the Council's submission and other submissions by Lendlease that it proposed a compromise between a performance- based approach and key design criteria set out in R7 which would apply to the subdivision of land with a slope of greater than 10 per cent. The compromise was to require a Slope Management Plan in the UGZ5 which would include a response to the *Guidelines for Slope Management in Subdivisions – Pakenham East Precinct Structure Plan*. The VPA added:

> *'Guidelines for Slope Management in Subdivisions' is the key document that guides the PSP's response to the protection of the ridgeline. It seeks to ensure that the design response in areas with slope greater than 10% allows for the retention of existing landscape and amenity values and creates a built environment that is responsive to these conditions. In the PSP, these are generally addressed through the requirement within the 'Topography' category which requires a set of performance measures to be met through a Slope Management Plan.*

In the Final Ordinance and NVPP Changes and the Final List of PSP Changes, the VPA proposed to insert the Council's slope management guidelines as a reference document under Clause 21.03-2 Urban Growth Area of the Cardinia Planning Scheme and to:

> *…include additional requirements and guidelines that help to implement some of the key information from the background document Guidelines for Slope Management – Cardinia Shire Council December 2017 if agreed with Council, otherwise include the document as a reference document.*

In response to the Final List of PSP Changes Council requested the addition of the words 'for a staggered retaining wall' in relation to R7 and section 3.1.2 of the PSP so that the requirement would read as:

No more than 2.0 metres in overall height for a staggered retaining wall to avoid unreasonable overshadowing of secluded private open space and habitable room windows

(iv) Discussion

In the Panel's view this issue has been resolved by the VPA proposed changes included in the Final List of PSP Changes and the Final Ordinance and NVPP Changes. The further change recommended by Council is consistent with the provisions of its *Guidelines for Slope Management, Cardinia Shire Council (December 2017).*

(v) Conclusions

The Panel concludes:

- the *Guidelines for Slope Management, Cardinia Shire Council (December 2017)* is an appropriate reference document in Clause 21.03-02
- the requirements of requirement R7 should be amended to include the additional text recommended by Council.

(vi) Recommendations

The Panel makes the following recommendations:

14. Replace the fifth dot point of the Pakenham East Precinct Structure Plan requirement R7 with the following:

No more than 2.0 metres in overall height for a staggered retaining wall to avoid unreasonable overshadowing of secluded private open space and habitable room windows.

4.9 Gas pipeline easements

(i) The issues

The issues are:

- the co-location of the gas pipeline easements within road reserves
- whether gas easements should be credited open space.

(ii) Background

Various submissions made comment on the utilities easements passing through much of Pakenham East in both a north–south and east–west direction. The VPA advised the Panel that gas easements or land such as drainage reserves are not credited as an open space contribution and because it is encumbered, is not available for development.

The VPA also drew the Panel's attention to the APA utilities and gas easement set out in Plan 10 of the PSP and that the resources are considered to be of "*high quality"*, that is relatively new and high standard with less risk. The VPA and APA have agreed therefore to a reduced notification buffer from 700 metres (as shown on exhibited Plan 10) to 50 metres. This followed safety design workshops involving various stakeholders, and effectively allows, for example, a child care centre in the town centre without having to refer to APA.

(iii) Evidence and submissions

Parklea submitted that the north–south gas transmission line easement had the potential to contain part of the north–south section of Connector A, integrated into design (refer to section 3.4 and discussion on Connector Road A constructed within gas pipeline easement).

XWB Consulting submitted that road reserves should be located within the gas transmission easements and not treated as *mutually exclusive infrastructure items resulting in an inefficient urban design outcome*.

The VPA Final List of PSP Changes and the UGZ5 include the reductions to the notification buffer. In addition, the changes include an update to PSP Plan 3 – Future Urban Structure to separate the gas easement and road, in the vicinity of SR-01 to accommodate the submission made by XWB Consulting. The Panel considers the proposed changes by the VPA to be appropriate.

The VPA proposed to amend the UGZ5 table of uses for Section 1 uses so that any nominated use and development must not be on land shown within the 'gas pipeline notification zone' depicted on Plan 10, replacing the words "high pressure gas transmission pipeline measurement length" with "gas pipeline notification zone" and reducing the 'gas pipeline notification zone' from 700 metres to 50 metres

In consultation with APA Networks, the VPA proposed to amend the Schedule to Clause 66.06 and the UGZ5 to require that works within the 50 metre notification buffer require the endorsement of the owner or operator of the gas transmission line.

The VPA also proposes to modify guideline G53 of the PSP to clarify that the "consent of the gas transmission pipeline owner or operator" is required where public land within the high pressure gas transmission pipeline easement contains shared paths and landscaping.

(iv) Discussion and conclusions

The Panel considers that the various matters raised by submitters have been clarified through the changes proposed by the VPA.

(v) Conclusions

The Panel concludes that:

- the changes proposed by the VPA dealing with gas transmission line easements are appropriate.

4.10 Lot size in interface areas

(i) The issue

The issue is whether the changes proposed by the VPA to requirements R13, R14 and R15 of the PSP that deal with Interface Housing Areas are appropriate.

(ii) Background

Requirements R13, R14 and R15 of the PSP deal with Interface Housing Areas 1 to 3. At the commencement of the Hearing the VPA informed the Panel that it intended to remove

Interface Housing Area 2 from the exhibited PSP. This proposal is discussed in more detail in section 4.11 below.

(iii) Submissions

Lendlease and Bauernort submitted that the PSP should provide flexibility for the Interface Housing Area rather than stipulating minimum lot sizes. The design response for interface areas should be informed by a range of considerations including:

- *market need and values*
- *balancing overall site constraints with a well-considered design response and viable outcomes*
- *a design response to site-specific features, views and topography*
- *landscaping treatments within the edge road and opportunities within lots*
- *dwelling, building areas and fencing designs that reflect an appropriate transition style that can be implemented via design guidelines*
- *balancing overall development viability and site constraints.*

Both Lendlease and Bauernort recommended the deletion of requirement R15 with an average lot size of 2,000 square metres particularly in relation to the electricity transmission easement of Interface Housing Area 3.

Council submitted that Interface Housing Areas 1 and 2 in Plan 5 should achieve an average lot size of 800 square metres with a minimum 6 metre front setback. Council recommended:

- *providing wider lot frontages when fronting Ryan Road or Mt Ararat Road North and South*
- *providing sufficient setbacks of dwellings within new lots to allow screen planting along the interface or another appropriate design*
- *maintaining a sense of spaciousness between dwellings by providing a minimum side boundary setback of 1.0 metre.*

Council added that requirement R15 for Interface Housing Area 3 should be reworded to include the following:

- *a building envelope to address the ridgeline (slope) and electricity line easement with reference to Cardinia Shire Council Guidelines for Slope Management Guidelines and A Guide to Living with Transmission Line Easements Management in Subdivisions and Ausnet Services A Guide to Living with Transmission Line Easements*
- *that the application will achieve an average lot size of 4000 square metres*
- *rural fencing that is low scale and visually permeable to facilitate the rural lifestyle character of this area*
- *maximise side setbacks and create openness between the dwellings*
- *a road that provides an interface with Green Wedge (rural) land to the north.*

Council submitted that it was important for Interface Housing Area 2 to remain within the PSP and added that the area could be subject to a separate suite of requirements before land is released. Council proposed that this outcome could be achieved by a development plan to *coordinate site consolidation, cut and fill arrangements and subdivision design response*.

The Department of Health and Human Services (DHHS) made a submission in relation to land at 2 Ryan Road, Pakenham (the site). DHHS informed the Panel that the site is one of a number of sites that are currently being considered by DHHS and Ambulance Victoria as a possible location for a future Ambulance Station. The submission recommended:

- renaming Interface Housing Areas 2 to Interface Area 2
- adding the term residential to describe subdivision in requirement R13
- amending R13 and R14 to be guidelines
- amending guideline G35 to explicitly refer to 'Emergency Service Facilities' and acknowledge the importance of operational needs.

A number of residents, particularly those on the west side of Ryan Road including Michael and Raffaelina Scuglia, Jason and Dianne Sartori and the Horkings/Keogh family submitted that the minimum lot size on the east side or Ryan Road should be increased to 4,000 square metres. These submissions argued that it was appropriate to encourage development that reflected the residential development on the west side of Ryan Road.

Jean-Louis and Cleonice Sauze submitted that the smaller lot sizes on the east side of Ryan Road should apply equally to the west side.

The VPA submitted that Plan 5 of the PSP identifies three interface areas which are located on the west, north and east fringes of Pakenham East. A number of submissions sought to achieve larger lot sizes, particularly around Ryan Road, while other submissions sought more flexibility in smaller lot sizes.

The VPA submitted that 800 or 2,000 square metre lots would be inconsistent with the proper utilisation of the resource that is land within the UGB. The VPA added that:

> *The purpose of interface treatment is not to mimic an outcome on the external part of the PSP but is rather to encourage development that sufficiently relates to the outcome within the adjacent lower density lots.*

In response to submissions the VPA initially proposed to remove Interface Housing Area 2 from the PSP. However, following further discussions with the affected land owners, the VPA proposed to retain Interface Housing Areas 2 as exhibited and:

- combine Interface Housing Areas 1 and 3 to become Interface Housing Area 1 and amend the requirements of R13
- delete requirement R15
- introduce a performance based, design requirement with a minimum 8 metre front setback and 1 metre side setback as a satisfactory methodology to achieve an adequate 'rural style' interface

(iv) Discussion

Pakenham East is bound by the UGB to the north, east and south which effectively defines the limits of metropolitan Melbourne. The south boundary of the PSP is defined by the Princes Freeway. The land to the northeast is within a Green Wedge Zone. These interface areas within the PSP mark the transition from urban to non-urban uses. In the Panel's view, it is appropriate that the development of this land recognises this change.

The interface areas are intended to provide a transition from the urban residential development of Pakenham East to the rural areas outside of the UGB. The initial proposal by

the VPA was to achieve this by a combination of minimum lot sizes and front setbacks. Ryan Road is different because it interfaces with an existing urban area with a Low Density Residential Zone which nevertheless, is a lower density than proposed for the bulk of Pakenham East.

The Panel accepts the submissions of Lendlease and Bauernort that interface housing requirements should provide the flexibility for the development to respond to design criteria and not be limited by a lot size. In this respect the Panel supports the view of the VPA that the front setback of interface housing should be sufficient to accommodate a canopy tree.

The Panel agrees that the changes proposed by the VPA address most of the concerns expressed in submissions. The Panel accepts the view expressed by the VPA that land in Pakenham East is a finite and valuable resource and it is particularly inappropriate to lock that land into lot sizes of 2,000 square metres or larger along the interface with Ryan Road. In the Panel's view, design criteria can more effectively ensure that an appropriate transition between Pakenham East and the surrounding area is created.

In the Panel's view the interface Housing Area is appropriately named and that does not prevent the establishment of an emergency services facility. The Panel accepts that the VPA's amendments to R13 and R14 adequately address the concerns of DHHS and the term 'or similar facility' provides sufficient flexibility to accommodate an emergency services facility.

(v) Conclusion

The Panel concludes:

- the changes proposed by the VPA to requirements R13, R 14 and R15 of the PSP as outlined in the Final List of PSP Changes are appropriate

4.11 Interface Housing Area 2 (land between Ryan Road and Deep Creek)

(i) The issues

The issue is whether Interface Housing Area 2 should be retained in the PSP.

(ii) Background

In its opening submissions the VPA advised the Panel it proposed to remove from the PSP the land south of the Princes Highway between Ryan Road and Deep Creek and north of Canty Lane, identified as Interface Housing Area 2. The VPA submitted that these changes were in response to a number of submissions to the exhibited Amendment.

The VPA then wrote to all affected landowners to inform them of this decision (Document 38). In response the VPA received a letter, signed by all the affected landowners (Document 40), opposing this decision as well as individual letters in response from each landowner. In addition, the landowners provided a report by Andrew Batarilo, Civil Engineer dated 18 June 2018 (Document 39) which concluded:

> *the site can be used for the proposed development with some further engineering required.*

(iii) Submissions

In its continued submission, the VPA informed the Panel that while it initially recommended removal of the area, it was open to considering the submissions of other parties. It informed the Panel that all of the landowners in Interface Housing Area 2 had contacted the VPA and supported the area being part of the PSP.

The VPA advised that:

> … other parties have raised issues supporting the inclusion of that land including a petition from the landowners themselves.

As a consequence, the VPA submitted that it reverted to the exhibited position subject to new application requirements in the UGZ5 that require:

- *an outline development plan is submitted to and approved by the responsible authority*
- *that any permit application demonstrate consistency with the approved outline development plan*
- *that a fill and drainage plan be submitted with the outline development plan for the whole area*
- *that any permit application demonstrate how it is consistent with the implementation of the fill plan over the whole of the area.*

The VPA proposed to work with Council to finalise the wording of these additional clauses.

Given that a number of residents, mainly from the west side of Ryan Road, attending the Hearing were advised of the VPA's initial proposal to remove Interface Housing Area 2 from the PSP, the Panel requested that the VPA address the matter of further notification of owners to the west of Ryan Road with respect to the amended VPA position in its closing submission. In response the VPA submitted that:

> *… these parcels and that as early as the opening hearing day the VPA indicated an intention to reconsider and potentially amend its position. The VPA considers that notification of the altered VPA position can be satisfactorily achieved by letter notification of a Final List of PSP Changes to the PSP to all submitters and to the persons to the west along Ryan Road, with particular reference given to the changes on Ryan Road. It is not proposed that this would invite submissions, but rather that it would provide information to these residents.*

Council submitted that, *for a range of reasons*, the area should remain within the PSP and should be subject to a separate requirement before land is released. Council supported the VPA's view that this area should be developed by one developer and argued that this outcome could be achieved by a development plan *to coordinate site consolidation, cut and fill arrangements and subdivision design response.*

At the conclusion of the Hearing, the Panel directed that the final VPA Final List of PSP Changes be circulated to all parties and that all parties were able to respond to matters that they thought were resolved but were not shown as resolved on the VPA Final List of PSP Changes.

With respect to Interface Housing Area 2, the Panel received responses from Lois and Denis Walker who argued that the proposed change was not in keeping with the area and would result in different residential densities on either side of Ryan Road. Mr and Mrs Walker submitted that the change would result in additional traffic on Ryan Road where the volumes were already projected to be unacceptable.

Jason Satori made similar comments and added that Interface Housing Area 2 would increase the number of residents in Ryan Road by 25 per cent. The inclusion of this area would increase traffic volumes in Ryan Road and may explain some of the variations in predicted traffic volumes. Mr Satori added that the proposed 800 square metre blocks do not provide an adequate transition to the low density west and will result in a loss of amenity for these residents. Mr Satori recommended that the Panel conclude that Interface Area 2 should be removed from the PSP.

Andrew and Suzanne Cleary submitted that the timeframe to comment on the revised inclusion of Interface Housing Area 2 was inadequate. Mr and Mrs Cleary submitted that the inclusion of the area would impact on the traffic volume predictions and that the rest of Ryan Road had not been properly considered or consulted.

(iv) Discussion

The Panel accepts that a PSP is an evolving document. Most of the changes to the PSP occur either in response to submissions to the exhibited Amendment or those made to the Panel during the Hearing. The proposed changes to the Interface Housing Areas is one example of this process.

The Panel acknowledges that Interface Housing Area 2 in the exhibited Amendment was included in the PSP and that a number of submissions commented on this matter. The Panel had concerns that some of those submitters who attended the opening days of the Hearing, which were held in the Cardinia Shire offices, may have concluded that matter had been addressed by the VPA recommending removal of Interface Housing Area 2. Consequently, the Panel provided all parties with the opportunity to comment on the Final List of PSP Changes. The Panel acknowledges that the timeframe was relatively short but also observes that no new issues were raised.

Nevertheless, in reaching its conclusions, the Panel has read each of the submissions made to the Amendment and considered those made during the Hearing. The Panel is comforted by the fact that the final VPA Final List of PSP Changes was circulated to all parties after the conclusion of the Hearing and that all parties were able to respond to matters that they though were resolved but had a different status on the list.

(v) Conclusions

The Panel concludes:

- the inclusion of Interface Area 2 in the PSP, as exhibited, is appropriate subject to the additional requirements outlined by the VPA
- the UGZ5 should be amended to include the additional new application requirements for Interface Housing Area 2 as contained in section 2.4 (Ryan Road sub-precinct) of the Panel Preferred UGZ5.

4.12 Council requests (where not dealt with elsewhere)

(i) Submissions and discussion

Council submitted that there were a number of issues made in submissions that it recommended that the Panel needed to address. These matters are listed below and exclude any that have been addressed elsewhere in this report. The additional recommendations sought by Council were:

> *That Amendment C234 not be approved until such time as the relevant development agency is satisfied that the Infrastructure Contribution Plan will provide for the relevant items described in the PIPs have been provided for in the Infrastructure Contribution Plan.*

The ICP is dealt with in Section 3.1. The Panel's role is to assess and make recommendations on the appropriateness of the Amendment. The Panel has assessed the Amendment and recommended approval subject to addressing the matters in the recommendations. The Panel does not support recommending that the approval of the Amendment be subject to the satisfaction of the relevant development agency.

> *That the standard levy be used to fund standard levy allowable items before any supplementary levy allowable items are funded, in accordance with clause 12(c) of the Revised ICP Direction.*

This is a provision in the ICP Direction and not a matter for the Panel.

> *That the Precinct Infrastructure Plan be amended to show that the following projects listed in the draft Precinct Infrastructure Plan be described as supplementary allowable items:*
> - *RD-01 (Ryan Road)*
> - *IN-05 (Canty Lane roundabout)*
> - *BR-01, BR-02 and BR-03 (bridges)*
> - *PS-01 (Pedestrian signals).*

The PIP does not categorise any items as either standard or supplementary. Given the definitions in the ICP Direction the Panel sees little benefit in this categorisation.

> *That the inclusion of any additional supplementary levy allowable items, including those sought by Parklea, only be considered where this would not reduce the ICP funding available for community and recreational infrastructure items described in the draft Precinct Infrastructure Plan.*

The community and recreation infrastructure is subject to a cap and, as discussed in section 3.1, the Minister for Planning can exercise his discretion to consider this matter. It is not the role of the Panel to recommend on how that discretion should be exercised.

> *That, where the total standard levy rate is fully allocated to the projects described in the draft Precinct Infrastructure Plan, ICP funding of any collector roads required due to land fragmentation (or other infrastructure usually delivered by developers) only be allowed where the Minister for Planning is prepared to exercise his discretion to grant an exemption under clause 29 of the Revised ICP Direction.*

It is not the role of the Panel to recommend on how that discretion should be exercised.

> *That the VPA assist the Cardinia Shire Council with its request for the Minister for Planning to exercise his discretion to address the shortfall in the community & recreation budget, having regard to clause 12 of Annexure A of the Revised Ministerial Direction on Infrastructure Contributions Plans.*

This is a matter for the VPA.

> *That any contribution for the Ferati Holdings, should include an appropriate connection to bridges to be funded in the ICP, having regard to:*
> - *the existing liability for development contributions in the Pakenham East DCP*
> - *current standard rates in the Revised ICP Direction.*

The Ferati land is outside of the PSP area and any discussion of the Pakenham East DCP is a matter for the responsible authority.

> *Council requests the Minister for Planning does not approve the Precinct Structure Plan until the ICP issues are resolved.*

The Panel makes recommendations on the Amendment. Approval of the Amendment is a matter for the Minister not the Panel.

(ii) Conclusions

The Panel concludes:

- no further changes to the Amendment are necessary in response to the additional recommendations sought by Council.

4.13 Offsite impacts

(i) The issue

The issue is whether offsite impacts and integration of the PSP area with surrounding settlements including rural areas to the east have been considered sufficiently in the Amendment.

(ii) Evidence and submissions

A number of submitters, including Rose Biddell, made specific points regarding impacts resulting from the development of Pakenham East on the surrounding areas of Nar Nar Goon, Tynong, Garfield and Bunyip. The issues raised included:

- the viability of towns east of the PSP
- the inability to consider factors outside the PSP through the PSP process, including impact on and of schools and retail services in other areas such as Nar Nar Goon
- the future transition between urban Pakenham East and more rural Nar Nar Goon region along eastern boundary
- the impacts on use of the Nar Nar Goon railway station and car park, schools and kindergarten
- the lack of paths connecting east towards the Nar Nar Goon township.

The VPA responded that these matters were considered to be out of the scope of the PSP. In developing the PSP, the VPA stated that it had planned for a scale and infrastructure provision that would service the new community without impacting negatively on existing areas, particularly in relation to community and recreational facilities, commercial and retail services and education facilities.

The VPA submitted that a viability assessment was undertaken for a station to serve the Pakenham East precinct, though a number of land use or rail operations concerns remained including modest residential population increase within one kilometre of a proposed train station, limited further catchment to the east, physical restrictions owing to track curves and grades for station location, proximity to Pakenham Station and accessibility. On the basis of this assessment a high-frequency bus services was proposed rather than a rail station.

(iii) Discussion

The matters referred to are considered by the Panel to be as per the VPA response, generally outside the remit of the Panel in the consideration of the Amendment. However, Council may wish to consider the future development of the surrounding townships in any future revisions or updates to its MSS (and subsequent Municipal Planning Strategy, post VC148), as well as other strategic planning undertaken for the growth area corridors and surrounds.

(iv) Conclusions

The Panel concludes:

- impacts on localities outside the PSP are valid concerns for the community and should be addressed through Council strategic planning processes, over and above this specific PSP and Amendment.

4.14 Local Town Centre and Local Convenience Centre

(i) The issues

The issues are:

- whether the soft cap for the LCC is appropriate
- whether the changes proposed to the LTC are appropriate

(ii) Background

The PSP sets aside land to be developed for two centres within Pakenham East:

- a LTC situated south of Princes Highway and west of Hancocks Gully, positioned to serve the PSP as a whole
- a LCC situated on the northern side of the proposed extension to Canty Lane, which would become a new connector boulevard through the southern part of the PSP, and opposite a proposed government primary school.

The LTC is proposed to provide for 9,100 square metres of shop floorspace and is expected to provide *retail, services, lifestyle, leisure and commercial needs for the surrounding residential catchment*.

The concept plan for the LTC (PSP Figure 2) indicates one large anchor retail use, presumably indicating a supermarket and a smaller one that could accommodate a smaller-format

supermarket or a mini-major retail tenant. The background economic report *Pakenham East Precinct Structure Plan – Economic Assessment report November 2015* by Tim Nott recommends that the LTC provide for one full-line supermarket and one small or mid-sized supermarket.

(iii) Evidence and submissions

Local Convenience Centre

Mr Lee's evidence was that:

> *The proposed centre hierarchy is a sensible response to deliver retail and other services to residents within the Pakenham East PSP.*

He concluded that the designation of the centre near Canty Lane may downplay its significance in providing a service to new residents, particularly in the early stages of the development of Pakenham East. He recommended elevating the designation of the centre to a small LTC which would be consistent with other PSPs.

The VPA advised the Panel that it accepted Mr Lee's analysis but not his conclusions and added:

> *The VPA accepts that the level of supportable floor space identified by Mr Lee although it is lower than the level identified in the background reports. The VPA would support the amendment of the soft cap in the UGZ to reflect a figure of 3500 square metres, which would therefore trigger the requirement of planning permit for retail floor space beyond this amount.*

Local Town Centre

In response to the Final List of PSP Changes Parklea responded:

> *Parklea also acknowledges that the VPA has agreed to update the Town Centre Concept Plan proposed at Figure 2 of the PSP, to reflect outcomes agreed at the workshop between the VPA, Cardinia Shire Council (**Council**) and Parklea on 16 May 2018.*
>
> *It is Parklea's submission that there was agreement between Parklea and the VPA to replace the Town Centre Concept Plan proposed at Figure 2 of the PSP with the Town Centre Concept Plan prepared by Mesh Planning, set out at Annexure A to this submission.*

In response to the Final List of PSP Changes Council acknowledged the VPA will update the town centre concept plan. Council submitted that this statement was based on the meeting held on the 22 May 2018 held between the VPA, Parklea, Mesh Planning and Council.

Council argued that the meeting minutes identified a concept plan would *be developed by VPA for all to review, test and provide comments back to the VPA prior to the plan being updated in the PSP*.

The VPA responded that it did not consider that there was any significant issue about the changes to be incorporated into the town centre. The VPA acknowledged it will continue to finalise the town centre in consultation with Parklea and Council. It submitted that it needs to:

> *…consult with TfV on the intersection design and locations as part of the town centre, and urban designer to ensure there remains consistency with key principles that are incorporated into all town centres.*

In response to the Parklea submission the VPA noted that the plan is not binding and there was ample opportunity to submit on the initial tabled list of changes (Document 8) which agreed to incorporate the agreed principles from the workshop. The VPA added:

> *On this basis Parklea's request for a further Direction Hearing on this matter should be disregarded.*

(iv) Discussion

The Panel accepts Mr Lee's evidence with respect to the supportable floorspace for the LCC. The influence this has on the Panel's view of the FUS is dealt with in section 3.3 above. The Panel agrees that the LCC will perform an important function for the residents of Pakenham East in the early stages of its development. As Pakenham East develops the LCC will face increasing competition from the LTC as well as other centres in the Growth Corridor. For this reason the Panel agrees with the VPA, that a reduction in the soft cap for the LCC is appropriate. The Panel acknowledges that the soft cap triggers a permit application if it is exceeded which would allow an applicant to justify an increase in floorspace, if required.

The Panel notes that the List of Final PSP Changes includes the following change with respect to the LTC:

> *Continue to work with Parklea and Council to provide a finalised local town centre plan that incorporates the agreed changes at the workshop held 16 May 2017*

In the Panel's view this change represents the improvement and evolution of the text in the list of changes (Document 8) submitted to the Panel on 30 May 2018 which refers to the workshop held on 16 May 2018. The finalisation of the LTC plan is an ongoing matter. Council in its submission confirmed that it had not signed off on the plan. The Panel agrees with the VPA submission that the plan is indicative and not binding and that Parklea had ample opportunity to submit on the matter. If anything, the text referred to above, which commits the VPA to working with Council and Parklea, provides more flexibility than the changes detailed in Document 8 on 30 May 2018.

(v) Conclusions

The Panel concludes:

- the soft cap for the LCC should be amended to 3,500 square metres
- the proposed changes in the List of PSP Changes with respect to the LTC are appropriate
- the UGZ5 should be amended to reduce the LCC floor area from 4,100 to 3,500 square metres.

(vi) Recommendations

The Panel makes the following recommendations:

15. **Amend Table 4 of the Pakenham East Precinct Structure Plan to reduce the shop floorspace of the Local Convenience Centre from 4,100 square metres to 3,500 square metres.**

16. **Amend the reference in the Pakenham East Precinct Structure Plan requirements R22 and R33 from 4,100 square metres to 3,500 square metres.**

17. **Replace the Urban Growth Zone Schedule 5 with the Panel Preferred version shown in Appendix D.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Don & Kath Jackson
2	AusNet Transmission Group
3	Joanna & Mathew Dipnall
4	Tina De Pietro
5	Jean-Louis & Cleonice Sauze
6	South East Water
7	Amanda Adshead
8	Don & Kath Jackson
9	Katrina Chatfield
10	Diocese of Sale Catholic Education Limited
11	Bessie Creek/Ararat Creek Landcare Group
12	Christopher McAleer
13	Damon Land Pty Ltd c/o Parklea
14	Ante Krstulovie
15	Cardinia Branch Victorian Farmers Federation
16	EPA Victoria
17	Cannibal Creek Landcare Group
18	Blazevic family
19	John & Katrina Twist
20	Andrew & Suzanne Cleary
21	Earldean Pty Ltd & Auscare Commercial Pty Ltd
22	Back Creek Landcare Group
23	Daniel Haynes
24	Toomuc Landcare
25	Nar Goon Progress Association
26	Chantelle McLachlan
27	Dennis & Lois Walker
28	Paul & Penny Carney c/o XWB Consulting
29	DELWP (Forest, Fire and Regions)
30	Geoff Leed
31	Elise Sefton

32	APA Networks
33	Rose Biddell
34	Geoff Bramley
35	Gael Fairweather
36	Azemi Land C/o Plans In Motion (PIM)
37	Department of Education and Training
38	Patrick & Jennifer Canty
39	Deep Creek Landcare Group
40	Danielle LeGassick
41	David Young
42	James Naylor
43	Jane Kopecek
44	Lendlease c/o Niche Planning
45	Bauernort c/o Niche Planning
46	Joanne Parker
47	Jamie (surname not provided)
48	Aboriginal Victoria
49	Laurack P/L
50	Parklea Developments
51	Cheryl Edyvane
52	Transport for Victoria
53	Ronald Pearson
54	Bill & Genevieve Shallard
55	Michael & Raffaelina Scuglia
56	Jason & Dianne Sartori (+ others)
57	Rita & Frank (surname not provided)
58	John & Lourdes Rodda
59	Horkings/Keogh family
60	Graeme & Janice Stokie
61	Ronald Pearson
62	Adrian & Elizabeth Wood
63	Emmanuel & Maureen Camilleri
64	Paul & Tanya Hughes
65	Michelle Porobic

66	Bradley, Debra & Lucas Holland
67	SR Holdings Investment Group Pty Ltd c/o Taylors Development
68	Cardinia Ratepayers & Residents Association
69	Melbourne Water
70	Country Fire Authority
71	Cardinia Shire Council
72	DEDJTR
73	Health and Community services
74	Ian and Helen Howe
75	Jean-Louis & Cleonice Sauze

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Victorian Planning Authority	Mr Greg Tobin of Harwood Andrews who called the following expert witnesses: - Valerie Mag of Stormy Water Solutions on drainage - John Richardson of Jacobs on transport and traffic - Hamish Allan of Terramatrix on bushfire planning
Cardinia Shire Council	Mr Barnaby McIlrath of Maddocks, who called the following expert witnesses: - Richard Simon of Simon Leisure on open space - Paul Shipp of Urban Enterprise on infrastructure - Ali Abdou of Trafficworks on traffic and transport
Parklea Developments	Mr Chris Canavan QC and Ms Emily Porter of Counsel instructed by Minter Ellison, who called the following expert witnesses: - Robert Panozzo of ARG Planning on social economics - Mathew Lee of Deep End Services on economics - Jim Higgs of TTM Consulting on transport and traffic - Darren Atkinson of Urbis on landscape
Paul & Penny Carney	Mr Phil Walton of XWB Consulting, who called the following expert witnesses: - Warwick Bishop of Water Technology on drainage - Jeff Latter of Treed Environs on native vegetation
Earldean Pty Ltd and Auscare Commercial Pty Ltd	Ms Joanne Lardner of Counsel instructed by Hall & Wilcox and Mr Jason Black of Insight Planning, who called the following expert witnesses: - Warwick Bishop of Water Technology on drainage - Brett Lane of Brett Lane & Associates on ecology
Lendlease	Mr Jason Black of Insight Planning, who called the following expert witnesses: - Warwick Bishop of Water Technology on drainage - Jason Walsh of TraffixGroup on transport and traffic
Ferati Holdings Pty Ltd	Ms Maggie Cusdin of Plans in Motion Pty Ltd, who called the following expert witness: - Valentine Gnanakone of One Mile Grid on transport and traffic
SR Holdings Investment Group Pty Ltd	Mr Nick Robins of Taylors Development Strategists Pty Ltd, who called the following expert witnesses: - Farhad Shabanpoor of Adams Consulting on structural engineering - Peter Barrett of Peter Andrew Barrett on heritage

Mark Blazevic	Mr Stephen Davis of ERM
Bauernort	Ms Celia Konstas of Niche Planning Studio
Nar Goon Progress Association	Ms Rose Biddell
Back Creek Land Care Group	Ms Vivian Clarke
James Naylor	
Cardinia Ratepayers & Residents Association	Ms Gloria O'Connor
Chantelle McLachlan	
Sue and Andrew Cleary	
Jason Satori	
David Young	
Victorian Farmers' Federation - Cardinia Branch	Mr David Young
Cannibal Creek Land Care Group	Mr Gerard Cunningham
Jenny and Paul Rice	
Lois Walker	
Jean-Louis & Cleonice Sauze	

Appendix C Document list

No.	Date	Description	Presented by
1	May 2018	VPA Part A Submission	Mr G. Tobin
2	30/05/2018	VPA presentation	Mr G. Tobin
3	30/05/2018	3D Visualisation of interface housing Ryan Road	Mr G. Tobin
4	30/05/2018	Aerial with submitters location	Mr G. Tobin
5	30/05/2018	VPA reference documents	Mr G. Tobin
6	30/05/2018	Ecology & Heritage Part response to submissions	Mr G. Tobin
7	30/05/2018	Schedule 5 to Clause 37.07 - Urban Growth Zone with tracked changes	Mr G. Tobin
8	30/05/2018	List of post exhibition changes to the exhibited Pakenham East Precinct Structure Plan	Mr G. Tobin
9	30/05/2018	List of post exhibition changes to the Ordinance	Mr G. Tobin
10	30/05/2018	VPA Part B opening submission	Mr G. Tobin
11	30/05/2018	Transport conclave minutes	Mr G. Tobin
12	31/05/2018	Valerie Mag Stormy Expert Evidence Statement	Mr G. Tobin
13	31/05/2018	Pakenham East Precinct Drainage Strategy Functional Design plans	Mr G. Tobin
14	31/05/2018	Conclave of Drainage Experts - Conclave Statement	Mr G. Tobin
15	31/05/2018	Extract from Melbourne Water Waterway Corridors Guidelines for greenfield development areas within the Port Phillip and Westernport Region	Mr J. Black
16	31/05/2018	Warwick Bishop Expert Evidence Statement (Mr & Mrs Carney)	Mr P. Walton
17	31/05/2018	Warwick Bishop Expert Evidence Statement (Earldean Pty Ltd and Auscare Commercial Pty Ltd)	Mr J. Black
18	31/05/2018	Warwick Bishop Expert Evidence Statement (Lendlease Communities (Australia) Limited)	Mr J. Black
19	01/06/2018	Development Plan Abrehart Road, Pakenham	Mr B. McIlrath
20	01/06/2018	Applying the Flood Provisions in Planning Schemes A guide for Councils Planning Practice Note 12 (DELWP) June 2015	Mr B. McIlrath
21	01/06/2018	Using the integrated water management provisions of Clause 56 – Residential subdivision VPP Practice Note (DSE) October 2016	Mr B. McIlrath
22	01/06/2018	Nar Nar Goon Progress Association Supporting Documents	Ms R. Biddell

23	01/06/2018	Back Creek Land Care Group – Fauna survey results	Ms V. Clarke
24	01/06/2018	Melbourne Planning Strategy Plan Melbourne 2017-2050 Extract – Map 20 Natural hazards	Mr J. Naylor
25	01/06/2018	Melbourne Water Letter 21 December 2012 to Dr Greg Gardiner Executive Officer, Environment and Natural Resource Committee	Mr J. Naylor
26	01/06/2018	Section 3, Connector Street (24m) – Ryan Road Residential (updates cross-section in Document no.3)	Mr G. Tobin
27	01/06/2018	Submission on behalf of the Blazevic family	Mr S. Davis
28	01/06/2018	Comments in relation to PSP	Mr J. Sartori
29	01/06/2018	Submission on behalf of the Victorian Farmers Federation	Mr D. Young
30	01/06/2018	Submission by Mr David Young	Mr D. Young
31	01/06/2018	Submission on behalf of the Cannibal Creek Landcare Group Inc.	Mr G. Cunningham
32	07/06/2018	Submission by the Cardinia Ratepayers and Residents Association	Ms G. O'Connor
33	12/06/2018	Marshall Day – Traffic Noise assessment	VPA
34	12/06/2018	Marshall Day – City Gate Noise assessment	VPA
35	18/06/2018	Agreed trip generation assumptions	VPA
36	20/06/2018	Correspondence from Taylors on behalf of SR Holdings Investment Group Pty Ltd advising of resolution of submission	Mr N. Robins
37	25/06/2018	VPA Proposed Changes to Pakenham East PSP Letter	Mr G. Tobin
38	25/06/2018	Collective Ryan Road resident submission to VPA	Mr G. Tobin
39	25/06/2018	Andrew Batarilo, Civil Engineer Assessment of Ryan Rd Development Plan	Mr G. Tobin
40	25/06/2018	Collective Ryan Road resident letters to VPA about C234	Mr G. Tobin
41	25/06/2018	State Planning Policy Framework extract – Clause 13.05	Mr G. Tobin
42	25/06/2018	John Richardson Expert Evidence Statement 28 May	Mr G. Tobin
43	25/06/2018	John Richardson Expert Evidence Statement 22 June	Mr G. Tobin
44	25/06/2018	Cardinia Shire Council – concept plan from Mr Ali Abdou with potential left turning slip lane Ryan Road onto Princes Highway	Mr B. McIlrath
45	25/06/2018	Engineering Design and Construction Manual pg.39	Mr G. Tobin
46	25/06/2018	Appendix B Pavement Design Charts Table 24	Mr C. Canavan
47	25/06/2018	Clause 56.06 Access and Mobility Management	Mr C. Canavan

48	25/06/2018	Department of Education and Training letter to VPA dated 22 June2018	Mr G. Tobin
49	25/06/2018	List of Changes 22 June 2018	Mr G. Tobin
50	25/06/2018	Status of submission 25 June 2018	Mr G. Tobin
51	25/06/2018	List of Changes – Ordinance & NVPP	Mr G. Tobin
52	25/06/2018	Melton Planning Scheme Amendment C145 Rockbank PSP and DCP 15 June 2016	Mr G. Tobin
53	25/06/2018	VPA Part B Submission (continued), 25/06/2018	Mr G. Tobin
54	25/06/2018	Section Connector Street (24m) – Ryan Road (south)	Mr G. Tobin
55	25/06/2018	Terramatrix Bushfire Development Report expert evidence statement May 2018	VPA
56	26/06/2018	APA – Proposed Crib Point – Pakenham pipeline 15 June2018	VPA
57	26/06/2018	Hume PSA C205 Lindum Vale PSP 9 April 2018	Mr G. Tobin
58	26/06/2018	TraffixGroup Lindum Vale PSP 12 February 2018	Mr G. Tobin
59	26/06/2018	Flood zones and overlays	Mr B. McIlrath
60	26/06/2018	TrafficWorks memorandum 25 June 2018	Mr B. McIlrath
61	26/06/2018	Ali Abdou Expert Evidence Statement 25 June 2018	Mr B. McIlrath
62	26/06/2018	Cardinia SMEC Functional Design Alignment Plan Ryan Road / Canty Lane roundabout	Mr B. McIlrath
63	26/06/2018	Section 10.6 Standard cross-section, pg.71, Engineering Design and Construction Manual	Mr B. McIlrath
64	26/06/2018	Cardinia Road Management Plan	Mr C. Canavan
65	26/06/2018	Dore Road south Connector Road B cross-section	Mr J. Black
66	26/06/2018	Dore Road north cross-section	Mr J. Black
67	26/06/2018	Cardinia Shire Council Submission	Mr B. McIlrath
68	26/06/2018	APA Group Safety Management Study Workshop / Report 17 May 18	Harwood Andrews
69	27 June 2018	Richard Simon Expert Evidence Statement	Mr B. McIlrath
70	27 June 2018	Paul Shipp Expert Evidence Statement	Mr B. McIlrath
71	27 June 2018	Development Contributions Guidelines	Mr G. Tobin
72	27 June 2018	Planning and Environment Act section 21	Mr G. Tobin
73	27 June 2018	Ministerial Direction on the Preparation and Content of Development Contributions Plans and Ministerial Reporting Requirements for Development Contributions Plans	Mr G. Tobin

74	27 June 2018	Infrastructure Contributions Plan Guidelines DELWP October 2016	Mr G. Tobin
75	27 June 2018	Submission on behalf of Cardinia Shire	Mr B. McIlrath
76	27 June 2018	CSC mark up of Table 8	Mr B. McIlrath
77	27 June 2018	Assessment of residential densities and percentage of NDA	Mr B. McIlrath
78	27 June 2018	Revised FUSP – Version 2 - 20 June 2018	Mr C. Canavan
79	27 June 2018	Parklea plans: Land ownership, servicing, access	Mr C. Canavan
80	27 June 2018	Jim Higgs Expert Evidence Statement	Mr C. Canavan
81	27 June 2018	Jim Higgs Supplementary Expert Evidence Statement	Mr C. Canavan
82	27 June 2018	Jim Higgs proposed BVD Connector Street Park Longitudinal section of ground levels (updates version A in document 80)	Mr C. Canavan
83	28/06/2018	TrafficWorks Ali Abdou memo to Panel 27 June 2018	Mr B. McIlrath
84	28/06/2018	Rob Panozzo Community Planning Expert Evidence Statement	Ms E. Porter
85	28/06/2018	Darren Atkinson Expert Evidence Statement	Ms E. Porter
86	29/06/2018	Matthew Lea Expert Evidence Statement	Mr C. Canavan
87	29/06/2018	Submissions on behalf of Parklea Developments	Mr C. Canavan
88	29/06/2018	Proposed drafting changes by Parklea Developments	Mr C. Canavan
89	29/06/2018	Officer Development Contributions Plan	Mr C. Canavan
90	29/06/2018	Warragul Development Contributions Plan September 2014	Mr C. Canavan
91	29/06/2018	Altona North Development Contributions Plan 2017-2037	Mr C. Canavan
92	29/06/2018	Revised VPA FUSP – Version 3	Mr C. Canavan
93	29/06/2018	Brett Lane Expert Evidence Statement	Ms J. Lardner
94	29/06/2018	Brett Lane, Addendum to Expert Evidence Statement	Ms J. Lardner
95	29/06/2018	Clause 52.16 Native Vegetation Precinct Plan	Ms J. Lardner
96	29/06/2018	Preparing a Native Vegetation Precinct Plan	Ms J. Lardner
97	29/06/2018	Submissions on behalf of Auscare & Earldean	Ms J. Lardner
98	29/06/2018	Submission on behalf of Jean-Louis & Cleonice Sauze	Mr JL Sauze
99	02/07/2018	Jason Lee Walsh Expert Evidence Statement	Mr J Black
100	02/07/2018	TraffixGroup Cross-sections Dore Road north	Mr J Black
101	02/07/2018	TraffixGroup Cross-section Dore Road south 21m	Mr J Black
102	02/07/2018	TraffixGroup Cross-section Connector Road B, 20.7m	Mr J Black

103	02/07/2018	Lendlease PSP Concept Plan, 17 May 2017	Mr J Black
104	02/07/2018	TraffixGroup Memorandum	Mr J Black
105	02/07/2018	Pakenham East Schematic Masterplan Rev A June 2018	Mr J Black
106	02/07/2018	Figure 5 Hilltop Concept Plan (Local Park LP-01)	Mr J Black
107	02/07/2018	Submission on behalf of Lendlease	Mr J Black
108	02/07/2018	Water Technology letter dated 26 June 18	Mr J Black
109	02/07/2018	Submission on behalf of Bauernort Management	Ms C Konstas
110	02/07/2018	Submission on behalf of Penny and Paul Carney	Mr P. Walton
111	02/07/2018	Jeff Latter Expert Evidence Statement	Mr P. Walton
112	02/07/2018	Photo of SW2 'patch' as per NVPP (Dec 2017) and Ecological Investigations report (Jan 2018)	Mr P. Walton
113	02/07/2018	Submission on behalf of SR Holdings Investment Group Pty Ltd	Mr N. Robins
114	03/07/2018	Farhad Shabanpoor Expert Evidence Statement	Mr N. Robins
115	03/07/2018	Peter Andrew Barrett Expert Evidence Statement	Mr N. Robins
116	03/07/2018	Emails from Council to SR Holdings	Mr N. Robins
117	03/07/2018	Whittlesea Planning Scheme Amendment C81 Part 2 Panel Report March 2007	Mr N. Robins
118	03/07/2018	Submission on behalf of Ferati Holdings	Ms M. Cusdin
119	03/07/2018	Valentine Gnanakone Expert Evidence Statement	Ms M. Cusdin
120	03/07/2018	Closing submission - Cardinia Shire Council	Mr B. McIlrath
121	03/07/2018	Revised Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans and Ministerial Reporting Requirements for Infrastructure Contributions Plans	Mr G. Tobin
122	03/07/2018	Hand drawn calculations – single / twin left turn lanes with/out slip lanes, pros and cons	Mr B. McIlrath
123	03/07/2018	Email from Pat Canty to Council	Mr B. McIlrath
124	03/07/2018	VPA Panel – closing submission	Mr G. Tobin
125	03/07/2018	VPA List of Changes PSP	Mr G. Tobin
126	03/07/2018	VPA List of Changes – Ordinance & NVPP	Mr G. Tobin
127	03/07/2018	Extract Clyde Creek PSP October 2014	Mr G. Tobin
128	03/07/2018	Clyde Creek PSP – photo of partial construction and road layouts	Mr G. Tobin
129	03/07/2018	Extract Donnybrook-Woodstock PSP October 2017	Mr G. Tobin
130	03/07/2018	Planning Practice Note 54 June 2015 Referral and Notice Provisions	Mr G. Tobin

131	03/07/2018	Cardinia Pakenham PSP alternative senior school location for discussion in April 2017	Mr G. Tobin
132	06/07/2018	Email from Melbourne Water to VPA regarding floodway dated 21 June 2018	Harwood Andrews
133	06/07/2018	Planning Permit for the Cardinia school site subject to PAO	Harwood Andrews
134	06/07/2018	Approved Timbertop Estate Masterplan	Harwood Andrews
135	06/07/2018	List of changes letter from the VPA	Harwood Andrews
136	06/07/2018	List of changes - Ordinance and NVPP document (dated 4 July 2018). Also referred to herein as the 'Final Ordinance and NVPP'	Harwood Andrews
137	06/07/2018	List of changes document (dated 4 July 2018). Also referred to herein as the 'Final List of PSP Changes'	Harwood Andrews
138	06/07/2018	Appendix 1 – summary of submission responses document (dated 03/07/2018)	Harwood Andrews
139	06/07/2018	Blazevic response to VPA list of changes	ERM
140	06/07/2018	Response by Parklea to VPA list of changes	Minter Ellison
141	09/07/2018	Council email & attachments response to VPA list of changes	Cardinia Shire Council
142	09/07/2018	Lendlease Communities response to VPA list of changes	Niche Planning Studio
143	09/07/2018	Jason Satori response to VPA list of changes	Jason Sartori
144	09/07/2018	Lois & Dennis Walker response to VPA list of changes	Dennis Walker
145	09/07/2018	Suzanne & Andrew Cleary response to VPA list of changes	Suzanne & Andrew Cleary
146	11/07/2018	Schedule 5 to Clause 37.07 UGZ post exhibition tracked changes	Harwood Andrews
147	22/08/2018	Schedule 5 to Clause 37.07 UGZ post Panel tracked changes	Harwood Andrews

Appendix D Panel Preferred Urban Growth Zone Schedule 5

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SCHEDULE 5 TO CLAUSE 37.07 THE URBAN GROWTH ZONE

Shown on the planning scheme map as **UGZ5**.

Pakenham East Precinct Structure Plan

1.0 The plan

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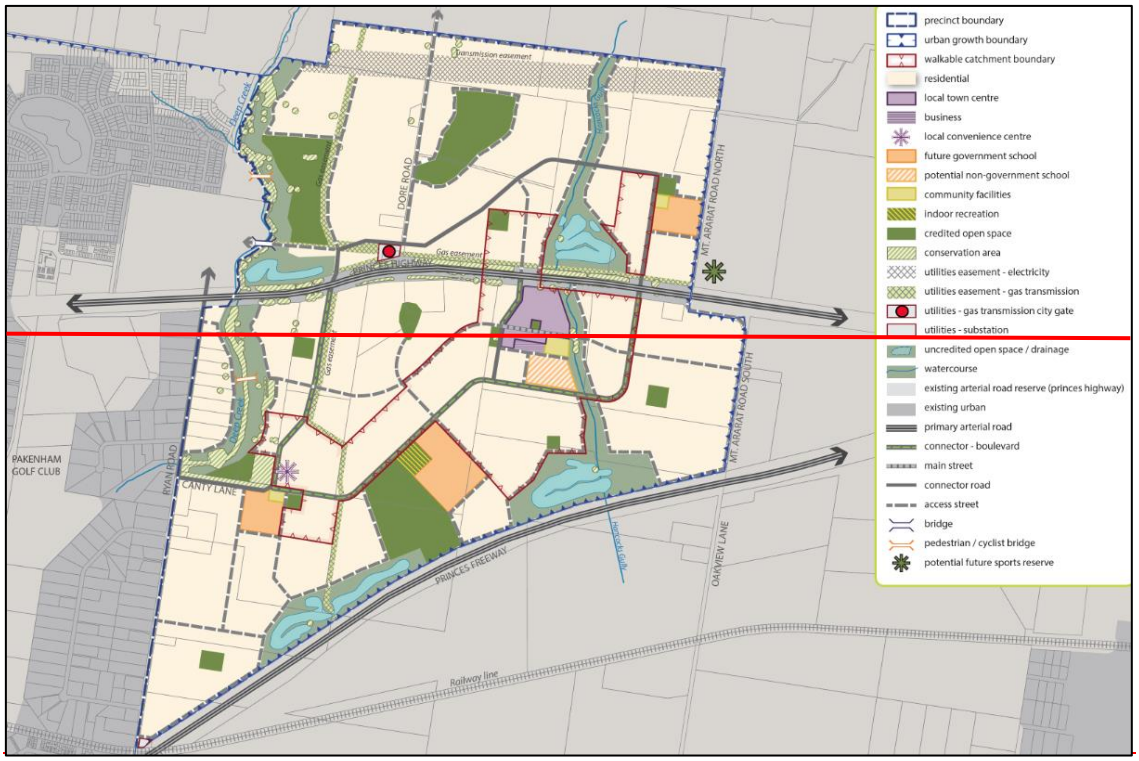
Plan 1 below shows the future urban structure proposed in the *Pakenham East Precinct Structure Plan*. It is a reproduction of Plan 3 in the *Pakenham East Precinct Structure Plan.*

Plan 1 to Schedule 5 to Clause 37.07



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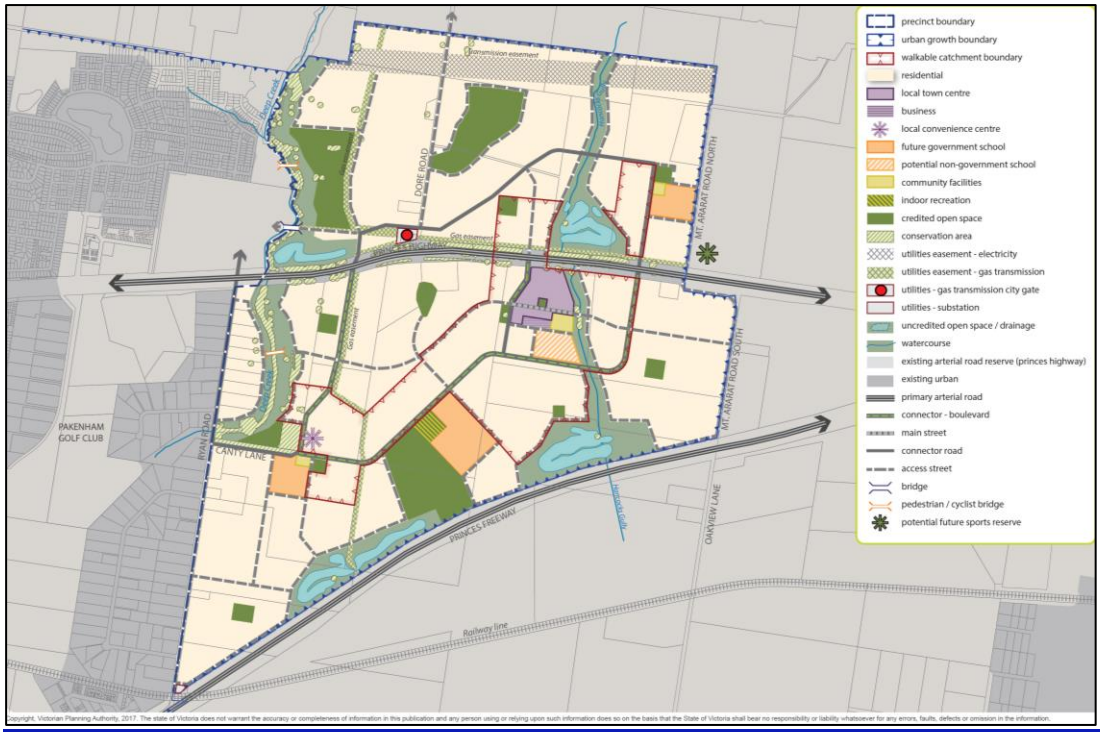

2.0 Use and development

~~DD/MM/YYYY~~ Proposed C234

2.1 The land

~~DD/MM/YYYY Proposed C234~~

The use and development provisions specified in this schedule apply to the land as shown within the 'precinct boundary' on Plan 1 of this schedule and shown as UGZ5 on the planning scheme maps.

Note: If land shown on Plan 1 is not zoned UGZ5, the provisions of this zone do not apply.

2.2 Applied zone provisions

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Table 1 allocates the land use/development shown on Plan 1 of this schedule with a corresponding zone from this scheme.

Where the use/development in the left column is carried out or proposed generally in accordance with the incorporated *Pakenham East Precinct Structure Plan*, the use, subdivision, construction of a building and construction and carrying out of works provisions of the corresponding zone in the right column apply.

A reference to a planning scheme zone in an applied zone must be read as if it were a reference to an applied zone under this schedule.

Note: e.g. The Commercial 2 Zone specifies 'Shop' as a Section 1 Use with the condition, 'The site must adjoin, or have access to, a road in a Road Zone.' In this instance the condition should be read as, 'The site must adjoin, or have access to, a road in a Road Zone or an applied Road Zone in the Urban Growth Zone schedule applying to the land'

Table 1: Applied zone provisions

Primary arterial road	Clause 36.04 – Road Zone Category 1
~~Business~~Small local enterprise precinct	Clause 34.02 – Commercial 2 Zone
Local town centre Local convenience centre	Clause 34.01 – Commercial 1 Zone
Residential on a lot wholly within walkable residential catchment	Clause 32.07 – Residential Growth Zone

boundary (once subdivided)	
All other land	Clause 32.08 – General Residential Zone

2.3 Specific ~~provision~~provisions – Use of land

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Section 1 - Permit not required

Use	Condition
Primary school **Secondary school**	Must be on land shown as Potential Non-Government School in the *Pakenham East Precinct Structure Plan.*
Bed and breakfast **Place of worship** **Residential aged care facility** **where the applied zone is General Residential Zone or Residential Growth Zone**	Must meet any corresponding condition in Section 1 of the General Residential Zone or Residential Growth Zone; and Must not be on land shown within the '~~high pressure~~ gas ~~transmission~~ pipeline ~~measurement length~~'notification zone depicted on Plan 10 of the *Pakenham East Precinct Structure Plan*
Shop (other than Adult sex bookshop) where the applied zone is Commercial 1 Zone	The combined leasable floor area of all shops must not exceed: - 9,100 square metres for land shown as a Local Town Centre in the *Pakenham East Precinct Structure Plan*. - ~~4,100~~3,500 square metres for land shown as a Local Convenience Centre in the *Pakenham East Precinct Structure Plan*.
Accommodation (other than dwelling, ~~dependant persons unit and~~eand Corrective institution) **Child care centre** **~~Cinema~~** **Cinema based entertainment facility** **Education centre** **Place of ~~worship~~assembly** **where the applied zone is Commercial 1**	Must meet any corresponding condition in Section 1 of the Commercial 1 Zone; and Must not be on land shown within the '~~high pressure~~ gas ~~transmission~~ pipeline ~~measurement length~~'notification zone depicted on Plan 10 of the *Pakenham East Precinct Structure Plan*
~~Cinema~~ **Cinema based entertainment facility** **where the applied zone is Commercial 2**	Must meet any corresponding condition in Section 1 of the Commercial ~~1~~2 Zone; and Must not be on land shown within the '~~high pressure~~ gas ~~transmission~~ pipeline ~~measurement length~~'notification zone depicted on Plan 10 of the *Pakenham East Precinct Structure Plan*

Section 2 - Permit required

Use	Condition
Restricted retail premises where the applied zone is Commercial 2	

Section 3 - Prohibited

Use	Condition
Gaming premises where the applied zone is Commercial 1 or Commercial 2	
Supermarket where the applied zone is Commercial 2	

Use of future public land

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A permit is not required to use land shown in the Pakenham East Precinct Structure Plan as a local park, local sports reserve or community facilities provided the use is carried out generally in accordance with the Pakenham East Precinct Structure Plan and with the prior written consent of Cardinia Shire Council.

2.4 Specific provisions - Subdivision

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~~None specified.~~

Ryan Road sub-precinct

Except with the consent of the responsible authority and Melbourne Water, a permit must not be granted to subdivide land within the Ryan Road sub-precinct until the following has been prepared, for the entire sub-precinct, to the satisfaction of the responsible authority and Melbourne Water:

- A restructure plan, demonstrating the subdivision or consolidation of the existing lots within the sub-precinct, to enable development of the land in a coordinated manner;
- A utility coordination plan, demonstrating that drainage and sewerage infrastructure can be delivered in a coordinated manner to enable the servicing of the land; and
- A drainage and fill strategy, designed to ensure that development of the sub-precinct can meet the following requirements:
  - No new lots created that are subject to inundation from 1% AEP flows (accounting for climate change scenarios).
  - Any overland paths in road reserves meet Melbourne Water's floodway safety criteria for depth of flow and flow velocity
  - Any overland flows be fully contained within reserves (roads, open space)
  - Flooding cannot be increased either upstream or downstream of the precinct or for existing landholders
  - The drainage network must have capacity for the 5% AEP flood

An application for subdivision within the Ryans Road sub-precinct must be consistent with any restructure plan, utility coordination plan and drainage and fill strategy approved under this schedule.

A restructure plan, utility coordination plan or drainage and fill strategy may be amended to the satisfaction of the responsible authority and Melbourne Water.

2.5 Specific provisions – Buildings and works

Dwellings on a lot less than 300 square metres

A permit is not required to construct or extend one dwelling on a lot with an area less than 300 square metres where a site is identified as a lot to be assessed against the Small Lot Housing Code ~~via~~created as a restriction on title, ~~and it~~that complies with the *Small Lot Housing Code* incorporated in the Cardinia Planning Scheme~~.~~:

Or;

A permit is not required to construct one dwelling on a lot of between 250 and 300 square metres where an approved building envelope (as defined in Part 4 of the Building Regulations 2006) applies to the lot.

A permit is required to construct a front fence within 3 metres of a street unless the Front Fence Height Standard in Table A2 to Clause 54.06-2 is met.

Buildings and works for a school

A permit is required to construct a building or construct or carry out works associated with a Primary school or Secondary school on land shown as a ~~Potential Non-Government School~~'potential non-government school' on Plan 3 of the Pakenham East Precinct Structure Plan, unless exempt under Clauses 62.02-1 and 62.02-2.

Development of future public land

A permit is not required to construct a building or construct or carry out works on land shown in the Pakenham East Precinct Structure Plan as local park, local sports reserve or community facilities provided the development is carried out generally in accordance with the Pakenham East Precinct Structure Plan and with the prior written consent of Cardinia Shire Council.

Gas pipeline construction management plan required whether or not a permit is required

Prior to the commencement of any works, including demolition, on land within, or within 50m of the boundary of a utilities easement (gas) shown as on Plan 10 – Utilities in the incorporated *Pakenham East Precinct Structure Plan*, a construction management plan must be submitted to and approved by the responsible authority. The plan must:

- Prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the owner/operator of the high pressure gas pipeline; and
- Be endorsed by the owner/operator of the high pressure gas transmission pipeline prior to being submitted to the responsible authority.

The construction management plan must be implemented to the satisfaction of the responsible authority.

The construction management plan may be amended to the satisfaction of the responsible authority.

3.0 Application requirements

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The following application requirements apply to an application for a permit under Clause 37.07, in addition to those specified in Clause 37.07 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority. If in the opinion of the responsible authority an application requirement listed below is not relevant to the assessment of an application, the responsible authority may waive or reduce the requirement.

Subdivision ~~- Residential~~and residential development

In addition to the requirements of Clause 56.01-2, a ~~Subdivision Design Response for a residential~~ subdivision ~~of less than 60 lots must show the proposed use and development of each part of the land, and the staging of the development for all land in contiguous ownership with the land under application.~~

~~An application~~design response for a residential subdivision of 10 lots or more must be accompanied by~~:~~ the information listed below. An application for the construction of 10 or more dwellings on a lot must be accompanied by the same information.

- A written statement that sets out how the ~~subdivision~~application implements the incorporated *Pakenham East Precinct Structure Plan*.

- A land budget table in the same format and methodology as those within the precinct structure plan applying to the land, setting out the amount of land allocated to proposed uses and expected population, mix of lot sizes (including estimated superlots) dwelling yields, and employment yields if relevant;
- An overall master plan for all land in contiguous ownership of the landowner showing the proposed uses of each part of the site and demonstrating lot size diversity by including a colour coded lot size plan, reflecting the lot size categories and colours outlines in Table 2 - Lot size and Housing Type Guide in the incorporated Pakenham East Precinct Structure Plan;
- A demonstration of how the application will contribute to the achievement of the residential density outcomes in the precinct structure plan applying to the land;
- A mobility plan that demonstrates how the local street and movement network integrates with adjacent urban development or is capable of integrating with future development on adjacent land parcels.
- Subdivision and Housing Design Guidelines, prepared to the satisfaction of the responsible authority, in accordance with the incorporated *Pakenham East Precinct Structure Plan*, that demonstrate how the proposal responds to and achieves the objectives and planning and design requirements and guidelines within the Housing section of the PSP.
- A ~~table setting out the amount of land allocated to~~ plan showing the proposed ~~uses~~road and ~~expected population, dwelling~~street network, that addresses the interface treatments with arterial roads, open space and ~~employment yields.~~environmentally sensitive areas;
- A ~~Traffic Impact Assessment Report~~plan showing access arrangements for properties adjacent to all existing and future arterial roads;
- An approved Cultural Heritage Management Plan that is endorsed by the ~~satisfaction~~future public land manager/s of any reserve to be created as part of the ~~relevant road management authority.~~ development or advice from a suitable qualified cultural heritage professional that confirms that a Cultural Heritage Management Plan is not required. This requirement may not be waived.
- A landscape master plan prepared by a suitably qualified professional in the field that shows the proposed species, locations, approximate height and spread of proposed planting and the retention of existing trees and shrubs. Where trees are retained, a Tree Protection Zone must be applied and should adhere to the Australian Standard Protection of Trees and Development Sites (AS4970-2009).
- A hydrogeological assessment of the groundwater conditions on the site and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater on the development and the impact of the development on groundwater.
- ~~A preliminary site assessment of the potential for contaminated land as a result of previous land uses, carried out by a suitably qualified person.~~
- A Site Management Plan that addresses bushfire risk during, and where necessary, after construction, which is approved by the CFA. The plan must specify, amongst other things:
  - The staging of development and the likely bushfire risks at each stage;
  - An area of land between the development edge and non-urban areas consistent with the separation distances specified in AS3959-2009, where bushfire risk is managed;
  - The measures to be undertaken by the developer to reduce the risk from fire within any surrounding rural or undeveloped landscape and protect residents and property from the threat of fire;
  - How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicle.

Slope management

An application to subdivide land or to construct a building or carry out works for land shown on Plan 2 of the *Pakenham East Precinct Structure Plan* as having a slope greater than 10%, must include a Slope Management Plan that responds to ~~the document 'Guidelines for~~Section 3.1.2 - Slope Management ~~in Subdivisions '~~ – of the *Pakenham East Precinct Structure Plan*.~~'~~

Acoustic assessment - gas transmission city gate

An application for residential subdivision or to construct a building for accommodation on land within 35 metres of the western boundary of the City Gate facility, shown on Plan 1 of this schedule must be accompanied by an acoustic report prepared by a suitably qualified professional, to the satisfaction of the responsible authority. The report must take account of the report titled Pakenham East Precinct Structure Plan City Gate Noise Assessment (Marshall Day Acoustics, 28 May 2018) and provide recommendations on suitable design responses that ensure an appropriate level of acoustic amenity is provided within future or proposed buildings.

Local Town Centre

An application to use, subdivide land, construct a building or construct or carry out works for a Local Town Centre must also include the following information, as appropriate, to the satisfaction of the responsible authority:

- A design response report and plans that:
  - address the Local Town Centre requirements, the Local Town Centre Guidelines and the Local Town Centre Concept Plan in the *Pakenham East Precinct Structure Plan*;
  - address any relevant design guidelines prepared by the Victorian Government or the Cardinia Shire Council;
  - demonstrate how the proposal relates to existing or approved development in the area;
  - demonstrate site responsive architecture and urban design;
  - demonstrate how the proposal will contribute to the urban character of the Local Town Centre;
  - explain how the proposal responds to feedback received following consultation with relevant infrastructure agencies such as the Transport for Victoria;
  - include environmental sustainability initiatives including integrated water management and energy conservation;
  - include provisions for car parking including the location and design of car parking areas and car parking rates for proposed uses within the centre;
  - address the provision of advertising signs;
  - include arrangements for the provision of service areas and for deliveries and waste disposal including access for larger vehicles and measures to minimise the impact on the amenity of the centre and adjoining neighbourhoods; and
  - demonstrate how opportunities for medium and higher density housing and future commercial expansion can be incorporated into the centre (including on future upper levels and through future car park redevelopments).
- An overall landscape concept/master plan for the centre including a design of the town square/ public space.

Public Infrastructure Plan

An application for subdivision and/or use and development of land must be accompanied by a Public Infrastructure Plan which addresses the following:

- What land may be affected or required for the provision of infrastructure works;
- The provision, staging and timing of road works internal and external to the land consistent with any relevant traffic report or assessment;
- What, if any, infrastructure set out in the infrastructure contributions plan applying to the land is sought to be provided as "works in lieu" subject to the consent of the collecting agency;
- The provision of public open space and land for any community facilities; and
- Any other matter relevant to the provision of public infrastructure required by the responsible authority.

Traffic Impact Assessment

An application that proposes to create or change access to a primary or secondary arterial road must be accompanied by a Traffic Impact Assessment Report (TIAR). The TIAR, including functional layout plans and a feasibility / concept road safety audit, must be to the satisfaction of VicRoads or the responsible authority, as required.

~~Subdivide, use or develop land for a sensitive purpose –~~ Environmental Site Assessment

An application to subdivide land or to use or develop land identified ~~as either a~~in Table 2 of this schedule (these properties are identified as Assessment Level '~~A' or '~~B' in Table 2 of Appendix I of the report titled *CSC – PEP - ESA, Pakenham East Precinct* ~~(~~*GHD, June 2013*), for a sensitive use (residential use, child care centre, pre-school centre or primary school) must be accompanied by an Environmental Site Assessment prepared by a suitably qualified environmental professional to the satisfaction of the responsible authority which takes account of the report titled *CSC – PEP - ESA, Pakenham East Precinct (GHD, June 2013*) and provides information including:

- Further detailed assessment of potential contaminants on the relevant land;
- Clear advice on whether the environmental condition of the land is suitable for the proposed use/s and whether an environmental audit of all, or part, of the land is recommended having regard to the *Potentially Contaminated Land General Practice Note June 2005, DSE*;
- Further detailed assessment of surface and subsurface water conditions and geotechnical characteristics (including access to locked structures, intrusive works, soil and groundwater sampling and analysis) on the relevant land and the potential impacts on the proposed development including any measures required to mitigate the impacts of groundwater conditions and geology on the development and the impact of the development on surface and subsurface water; and
- Recommended remediation actions for any potentially contaminated land.

Table 2: Properties requiring an environmental site assessment

~~DD/MM/YYYY Proposed C234~~

Lot 1 TP709442, 155 Dore Road, Pakenham
Lot 2, LP93961, 325 Seymour Road Nar Nar Goon North
Lot 1, LP55512, 85 Mount Ararat North Road, Nar Nar Goon North
Lot 2, PS422931, Dore Road, Nar Nar Goon North

Lot 1, PS422931, 40 Dore Road, Nar Nar Goon North
Lot 1, PS436254, 15 Mount Ararat North Road, Nar Nar Goon North
Lot 1-2, PS547978, Lot 3 PS607403, Lot 1 PS613913, 1550 Princes Highway, Nar Nar Goon
Lot 3 PS308950, 1560 Princes Highway, Nar Nar Goon
Lot 1, PS425398, 32 Mount Ararat South Road, Nar Nar Goon
Lot 2 PS439920, 35 Canty Lane, Pakenham
Lot 1, LP56549, 100 Ryan Road, Pakenham
Lot 5, PS 4255422, 40 Ryan Road, Pakenham
Lot 5, PS 425422, 36 Ryan Road, Pakenham
Lot 3, PS425421, 30 Ryan Road, Pakenham

4.0 Conditions and requirements for permits

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Conditions - Subdivision permits that allow the creation of a lot less than 300 square metres

Any permit for subdivision that allows the creation of a lot less than 300 square metres must contain the following conditions:

- Prior to the certification of the plan of subdivision for the relevant stage, a plan must be submitted for approval to the satisfaction of the responsible authority. The plan must identify the lots that will include a restriction on title allowing the use of the provisions of the *Small Lot Housing Code* incorporated in the Cardinia Planning Scheme; and
- The plan of subdivision submitted for certification must identify whether type A or type B of the *Small Lot Housing Code* applies to each lot to the satisfaction of the responsible authority.

Conditions – Heritage

Any permit for the subdivision of land containing land affected by a Heritage Overlay must contain the following conditions:

- Prior to the certification of a plan of subdivision for the first stage of the subdivision, a Conservation Management Plans (CMP's) must be approved for the heritage place(s) to ascertain cultural value/significance, appropriate site boundaries, required restoration works, possible future uses and interpretative signage.
- Before the commencement of works for any stage of subdivision or development, the heritage place(s) must be appropriately secured against damage as a result of works, deterioration, and the effects of weather, trespassing or vandalism to the satisfaction of the Responsible Authority
- Prior to the issue of a statement of compliance for the first stage of subdivision the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 which provides for works to the heritage places for the purposes of restoration and repair are in accordance with the timeframes and requirements of the approved Conservation Management Plan.

Condition – Maintenance of powerline easement

Any permit for subdivision that includes land within the utilities easement (electricity) shown on Plan 3 of the incorporated Pakenham East Precinct Structure Plan must contain the following condition:

- Prior to the issue of a statement of compliance for the subdivision, the owner of the land must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority and the CFA. The agreement must provide for land within the high voltage powerline easement to be managed in accordance with the following requirements:
  - Grass must be short cropped and maintained during the declared fire danger period
  - All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period
  - Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building
  - Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of a building
  - Shrubs must not be located under the canopy of trees
  - Individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres
  - Trees must not overhang or touch any elements of a building
  - The canopy of trees must be separated by at least 5 metres
  - There must be a clearance of at least 2 metres between the lowest tree branches and ground level

Where there is an inconsistency between the requirements specified above and the requirements of the electricity transmission authority benefitted by the easement, the agreement must ensure that the requirements of the electricity transmission authority prevail to the extent of any inconsistency.

The agreement must be prepared and registered at no cost to the responsible authority or the CFA and contain a covenant to be registered on the Certificate of Title of the property so as to run with the land.

Conditions - Subdivision or buildings and works permits where land is required for community facilities, public open space and road widening

A permit for subdivision or buildings and works, where land is required for community facilities, public open space or road widening, must include the following conditions:

- The costs associated with effecting the transfer or vesting of land required for community facilities, public open space or road widening must be borne by permit holder.
- Land required for community facilities, public open space or road widening must be transferred to or vested in the relevant public agency with any designation (e.g. road, reserve or lot) nominated by the relevant agency.

Requirements - Protection of conservation areas and native vegetation during construction

A permit granted to subdivide land where construction or works are required to carry out the subdivision, or a permit granted to construct a building or carry out works, on land including or abutting a conservation area or patch of native vegetation or scattered tree identified for retention in the incorporated *Pakenham East Precinct Structure Plan* or *Pakenham East Native Vegetation Precinct Plan* must ensure that:

Before the start of construction or carrying out of works in or around a conservation area, scattered native tree or patch of native vegetation the developer of the land must erect a conservation area/vegetation protection fence that is:

- highly visible

- at least 2 metres in height
- sturdy and strong enough to withstand knocks from construction vehicles
- in place for the whole period of construction
- located the following minimum distance from the element to be protected:

Element	Minimum distance from element
Conservation area	2 metres
Scattered tree	Twice the distance between the tree trunk and the edge of the tree canopy
Patch of native vegetation	2 metres

- Construction stockpiles, fill, machinery, excavation and works or other activities associated with the buildings or works must:
- be located not less than 15 metres from a waterway;
- be located outside the vegetation protection fence;
- be constructed and designed to ensure that the conservation area, scattered tree or patches of native vegetation are protected from adverse impacts during construction;
- not be undertaken if it presents a risk to any vegetation within a conservation area; and
- be carried out under the supervision of a suitable qualified ecologist or arborist.

~~Requirement - Management of bushfire risk during subdivisional works~~

~~A permit for subdivision that contains a condition requiring a construction management or site management plan must ensure that the relevant plan addresses any potential bushfire risks arising from the land during construction and must include a statement from a suitably qualified professional that the proposed bushfire risk management measures are appropriate.~~

Conditions - Public transport

Unless otherwise agreed to by Public Transport Victoria, prior to the issue of a statement of compliance for any subdivision stage, bus stops must be constructed, at full cost to the permit holder as follows:

- Generally in the location identified by Public Transport Victoria
- In accordance with the *Public Transport Guidelines for Land Use and Development* with a concrete hard stand area, and in activity centres a shelter must also be constructed
- Be compliant with the *Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002;* and
- Be provided with direct and safe pedestrian access to a pedestrian path.

All to the satisfaction of Public Transport Victoria and the responsible authority.

Conditions - Environmental Site Assessment

Any permit ~~for the~~to subdivide land or to use ~~and development of~~ or develop land, identified ~~as either a~~in Table 2 of this schedule (these properties are identified as Assessment Level '~~A' or '~~B' in Table 2 of Appendix I of the report titled *CSC – PEP - ESA, Pakenham East Precinct* ~~(~~,*GHD, June 2013*), for a sensitive use (residential use, child care centre, pre-school centre or primary school) must contain the following conditions:

- Before the commencement of the development ~~of~~associated with a sensitive use, or the ~~land~~certification of a Plan of Subdivision, or a stage of subdivision, under the Subdivision Act 1988 associated with a sensitive use, the recommendations of the Environmental Site Assessment submitted with the application must be carried out to the satisfaction of the responsible authority.

- ~~Upon receipt of the further testing report the owner must comply with any further requirements made by the responsible authority after having regard to the guidance set out in the General Practice Note on Potentially Contaminated Land June 2005 (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.~~

~~Any permit for the subdivision of land identified as either a Table 2 Assessment Level 'A' or 'B' in Appendix I of the report titled CSC – PEP – ESA, Pakenham East Precinct (GHD, June 2013) must contain the following conditions:~~

- ~~Before a plan subdivision is certified under the Subdivision Act 1988, the recommendations of the Environmental Site Assessment submitted with the application must be carried out to the satisfaction of the responsible authority.~~

- Upon receipt of the further testing report the owner must comply with any further requirements made by the responsible authority after having regard to the guidance set out in the *General Practice Note on Potentially Contaminated Land June 2005* (DSE). The plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

- The use or development for a sensitive use must not commence, or the plan of subdivision must not be certified until the responsible authority is satisfied that the land is suitable for the intended use.

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5.0 Exemption from notice and review not to apply to certain applications

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An application to use land for a use listed in Section 2 of the Residential Growth Zone and General Residential Zone on land where the applied zone listed at Table 1 of this schedule is Residential Growth Zone or General Residential Zone is not exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

6.0 Decision Guidelines

~~DD/MM/YYYY Proposed C234~~

Before deciding on an application to create floorspace in excess of any cap in a town centre or local convenience centre, in addition to the decision guidelines at Clause 37.07-14, the responsible authority must consider, as appropriate:

- The local catchment and PSP catchment demand for the additional floor area; and
- The effect on existing and future major town centres within Shire of Cardinia.

7.0 Advertising Signs

~~DD/MM/YYYY Proposed C234~~

Land is in the category specified in the applied zone.