

**Hobsons Bay Planning Scheme Amendment C114hbay
Precinct 16 West, South Kingsville**

Panel and Advisory Committee Report

Planning and Environment Act 1987

22 February 2022

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

To advise the Minister for Planning on the form and content of the two draft Development Plans exhibited with the Amendment.

Planning and Environment Act 1987

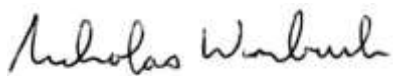
Panel Report under section 25 and 97E of the PE Act

Advisory Committee Report under section 151 of the PE Act

Hobsons Bay Planning Scheme Amendment C114hbay

Precinct 16 West, South Kingsville

22 February 2022



Nick Wimbush, Chair



Michael Ballock, Member



Peter Edwards, Member

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Glossary and abbreviations

BADS	Better Apartment Design Standards
Council	Hobsons Bay City Council
DELWP	Department of Environment, Land, Water and Planning
DDO10	Design and Development Overlay (Schedule 10)
DoS	Degree of Saturation
DoT	Department of Transport
DPO2	Development Plan Overlay (Schedule 2)
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority
ESD	Environmentally Sustainable Design
GRZ(#)	General Residential Zone (Schedule Number)
HO	Heritage Overlay
ILMS	Hobsons Bay Industrial Land Management Strategy 2008
IN3Z	Industrial 3 Zone
LAMP	Local Area Movement Plan
MPS	Municipal Planning Strategy
MSS	Municipal Strategic Statement
NRZ	Neighbourhood Residential Zone
ODP	Outline Development Plan
PE Act	<i>Planning and Environment Act 1987</i>
PPF	Planning Policy Framework
RGZ2	Residential Growth Zone (Schedule 2)
SBO	Special Building Overlay
SMC	Spotswood Maintenance Centre
SRA	Strategic Redevelopment Area
The Proponent	Alceon Group No. 67 Pty Ltd
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

Overview

Amendment summary	
The Amendment	Hobsons Bay Planning Scheme Amendment C114hbay
Common name	Precinct 16 West, South Kingsville
Brief description	The Amendment seeks to rezone approximately 5.3 hectares of land to enable its from past industrial use to future residential use as part of the implementation of the Hobsons Bay <i>Industrial Land Management Strategy</i> (2008)
Subject land	The Amendment applies to land in South Kingsville at: <ul style="list-style-type: none"> - 5-7 Sutton Street - 9-9A Sutton Street - 41-59 Stephenson Street.
The Proponent	Alceon Group No.67 Pty Ltd, owners of 9-9A Sutton Street
Planning Authority	Hobsons Bay City Council
Authorisation	Conditional authorisation A3615684, 25 June 2021
Exhibition	28 July to 8 September 2021
Submissions	34 submissions were received of which two supported or offered no objection and 32 objected or requested changes to the Amendment. The full list of submitters is contained in Appendix B to this report.

Advisory summary	Committee
Advisory Committee	Amendment C114hbay – Proposed Northern and Central Development Plans
Purpose	To advise the Minister for Planning on the planning merits of the draft Northern and Central Development Plans exhibited with the Amendment.

Panel process	
The Panel	Originally appointed as a Panel (22 October 2021): Ms Sarah Carlisle (Chairperson), Mr Michael Ballock, Ms Natasha Reifschneider Reconstituted as a Panel (4 November 2021): Ms Sarah Carlisle (Chairperson), Mr Michael Ballock, Mr Nick Wimbush Reconstituted as a Panel (2 December 2021) and Advisory Committee (12 December 2021) as: Mr Nick Wimbush (Chairperson), Mr Michael Ballock, Mr Peter Edwards
Directions Hearing	Videoconference 8 November 2021
Panel Hearing	Videoconference 13, 14, 15, 16, 20, 21, 22 and 23 December 2021

Site inspections	Accompanied inspection of the Able Industries Factory and site at 5-7 Sutton Street, South Kingsville on 9 December 2021. Unaccompanied inspection of broader site and surrounds on the same day.
Parties to the Hearing	Included in Appendix C to this report
Citation	Hobsons Bay Planning Scheme C114hbay [2022] PPV
Date of this report	22 February 2022

Executive summary

Hobsons Bay Planning Scheme Amendment C114hbay (the Amendment) seeks to change the zoning of a 5.2 hectare area in South Kingsville known as Precinct 16 West to enable its transition from an industrial past to a residential future consistent with Hobsons Bay City Council's long term and strategically supported approach to the area.

The Amendment also seeks to implement a planning framework that will ensure the rezoning and development occurs in a well-planned and orderly manner. To ensure there is a clear vision of what development outcomes might be, draft development plans for the northern two thirds of the site were exhibited with the Amendment; the southern third continues as industrial use.

Two subdivision planning permit applications were included with the Amendment to ensure alignment between title boundaries and the proposed zones.

Exhibition of the Amendment attracted 34 submissions which fell into two broad camps, being developer and agency submissions focused on how the development might occur and seeking to 'tweak' the controls to achieve particular outcomes. The exception in the group was the owner of the Southern Sub-precinct which sought a significantly different, and more intense, development outcome, which the Panel did not support due to the lack of strategic work to justify this position.

The second large group of submissions was from local residents. These submitters had a range of concerns related to traffic congestion, amenity and lack of open space, and concerns that the proposed development's environmental outcomes would not be consistent with community expectations.

The Panel, which was also appointed as an Advisory Committee (Committee) to consider the draft development plans exhibited with the Amendment, considers that the Amendment has clear strategic support, and is a logical continuation of a long term transition project in parts of Hobsons Bay from industrial uses to residential.

One of the key issues, that of new residents co-existing with industrial uses and the rail line to the north, was extensively considered in the precinct to the east (Precinct 16 East), and many of the lessons learned there have been applied to this Amendment.

In general, the Panel strongly supports the Amendment. It notes the resident's concerns regarding some issues but is satisfied that all these matters have been satisfactorily addressed within the framework of the planning scheme and policy.

The recommendations the Panel makes generally go to issues of detail. There was significant work through the Panel process on the Development Plan Overlay Schedule 2, leading to a refined and more effective control in the Panel's view.

In its role as an Advisory Committee, the Committee considers that subject to a number of recommendations, the draft development plans have considerable merit and form a sound framework to take to the next planning phase.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Adopt Hobsons Bay Planning Scheme Amendment C114hbay as exhibited and replace the Development Plan Overlay Schedule 2 with the Panel preferred version as shown in Appendix E to this report.**
- 2. The Hobsons Bay City Council recommend the Minister for Planning issue the following planning permits as exhibited, following the approval of Amendment C114hbay:**
 - a) Planning Permit PA1943532 for subdivision of 9A Sutton Street, South Kingsville**
 - b) Planning Permit PA1943533 for subdivision of 41-59 Stephenson Street, South Kingsville.**

Based on the reasons set out in this Report, the Advisory Committee recommends:

- 3. Consult the Department of Transport to ascertain if the 432 Bus Route should be amended to utilise the East-West access road and Sutton Street to access Blackshaws Road using the proposed traffic signals. If the change is supported, the Development Plan Overlay Schedule 2 and development plans may need to be modified accordingly.**
- 4. Treat uncontrolled cross intersections (excluding laneways) with traffic management and:**
 - a) Amend the development plan(s) to show these intersections requiring traffic management**
 - b) Resolve this issue during detailed design.**
- 5. Remove the redundant footpath from the railway reserve between Stephenson Street and the pedestrian rail crossing from the Northern Sub-Precinct Development Plan**
- 6. With respect to the land at 5-7 Sutton Street, South Kingsville:**
 - a) Amend the Framework Plan in the Development Plan Overlay Schedule as included the Panel Preferred version in Appendix E:**
 - to include the land in the colour depicting the 2-3 storey areas**
 - to provide more detail about access to the land and the connection, if any, to the land to the north.**
- 7. Modify the Northern Sub-precinct Development Plan to ensure the South Melbourne – Brooklyn High Pressure Gas Pipeline is referenced to be consistent with the Somerton – Altona Joint Venture pipeline.**

1 Introduction

1.1 The Amendment

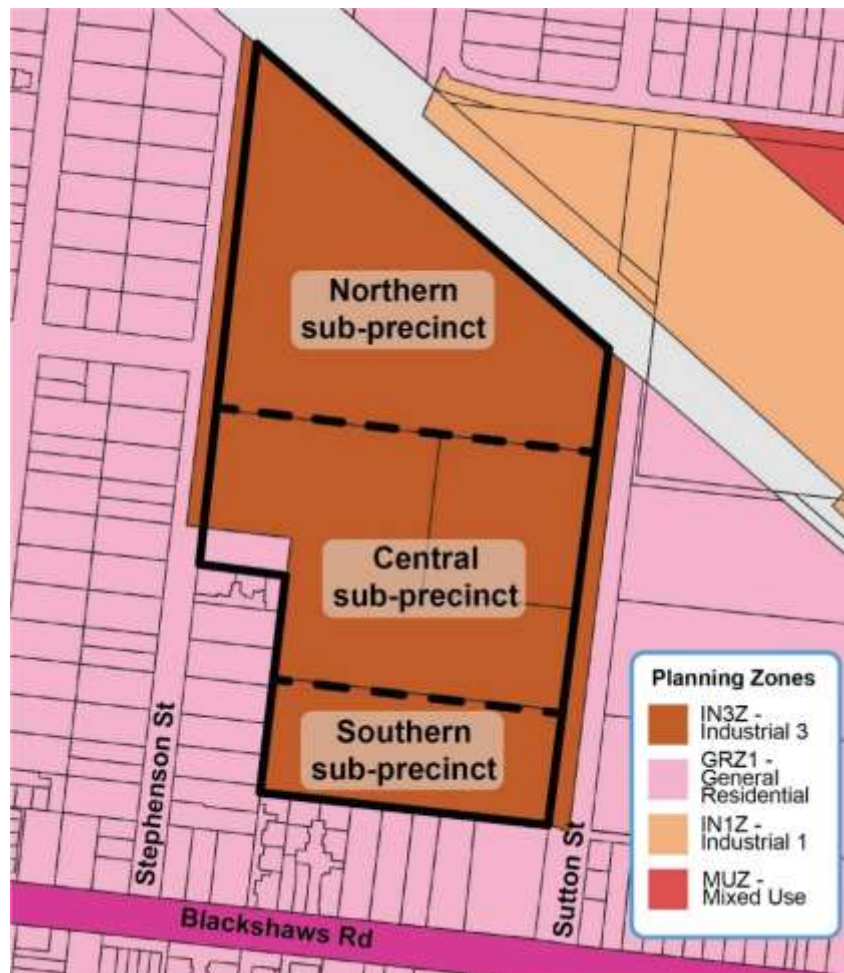
(i) The subject land

The Amendment applies to land in South Kingsville at:

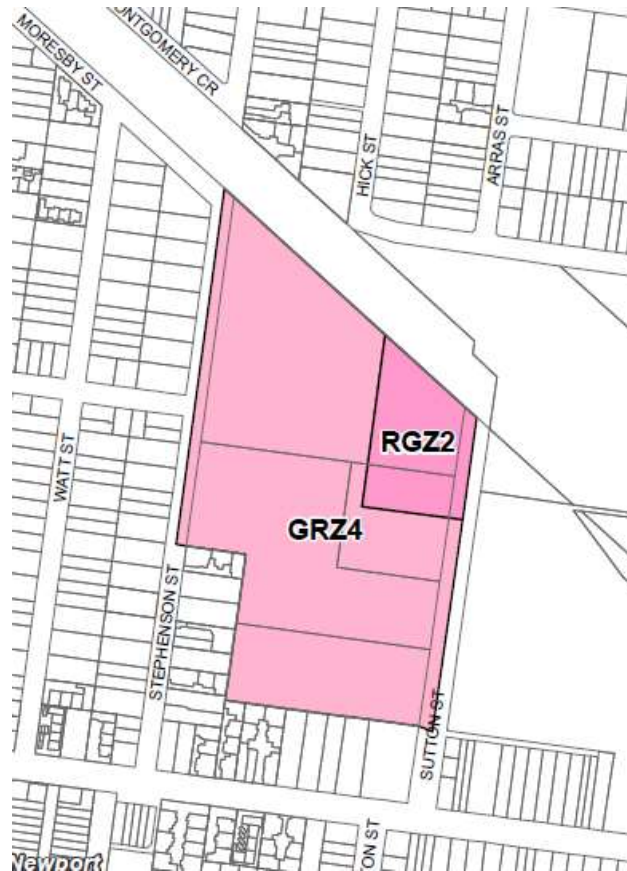
- 5-7 Sutton Street
- 9-9A Sutton Street
- 41-59 Stephenson Street.

The land is in the City of Hobsons Bay (Council) and is approximately 5.2 hectares. The existing and proposed zoning are shown in Figures 1 and 2 respectively.

Figure 1 Existing zoning¹



¹ From Document 16.

Figure 2 **Proposed zoning²**

The land comprises part of Precinct 16 in the *Hobsons Bay Industrial Land Management Strategy – June 2008* (ILMS) and is known as Precinct 16 West (the Precinct).

Able Industries Pty Ltd operates a metal fabrication business on the land identified in Figure 1 as the Southern Sub-precinct. The balance of site is mostly vacant with some abandoned industrial buildings on the Central Sub-precinct.

(ii) Amendment description

The Amendment will transition an area of existing and former industrial land in South Kingsville to a residential future. The Amendment will make the following changes to the planning scheme:³

- rezone the land within the Precinct from part Industrial 3 Zone (IN3Z) and part General Residential Zone Scheduled 1 (GRZ1) to part General Residential Zone Schedule 4 (GRZ4) and part Residential Growth Zone Schedule 2 (RGZ2)
- apply Development Plan Overlay Schedule 2 (DPO2) to the Precinct
- amend the Environmental Audit Overlay (EAO) by applying it to the remainder of the Precinct not already covered by an EAO
- remove Heritage Overlay 274 (HO274) at 41-59 Stephenson Street, South Kingsville
- inserts a new entry in the Schedule to Clause 53.01 requiring 5 per cent of the land (or cash equivalent as relevant) to be contributed as public open space at subdivision.

² From exhibited Amendment documentation.

³ Document 16.

(iii) Authorisation

The Amendment authorisation included several conditions. An outline of the conditions and Council's response was included in its Part A submission.⁴ The Panel is satisfied that the conditions of authorisation have been complied with.

(iv) Planning permits

Two subdivision planning permits were applied for under section 96A of the *Planning and Environment Act 1987* (PE Act). The applications are to align title boundaries with the proposed zones, being PA194532 for 9A Sutton Street and PA1943533 for 41-59 Stephenson Street.

(v) Draft development plans

Two draft development plans for the Northern Sub-precinct and Central Sub-precinct (see Figure 3 and Figure 4) were prepared and exhibited with the Amendment. The draft development plans are not formally part of the Amendment but were prepared and exhibited to provide an indication to the community of the likely built form under the proposed planning controls.

As the draft development plans are not part of the Amendment and therefore not technically before the Panel, the Minister for Planning appointed the same Panel as an Advisory Committee to advise on their suitability.

The two draft development plans are shown in Figures 3 and 4.

Figure 3 Extract from Draft Northern Sub-precinct Development Plan⁵



⁴ Document 16, Table 3, page 12.

⁵ Figure 8 from Draft Development Plan prepared by Tract, March 2021.

Figure 4 Extract from Draft Central Sub-precinct Development Plan⁶

1.2 Summary of issues raised in submissions

From the 34 submissions to the Amendment, Council identified the following issues:⁷

- proposed building heights both too high and too low
- proposed minimum building setbacks for new dwellings
- impact of increased densities on traffic congestion, parking and existing infrastructure and community facilities
- lack of public transport options and active transport links
- signalisation of the intersection of Sutton Street and Blackshaws Road
- impact on the environment, biodiversity and contribution to the heat island effect
- requirements for Water Sensitive Urban Design and Environmentally Sustainable Design (ESD) outcomes
- infrastructure, open space and affordable housing contributions including the appropriateness of the Infrastructure Contribution Strategy
- amenity impacts from existing industry, the freight line and the Spotswood Maintenance Centre
- the draft Development Plan Overlay provisions that seek to mitigate noise and other amenity impacts considering the new *Environment Protection Act 2017*
- impacts on major pipeline infrastructure
- impact on the industrial use at 5-5 Sutton Street while still operating
- existing use rights relating to 5-7 Sutton Street, South Kingsville.

⁶ Figure 9 from Draft Development Plan prepared by Hollerich Town Planning, March 2021.

⁷ Document 16, para 217.

1.3 The Panel and Advisory Committee's approach

(i) Different roles

The Panel has been appointed to consider submissions to the exhibited planning scheme amendment. The Committee has been appointed to provide advice to the Minister for Planning on the draft development plans. In this report it is made clear in recommendations whether it is a recommendation of the Panel or Committee.

(ii) Integrated decision making

Clause 71.02-3 (Integrated decision making) in the planning scheme contains the essential consideration in planning; that of net community benefit. The clause requires planning authorities and responsible authorities to:

... endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations ...

The Panel has considered all the material before it including exhibited documents, submissions, expert evidence and observations from its site inspection. All the issues from the above material have been considered, even if every submission is not explicitly mentioned in this report.

(iii) Issues dealt with in detail in this report

This Report deals with the issues under the following headings:

- Planning context
- Noise and vibration
- Traffic
- Urban design and site planning
- Other issues
 - Pipeline protection
 - Economics and Able Industries
 - Environmental performance
- Draft development plans.

(iv) Issues not dealt with further

The following issues the Panel considers do not require further analysis in the report.

Air quality

The EPA raised issues around air quality and the Spotswood Maintenance Centre (SMC) in their submission.⁸

In response Alceon Group No. 67 Pty Ltd (the Proponent) commissioned SLR Consulting to review the air quality in the area and the likely impact on the Amendment site. SLR concluded in their advice dated 20 September 2021 that the SMC was not a constraint on rezoning the site:⁹

⁸ Submission 28.

⁹ SLR post exhibition correspondence dated 20 September 2021.

SLR found that the site and SMC LTC situation warranted a Level 1 Assessment according to publication 1883, for which it was concluded that the risk of adverse odour amenity from the site is low.

Furthermore, due to the relative location of the site and the SMC LTC and the prevailing wind directions, SLR consider the site to potentially have a lower risk of adverse odour amenity than the surrounding sensitive land uses including the adjoining Newport Village.

No evidence was called on air quality and the Panel is satisfied that the risk of adverse events at SMC (emissions from diesel-electric locomotives) affecting the Amendment site is low.

Site contamination

The Amendment area has a long history of industrial use and management of any residual contamination is recognised in the ILMS. The EAO already applies to a strip of land along Stephenson Street. The Amendment will apply the EAO to the remainder of the site.

The EAO will require a certificate of audit or a statement of audit be issued before any sensitive use can occur on the site.

There were no objecting submissions to the application of the EAO and several submissions supported it including the Environment Protection Authority (EPA), VicTrack and Mr Scarpari¹⁰.

The Panel supports this element of the Amendment.

Heritage Overlay

The Heritage Overlay (HO274) applies to part of the land in the north of the Amendment area. A permit to demolish the buildings covered by HO274 was issued (PA1122480) and the heritage built form has been demolished.

One submitter, Mr Scarpari submitted that the HO should be retained, and the area kept as parkland with suitable reference to its industrial history.

The Panel has viewed the Statement of Significance on the Victorian Heritage Database and the heritage significance was related to the factory complex which has now been removed. The Panel makes no comment on the issuing of the permit or the demolition but accepts that in the circumstances the HO should be removed.

Stormwater

The northern sub-precinct is partially affected by overland flows and localised flooding and is subject to the Special Building Overlay. These issues can be readily addressed at the detailed design stage and form part of a Stormwater Drainage Strategy to the satisfaction of Melbourne Water and Council. It is noted that the principal technique to address localised flooding would involve raising floor levels approximately 500 to 600 millimetres above the existing ground level at the northern end of the precinct.

The Panel notes that Melbourne Water is supportive of the Amendment and would provide permit conditions as part the Statutory referral process.

The Panel considers no change to the Amendment is required for stormwater.

¹⁰ Submission 22.

Biodiversity

An ecology report to consider frogs was provided post exhibition; *Ecological Advice 5-7, 9 and 9A Sutton Street and 41-49 Stephenson Street, South Kingsville, Victoria*, 29 September 2021. The report found the Common Eastern Froglet is on the site, but it is one of the most common frog species around Melbourne and across South East Australia.

Submitter Mr Tohill also noted the presence of frogs along the wetlands on the rail line and how the locals appreciate their presence.¹¹

An arboriculture report *Arboricultural Report 9 Sutton Street and 41-50 Stephenson Street South Kingsville*, 30 September 2021 was also prepared.

There were no species or individuals of conservation concern identified in the reports which is consistent with the Panel's observations of the site which is highly degraded. The local presence of wildlife such as the Common Eastern Froglet is noted, but does not weigh against the general approval of the Amendment. Other issues around environmental performance are addressed in Chapter 6.

Planning permits

As described in section 1.1(iv) two planning permits for subdivision were applied for under section 96A of the PE Act to align title boundaries with the proposed zone boundaries in the Amendment.

No objections to the applications were received. In its submission Mobil requested that a requirement for a Safety Management Study be included in the planning permit conditions¹². The Committee does not consider this necessary as the permits allow for boundary changes, not a change of use. The substantive issues around pipelines are included in section 6.1.

The Committee has reviewed the draft planning permits and considers they are acceptable and 'good housekeeping' in the context of the Amendment. Under section 96I of the PE Act the permits are granted by the Minister on the recommendation of the Planning Authority.

The Panel recommends:

The Hobsons Bay City Council recommend the Minister for Planning issue the following planning permits as exhibited, following the approval of Amendment C114hbay:

- a) Planning Permit PA1943532 for subdivision of 9A Sutton Street, South Kingsville**
- b) Planning Permit PA1943533 for subdivision of 41-59 Stephenson Street, South Kingsville.**

¹¹ Submission 5.

¹² Submission 24.

2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the PE Act in the following ways:

- objective (a): The Amendment provides for the fair, orderly, economic and sustainable use and development of land as it facilitates a coordinated redevelopment of strategically identified land in a responsible manner through the implementation of the appropriate zone and overlays
- objective (b): The Amendment facilitates an efficient use of resources within an established area. Through doing so it naturally reduces development pressures on Melbourne's fringe. There are no natural or man-made resources or ecological processes evident in Precinct 16 West
- objective (c): The Amendment will facilitate the redevelopment of industrial land into a pleasant and efficient residential area for future residents and visitors alike
- objective (d): Despite a heritage overlay affecting part of Precinct 16 West, there are no buildings, areas or other places with historical interest in Precinct 16 West. The buildings within Heritage Overlay 274 have been demolished in accordance with a previously issued planning permit
- objective (e): There are no public utilities or other assets within Precinct 16 West that require protection to the benefit of the broader community. Measures will be put in place to ensure that the future development of the Precinct does not unreasonably hinder the ongoing operations of the Spotswood Maintenance Centre (SMC) to the northeast of Precinct 16 West, while the major pipelines to the north and west of the Precinct will not be impacted on by development within the Precinct
- objective (f): The Amendment will facilitate redevelopment of Precinct 16 West for residential infill purposes in accordance with State and local planning policies
- objective (f)(a): Measures regarding a 10 per cent affordable housing provision or equivalent contribution have been incorporated into Schedule 2 to the Development Plan Overlay
- objective (g): The Amendment seeks to balance the present and future interests of all Victorians through facilitating urban consolidation on a strategically identified opportunity site in a manner that will provide for increased housing and housing diversity while creating a new urban character of a high quality.

Clause 11 (Settlement)

The Amendment supports Clause 11 by:

- providing a framework plan into the draft DPO2 that ensures coordinated development despite fragmentation of landownership
- rezoning industrial land for residential purposes in the vicinity of Newport and Spotswood Activity Centres

- providing, in the development plan, for diverse types of housing for the site and the municipality.

Clause 13 (Environmental risks)

The Amendment supports Clause 13 by:

- the application of the EAO to land within Precinct 16 West, as well as the requirement for a site remediation
- the proposed DPO2 including requirements similar to DDO10 applied at Precinct 16 East to ensure noise attenuation is appropriately addressed at the development plan and planning permit stage.

Clause 15 (Built environment and heritage)

The Amendment supports Clause 15 by:

- requiring future development must respond to the existing character identified as Garden Suburban in the revised Neighbourhood Character Study 2019
- the draft DPO2 provisions requiring an appropriate transition in height across the site that considers existing residential areas.

Clause 16 (Housing)

The Amendment supports Clause 16 by:

- seeking to locate a mix of housing types within the established residential area to reduce pressure on the fringe areas
- providing affordable housing to ensure equity for low and moderate household incomes as outlined in Clause 16.01-4S.

Clause 17 (Economic Development)

The Amendment supports Clause 17 by:

- rezoning of underutilised industrial land to support a more viable long term use as defined in the ILMS is consistent with Clause 17.

Clause 18 (Transport)

The Amendment supports Clause 18 by:

- proposing access by all walking, cycling, public transport and private vehicles to respond to Clause 18
- improved pedestrian connections on Blackshaws Road and across the railway line to the north of the site to promote active transport options
- signalisation of Sutton Street and Blackshaws Road to ensure safe movements from the development onto the arterial road network for all modes of transport.

Clause 19 (Infrastructure)

The Amendment supports Clause 19 by:

- proposing a 16 metre road reserve in the Northern Sub-precinct Development Plan for the townhouses and 5 metre setback for the six storey development to comply with requirement of the *Pipelines Act 2005*
- including an area of a public open space centrally located within the site. This is to be connected via pedestrian and cycle links to other areas of open space and provide access to open space within a walkable catchment of 400 metres

- using s173 agreements¹³ to manage the provision of infrastructure required to support the rezoning of the land for residential development and ensure that infrastructure is appropriately funded and delivered in a timely and equitable manner to meet Clause 19.03-2S.

Clause 21 (the Municipal Strategic Statement)

The Amendment supports the MSS by:

- promoting the redevelopment of the Precinct 16 West Strategic Redevelopment Area (SRA) (21.02 - Hobsons Bay key issues and strategic vision)
- proposing residential development and not out of centre retail or commercial uses that would detract from established activity centres (21.03 – Settlement)
- proposing an area of a public open space centrally located within the site and connected via pedestrian and cyclist links to improve access to open space within a walkable catchment of 400 metres and within the South Kingsville Spotswood (21.04 - Open Space)
- specifying appropriate landscape and building setbacks to be considered in future planning permit assessments (21.06 - Built Environment and Heritage)
- facilitating provision of diverse housing types to better cater for community needs
- encouraging a mix of townhouses and apartment style dwellings to provide a range of housing typologies
- requiring a 10 per cent affordable housing contribution (21.07 – Housing)
- managing the transition of the SRA to a more viable use as defined in the ILMS (21.08 - Economic Development)
- providing access to the site by all modes of transport including, walking, cycling, public transport and private vehicles
- delivering new pedestrian pathways on both sides of internal roads and a shared path on the east-west road through the precinct (21.09 - Transport and Mobility)
- ensuring that required infrastructure such as drainage, road infrastructure including pedestrian and bike paths, are developed to support the development at appropriate stages (21.10 – Infrastructure).

Clause 22 (Local planning policies)

The Amendment supports local planning policies by:

- ensuring heritage areas and places of Hobsons Bay are conserved and enhanced and to ensure their cultural value is not diminished (22.01 - Heritage Policy)
- achieving the vision set out in the ILMS by facilitating the complete redevelopment of Precinct 16 SRA (22.02 - Industry)
- including a requirement for an Ecologically Sustainable Development Strategy to be submitted with the development plan. (22.03 - Environmentally Sustainable Development).

¹³ Section 173 under the *Planning and Environment Act 1987*.

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Outcomes that are particularly relevant to the Amendment are set out in Table 1.

Table 1 Relevant parts of Plan Melbourne

Outcome	Directions	Policies
2. Melbourne provides housing choice in locations close to jobs and services	2.1 Manage the supply of new housing in the right locations to meet population growth and create a sustainable city	2.1.1 Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city 2.1.2 Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport
	2.4 Provide greater choice and diversity of housing	2.4.1 Support streamlined approval processes in defined locations 2.4.2 Facilitate the remediation of contaminated and, particularly on sites in developed areas of Melbourne with potential for residential development
3. Melbourne has an integrated transport system that connects people to jobs and services and goods to market	3.3 Improve local travel options to support 20-minute neighbourhoods	3.3.1 Create pedestrian-friendly neighbourhoods
4. Melbourne is a distinctive and liveable city with quality design and amenity	4.3 Achieve and promote design excellence	4.3.1 Promote urban design excellence in every aspect of the build environment
5. Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1 Create a city of 20-minute neighbourhoods	5.1.1 Create mixed-use neighbourhoods at varying densities
		5.1.2 Support a network of vibrant neighbourhood activity centres

Outcome	Directions	Policies
	5.2 Create neighbourhoods that support safe communities and healthy lifestyles	5.2.1 Improve neighbourhoods to enable walking and cycling as a part of daily life
	5.4 Deliver local parks and green neighbourhoods in collaboration with communities	5.4.1 Develop a network of accessible, high quality, local open spaces 5.4.2 Support community gardens and productive streetscapes

(ii) Other relevant policies

Along with the State and Local Planning Policy Frameworks Council submitted that there are several other policies that it considered as part of the amendment process including:

- Hobsons Bay 2030 Community Vision and Council Plan 2017-2021
- Housing Strategy 2019
- Affordable Housing Policy Statement
- Neighbourhood Character Study 2019
- Open Space Strategy 2018
- Urban Forest Strategy 2020
- Play Space Strategy 2013-23
- Community Greenhouse Strategy 2013-30
- Living Hobsons Bay: Integrated Water Management Plan 2014-19
- Integrated Transport Plan 2017-30
- Spotswood and South Kingsville Local Area Movement Plan (LAMPs).

2.3 Planning scheme provisions

(i) Zones

Part of the land is in proposed to be subject to the GRZ4. The purposes of the Zone include:

- To ensure development on the site is sympathetic to existing interfaces with established residential areas
- To ensure new development provides visual interest, articulation and positive address to public open space
- To encourage high quality streetscapes with tree-lined streets and landscaped front gardens
- To ensure development responds to existing industrial uses by incorporating amenity protection measures that display a high level of architectural resolution even if temporary in nature

To implement these purposes the GRZ4 seeks space for at least one canopy tree to each front setback. The GRZ allows for a default maximum building height of 11 metres and 3 storeys but includes the following exemption at Clause 32.08-10 where a building replaces an immediately pre-existing building, and the new building does not exceed the building height or contain a greater number of storeys than the pre-existing building.

Part of the land is proposed to be subject to the RGZ2. The purposes of the Zone include:

- To ensure development achieves site responsive architectural and urban design outcomes that provides a positive contribution to the character and amenity of the surrounding area.
- To ensure acoustic attenuation measures are incorporated into the building design to protect the amenity of residents from potential noise and vibration impacts.
- To ensure development incorporates residential amenity protection measures that display a high level of architectural resolution even if temporary in nature.
- To ensure that building heights provide appropriate interface transitions.
- To ensure that building heights consider and respond to the overshadowing effects in the site.

Additional decision guidelines have been included to address amenity, acoustic attenuation and visual impact of taller development on adjacent built form.

(ii) Overlays

Environmental Audit Overlay

The land is subject to the EAO. The purpose of the Overlay includes:

- To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.

Development Plan Overlay

The land is subject to the Development Plan Overlay. The purposes of the Overlay include:

- To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.
- To exempt an application from notice and review if it is generally in accordance with a development plan.

The objectives of the exhibited DPO2 are:

To create a residential area that is responsive to its context and provides a transition in character at its interfaces with existing adjoining residential areas and industrial operations.

To encourage sustainable urban renewal and increased housing affordability, diversity and density within the site.

To create varied, engaging and high quality architectural forms, landscaped environment and sustainable movement links.

To ensure residential development provides a reasonable level of amenity for future occupiers of the site, including but not limited to protecting future residents from the adverse impacts of industrial and traffic noise, odour, dust, vibration and the visual impact of the railway line and industrial development.

To protect the operations of the state and nationally significant Spotswood Locomotive Maintenance Centre from any potentially adverse effects of residential encroachment.

DPO2 requires any permit issued to include noise attenuation and vibration measures, unless otherwise agreed by the responsible authority. The requirements for the development plan deal with:

- built form and layout
- access and transport
- use transition
- open space and landscape
- site remediation
- affordable housing

- acoustic and vibration impacts
- environmentally sustainable development strategy
- stormwater
- major pipeline infrastructure
- staging.

The exhibited requirements for a development plan include the following vision:

- The site will become a sustainable residential community, integrated with Precinct 16 East and complementing the broader existing residential neighbourhood.
- The site will be redeveloped to provide a predominantly medium to higher density residential development, providing homes for a diversity of households including affordable housing and incorporating public open space and sustainable movement links.
- The development will implement innovative ESD features, providing opportunities for best practice in environmental management.
- The development will protect the ongoing operation of industrial land use and infrastructure, incorporating residential amenity protection measures that display a high level of architectural resolution, even if temporary in nature.
- The stages of the development will be managed to minimise amenity impacts to new residents until industrial uses on the site are discontinued.

The framework plan included in the exhibited DPO2 is shown below in Figure 5.



Relevant particular provisions

The land is subject to Clause 53.01 Public Open Space Contribution and Subdivision. The Amendment proposes to update the Clause 53.01 schedule to provide for a 5 per cent public open space contribution.

2.4 Amendment VC148

Amendment VC148 was gazetted on 31 July 2018, after the Amendment was exhibited. VC148 made substantial changes to the structure and content of the planning policy framework, as well as other provisions in the Planning Scheme. Council should review the Amendment documentation carefully prior to adoption to ensure that they are consistent with the changes introduced by Amendment VC148.

2.5 Ministerial Directions and Practice Notes

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

Ministerial Direction No. 1 – Potentially contaminated land

The Amendment satisfies Ministerial Direction 1 as it proposes to apply the EAO to the remainder of the Precinct to ensure that the necessary site remediation works have occurred before any sensitive land uses commence.

Ministerial Direction No. 9 – Metropolitan Strategy

The Amendment is affected by Ministerial Direction 9 – Metropolitan Planning Strategy. *Plan Melbourne 2017 – 2050: Metropolitan Planning Strategy* identifies several outcomes, objectives and directions to shape Melbourne’s growth and protect its best assets in the future. The Amendment is consistent with the relevant directions listed in the Metropolitan Planning Strategy:

Ministerial Direction No.11 – Strategic assessment of amendments

A strategic assessment of the amendment has been undertaken as part of the preparation of an Explanatory Report.

Ministerial Direction No. 15 – The planning scheme amendment process

The Amendment has been prepared with consideration for the timeframes in which the amendment process must be undertaken.

Ministerial Direction No. 19 – The preparation and content of amendments that may significantly impact the environment, amenity and human health

In preparation of this Amendment the Council has sought the views of EPA who identified the following human health and amenity considerations for this site:

- offsite impacts from the Spotswood Maintenance Centre (SMC) and freight railway line
- potentially contaminated land
- potential offsite impacts from the existing industrial use at 5-7 Sutton Street.

2.6 Conclusion and recommendation

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

The Panel recommends:

Adopt Hobsons Bay Planning Scheme Amendment C114hbay as exhibited and replace the Development Plan Overlay Schedule 2 with the Panel preferred version as shown in Appendix E to this report.

3 Noise and vibration

3.1 The issues

There are significant noise sources in the area, the most notable being the rail line on the northern boundary of the Amendment area and the heavy rail maintenance workshop known as the SMC. Noise from these sources and the need for suitable planning and design of residential development was extensively addressed in Hobsons Bay Amendment C82 for Precinct 16 East and the subsequent VCAT cases.

Able Industries Pty Ltd (Able Industries) in the Southern Sub-precinct wish to continue their industrial use for an unspecified time in accordance with existing use rights under Clause 63 of the planning scheme. It is probable that residential development in the Central Sub-precinct will approach the northern boundary of the Able Industries site in the next few years with the potential for noise complaints from new residents.

The issue is:

- whether the proposed noise and vibration controls in the DPO2 are appropriate and adequate to ensure acceptable amenity outcomes for residents.

3.2 Evidence and submissions

The EPA did not appear at the Hearing but provided a submission during exhibition and then a further submission post exhibition.¹⁴ EPA raised several issues of which noise and vibration was arguably the most significant. Key themes in the submission tabled by Council at the Hearing were:

- the need to consider the new legislative context under the *Environment Protection Act 2017* (EP Act)¹⁵
- the preference to use the Better Apartment Design Standards (BADS) for apartment and residence design for achieving acceptable amenity outcomes for future residents
- the withdrawal of the Australian standard for vibration and the need to reference alternative contemporary standards
- the need to protect existing industrial uses by ensuring building design can attenuate noise in new residences to a suitable level.

EPA provided a comprehensive set of DPO wording for the *Conditions and requirements for permits* to address these matters above.¹⁶

Expert evidence on noise and vibration was called as follows:

- Mr Christophe Delaire (Marshall Day Acoustics Pty Ltd) acting on behalf of the Proponent (9 and 9A Sutton Street)¹⁷

¹⁴ Submission 28 and Document 4 respectively.

¹⁵ For example the noise assessment was undertaken under the old regime and would need to be updated, a fact acknowledged by Mr Antonopoulos.

¹⁶ In Document 4.

¹⁷ By agreement Mr Delaire was not called to give evidence at the Hearing as there were no significant areas of disagreement between the experts in noise.

- Mr Nicholas Peters (Renzo Tonin & Associates (Vic) Pty Ltd) acting on behalf of Brymart Pty Ltd (5 Sutton Street)¹⁸
- Mr Jim Antonopoulos (SLR Consulting Australia Pty Ltd) acting on behalf of the Proponent (9 and 9A Sutton Street) and Newport Apartments (Vic) Pty Ltd (41-59 Stephenson Street).

Under the Panel's direction the experts met prior to the Hearing and provided a statement from the meeting. There were no material disagreements amongst the experts in relation to the rezoning.

Key points of agreement included, in summary:¹⁹

Able Industries

- Able Industries has noise obligations to existing residents under the *Environment Protection Act 2017* (EP Act)
- some noise engineering measures could assist all interfaces, including to the south and west
- The onus is not on Able Industries to protect new dwelling to the north but it may be in its interest to do so
- the best approach to controlling noise should be a coordinated effort by all affected landowners considering all treatments (at source, at boundary and at new dwellings).

EPA targets for residential development and industrial noise

- DPO2 nominates Better Apartment Design Standards (BADs) based 8h and 16h average noise levels but does not specifically consider compliance with the Noise Protocol²⁰
- DPO2 may not protect residents from unreasonable noise from industry – but is reasonable to protect amenity for cumulative noise from all sources
- better internal amenity targets should be considered which are more consistent with the Noise Protocol - this is consistent with approaches undertaken in other Councils (eg. City of Yarra)
- L_{max} criteria only considered rail and truck pass-bys – this should be expanded to include industrial noise
- noise and vibration testing should be undertaken in consultation with industry when a permit is applied for to establish representative conditions for the assessment.

The experts in the meeting agreed on a range of other matters including:

- train airborne noise
- vibration criteria
- ground borne noise.

Consistent with the approach taken in DDO10 in Precinct 16 East, the experts also considered a s173 agreement under the PE Act should be signed to alert new residents of existing industrial activity in the area.

The three experts drafted an agreed set of conditions for noise in DPO2.²¹ With some relatively minor exceptions these generally follow the drafting requested by EPA. One notable exception is

¹⁸ Note Brymart Pty Ltd is the landowner of 5-7 Sutton Street. The occupier of the land is Able Industries, an engineering firm. Their interests were in accordance in the Hearing and relevant experts and advocates represented both entities.

¹⁹ Document 37, page 2.

²⁰ 1826.4 Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, EPA, 20 May 2021.

²¹ Appendix A to Document 37.

the removal of an L_{\max} ²² for 'truck pass-by' noise and its replacement with an L_{\max} for noise from existing industry, i.e. Able Industries and SMC.

Mr Antonopoulos and Mr Peters gave acoustic evidence at the Hearing which was consistent with the agreed statement.

Under questioning from Newport Properties, Mr Antonopoulos confirmed that if the noise levels from the north and SMC were less than previously predicted, due to compliance works on that site, then the design solutions for noise along the northern boundary may not need to be as conservative as originally envisaged.

He also confirmed in response to questions from Brymart that:

- the DPO2 as provided by the experts 'covers the field' in terms of noise requirements
- to his knowledge Able Industries currently complies with noise regulations
- he has not specially assessed the draft development plans against the DPO2
- the experts support the s173 approach to notifying new residents.

Council questioned Mr Antonopoulos about the EPA low frequency noise guidelines and whether they should be referenced in the DPO2 or further considered.²³ Mr Antonopoulos was of the view that they are assessment guidelines not a standard to be met and that the outcomes for the Amendment area with the approach in the DPO2 will be better than for existing development, including for low frequency noise.

Mr Peters in responding to questions on this issue from Council also considered that while reference to the low frequency assessment guidelines could be added into the assessment of noise from surrounding industries, in practical terms this would be difficult; and may unreasonably constrain surrounding industries.

In his evidence Mr Peters reiterated he was satisfied that noise mitigation measures are available on the boundary between Able Industries and the Central Sub-precinct. This could be treatment on residences, at source on the Able Industries site or in the form of barriers, but the responsibility for implementation clearly lies with the approaching residential development. He also reiterated that it would make sense to coordinate any mitigation measures with Able Industries.

Newport Apartments in their submission noted the position of Mr Antonopoulos that if the noise environment has changed for the better due to measures implemented at SMC, then there may be changes possible such as openable windows and minimising the use of acoustic barriers. Newport Apartments did not specifically seek changes to the DPO2 for the above; submitting that the controls are flexible enough to achieve such outcomes.²⁴

Brymart provided extensive submissions on the agent of change principle, submitting that the Proponent is responsible for any noise attenuation on the northern side of the Able Industries site.²⁵ It also supported the s173 agreement to advise future residents of existing industry.

Vega One Pty Ltd (Vega), submitted that any noise assessment or modelling must include existing constraints on industry. For example, they submitted SMC already has significant constraints on its operation through planning permit conditions and the general provisions of the EP Act; these

²² A maximum sound level at a point in time rather than an average sound level.

²³ EPA Publication 1996 *Noise guidelines: Assessing low frequency noise*, June 2021.

²⁴ Document 87, para 53 onwards.

²⁵ Document 94, para 4.11 onwards.

should be included to acknowledge that the industry is not operating now or in future in an unregulated noise environment. They provided suggested wording for DPO2.²⁶

A number of individual submitters commented on noise. For example, Mr Tothill who lives north of the railway line, was concerned that acoustic barriers and buildings south of the rail line may reflect noise north into existing residential properties.²⁷

Mr Milanese who attended the Hearing was concerned about how the at-grade pedestrian crossing (at the corner of Hick and Birmingham Streets) could function in conjunction with acoustic barriers on the south side of the railway.²⁸

Council in its closing submission:²⁹

- reiterated its concern about low frequency noise
- submitted that the evidence of Mr Antonopoulos identified that due to attenuation at SMC a lower level of acoustic attenuation may be necessary on the northern boundary and should be confirmed by a new noise assessment
- sought a new acoustic report to address the above in the DPO2
- submitted that further acoustic work is needed to address issues around how pedestrian and cycle access at-grade on the existing crossing near Hick Street and Birmingham Street can be maintained without compromising the effectiveness of acoustic protection measures.

3.3 Discussion

It is clear that the Panel's role is not to approve a particular design for the development adjacent to the northern rail line or the boundary on the northern side of the Able Industries site; rather it is to ensure that the decision making framework through the DPO2 will ensure future residents are not subject to unacceptable industrial noise.

Through the submissions received, the expert meeting and the Hearing discussions, the Panel considers a high degree of agreement between property owners and Council has been reached about the specific wording proposed in the DPO2 schedule; and this in turn is generally the wording put forward by EPA.

The Panel considers this wording should address the critical issues, being protection of the new residents' amenity to an acceptable standard, and recognition of the existing industrial activities in the area.

The Panel has reviewed the suggested changes to the DPO2 and has provided its preferred wording in Appendix E.

The Panel comments on some specific aspects below.

(i) Low frequency noise

The Panel notes Council's concern regarding low frequency noise, and some industry in the area will be generating low frequency noise given its nature. The Panel also notes the EPA submission

²⁶ Document 86. Vega One is developing in Precinct 17 north of the SMC.

²⁷ Submission 5.

²⁸ Submission 20.

²⁹ Document 99, para 79 onwards.

included reference to low frequency noise in passing but did not specifically recommend it be addressed in the requirements it put forward for DPO2.

At this point in time the Panel does not consider there is enough evidence to warrant specific investigation or set limits on low frequency noise through the planning controls. If in future there are significant issues associated with low frequency noise and noting there are already many existing residents in the area, then these can be addressed through the EP Act and regulations.

(ii) Noise assessment

The Panel notes the noise assessment was undertaken in November 2019, over two years ago and prior to the introduction of the new EP Act. Given the new legislation, suggested changes to operational requirements at SMC³⁰, and the submissions regarding a possible 'opening' in the noise barriers at the at-grade pedestrian crossing and reflected noise to the north, the Panel considers an update to the noise and vibration assessment would be prudent.

This is particularly the case if it is likely that reduced noise mitigation along the northern boundary is possible; this would need to be carefully justified. The Panel has provided suggested wording in the DPO2 in Appendix E.

The text suggested by Vega to reference SEPP N-1 (no longer applicable) and a specific planning permit is noted and the issue is also addressed in the Panel's suggested wording in Appendix E.

(iii) Section 173 agreement

Although it was undertaken for Precinct 16 East, the use of a s173 agreement for notification of an existing land use is not preferred as a planning mechanism. If the planning controls on development and regulation of industry are appropriate, then it should not be required. An agreement would not remove any rights for new residents to take action under, for example, the EP Act or Public Health and Wellbeing Act. The Panel does not support its inclusion in DPO2 in this instance.

3.4 Conclusion

The Panel concludes:

- Industrial noise affecting residential use on the Amendment site should be able to be mitigated in residences to an acceptable level while ensuring existing industrial uses are protected.

The Panel has recommended the DPO2 as shown in Appendix E be adopted with the Amendment which addresses noise and vibration.

³⁰ Noting SMC were not present in the Hearing.

4 Traffic

Traffic matters were relatively uncontested with an emphasis on the detail and timing of works, in particular, the Blackshaws Road/Sutton Street proposed traffic signals. There was significant community concern that the surrounding road network, including, Blackshaws Road, would be unable to accommodate development traffic leading to more congestion and safety issues. This issue was further compounded with other nearby precincts to be developed resulting in increased traffic.

Three parties called traffic evidence:

- Council – Ms Dunstan from Traffix Group
- The Proponent – Ms Marshall from Ratio Consultants
- Brymart (Able Industries) – Mr Fairlie from Ratio Consultants.

The Panel found the experts' agreed statement³¹ useful in refining and distilling the traffic issues – essentially there was broad consensus across a range of issues.

However, the Panel was cognisant that each expert viewed the issues and development through a particular lens. Ms Dunstan had more of an overall strategic assessment, Ms Marshall, more focused on the development plan and Mr Fairlie, ensuring the safe and continued access for Able Industries as residential development surrounds their site.

4.1 Traffic impact on surrounding road network

4.1.1 The issue

Can the surrounding road network accommodate the proposed development traffic?

4.1.2 Evidence and submissions

Traffic congestion and safety were key themes in submissions, with many residents already concerned with existing traffic conditions. They felt that adding more traffic from new development(s) would further worsen road conditions and compromise safety.

Ms Dunstan's evidence was that the traffic impact of the rezoning, as well as current and proposed/approved developments in the area, can be accommodated by the road network; provided that Blackshaws Road/Sutton Street intersection is upgraded to traffic signals. She provided a detailed and rigorous assessment based on several factors including:

- determining base line traffic growth on Blackshaws Road from existing traffic data sources
- assuming a total of 650 dwelling, noting that a lower limit of 490 dwellings is likely due to other site limitations
- superimposing future traffic from nearby major developments (refer to Figure 6).

³¹ Document 36.

Figure 6 Surrounding development sites³²

Her analysis demonstrated that Blackshaws Road/Sutton Street would require signalisation to meet capacity requirements and that the traffic signals would also create breaks in the traffic stream to assist nearby residents to enter and exit their driveways. She noted that Blackshaws Road is an arterial road, managed by the Department of Transport (DoT), and as such would be expected to carry higher traffic volumes.

Ms Marshall and Mr Fairlie reached a similar conclusion regarding the ultimate need for traffic signals, albeit using different growth factors and traffic distributions.

DoT submitted that traffic signals should be installed from a safety perspective (preferably in stage 1) and that numerical warrants for traffic signals are met.

Council submitted that the Precinct 16 West would accommodate a lower limit of 490 dwellings due to urban design outcomes. In the immediate area, Council's Draft LAMP identifies and prioritises Blackshaws Road and Melbourne Road for vehicle traffic and Birmingham, Stephenson, and Aloha Streets as a route for bicyclists³³. However, Blackshaws Road also forms part of the Principal Bicycle Network³⁴. Council submitted that the LAMP considers a broader range of issues and opportunities to improve walking and cycling which are envisaged to have consequential flow on affects reducing traffic and parking demand across the broader road network.

Vega (developers for Precinct 17 at 571 – 589 Melbourne Road, Spotswood) submitted that up-to-date and accurate traffic information should be used to ensure an informed decision is made. They noted that the GTA Traffic Impact Assessment report assumed approximately 200 dwellings [GTA consultants assumed a yield of 285 dwellings]³⁵ on the Precinct 17 site when in fact the ultimate development is in the order of 736 dwellings, 189 hotel rooms and other commercial uses resulting in additional traffic across the road network.³⁶

³² Document 20, p24.

³³ Draft LAMP paper figure 2 p10.

³⁴ Document 20, Section 3.4 Bicycle infrastructure p 21.

³⁵ Document 20, Precinct 17 para 62 where she identifies GTA Consultants assumed a yield of 285 dwellings.

³⁶ The Panel notes that Ms Dunstan's traffic assessment assumed Precinct 17 accommodating 736 dwellings, 189 apartments as part of a residential hotel, and associated commercial uses (Document 20, Precinct 17 para 62-63).

(i) Discussion

The Committee acknowledges resident concern that the planned and future development, including this amendment, will result in increased traffic along Blackshaws Road and the surrounding road network. However, the Committee accepts the findings of the traffic experts that the additional traffic can be accommodated, subject to the signalisation of Blackshaws Road/Sutton Street intersection.

Further, DoT, as the road manager for Blackshaws Road, has not opposed the Amendment.

The Committee appreciates that traffic flows will increase on the surrounding road network as major developments are completed and new residents move in – this is to be expected. The fundamental issue is does Blackshaws Road have sufficient, or spare capacity to absorb traffic without leading to significant congestion or safety issues?

Ms Dunstan, and the other traffic experts all reach similar findings that the Blackshaws Road can accommodate additional traffic subject to traffic signals being installed at Sutton Street. The Committee accepts that these signals will generally enhance safety, particularly for pedestrians crossing Blackshaws Road, whilst efficiently accommodating traffic movements. Further, the traffic signals will provide breaks in the traffic stream to assist residents to enter and exit their properties.

4.1.3 Conclusion

The Panel concludes:

- the Amendment's traffic impact, as well as current and proposed/approved developments in the area, can be accommodated by the road network provided Blackshaws Road/Sutton Street intersection is upgraded to traffic signals.

4.2 Blackshaws Road/Sutton Street – proposed intersection works

4.2.1 Context

Parties were generally settled on the proposed intersection works at Blackshaws Road/Sutton Street; concern principally rested on the timing (or trigger) as to when this intersection should be signalised (Stage 2); the triggers for Stages 1 and 3 were not contested. The three stages proposed³⁷ are:

Stage 1 – Interim - unsignalised

The interim scenario consists of a stop sign controlled intersection (same as existing). It provides a dedicated right turn lane on Blackshaws Road and localised widening on east side Sutton Street with a painted centre median.

These works shift traffic exiting Sutton Street east to allow B-Doubles to safely enter without crossing into the opposing traffic lane on Sutton Street or Blackshaws Road.

Proposed Trigger: prior to the issue of Statement of Compliance for 50th lot.

³⁷ Document 58 provides concept plans for each stage. For further detail, Mr Fairlie's evidence Appendices B and C also provides concept plans and B-Double swept paths (Document 32).

Stage 2 – Pre-ultimate - signalised

The pre-ultimate scenario is a signalised intersection – it has the same configuration as the interim solution. This is considered to improve safety and convenience for vehicles departing Sutton Street onto Blackshaws Road as well as providing a safe and controlled pedestrian crossing across Blackshaws Road (B-Doubles can continue to safely access Sutton Street and Able Industries).

Proposed Trigger: prior to the issue of Statement of Compliance for 150th lot.

Stage 3 – Ultimate - signalised

The ultimate scenario remains a signalised intersection but no longer accommodates B-Double movements. The painted median in Sutton Street is removed to provide separate left and right turn lanes, further enhancing traffic capacity for vehicles exiting Sutton Street.

Proposed Trigger: Able Industries have ceased operations on-site.

4.2.2 The issues

The issues are:

- what is the appropriate trigger/timing for Blackshaws Road/Sutton Street Stage 2 works (Pre-ultimate signalised intersection)?
- proposed intersection works impacts on neighbouring properties.

4.2.3 Evidence and submissions

(i) Stage 2: Pre-ultimate signal trigger

As discussed in 4.1, the traffic experts agreed that Blackshaws Road/Sutton Street would ultimately require signalisation to meet capacity requirements but each expert used different assumptions, growth factors and traffic distributions in their analysis as to when traffic signals would be required (refer to Table 2).

Table 2 Stage 2: Pre-ultimate signalisation trigger

Source	Suggested trigger
Exhibited	150 lots
DoT	Preferably Stage 1 From safety perspective and assisting pedestrians crossing Blackshaws Road
Ms Dunstan	Required prior to Precinct 16 West development – signalisation would be required ‘fairly early’
Ms Marshall	Not required until 5-7 Sutton Street is developed (expected to add 150 dwellings)
Mr Fairlie	500 lots and minimum of 6 years (based in part, on Blackshaws Road traffic growth)

Ms Dunstan noted that Traffix Group’s earlier work identified that the appropriate signalisation trigger would be when 150 to 260 dwellings were completed within Precinct 16 West, but the lower figure of 150 dwellings was adopted due to the uncertainty about timing of other developments within the area. Subsequently, after undertaking a more rigorous assessment utilising a different set of assumptions, Ms Dunstan identified that the signals would be required fairly early in the development of the site “noting that all of the major development sites nearby are at different stages of development, with development moving at different speeds.” Accordingly determining the point at which traffic signals are required is dependent on a number of variables outside of Council’s control and cannot be determined with robust accuracy.

Ms Marshall's evidence was that Sutton Street 'interim' configuration (not signalised) would be satisfactory, experiencing a Degree of Saturation (DoS)³⁸ over 1.0 during the AM peak but in the PM peak, the intersection operates under 'very good' conditions (DoS of 0.69). She noted that there are many locations on the surrounding road network which experience congested conditions with DoS approaching or over 1.0.

Mr Fairlie identified that signalising Blackshaws Road/Sutton Street would essentially be required due to ongoing traffic growth along Blackshaws Road, however much of Precinct 16 West could be developed without the need for signals.

The traffic expert meeting agreed that the timing for signal installation should be determined at the application stages – this assessment should also consider intersection performance, pedestrians and road safety.

Council requested Sutton Street and Blackshaws Road be signalised to ensure safe movements for all transport modes from the development onto the arterial road network. Council and DoT supported traffic signals at Sutton Street as opposed to Stephenson Road, in part, due to shops being directly opposite Stephenson Road.

Council submitted that signal timing be unambiguously stated (prior to the occupation of the 150th lot) in DPO2 noting:

- there cannot be any explicit reference to the infrastructure funding and delivery strategy (prepared by Mr De Silva)
- s173 agreements have not been signed by the three landowners
- landowners continue to have an opportunity to demonstrate that the traffic signals are not required earlier than the 150th residential lot becoming occupied.

Council was concerned that if no trigger for the traffic signals was provided may result in the risk that signal works may not be delivered, creating a potential ultimate development outcome which would be unsafe.

The Proponent submitted that the timing for the signals should be determined by Council at the permit stage and there was no need to forecast [when the signals would be required in DPO2]. Newport Apartments submitted the timing for the pre-ultimate signals should be determined through a traffic assessment and no trigger should be specified. Brymart and Vega were essentially comfortable with Council's wording around this issue.

Council urged the Committee to accept Ms Dunstan's evidence that the signals will be required very early in the development phase post-gazettal of the Amendment, which conveniently aligns with the timing for providing the traffic signals underpinning Mr DeSilva's infrastructure delivery and apportionment strategy.

DoT submitted that traffic signals should be installed from a safety perspective (preferably in stage 1) and that numerical warrants for traffic signals are met.

(ii) Impacts

Nearby residents were concerned with the proposal for traffic signals at Blackshaws Road/Sutton Street for a range of reasons including:

³⁸ DoS of an intersection measures the demand relative to the total capacity. A DoS of 1 means an intersection is at its theoretical capacity.

- loss of on-street parking
- noise associated
 - with vehicles braking and accelerating
 - pedestrian crossing audible guidance and warning system.

Ms Dunstan acknowledged that a small amount of on-street parking is required to be removed to signalise Blackshaws Road/Sutton Street intersection. The loss of parking is necessary to improve traffic flow along Blackshaws Road and to provide appropriate access into Sutton Street.

Council acknowledges resident concern, in particular, with the loss of on-street parking, but submitted that the improved safety and functioning of the road delivers a net community benefit and relevantly, all experts agreed that the signalised intersection will result in an opportunity for a safe pedestrian crossing on Blackshaws Road. Officers noted that DoT could potentially 'turn down' the audio beaconing on the traffic signals for pedestrians to minimise disruption to residents.

4.2.4 Discussion

(i) Triggers

The pre-ultimate signalised intersection trigger was a contested issue amongst parties with evidence ranging from traffic signals should be installed, 'fairly early' to Precinct 16 West being filled with its residential population and beyond.

The Panel supports Council's *Proposed Trigger: prior to the issue of Statement of Compliance for 150th lot* for the pre-ultimate signalised intersection to be installed with an overarching assessment process for signal installation timing to be reviewed (and potentially installed prior to the 150th lot) at the application stages as discussed below.

A major hurdle in determining the signal timing is clearly articulated by Ms Dunstan in that "*all of the major development sites nearby are at different stages of development, with development moving at different speeds*" making it difficult to determine how much additional traffic, and when it is contributing to surrounding road network. On a theoretical level, the Panel agrees with the expert meeting that timing for signal installation should be determined at the application stages, taking into consideration a range of factors including intersection performance, pedestrian considerations and road safety.

There is fundamentally no issue with the traffic signals being installed early or on time, but too late would create safety and congestion issues, particularly for pedestrians, and motorists exiting Sutton Street. Ms Marshall and Mr Fairlie's assessments (which only considered full development of some of the nearby major development sites), identified that traffic signals should be installed towards the end of when Precinct 16 West reaches full development or as suggested by Mr Fairlie potentially a further six years later due to anticipated Blackshaws Road traffic growth.

The lower the DoS, the better the quality of traffic service. In practice, it is generally accepted that desirable DoS is 0.80 for unsignalised intersections.³⁹ Ms Marshall acknowledges that her analysis exceeds this in the AM peak period. The Panel believes a more precautionary approach should be taken; whilst other locations may experience poor traffic service with congested intersections

³⁹ Austroads Guide to Traffic Management Part 3: Transport Study and Analysis Methods Section 4.2.4 DoS.

operating at or near full capacity this should not be used as the benchmark for a new development and their associated intersection arrangements.

Ms Dunstan has conservatively assumed, all surrounding major developments have been built out and contributing traffic onto the road network– clearly this is not the case in the immediate future, and potentially, Precinct 15 with some 3,000 residential dwellings could take several years to reach its final stage of development and associated peak traffic generation. The Panel notes that the landowners for Precinct 16 West would like to start development within 6 months and potentially be finished within two years.

The Panel believes that installing the traffic signals ‘fairly early’ as suggested by Ms Dunstan and subsequently endorsed by Council may be potentially too early on capacity grounds. The nearby major development sites, in particular, Precinct 15 would still be being built and not contributing significant amount of traffic onto Blackshaws Road. Deferring the traffic signal to the later stages of Precinct 16 West Development may be appropriate, in particular, to address the higher congestion levels (identified by Ms Marshall’s analysis) – higher congestion can lead to motorists choosing inappropriate gaps in the traffic flow leading to potential safety issues.

In relation to safety, the Panel is cognisant that DoT identified that the traffic signals should be installed in Stage 1, in part, to enhance safety. This is consistent with current practice of the safe system principle of reducing the likelihood of crashes and placing a greater emphasis on prevention. However, safety benefits will be realised with the interim solution prior to additional benefits of Blackshaws Road/Sutton Street signalisation.

The Panel supports Council’s concerns that a trigger for the traffic signal works should be included in DPO2 to ensure certainty and clarity for all parties. Whilst other parties suggested that the timing for the traffic signals should be determined by a traffic assessment. Potentially this may result in a perverse outcome where traffic flow on Blackshaws Road remains low (as Precinct 15 is still being built and not reached full capacity) and it may be argued, at that time, that traffic signals are not required regardless that three independent traffic experts, as part of this Amendment, agree that traffic signals will be required.

On balance, the Panel adopts Council’s proposed trigger of 150 lots for Precinct 16 West as:

- Precinct 16 West is anticipated to be fully developed within 2 years such as there is a potentially a relatively small period of time between 150th lot and full development being finalised
- Blackshaws Road traffic volumes are unlikely to significantly increase in the short term as nearby major development sites will not be built out and contributing significant traffic onto the road network
- it provides certainty that traffic signals are to be installed
- the proposed signals provide an immediate:
 - safe crossing for pedestrians
 - enhanced safety for all other road users.

(ii) Other triggers

The Panel explored the other triggers for the interim and ultimate solutions with Mr Fairlie. In relation to the interim solution, as construction starts in Precinct 16 West; larger construction vehicles may utilise Sutton Street and encroach into oncoming traffic lanes when entering and exiting Sutton Street, similar to the issues experienced by Able Industries. Potentially the interim

solution may be required prior to construction commencing – this should be explored as part of the developers’ construction/traffic management plan.

Similarly, once Able Industries leave and ultimately develop their site, they may also require similar access arrangements to facilitate their construction activities and as such, deferring the ultimate signalised arrangement may also be appropriate. As such, the proposed trigger *Able Industries have ceased operations on-site* should be modified to include *or a traffic management plan for their site identifies that pre-ultimate intersection configuration is not required to facilitate construction access*.

Parties should be cognisant of these issues moving forward but the Panel acknowledges that they are generally beyond the scope of the Amendment.

Further, it is noted that Precinct 16 East was tasked with providing a signalised pedestrian crossing for Blackshaws Road⁴⁰, however, depending on timing and staging of works within Precinct 16, the pedestrian crossing could become redundant very quickly. The pedestrian signals could also be designed to assist motorists to exit Sutton Street by providing breaks in the Blackshaws Road traffic stream⁴¹; providing further time before signalising Blackshaws Road/Sutton Street intersection. The Panel encourages parties to ensure the optimal and efficient delivery of major infrastructure works occurs.

(iii) Impacts

The Panel acknowledges that there will be an impost on nearby residents but accepts that there will be a net community benefit with the proposed Blackshaws Road/Sutton Street signalisation. Key benefits include:

- a safe pedestrian crossing across Blackshaws Road
- improved safety for all road users, particularly when Precinct 16 will ultimately accommodate around 900 to 1,000 residential dwellings.

Nearby to the proposed traffic signals, residents and their visitors will be required to find on-street parking further away, however site inspections confirm available parking in nearby side streets and further along Blackshaws Road. Unfortunately, vehicle noise associated with braking and accelerating away from the traffic signals may be problematic for some residents, but this is not uncommon on arterial roads or where residential properties are at or near existing traffic signals. Potentially there may be scope for the pedestrian crossing audible signals to be ‘turned down’ during night time, but this can be resolved through consultation with Guide Dogs Australia and Vision Australia, associations for vision impaired and low vision pedestrians, during detail design of the traffic signals.

4.2.5 Conclusions

The Panel concludes:

- The pre-ultimate signalised scenario trigger should be *prior to the issue of Statement of Compliance for 150th lot* with an overarching assessment process for signal installation timing to be reviewed (and potentially installed prior to the 150th lot) at the application stages.

⁴⁰ Document 30 Mr De Silva’s evidence para. 56 page 15.

⁴¹ Side road activated traffic signals.

- The ultimate signalised scenario trigger should be modified to *Able Industries have ceased operations on-site or a traffic management plan for their site identifies that pre-ultimate intersection configuration is not required to facilitate construction access.*
- DPO2 should include triggers for all three traffic management scenarios for the Blackshaws Road/Sutton Street intersection.
- The proposed Blackshaws Road/Sutton Street signalisation will result in a net community benefit acknowledging there will be an impost on nearby residents.

The Panel has included suitable wording in Appendix E.

4.3 Development plan layout

4.3.1 Potential bus route

(i) The issue

Should the existing bus route be extended through Precinct 16 West and utilise the proposed traffic signals to assist when turning right out onto Blackshaws Road?

(ii) Evidence and submissions

The 432 bus route meanders through the local street network providing connections to Yarraville Station and Newport Station via Altona Gate shopping centre.

On reviewing the development plan and being cognisant of increased traffic along Blackshaws Road, the Panel wished to explore if there was merit in extending the 432 bus route into Precinct 16 West (refer to Figure 7) to:

- take advantage of the proposed traffic signals at Blackshaws Road/Sutton Street to assist buses turning right out onto Blackshaws Road
- greater customer service – buses travel through increased residential density areas.

This matter came about, in part due Ms Marshall identifying that buses should not travel through the precinct; which conflicts with the DPO2 Vision Statement:

- The site will be redeveloped to provide a predominantly medium to higher density residential development, providing homes for a diversity of households including affordable housing and incorporating public open space and **sustainable movement links** [Panel emphasis].

Figure 7 Bus route – possible extension⁴²



DoT did not raise issues with the proposed vision statement and the only reference to public transport was in relation to existing bus stops on Aloha and Stephenson Street which do not have bus shelters and are not *Disability Discrimination Act 1992* compliant. DoT want future planning applications to review status of these stops and recommend updating key departure stops with shelters and DDA compliance – a note within the development plan for this to occur is requested.

The DPO2 Access and Transport requirements final dot point was included by Council to ensure that there is consideration given to the wider public transport context:

- Measures to ensure development does not compromise the delivery of future public transport including new bus routes.

However, Ms Marshall in her opinion recommended that this dot point should be removed as:

- the proposed internal road network has not been nominated as bus capable
- the road width does not satisfy the current standards for a new bus route (7 metre carriageway, currently proposed at 6.5 metre wide)
- the Framework Plan has already reduced the likelihood of a potential bus route and as such it is a redundant requirement that cannot be met.

And following on, the proposed roundabout at Sutton Street/East-West access road would not need to be designed to accommodate buses.

The Proponent submitted that the opportunity for a bus route through the precinct has been effectively 'designed out' by adopting narrower road reserves.

Ms Dunstan and Mr Fairlie, could see merit in buses travelling through the precinct and utilising the proposed Blackshaws Road traffic signals providing an easier and safer route. Ms Dunstan evidence was that this level of development (associated with the Amendment) did not necessitate additional public transport routes as much of Precinct 16 was within 400 metres of a bus stop.

⁴² Document 20, p20.

The expert meeting's findings agreed it is important to support future public transport but noted a bus route is not proposed through the site and would have implications on the east-west road link cross section and roundabout design.

Council in closing identified that a bus route could feasibly be accommodated through the Amendment land (proposed roundabout modified and widened splays to allow buses) if this were to be nominated by DoT as a future bus route.

(iii) Discussion

The Panel was not swayed by Ms Marshall's evidence and believe that DoT should be consulted to ascertain if extending bus route 432 into Precinct 16 West should be accommodated at some time in the future.

It is self-evident that traffic along Blackshaws Road will increase and utilising traffic signals to perform right turns onto Blackshaws Road, an arterial road, provides a safer and easier manoeuvre for bus operators rather than endeavouring to select a gap in the traffic stream. Further, higher numbers of residents will live within the precinct and providing a bus service 'to their door' is seen as sound and appropriate transport planning.

The Panel appreciates the concern that wider road reservations and carriageways may be required to satisfy contemporary standards. The existing bus route traverses a number of local streets where parking may occur on both sides of the road (for example, Aloha Street, and Stephenson Street) providing a single lane for two-way traffic – the proposed bus route extension would add approximately 400 metres of two x 3.25 metres roadway for through traffic (albeit slightly narrower than the 3.5 metres for bus routes suggested by the traffic experts) plus separate parking lanes and/or indented parking; a significant improvement over existing conditions on nearby streets. Pragmatically, the Panel considers that the development's proposed road cross sections would be satisfactory when considered against the broader operating conditions of the surrounding local street network and would not require widening.

Similarly, the proposed roundabout could readily be designed to accommodate bus traffic with widened splays as noted by Council.

We are at the planning stage, where design requirements can be incorporated into detailed design to accommodate buses and more generally align with the vision of incorporating sustainable transport links. Once constructed, it is far more difficult and expensive to retrofit to achieve a solution. This begs the question, if the vision was to ensure sustainable transport links could be provided, how did we end up with a plan that potentially no longer supported this vision statement?

Providing public transport is DoT's remit – it is appropriate to consult with them to ascertain if the bus service would/should be extended into Precinct 16 West and utilise the proposed traffic signals at Blackshaws Road/Sutton Street.

Should DoT support this change (notably no change to the proposed road cross sections), the development plan(s) and supporting documents should be updated accordingly. This should occur prior to finalising the Amendment. If DoT requires road widening, further consultation with parties would be required.

(iv) Conclusions and recommendation

The Panel concludes:

- extending the bus service into Precinct 16 West has merit
- the development's proposed road cross sections would be satisfactory when considered against the broader operating conditions of the surrounding local street network
- the proposed roundabout could readily be designed to accommodate bus traffic with widened splays
- Council should consult with DoT to ascertain their views prior to finalising the Amendment.

The Panel recommends:

Consult the Department of Transport to ascertain if the 432 Bus Route should be amended to utilise the East-West access road and Sutton Street to access Blackshaws Road using the proposed traffic signals. If the change is supported, the Development Plan Overlay Schedule 2 and development plans may need to be modified accordingly.

4.3.2 Vehicle crossings

(i) The issues

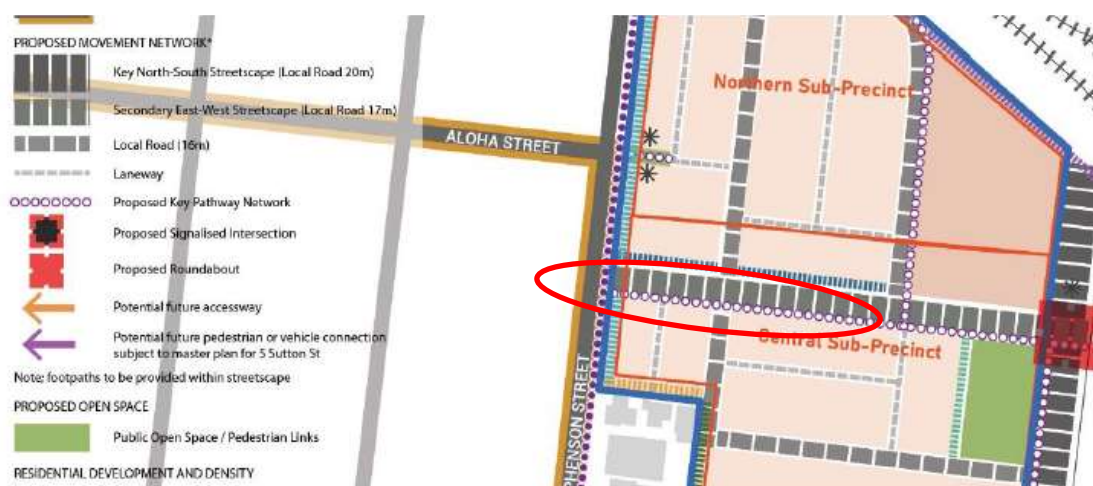
Should the development plan be amended to allow vehicle crossings to be introduced on the East West access street.

Urban design issues are discussed in Chapter 5.

(ii) Evidence and submissions

The Proponent submitted that banning vehicle crossings along the north side of the east west access road as shown in Figure 8 (highlighted with red oval) is not reasonably required and will have implications for the delivery of housing stock. Providing vehicle crossings onto the East West access road would provide a better housing product in line with customer demand.

Figure 8 Precinct 16 West Framework Plan (extract)⁴³



The traffic expert meeting noted that Ms Marshall believed that this requirement was overly prohibitive and access should be determined during detail design. Ms Dunstan did not support

⁴³ Document 80, p5.

direct access noting that these frontages form part of the key pathway network and direct access can be avoided with the development providing rear and side road access. However, it was generally agreed that this ultimately an urban design issue.

Ms Marshall, during questioning, identified that indented parking provides greater road capacity and less 'side friction' with passing traffic. She noted that the GTA assessment identified that the east west access road would ultimately carry around 1,000 to 1,500 vehicles per day which is the equivalent of a standard local residential street whereas a road with indented parking could be expected to accommodate 3,000 to 7,000 vehicles per day. She identified that 92.5 square metres of additional nature strip would be created with the conversion of indented to parallel parking taking into consideration the land set aside to provide new vehicle crossings into these properties. Removal of the rear laneway would also contribute to less hard standing areas.

Ms Marshall identified that there were no traffic issues associated with removing the rear [east-west] laneway on the north side of the access road.

Council submitted that the banning of cross overs was appropriate for both urban design and traffic reasons accepting Ms Dunstan's evidence that when planning for a new community the aim should be to limit conflict points between cars and pedestrians and provide rear vehicle access – consistent with the approach taken at the macro level within the framework plan which includes rear laneways for access across most of the precinct.

(iii) Discussion

The Panel concurs with the traffic experts that this is fundamentally an urban design issue (further discussed in Chapter 5) with traffic being subservient in this case.

In relation to traffic, of particular note was that the East-West access road is anticipated to carry relatively little traffic and would be consistent with traffic volumes experienced on a local road or lower order road. Further the proposed key pathway is located on the southern side, where higher pedestrian numbers are likely to be experienced.

In terms of vehicles entering and exiting driveways and 'side friction' associated with parallel parking, these movements and issues occur on the majority of local roads and are another potential 'tool' to encourage all motorists to travel appropriately and more safely.

Having said that, the broad principles identified by Ms Dunstan and incorporated throughout the framework plan to minimise conflict points between vehicles and pedestrians is sound, however as the expert meeting agreed, this is ultimately an urban design issue for this particular location.

(iv) Conclusion

The Panel concludes:

- there is no overwhelming traffic grounds as to why vehicle crossings could not be introduced on the north side of the East West access street.

4.3.3 Proposed uncontrolled cross intersections

(i) The issues

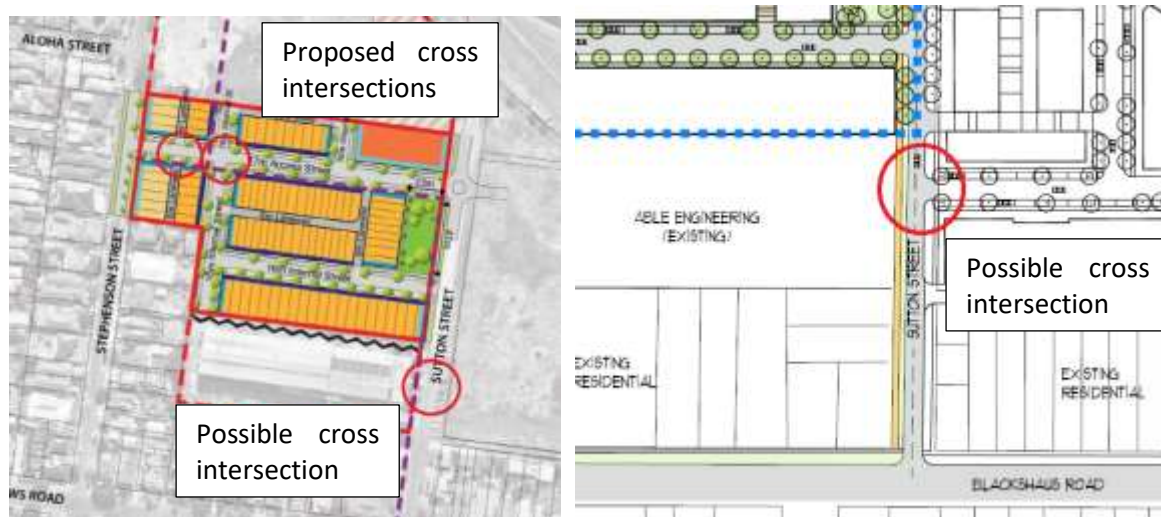
Are the uncontrolled cross intersections shown on the development plan appropriate from a road safety perspective?

(ii) Evidence and submissions

The Committee noted that there were a number of cross intersections shown on the Central Sub-precinct development plan (refer to Figure 9) which potentially create an unsafe environment for road users. Standard traffic engineering practice is to avoid cross intersections where possible, or install traffic management to enhance safety.

Of note, the traffic expert meeting agreed that the proposed roundabout at Sutton Street/East West access road cross intersection was appropriate.

Figure 9 Development Plan Central - Cross intersections⁴⁴



On questions from the Panel, the traffic experts advised that cross intersections could be treated with threshold treatments (different pavement to notify motorists on the lower order side streets they were approaching an intersection). Ms Dunstan advised that there would be very little 'cross traffic' as the majority of motorists would be turning left or right at these locations to head into or out of the precinct. The laneways would carry very little traffic and are unlikely to require specific treatment. Mr Fairlie noted that ideally the cross intersections should be treated with roundabouts or converted to two staggered T intersections.

(iii) Discussion

Road safety plays an important role in providing a safer environment for residents and the broader community. The Committee accepts the findings of the traffic engineers that these cross intersections should be treated to enhance safety, however the exact treatment and management of these locations can be resolved during detail design. The Committee supports Ms Dunstan's view that the laneways are unlikely to require specific treatment.

As such, the development plans should be amended to show these intersections requiring traffic management.

Whilst a development plan for the Able Industries site has not been prepared, the Committee is cognisant that potentially another cross intersection could occur at Sutton Street. Careful consideration of how Able Industries site is ultimately developed and associated access arrangements will need to consider this issue.

⁴⁴ Document 55 Hollerich Town Planning, Central Sub-Precinct Development Plan March 2021.

(iv) Conclusion and recommendation

The Committee concludes:

- The uncontrolled cross intersections (excluding laneways) should be treated with traffic management and this can be resolved during detail design.

The Committee recommends:

Treat uncontrolled cross intersections (excluding laneways) with traffic management and:

- Amend the development plan(s) to show these intersections requiring traffic management**
- Resolve this issue during detailed design.**

4.3.4 Railway pedestrian crossing

(i) The issue

Is the existing railway pedestrian crossing satisfactory?

(ii) Evidence and submissions

Submitter 20 (Mr Milanese) and others in the community submitted that a grade separated pedestrian crossing should replace the existing crossing at the railway line at the north end of the site. This would remove delays for pedestrians and encourage walking and cycling.

Other submissions flagged issues with lighting and the crossing not being DDA compliant.

Ms Dunstan supported the upgrading of the existing level crossing to ensure DDA compliance and align with Council's LAMP but noted that the Amendment would not trigger the requirement for the upgrade. She did not consider that a pedestrian bridge is required, as this is predominately a freight line and unlikely to impact pedestrians. Further, widening of the path (up to and across the railway line) would not be required as footpath capacity is unlikely to be exceeded.

Ms Marshall identified the relatively narrow footpath and how it was currently not suitable for cyclists as shown Figure 10.

Figure 10 Pedestrian rail crossing adjacent to site⁴⁵



⁴⁵ Document 26, p16.

DoT supported the realignment of the railway pedestrian crossing and that the existing path between Stephenson Street and pedestrian railway crossing be removed, and the rail corridor reinstated and fenced to DoT's satisfaction. It supported updating the development plan accordingly.

Council submitted that VicTrack as manager of railway land and infrastructure advised that upgrading the crossing was not required as it already includes automated gates – a key safety feature.

Council in closing acknowledged the importance of the east-west pedestrian movements and submitted that the Northern Sub-precinct Development Plan and report should include more detail on how the gap in the northern acoustic barriers (refer to Figure 11) would be managed to ensure:

- safe and visible pedestrian and cycle access to the at-grade rail crossing
- appropriate noise attenuation due to the gap in the acoustic fence.

Figure 11 Development Plan Northern sub precinct – Pedestrian link and acoustic fencing⁴⁶



(iii) Discussion

The Committee accepts Ms Dunstan's and VicTrack assessment that the existing railway pedestrian crossing arrangement is appropriate but upgrading to be DDA compliant and improved lighting are worthwhile initiatives, in particular, considering the importance of the east-west pedestrian (and bicycle link) at this location. However, it is acknowledged that much of this work is outside the scope of the Amendment as noted by Ms Dunstan.

Removing the footpath from the railway reserve and utilising the new roadways and footpaths within Precinct 16 West for pedestrians and bicyclist is supported.

In relation to how to treat the break in the acoustic fence, to provide pedestrian access to the railway crossing, is essentially a detail design issue that will require careful thought and analysis to ensure an appropriate and safe environment is created. Part of this analysis will require noise modelling to determine how best to manage the gap – potentially staggering and overlapping, or

⁴⁶ Extract from Northern Sub-precinct Development Plan.

providing additional length of acoustic fencing to shield the residential development from noise will be required – possibly transparent materials may be required to ensure passive surveillance. Essentially these details can be resolved during detail design.

The Amendment documentation should be modified to include:

- the DoT requirement for the redundant footpath between Stephenson Street and the railway pedestrian crossing to be removed from the railway reserve
- a pedestrian and cycling thoroughfare to railway crossing and associated gap in the acoustic fence, to ensure appropriate safety and noise control outcomes can be resolved during detailed design.

The Committee notes that the Central sub-precinct development plan's Figure 15 refers to the railway pedestrian crossing as an '*existing pedestrian bridge over rail line*' which may have led to some community confusion.

(iv) Conclusions and recommendation

The Committee concludes:

- The existing railway pedestrian crossing arrangement is appropriate but should be upgraded to include lighting and be DDA compliant. However, these works are outside of the Amendment scope.
- The redundant footpath between Stephenson Street and the railway pedestrian crossing should be removed from the railway reserve and noted accordingly on the development plan; its function will be replaced by the new links within the Northern Sub-precinct Development Plan.
- The pedestrian and cycling thoroughfare to railway crossing and associated gap in the acoustic fence, to ensure appropriate safety and noise control outcomes, needs to be resolved, as discussed in Chapter 3.

The Committee recommends:

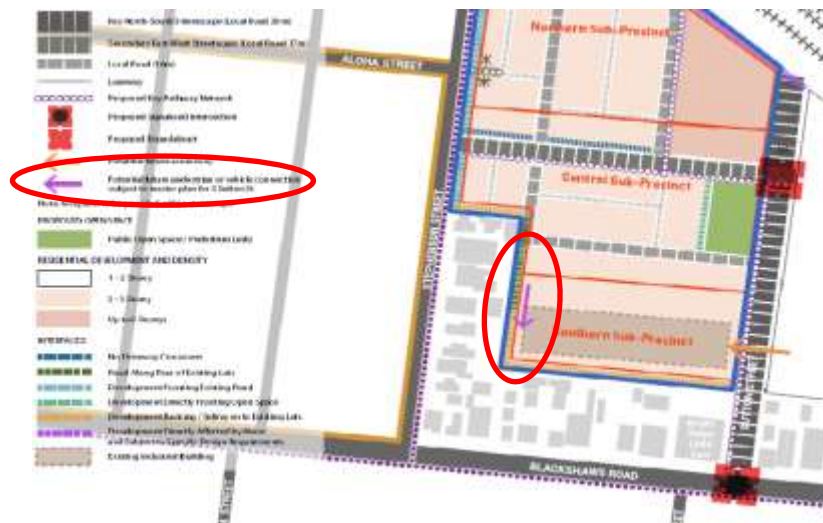
Remove the redundant footpath from the railway reserve between Stephenson Street and the pedestrian rail crossing from the Northern Sub-precinct Development Plan

4.3.5 Southern Sub-precinct – potential pedestrian or vehicle connection

(i) The issue

Should the potential future pedestrian or vehicle connection subject to masterplan for 5-7 Sutton Street [Able Industries/Brymart site] remain in the Framework Plan (refer to Figure 12).

Figure 12 Framework Plan - Potential pedestrian or vehicle link



(ii) Evidence and submissions

Brymart submitted that to maintain flexibility, it would be premature to show roads and the potential future pedestrian and vehicle connection into their site as it would unnecessarily restrict outcomes.

Mr Biles preliminary feasibility study for Brymart shows pedestrian and vehicle access from Sutton Street⁴⁷ and Mr Fairlie advised that, having undertaken a preliminary review of the proposed traffic signals operations, that Sutton Street should be able to accommodate traffic from any future and more intense development of this site.

The Proponent (neighbour to the north) had no issues with Brymart's position.

Council more generally did not support Brymart Industries proposal for more intense development of their site.

(iii) Discussion

The Panel can sympathise with Brymart in wishing to maintain maximum flexibility moving forward as Able Industries do not intend to leave for some time, and have not undertaken the same level of detailed work as other parties.

The Framework Plan clearly shows a fine grade permeable road network throughout the precinct and providing a potential pedestrian or vehicle link is consistent with this philosophy. The Panel can see some benefit to the Able Industries site as it provides pedestrians with a direct link to the railway pedestrian crossing north of the site. There is less apparent benefit for vehicular traffic.

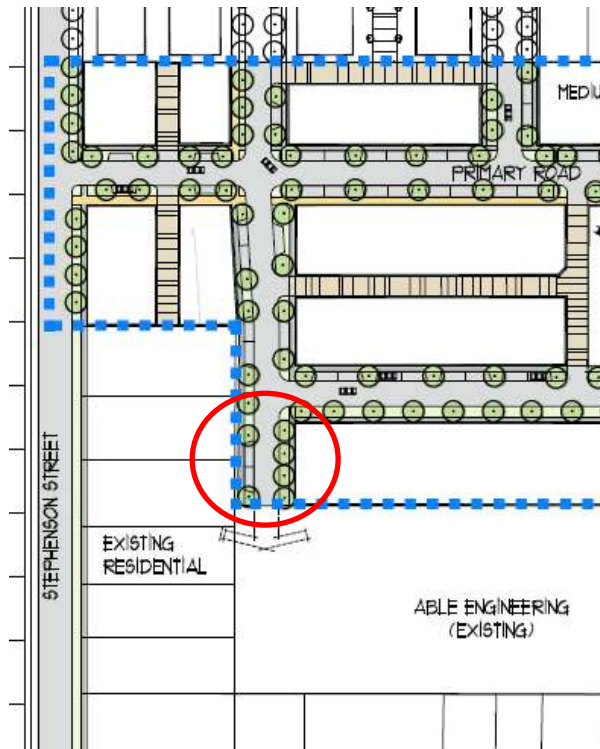
Providing this link is dependent on the outcomes of the master planning for the Able Industries site. This is yet to occur, and as such, it would be premature to remove the notation at this time.

This matter does however require further consideration and agreement by parties. If a pedestrian or vehicle link is ultimately not required, then presumably the proposed road stub into the north west corner of the Able Industries site becomes redundant (refer to Figure 13) and could be developed. Resolution of this matter should occur in a timely fashion to ensure an optimal

⁴⁷ Document 34 Mr Biles evidence Appendix C Apartment Feasibility Study.

outcome can be realised, but the Panel notes that this can occur outside of the Amendment process. A potential way forward may be to undertake a 'mini master planning' and workshop exercise around site access to see if this matter could be resolved.

Figure 13 Potentially redundant road stub⁴⁸



(iv) Conclusions

The Panel concludes:

- The potential future pedestrian or vehicle connection subject to masterplan for 5-7 Sutton Street [Brymart site] remain in the Framework Plan.
- Resolution of future pedestrian or vehicle connection should occur in a timely fashion to ensure an optimal outcome can be realised, but the Panel notes that this can occur outside of the Amendment process.

4.4 Able Industries (Brymart) site access

4.4.1 The issue

Able Industries would like to continue operations into the foreseeable future, and it is important that access and safety are maintained in a manner which recognises the competing residential and industrial use needs. Able Industries currently receive around two to three B-Double deliveries a week.

The issue is can B-Doubles safely enter and exit:

- Blackshaws Road from Sutton Street
- The Able Industries site with the proposed road cross section.

⁴⁸ From Site Plan – Development Plan Central Sub-Precinct.

4.4.2 Evidence and submissions

Mr Fairlie identified that the proposed interim and pre-ultimate access arrangements (as discussed in Section 4.2) provided safe access for B-Doubles to enter and exit Sutton Street from Blackshaws Road, ensuring that B-Doubles would not be required to cross into the opposing traffic lane on Sutton Street or Blackshaws Road. He noted that B-Doubles exiting Sutton Street should only turn right onto Blackshaws Road and could utilise Millers Road to the west to access Westgate Freeway and the broader road network.

In relation to B-Doubles entering the exiting the site, Mr Fairlie recommended that some Able Industries staff are trained in traffic management to control pedestrians and vehicles movements during these times, potentially two to three times per week, and desirably in off-peak conditions.

He identified minor widening of the existing vehicle crossing and gates to facilitate easier access and minimise encroachment; however, the east side of Sutton Street would require No Stopping signage⁴⁹, and he agreed that this could be augmented with (yellow) line marking.

Council was generally comfortable with the suggested arrangements, in particular:

- as footpaths could be installed along both side of Sutton Street
- B-Doubles would not encroach over Sutton Street eastern footpath when exiting or entering their site
- the proposed Sutton Street cross section could be implemented without modifications.

4.4.3 Discussion

It is important the Able Industries can continue to operate as residential development encroaches around their business. The Panel is satisfied that the proposed suite of works, including the interim and pre-ultimate intersection configuration, and Mr Fairlie's suggested access modifications should provide a safe environment for all road users.

The timing for when Able Industries should modify their crossover and utilise traffic controllers was not discussed during the Hearing. Practically, this may occur as part of the Sutton Street Stage 1 reconstruction works. However, it would be dependent on when pedestrian and traffic volumes have increased, principally associated with residential development within Precinct 16 East or West.

These issues are detail design and operational issues and are outside the Amendment process.

4.4.4 Conclusions

The Panel concludes:

- There are no traffic engineering grounds as to why Able Industries cannot continue to operate as residential development encroaches towards their site.
- The proposed suite of works including the interim and pre-ultimate intersection configuration, site access modifications, and Able Industries providing traffic controllers to manage pedestrian and vehicle traffic when large vehicles are accessing their site should provide a safe environment for all road users.

⁴⁹ Document 98 Mr Fairlie swept path analysis.

5 Urban design and site planning

5.1 Development Plan Overlay Schedule 2

5.1.1 The issue

The issue is whether the DPO2 is the appropriate tool to guide Precinct 16 West future development.

5.1.2 Evidence and submissions

Council submitted that the land, which is the subject of the Amendment, has been identified in the Hobsons Bay ILMS as surplus to the economic need for industrial use in Hobsons Bay and is appropriate for residential uses. Council consequently designated the land as a strategic redevelopment site.

Council added:

The ILMS nominates a range of considerations to be carefully integrated and balanced in planning for the Land's transition from industrial to residential land use. Those considerations include meeting the physical and social infrastructure needs of future users of the land and the broader community, responding to risks associated with pipeline infrastructure and land contamination on site and managing constraints as arise from existing land uses neighbouring and adjacent to the land, both industrial and residential.

It observed that the Amendment had the general support of the landowners with the exception of Brymart (5-7 Sutton Street). In addition, the Council sought to facilitate discussions between the three owners of the land and relevant agencies to ensure that *"the rezoning of the Land was approached in a coordinated, strategic and fair manner."*

Mr De Silva gave evidence for Council that the rezoning of the land had been foreshadowed for some time and is an outcome supported by the ILMS. He informed the Panel that he had been engaged to prepare an outline development plan to achieve a coordinated outcome. The outline development plan (ODP) he prepared became the Precinct 16 West Framework Plan in DPO2. His evidence was:

In this context, it is very important to recognise that whilst the Hobsons Bay City Council is the Planning Authority for the Amendment, in terms of the key inputs that have informed preparation of the Amendment and enabled the combined planning permit applications to be prepared (being the Precinct 16 West Framework Plan and the Informal Infrastructure Funding Framework) the City has adopted a proactive, 'facilitative' approach with the aim of achieving not only a good planning outcome but also a co-ordinated, equitable and practical approach toward funding and delivery of infrastructure (primarily the upgrade of Sutton Street).

Mr De Silva advised that he was not involved in preparing the planning controls including the DPO2. His evidence outlined the consultative approach taken in the ODP preparation. He agreed that not all issues were resolved by this process but the ODP provided a clear land use and transport framework. His evidence was that a key strength of the ODP was that it enabled each precinct to be developed independently.

He added:

Importantly, the role of the Precinct 16 West Framework Plan was to identify a preferred local street network including an indicative laneway network, shared public open space, overall density and height direction, streetscape controls including locations where vehicle cross overs are not allowed in order to maintain the continuity of street tree plantings and to

maintain the continuity of the built form, to show important pedestrian connections, proposed intersection types and potential access points for the Southern sub-precinct.

I am of the opinion that preparation of the Outline Development Plan which informed preparation of the Precinct 16 West Framework Plan and the Precinct 16 West Infrastructure Delivery and Apportionment Strategy were exhaustive, highly consultative processes that have provided guidance and equitable and practical outcomes that are of benefit to the precinct as a whole.

Mr Barnes planning evidence for Council was that the use of the DPO over the land is consistent *“with the planning intent of the control”* and the approach recommended by the C82 Panel, which dealt with Precinct 16 East. He considered the DPO the appropriate tool to apply because:

- there is a need to coordinate development between three separate ownerships
- it provides sufficient comfort for the community about the future development of the land
- it provides certainty for developers and simplifies the approval process
- it provides an opportunity to include conditions for planning permits
- there is an opportunity for Council to provide additional requirements on a strategic redevelopment site.

His assessment of the DPO was:

I note that most of the requirements are subjective rather than measurable. Most relate to what I would consider to be good planning and design principles that are appropriate to apply to most developments.

He recommended that in Clause 4.0 under ‘Built form and layout’ typical dwelling layouts for standard lot sizes should be provided throughout each sub-precinct because it *“is difficult to assess the ability of lots accommodate varied housing types without indicative dwelling layouts being provided.”*

Mr Barnes’ evidence was that the Framework Plan provided for an appropriate development outcome on the land with respect to the policy framework, the location of the land and the process undertaken by Council and the landowners. He observed that little detail is shown on the plan in relation to 5-7 Sutton Street and recommended greater detail be included to provide certainty to adjoining landowners.

The Proponent submitted that its issues with the DPO2 were drafting matters aimed at achieving greater flexibility.

Mr Milner’s planning evidence for the Proponent similarly supported the DPO2 and he concluded that:

... the DPO2 schedule has been written in the preferred strategic policy performance responsive manner rather than mandating requirements and provides an appropriate level of flexibility and rights of independent review if agreement cannot be reached on matters of detail.

He identified some points of difference with the DPO2 drafting however which are discussed in more detail in the following sections.

Newport Apartments submitted that the Amendment had *“strong support”*, was strategically justified and that:

With the exception of more minor matters of detail, the opinions of the technical experts have converged and resolved the key amenity issues for the DPO2.

It added that there was no dispute over whether the Amendment had made appropriate use of the VPP tools or the appropriateness of their content.

Mr Glossop's evidence for Newport Apartments was:

In general, I consider that the DPO is an appropriate tool to apply to the precinct to achieve an integrated and master planned outcome. It is my experience that this tool is regularly applied within this context and can provide a robust mechanism for facilitating development in a coordinated and integrated manner.

His evidence was that the DPO and development plan provided sufficient guidance to address the following requirements which were:

- The interface with and transition to residential development, particularly on the western side of Stephenson Street.
- The interface with and management of amenity impacts arising from the Spotswood Maintenance Facility.
- The interface with and management of amenity impacts arising from the existing industry at 5-7 Sutton Street.
- The protection of and management of amenity impacts arising from the pipelines that run adjacent to the northern boundary of the land.
- The remediation of the site as a result of any potential contamination.
- The provision of environmentally sustainable design and affordable housing measures.
- The management of traffic impacts.

He observed that the various authorities and pipeline operators have raised the need for the development plan requirements in relation to major pipeline infrastructure to be strengthened. He added:

I understand that this is the usual practice for significant development involving sensitive uses within a measurement length of a pipeline and I support the requirement being reworded to reflect this.

Mr Glossop recommended modifying the requirements of the schedule to the DPO to require the preparation of a Safety Management Study and a resolution of whether notice is required to the pipeline operators and Energy Safe Victoria of any applications. Council agreed with this change.

Brymart submitted that the DPO2 should be amended to require acoustic treatment of any sensitive uses in proximity to its property at 5-7 Sutton Street. In addition, it should include a condition requiring a s173 Agreement to notify future landowners of the use of this site.

Brymart recommended rezoning its site to a Residential Growth Zone to enable a development of six to eight storeys on its land, essentially to cover its costs to relocate its industrial use to another site.

Mr Biles evidence was that the DPO2 is not an effective control to support the existing use on the Brymart land. He added:

To this end, the issue that presents itself is the capacity for this rezoning to manage the successful transition of Able Industries. It is clear that the built form outcome being offered by the Framework Plan incorporated into the DPO2 will come at a cost to Able Industries and their ability to relocate.

His evidence was that the DPO2, in effect, becomes the instrument to give effect to the relocation of Able Industries and transitioning the Brymart land to residential. His evidence was for this relocation to happen a development of six to eight storeys would be needed. Consequently, he recommended rezoning the land to a Residential Growth Zone.

During the Hearing amended versions of the exhibited DPO2 were provided to the Panel by Council, the Proponent and Newport Apartments. Other parties also recommended changes to

the DPO2. In anticipation of this situation, on 9 November 2021 the Panel issued its Directions which included the following:

47. Council must circulate its final preferred versions of the Amendment, draft permits and draft Development Plans ('Part C versions') by Friday, 24 December 2021. The Part C versions must be in MS Word, and must be tracked against the Day 1 versions.
48. Any party seeking to provide without prejudice tracked changes to Council's Part C versions, must circulate them by 12 noon on Friday, 14 January 2022.

On 23 December 2021 Council provided its final version of the DPO2.⁵⁰ On 14 January 2022 Vega, Brymart and Newport Apartments provided versions which proposed changes to the Council's final version.⁵¹ The Proponent provided its preferred DPO2 as part of its submission to the Panel.⁵²

Council's amended DPO2 included a number of changes to the conditions and requirements for permits dealing with noise attenuation. These were discussed in Chapter 0 above. A further change proposed to the conditions to apply for permits for development which effectively required the delivery of the signalised intersection on the corner of Sutton Street and Blackshaws Road prior to the approval of the statement of compliance for the 150th lot in Precinct 16 West. This has been discussed in Chapter 4.2.

Other Council changes included:

- clarification that the Traffic Impact Assessment should have regard to Precinct 16 East, Precinct 15, Precinct 17 and 31-69 McLister Street, South Kingsville and the Westgate Tunnel
- reference to the EPA publication 1826.4 *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, Publication 1826 (Noise Protocol)* in the acoustic and vibration report
- a requirement to engage with relevant authorities and stakeholders in assessing any impact on pipeline infrastructure
- a requirement for a report on the impact on infrastructure of staging the development
- a number of minor changes to correct errors or improve clarity.

The Proponent submitted that it opposed the reference to the EPA publication 1826.4. In addition, it proposed, in its version of the DPO2 the following changes to the Framework Plan:

- delete the laneway along the boundary with the northern sub-precinct
- delete the marking for 'No Driveway Crossovers' for the south side of superlot 1 or provide as a note 'Driveway crossovers are permitted along the north side of the Secondary East-West Streetscape for the section between the two local roads'.

The Proponent submitted that "*5 per cent of dwellings provided as affordable housing is a fair and reasonable contribution, provided Clause 6.1.1(b) is reworded to require only the value of the discount that would be provided if dwellings had been accepted*". It proposed rewording the affordable housing provision to:

Measures to facilitate the provision of affordable housing.

⁵⁰ Document 102.

⁵¹ Documents 105, 106 and 107.

⁵² Document 84.

Newport Apartments sought removal of the reference to approval of the statement of compliance for the 150th lot as the trigger for the delivery of the signalised intersection on the corner of Sutton Street and Blackshaws Road.

With respect to affordable housing Newport Apartments recommended rewriting the provision to:
Measures to encourage that an affordable housing contribution is provided.

It supported removing 'and according to their requirements' which Council had proposed adding to the report requirements in Clause 4.0 under the heading 'Major pipeline infrastructure'.

Vega proposed changing the affordable housing requirement to 4 per cent in line. It also suggested deleting the text '(subject to those activities being reasonable with regard to environmental noise obligations at existing sensitive uses)' which Council proposed to add into the noise conditions in Clause 3.0, and suggested its own more specific text related to SEPP N-1 and existing planning permits.⁵³

Brymart sought an additional condition in Clause 3:0 requiring a s173 agreement with the following text on any contract of sale:

This land includes industrial land at 5-7 Sutton Street, South Kingsville and is in close proximity to the State and nationally significant Spotswood Locomotive Maintenance Centre located to the north east. Consequentially, the land may be affected by noise or other amenity impacts associated with the operations and activities conducted in those areas.

Brymart also proposed the following changes:

- reference to B-Double truck movements in the traffic analysis and transitional arrangements
- removal of the notice and review exemption for a development plan prepared for 5-7 Sutton Street
- removal of the reference to the EPA publication 1826.4
- removal of the proposed future pedestrian access in the Southern Sub-Precinct of the Framework Plan.

5.1.3 Discussion

There was general agreement amongst the parties and their experts that the DPO2 is the appropriate tool to guide the future development of the Land. The discussion over matters dealing with noise and vibration and traffic and access have been discussed in Chapters 0 and 4 of this report respectively.

There was some dispute over some of the content of the DPO2 mainly to do with setbacks and access, that the controls that should apply to the property at 5-7 Sutton Street and affordable housing. These matters are discussed in more detail below.

The Panel accepts the evidence of most of the experts that the DPO2 is the appropriate tool to guide the future development of the land. The Panel acknowledges that the Council's version of the DPO2 has evolved over the course of the Amendment and a number of changes have been made in response to submissions and the evidence of experts, particularly in relation to noise and vibration. For this reason, the Panel has used the Council's final version of the DPO2⁵⁴ as the basis for its assessment of the provisions.

⁵³ As discussed in Chapter 3.

⁵⁴ Document 102.

The Panel agrees with the submission of Newport Apartments that the differences in approach to the DPO2 are, for the most part, minor in nature. However, some of the changes have the potential for a significant impact. Consequently, these issues have been discussed separately in the preceding and following sections.

5.1.4 Conclusion

The Panel concludes:

- the DPO2 is the appropriate tool to guide the future development of Precinct 16 West.

5.2 5-7 Sutton Street, South Kingsville

5.2.1 The issue

The issue is whether the provisions of the DPO2 that apply to the land at 5-7 Sutton Street South Kingsville are appropriate.

5.2.2 Evidence and submissions

Council submitted that the Amendment provided for a range of building heights. It acknowledged that the location is not one that would normally strategically support six storey development. However, six storey development was seen as appropriate because of the need for acoustic measures to mitigate noise from the SMC. This approach was consistent with the development approved on the east side of Sutton Street and the building heights graduate from the six storey component to a mix of two and three storeys as shown in Figure 5 (the Framework Plan in DPO2).

Council added that development interfacing with Stephenson Street was limited to two storeys with front setbacks to respond to the *“lower scale and form of the existing residential environment on the west side of Stephenson Street.”* It informed the Panel that there is a *“carefully planned future urban framework presented within the DPO2”* which was supported by all the experts.

It stated:

The range, and transition, of heights will suitably allow for the delivery of significant housing change envisaged by Council's Housing Strategy 2019 while responding to context.

Council submitted that the case put by Brymart was that the heights proposed for the southern sub-precinct were too low. It paraphrased Brymart's proposal as a:

... wish to win an incentive in financial terms of an order that is said to comprise the basis to facilitate Able (Brymart) relocating their business operations to other premises.

Council stated its view as:

... Council does not consider any increase to the heights identified in Amendment for the southern sub-precinct as in any way warranted.

Mr Barnes evidence was that because of the nature of the surrounding area, a residential development two to three storeys was *“generally appropriate”* for the Land. He added that the proposed six storey building in the north east corner of the Land was inconsistent with the residential development proposed and its only justification was to act as a noise barrier to the SMC. He stated:

Whilst the apartment development will provide housing diversity and choice within the subject site, housing of that height and density is not proposed due to the intrinsic strategic location attributes of the land. This was confirmed by the Tribunal in relation to appeal regarding Precinct 16 East, in which the Tribunal commented on the lack of strategic justification for higher density housing within that precinct.

His evidence was that higher densities would not be strategically justified given planning policy and the locational context of the land. He added that the land at 5-7 Sutton was different to other parcels in two ways:

- It contains an existing industrial use in a building that is 15.4 high (at its highest point), that is intended to continue to operate.
- It has immediate abutments to one and two storey residential development and a child care centre (car park), along both its southern boundary and its western boundary.

He informed the Panel that any change to the controls exhibited for the Brymart land would have the following implications:

- the Amendment would need to be re-exhibited
- the building form for the Central Sub-precinct would need to be revised
- a four storey or higher development would likely be made of apartments not the town house typology proposed for the land
- the Amendment and draft development plans have been prepared on the basis of a two to three storey height limit
- it would allow heights and densities that lack strategic justification.

He considered the Framework Plan would provide for an appropriate development outcome but, with respect to 5-7 Sutton Street, he observed the colour applied to the land in the Framework Plan was not associated with a building height in the legend. He recommended that 5-7 Sutton Street be included in the 2-3 storey building height colour in the Framework Plan.

He also observed that the Framework Plan showed little detail in relation to 5-7 Sutton Street. He recommended that greater detail was needed to provide certainty to adjoining landowners. The matters to be addressed were:

- the type of residential development (apartment or townhouse)
- the location and type of access roads
- integration with the development of the Central Sub-precinct
- connections (pedestrian and vehicular) with the land to the north.

Brymart informed the Panel that site occupier, Able Industries, was an internationally significant metal fabrication business with a wide range of clients including the Australian Defence Force. It submitted that its outstanding issues were:

- protection for Able Industries' ongoing operations
- flexibility for higher density development of its land
- adequate infrastructure to support higher density
- changes to the amendment documents.

Brymart submitted that Able Industries, under Clause 63.01, has existing use rights for the site use and it *"does not intend to relocate or cease operations at the Subject Site in the foreseeable future."* It added that Clause 53.10 requires a 500 metre buffer from residential land. However existing dwellings, as well as those enabled by the Amendment, do not meet this requirement.

It submitted that the most appropriate mechanism for dealing with this matter was to implement the recommendations of the acoustics expert meeting which were:

- acoustic attenuation at the future sensitive use
- a condition in the DPO2 requiring the registration of a s173 Agreement (prior to a certificate of completion or similar) to inform the future sensitive uses of the existing use.

Brymart submitted that the Amendment in its current form is an underdevelopment of the site. In addition, the “*commercial reality*” was that, under the proposed controls, Able Industries would incur a significant loss if required to relocate. It proposed rezoning the land to RGZ and concluded:

... that the proposed controls over the Subject Site are too restrictive given the Subject Site's characteristics and the timeframe in which the Subject Site is likely to be redeveloped for a non-industrial use, and represents an underdevelopment of the Amendment Land, and more particularly the Subject Site.

Mr Biles' evidence was that the Amendment would have a negative impact on Able Industries which needed to be considered in the context of net community benefit and sustainable development consistent with the principles of Ministerial Direction 11. His evidence was:

I consider the relocation of Able Industries to be a key issue that needs to be resolved before planning provisions are introduced that recommend / encourage the relocation of the industry and the 'transition' of the area from industrial to more intensive residential use / development.

He questioned whether the proposed zone and DPO2 were the appropriate tools to manage the transition of the site. He informed the Panel that modelling demonstrated that a “*6-8 storey building could be successfully introduced on to this large site and interact with neighbours in a respectful manner if carefully designed.*” The increase in yield would raise the value of the land and drive the process of transition. This type of development would require either the RGZ or MUZ to be applied to the land. He proposed a DDO to manage building setbacks and design matters. He concluded that the Amendment did not provide a fair outcome for an existing and viable business.

Newport Apartments submitted that it did not support any action which would delay the progress of the Amendment.

A number of submissions including those from Mr Summers, Ms Puopolo and Mr Moscato⁵⁵ expressed concern over the level of development proposed by the Amendment. These submissions identified the proposed six storey building height was out of character with the area and likely to cause traffic and parking problems. They also expressed concern about the proposed development being too intense to allow for the provision of canopy trees.

5.2.3 Discussion

The Panel acknowledges the potential issue of noise and vibration, particularly in the case of the Brymart land where it is proposed that new residential development will occur on its northern boundary. These matters have been dealt with in Chapter 3 of this report.

In the Panel's view, the site at 5-7 Sutton Street could support more intensive development. The main issues would be access to and from the site and the eventual signalisation of the Sutton Street and Blackshaws Road intersection and the interface with the existing and proposed dwellings. The Panel accepts that the trigger for the signalisation of the intersection proposed by Council and discussed in Chapter 4 is appropriate and could equally apply to the redevelopment of the Brymart land.

However, because the land can be development at a higher density does not address the issue of whether it should be developed for a higher density. Brymart argued that any uplift in value by the proposed rezoning of the land would be more than cancelled by the cost of relocating Able

⁵⁵ Submissions 3, 13 and 2 respectively.

Industries. In its view this was an unfair outcome. Council argued that there is no strategic justification for higher densities. Indeed, Mr Barnes view was that there was no strategic justification for a six storey building in the north east corner. The Panel was persuaded by Mr Barnes's evidence and agrees that, given the location of the land and the absence of any transport node or activity centre in the general area, the GRZ is the appropriate zone for the land.

Ministerial Direction 11 requires that changes to the Planning Scheme require strategic justification and how it implements State and local planning policies. In this respect, Mr Barnes' evidence was persuasive, and the Panel agrees that the Amendment, which has developed over a considerable time, has its origins firmly based in planning policy.

A feature of the DPO2 is that it removes third party notice and appeal provisions. In effect, the exhibition of the Amendment is then the opportunity for the community to provide its comments. A number of submissions expressed concern about the proposed height of development where the proposal for 5-7 Sutton Street was 2-3 storeys and not the 6-8 proposed by Brymart.

In the Panel's view, Brymart's proposal would transform the Amendment and the community have not been afforded the opportunity to assess such a proposal and would be excluded from doing so by the DPO provisions. Even if the Panel were of a mind to support the proposed height increase it would have to be re-exhibited. Given the time that has been invested in getting the Amendment to this point, in the Panel's opinion this would result in an unreasonable delay to this Amendment. Further significant changes to the controls on the Brymart land would need to be considered as part of a separate amendment.

Brymart suggested splitting the Amendment to allow changes proposed for its site to be separately exhibited. However, in the Panel's view this approach does not address the fundamental issue of the lack of strategic justification for higher density on the site.

The Panel agrees with Mr Barnes' suggestions, that the Brymart land should be included in the 2-3 storey colour in the Framework Plan and that more detail about the integration of the Southern and Central Sub-precincts should be included.

5.2.4 Conclusions and recommendation

The Panel concludes with respect to 5-7 Sutton Street, South Kingsville:

- The provisions of the DPO2 are appropriate.
- The General Residential Zone is the appropriate zone for the land.
- The land should be included in the 2-3 storey colour in the Framework Plan.
- The DPO2 Framework Plan should include more detail about the integration of the land with the Central Sub-precinct.

The Panel recommends:

With respect to the land at 5-7 Sutton Street, South Kingsville:

- a) **Amend the Framework Plan in the Development Plan Overlay Schedule as included the Panel Preferred version in Appendix E:**
 - **to include the land in the colour depicting the 2-3 storey areas**
 - **to provide more detail about access to the land and the connection, if any, to the land to the north.**

5.3 Urban design and setbacks

5.3.1 The issues

The issues are:

- whether the DPO2 provisions in relation to the East West Access Road through the Central Sub-precinct are appropriate
- whether the DPO requirements for front setbacks are appropriate.

5.3.2 Evidence and submissions

The Proponent identified that the DPO2 Framework Plan included a notation specifying no driveways on the southern side of the East West Access Road through the Central Sub-precinct. This was opposed because it would impact its preferred housing design by requiring vehicle access from a rear lane resulting in three storey dwellings or a loss of yield. The Proponent's preference was for front access directly from the road which would facilitate two level dwellings with architectural treatment to reduce the prominence of garages.

Mr Milner's supplementary evidence was that there was merit in the "*small variation*" sought. He added:

The opportunity to provide a different housing product with a greater open space, a more generous lot and the benefits of a northern orientation should be viewed as a positive liveability outcome.

His evidence was that sufficient space would be available for the planting of canopy trees and crossovers were a feature of Stephenson Street and "*part of the character and functionality of the locality.*" He added that the front setback requirement of three metres could be reduced to two metres to enable opportunities for landscaping with street planting in the spaces between indented bays. In support of his evidence, Mr Milner provided indicative plans showing a typical layout.

Council submitted:

In urban design terms, Council is striving to ensure that the neighbourhood will comprise of 'streets for people' (and by extension, streets that are focussed on pedestrian safety and amenity, not designed to achieve vehicle needs ahead of other forms of traffic).

Council informed the Panel that the DPO2 allowed for alternative design solutions as part of the permit application process and that it agreed with Mr Barnes that the development plans should include references to proposed lot layouts.

Council submitted that the plans relied on by Mr Milner were prepared for a different site and have a different context. It added that at the amendment stage the anticipated lot yield is not fixed and there is no specific target to be achieved and that:

The rezoning of the Amendment land will lead to substantial change. The ambition of the Housing Strategy to encourage increase housing supply and densities in SRAs will be realised. There is no sense in which it can be said that the need to increase housing numbers and change should be achieved at the expense of other proper planning and urban design goals.

Council submitted that it regards the lot layout in the Development Plan as indicative and the requirement for a 3 metre setback was to allow more planting in this area to achieve the "*urban design benefit to the public realm and the achievement of the goals of Council's Urban Forest*

Strategy.” It added that a 2 metre setback would not provide sufficient space to plant or maintain a tree.

5.3.3 Discussion

The DPO2 provides the framework for the more detailed development plans. Whilst Clause 4.0 ‘Requirements for a development plan’ states that the development plan *“must be prepared for the site to the satisfaction of the responsible authority”* so as to achieve the Vision and *“be generally in accordance with the Precinct 16 West Framework Plan Clause 5.0 to the satisfaction of the responsible authority.”*

The Panel anticipates that the ‘satisfaction of the responsible authority’ will be achieved by Council approving a development plan. Nevertheless, a degree of flexibility is provided by the words ‘generally in accordance with’ and, in the Panel’s view, this is the intent of the Overlay. It provides guidance through the DPO2 which then allows landowners to respond through the preparation of a development plan.

Mr Milner acknowledged this in his response to questions confirming the Panel’s view that the changes he proposed could all be approved under the exhibited DPO2.

The Panel accepts Council’s submission that there are sound urban design reasons for resisting the changes proposed by the Proponent. With respect to the front/rear access and indented parking the traffic merits have been discussed above. However, in the Panel’s view, front access would result in a streetscape dominated crossovers and garages which would be a poor urban design outcome. For this reason, the Panel does not agree to removing the notation on the Framework Plan, particularly in what is a vacant brownfield development site.

The Panel also supports Council’s rationale for retaining a three metre front setback because it enables more significant planting to occur other than in the public realm. The Panel notes that providing indented parking is a requirement of the Central Sub-precinct Development Plan and supports its retention for the potential benefit to the public realm.

The Panel does not support Mr Barnes’ evidence that the DPO2 should include standard lot sizes for the sub-precincts. In the Panel’s view this would make the Schedule too prescriptive and not provided the flexibility normally found on a DPO.

5.3.4 Conclusions

The Panel concludes:

- The DPO2 provisions in relation to the east west access road through the Central Sub-precinct are appropriate.
- The DPO2 requirements for front setbacks are appropriate.
- The Committee supports the retention of the three metre front setback.

5.4 Affordable housing

5.4.1 Background

Clause 4.0 of the DPO2 contains the following provision under the heading Affordable Housing:

Measures to encourage that an affordable housing contribution is provided equivalent to 10 per cent of the total number of dwellings to be developed in each sub-precinct.

5.4.2 The issue

The issue is whether the DPO2 requirement for a 10 per cent affordable housing contribution is justified.

5.4.3 Evidence and submissions

Council referred the Panel to Directions 2.3 and 2.4 of Plan Melbourne which seek to facilitate the supply of social and affordable housing and Clause 16.01-2S of the Planning Scheme which has the objective:

To deliver more affordable housing closer to jobs, transport and services

Council also referred the Panel to its 2016 Affordable Housing Policy Statement. This statement includes the following provision for strategic redevelopment areas and strategic redevelopment sites:

Council will:

Seek 10 per cent non-market affordable housing (as per the previous iteration of this policy statement) until a revised trigger is in place

Capture the betterment uplift of zoning changes, amended planning controls (e.g. building heights), or significant public infrastructure investments (e.g. road or rail changes)

Be incorporated in planning overlays, Section 173 Agreements, and or planning conditions.

Council provided the Panel with recent examples of affordable housing contributions that ranged from 5 to 10 per cent provided in recent development approvals. Council noted that Precinct 15, as part of Amendment C88hbay, provided *“5 per cent constructed and offered for sale to a registered agency at a discount of 25 per cent to the market value.”* Council acknowledged that this was less than the 10 per cent sought as part of this Amendment but was offset by provision of a community facility and unencumbered public open space.

Council advised that it had established the Hobsons Bay Affordable Housing Trust and had endorsed Housing Choices Australia as the Trustee. It added:

In Council's submission, there is ample policy support to justify a requirement on the Owners to deliver affordable housing at the upper end of the spectrum of affordable housing contributions attained by Council at strategic redevelopment sites in recent years.

The position advocated for by Council in relation to this Amendment is not 10% built and delivered, but 10% built and delivered at a discount to market value.

Council invited the Panel to comment of the wording of the DPO2 and the s173 agreement in relation to affordable housing.

Mr Barnes's evidence was that there is strong policy support for a requirement to provide affordable housing as part of any redevelopment. He added that there is *“strong precedent to require affordable housing to be provided by way of a Section 173 Agreement.”* He observed that the policy has not been incorporated into the planning scheme and concluded:

In relation to the proportion of affordable housing required to be provided, it is up to Council to justify the proportion sought in relation to Precinct 16 West.

The Proponent submitted that in discussions with Council clause 6.1.1(b) of the affordable housing draft s173 agreement was amended to clarify the amount of the contribution to be made. Council

provided this amended agreement as its day three version.⁵⁶ As a consequence, the Proponent advised that only the following two matters remained unresolved with respect to affordable housing:

- the percentage of dwellings to be provided as affordable housing: Council seeks a contribution of 10 per cent, whereas the Proponent considers 5 per cent is appropriate
- the fact that there ought to be separate s173 agreements for each landowner – such that the contribution of one landowner is not tied to the contribution of any other landowner.

The Proponent submitted that there is no provision in the planning scheme that requires an affordable housing contribution. It added that there is nothing in the DPO2 that explains that the contribution is a discount on dwellings rather than the gifting of constructed dwellings. In addition, there is no evidence that supports a 10 per cent contribution rate and:

Quite to the contrary, Council's proposed 10 per cent contribution is not supported by the expert evidence they have called.

The Proponent stated that the 10 per cent contribution was an aspirational target which Council have not sought to include in the planning scheme. It concluded:

Nevertheless, Alceon does not object to a further requirement for an additional affordable housing requirement, but considers 5 per cent of dwellings provided as affordable housing is a fair and reasonable contribution, provided Clause 6.1.1(b) is reworded to require only the value of the discount that would be provided if dwellings had been accepted, as detailed above.

Mr Milner's evidence was that a 5 per cent contribution to affordable housing was typical in his experience.

Newport Apartments submitted that it was opposed to any mandatory requirement for an affordable housing contribution because it lacked a strategic basis and there is no lawful mechanism in place to implement such a scheme. It added that, in the absence of such a framework, any implementation of affordable housing should be based on negotiation and agreement.

Newport Apartments set out the contributions in the following strategic redevelopment areas:

- Precincts 15 - 5 per cent contribution based on a 25 per cent discount
- Precinct 16 East - 5 per cent contribution based on a 25 per cent discount
- Precinct 17 - 0 per cent contribution.

It observed that the draft s173 agreement was not part of the documents exhibited with the amendment documentation. It submitted:

As previously stated, NAV is not opposed to making an affordable housing contribution on the same terms as was agreed for Precinct 16 East.

Mr Glossop's evidence was that Amendment C131hbay proposed to implement the Affordable Housing Policy Statement by making it a background document in the Planning Policy Framework. He added that the C131hbay Panel observed that further strategic work would be required if Council wished to pursue affordable housing through the planning process and the Panel recommended the following:

At Clause 74.02 (Further strategic work) include "Implement into the Planning Scheme a framework for addressing affordable housing."

⁵⁶ Document 79.

Mr Glossop stated:

In the absence of clear, State government direction, many planning authorities like Hobsons Bay have adopted policy statements and have sought to direct more affordable housing outcomes through various measures, including policy, the use of the Development Plan Overlay and tailored zones and schedules that require either mandatory or discretionary outcomes.

His evidence was that he agreed with the concerns expressed by the C131hbay Panel that a municipal wide framework is required and additional strategic work is needed to justify that framework. As a consequence, he did not consider the 10 per cent requirement justified.

Vega submitted that the 10 per cent should be on the basis of an uplift in value as a result of the Amendment and this needed to be clarified. It added if this position is not clarified, Council could adopt 10 per cent as its default position.

5.4.4 Discussion

The Panel, like the parties, does not dispute the need for affordable housing to be part of the redevelopment. The Panel notes that one of the objectives of the PE Act is to “*facilitate the provision of affordable housing in Victoria*” and s173 allows an agreement to provide for affordable housing. Nevertheless, neither the Planning Scheme nor the PE Act specify a quantum or methodology for calculating the provision of affordable housing. In effect this is left to be negotiated by the parties and then formalised by an agreement.

The Panel accepts the submissions of the Proponent and Newport Apartments that the Council’s Affordable Housing Policy has not been incorporated into the Planning Scheme and therefore has not been subject to the examination and assessment that an amendment would require. As a consequence, there has been no strategic justification of the proposed 10 per cent requirement. In addition, a 10 per cent requirement appears to be a significant increase over what has been agreed in other strategic redevelopment sites.

The Panel notes that both the Proponent and Newport Apartments, in their written submissions, have confirmed their support for a 5 per cent affordable housing contribution based on housing built and delivered at a 25 per cent discount to market value. In the Panel’s view this is a useful base for Council and the landowners to commence negotiations and eventually reach an agreement that can be embodied in a s173 agreement.

The Panel supports the position of both the Proponent and Newport Apartments that the contribution rate in the DPO should be specified as 5 per cent, but as a minimum and the wording of the requirement should be amended to clarify that this contribution applies to a 25 percent discount to the market value. The Panel also agrees that there should be an agreement for each landowner. The Panel is not persuaded by the submissions of the Proponent and Newport Apartments that the changes proposed to the wording of the affordable housing requirement by removing reference to a percentage rate is appropriate. In the Panel’s view the percentage should be specified as 5 per cent given that both parties have submitted that this is a reasonable quantum. In addition the percentage should be specified as a minimum to allow Council to negotiate a different rate.

The Panel observes that the draft s173 agreement has been amended to deal with the concerns of the Proponent, other than the 10 per cent. However, Newport Apartments have proposed further changes. Other than agreeing that the changes proposed by Council to Document 79 are appropriate, the Panel makes no further comment on the agreements. In the Panel’s view the

format of the agreements should be discussed and negotiated between the parties and eventually agreed and it is not the role of the Panel to predefine what should be included in the agreement.

5.4.5 Conclusions

The Panel concludes:

- The provision of affordable housing should be a requirement of the DPO2.
- The requirement of 10 per cent lacks strategic justification.
- The provision of affordable housing is subject to agreement between the landowners and Council.
- A requirement of 5 per cent is consistent with the requirements of other strategic redevelopment areas.
- The DPO2 requirement for the provision affordable housing should be clear that it applies to a 25 per cent discount to the market value.

The Panel has recommended new text under the heading Affordable housing in Clause 4.0 of the Panel Preferred version of Schedule 2 to the Development Plan Overlay as shown in Appendix E.

6 Other issues

6.1 Pipeline protection

6.1.1 The issue

The issue is whether the Amendment and draft development plans adequately account for the need to protect existing hydrocarbon pipelines and new residents in the area.

6.1.2 Evidence and submissions

A number of agencies and pipeline operators/owners made submissions to the Amendment and Mobil attended the Hearing.⁵⁷ These submissions were not objections to the Amendment but sought to ensure that pipelines in the area along the northern boundary and Stephenson Street are acknowledged and planned for during the transition of the site from industrial to residential use.

Energy Safe Victoria (ESV) identified the pipelines as:

- Somerton Pipeline (PL-118) owned by Mobil Aviation (JUHI) runs in the railway easement north of Precinct 15 & 16.
- BP has an abandoned pipeline running along the Blackshaws Road.
- PL19 owned by AusNet Services runs along Stephenson St and Blackshaws Road next to proposed precinct.
- APA VTS PL108 along Moresby Street and Birmingham Street also passes behind the site.

ESV submitted that the DPO2 should include PL19 above which Council accepted.

APA Group provided a comprehensive submission noting the regulatory framework around pipeline protection through the Pipelines Act 2005. They outlined a number of issues and submitted, in summary, that the following changes should be made to the Development Plan:⁵⁸

- the South Melbourne – Brooklyn high pressure gas pipeline should be included on the Development Plan
- the development plan should specify a 3 metre minimum setback from the above pipeline.

And the following changes be made to DPO2:

- Include the above pipeline in the schedule and include requirements for a risk assessment and implementation of its recommendations.

In addition to the revised text in Clause 4.0 of the DPO2 (discussed further below), Mobil submitted there should be a higher degree of detail in DPO2 covering, in summary:⁵⁹

- details of construction management
- details of protective design measures

⁵⁷ See Energy Safe Victoria Submission 9, Mobil submission 24, APA Group Submission 31, VicTrack Submission 32.

⁵⁸ Submission 31, page 4.

⁵⁹ Document 19.

- specifying no ‘sensitive uses’ as defined in the Australian Standard AS2885.6:2018 (*Pipelines - Gas and liquid petroleum Pipeline safety management*) within 200 metres of the Somerton pipeline
- a landscaping plan for the northern boundary to ensure landscaping and tree species do not impact the pipelines.

Council submitted that wording had been developed which accounted for most of the issues raised by the above submitters.⁶⁰ The final wording as proposed in Clause 4.0 of DPO2 was:⁶¹

Major pipeline infrastructure.

A report that outlines the impact of the proposed development of that sub-precinct of the site adjacent to pipeline infrastructure both during construction and post-construction on the Somerton to Altona, South Melbourne to Brooklyn and West Footscray to Williamstown Licensed Pipelines, in the context of a pipeline risk assessment, and any measures required to ensure the ongoing maintenance and operation of the pipeline.

This report must be prepared in conjunction with the relevant authorities and stakeholders and according to their requirements. The recommendations of this risk assessment are to be incorporated into any final development plan approval.

Council considered that the additional detailed requirements sought by Mobil were unnecessary, as they were addressed in legislation or elsewhere in the DPO and development plans.

As mentioned in section 5.1.2 Newport Properties sought to remove ‘*and according to their requirements*’ from the above schedule wording.

6.1.3 Discussion

The Panel notes that the development adjacent to pipelines issue has been addressed thoroughly in Precinct 16 East and the approach taken here is broadly similar. The Panel considers the changes to the *Major pipeline infrastructure* part of the DPO2 schedule are important and coupled with the separate legislative and regulatory regime should ensure any risk is managed to an acceptable level.

The Panel does not consider the additional detail requested by Mobil is necessary as most of these elements are either covered in the revised Major pipeline infrastructure text or elsewhere in the DPO, as well as in the requirements of the *Pipelines Act 2005*.

The Panel also does not accept the deletion requested by Newport Properties; it considers the requirements of the regulatory agencies and pipeline owners/operators are critical to this issue.

The Panel supports the inclusion of, and consistent reference to, the South Melbourne – Brooklyn high pressure gas pipeline in the Northern Sub-precinct Development Plan and has recommended accordingly below.

6.1.4 Conclusions and recommendation

The Panel concludes:

- The risk to pipelines and future residents can be managed to an acceptable level.
- Revised wording is required as submitted by Council following further discussion with pipeline owners, operators and regulators.

⁶⁰ Noting that in section 5.1.2 the planning experts agreed that further wording was required around the pipeline issue.

⁶¹ Document 102.

The Panel has included the agreed wording to DPO2 in Appendix E.

The Committee recommends:

Modify the Northern Sub-precinct Development Plan to ensure the South Melbourne – Brooklyn High Pressure Gas Pipeline is referenced to be consistent with the Somerton – Altona Joint Venture pipeline.

6.2 Economics and Able Industries

6.2.1 The issue

The issue is whether the cost of relocating Able Industries is a relevant matter for the Panel.

6.2.2 Evidence and submissions

Brymart submitted that the amendment, in its current form, would place Able Industries at a disadvantage which acts as a significant deterrent to relocating its activities. It added:

...that the Panel should have due regard to the fact that not only does the Amendment in its current form represent an underdevelopment, but that the commercial reality of relocation is such that the current controls proposed by the Amendment are such that Able Industries would be at an astounding loss if it were required to relocate.

Ms Carstairs gave economic evidence for Brymart on the likely costs and financial returns associated with the following development scenarios:

Scenarios 1a and 1b

Acquiring and developing a like-for-like facility to that on the Site, on land to be acquired in Hobsons Bay (1a) or Wyndham (1b) to allow for the relocation of Brymart's existing tenants

Scenarios 2a and 2b

Undertaking a townhouse (2a) or apartment (2b) development on the Site in accordance with the planning controls contemplated by Amendment C114;

Scenarios 3a and 3b

Undertaking a 6-level (3a) or 8-level (3b) apartment development on the Site in accordance with alternative zoning to that contemplated by Amendment C114.

These scenarios were chosen to *"to identify the associated costs in relocating Brymart and development potential of the site under new planning control."* She advised that scenarios 2 and 3 were based on indicative and planning scheme compliant plans prepared by Ratio Consultants.

Her evidence was that the cost for Able Industries to relocate to Wyndham (Scenario 1a) or elsewhere in Hobsons Bay (Scenario 1b) would be in the order of \$16.51 to \$16.95 million respectively. Scenarios 2 and 3 then explored the more detailed cost estimates for the potential development options for the land at 5-7 Sutton Street where Brymart sold the land to a developer or where it elected to develop the land.

Her conclusions were:

Scenarios 2a and 2b identify that if Brymart were to sell the Site with the proposed Amendment C114 in place, a third-party developer would be likely to pay between \$4,500,000 and \$5,064,188 (to undertake a townhouse development) or \$3,000,000 and \$4,132,543 (to undertake an apartment development).

Accordingly, under Amendment C114, it is apparent that it would cost Brymart more to relocate to new premises than it would expect to receive under a sale of the Site.

Should planning controls provide for a higher yielding scheme (such as those contemplated by Scenarios 3a and 3b), it would still likely cost Brymart more to relocate to new premises than it would expect to receive under a sale of the Site.

On the other hand, were Brymart to redevelop the Site as contemplated by Scenarios 3a or 3b, Brymart's returns under these scenarios would exceed the costs associated with relocating their tenants businesses to a new premises under both Scenarios 1a and 1b.

Council submitted that the development yield needed to render relocation of Able Industries feasible is a private economic matter and not relevant to the Panel's considerations. It referred to the Melbourne C207 Panel report and *Dustday Investments Pty Ltd v Minister for Planning [2015] VSC 101*. Council added that the approach required in PPN47 Strategic Assessment Guidelines is a consistent reference to the economic wellbeing of the community and not an individual landowner.

Council argued that the development feasibility provided by Ms Carstairs did not extend beyond 2021. It submitted that under cross examination Ms Carstairs agreed that circumstances may well change over time. Council added:

What is also clear from the extended consideration to the relevance of economic considerations at the Amendment stage in the report of the Melbourne C207 Panel is that whenever consideration is to be given to alleged adverse economic consequences of an amendment, the potential positive economic consequences also need to be considered, and that the exercise of considering the positives and the negatives cannot be confined to a short term view (i.e. the immediate consequence of a given rezoning or change to the controls applied to land by a scheme) but there also needs to be regard had to the long term positive and negative impacts as well.

6.2.3 Discussion

The Panel understands that the work undertaken by Ms Carstairs is based on a number of assumptions and estimates. For example, changes in the bedroom configuration of the dwellings and the yield can produce different results. This goes some way to explaining the different costs per dwelling in Ms Carstairs calculations, particularly in the two apartment configurations of scenario 3. However, the Panel acknowledges that these differences are an inevitable component of providing cost estimates for development options.

The Panel accepts Brymart's submission that Able Industries do not intend to relocate or cease operations at the site in the foreseeable future and acknowledges that the cost of relocating is significant. However, the site has continuing use rights and additional provisions have been included in the DPO2 to protect Able Industries' ability to continue to use the site.

Nevertheless, the Panel accepts the Council's submission that private short term economic circumstances are not a matter for consideration as part of the Amendment. The Panel is familiar with the Melbourne C207 Panel report, the Dustday Investments decision⁶² and a number of other Panel reports that deal with this matter. The Panel agrees with the view expressed by other panels that, with respect to section 12(2)(c) of the Act, the economic effects considered as part of an Amendment should be of a broader or community nature and not individual circumstances.

The Panel understands that the cost of relocation will significantly influence Able Industries' decision to move but it is one of a number of matters for consideration in such a decision. In the Panel's view it is not a sound or strategic justification for changing the planning controls proposed by the Amendment.

⁶² *Dustday Investments Pty Ltd v Minister for Planning [2015] VSC 101*.

6.2.4 Conclusion

The Panel concludes:

- the cost of relocating Able Industries is not a relevant matter for the Panel.

6.3 Environmental performance

6.3.1 The issues

A number of submissions went to the environmental performance of the Amendment and future development. Specific issues included:

- tree cover
- amount of open space
- Water Sensitive Urban Design (WSUD)
- Environmentally Sustainable Design (ESD).

The issue for the Panel is whether the measures in the Amendment are acceptable in the light of requirements in the planning scheme.

6.3.2 Evidence and submissions

Mr Barnes (submission 11) submitted on a range of environmental matters including the need for tree coverage to reduce the urban heat island effect and provide for biodiversity and ornamentation. He also submitted street lighting should be energy efficient and attractive.⁶³

Another submitter Mr Milanese appeared at the Hearing and articulated concerns about the need for more parks in the area. In his written submission he suggested among other things that development along the rail line could be limited to three stories and a park provided between development and rail line.⁶⁴

Ms Heggen submitted that more trees are needed in the proposal for many reasons including climate change resilience. She submitted the development should be, in summary:⁶⁵

- fostering 20 minute villages with public and private housing, art spaces, intergenerational living and promoting public over private transport
- sustainable with onsite wastewater treatment and renewable energy and battery storage.

She submitted the Council can provide leadership on these issues.

Mr Sauvarin submitted there was a need to provide up to 20 per cent open space for children to play, dog areas, space for trees and the resultant cooling from tree canopies.⁶⁶ He submitted the planning controls should encourage private tree planting and on roadsides by providing enough space and that there is already not enough open space in the area.

Submitters Mr Eden and Ms Starr were also concerned about sustainability. They submitted that development should integrate solar and renewable energy more effectively through a local micro-grid. They were also concerned about the amount of open space proposed and suggested that up

⁶³ Submission 11.

⁶⁴ Submission 20.

⁶⁵ Submission 01.

⁶⁶ Submission 19.

to 10 per cent should be provided to provide shade for an improved micro-climate and green space.⁶⁷

Council highlighted the environmental and sustainability requirements that development will need to meet in the planning scheme including zone requirements and those in the DPO itself. These include landscaping and high quality streetscape responses.⁶⁸

It submitted that the residential future for the land should result in more opportunities for planting and reducing the urban heat island effect in accordance with its *Urban Forest Strategy* than an industrial use with greater hardstand areas. Council noted that the land has very little remnant biodiversity values.

Council agreed with submitters that development of the site must include sustainability measures such as energy efficiency. It highlighted the clause in the DPO2 requiring and *Environmentally Sustainable Development Strategy* and a *Stormwater Management Strategy*.⁶⁹ It also submitted that applications under the new planning controls will need to address the policy considerations around sustainability.

Council submitted that the provision of open space is in accordance with the Planning Scheme:

The space is 5% of the size of the central sub-precinct element of the Land. The provision of space in this order is consistent with the ILMS, with Council's Open Space Strategy⁷⁰ and is equitable relative to public open space requirements made of other strategic redevelopment sites by Council in the northern areas of the municipality.

6.3.3 Discussion

The Panel notes the submissions in relation to the environmental performance of the new development and understands the concerns of submitters in relation to the need for increased tree cover and open space.

In a warming climate there is clearly a need for increased tree cover and much higher performance from our residential dwellings to ensure that communities will be resilient to temperature and weather shocks that are predicted to occur.

However, the Panel notes that the Amendment must be assessed against planning policy and the planning scheme. Reviewing the range of policies and the requirements of the DPO2 itself the Panel is satisfied that the Amendment and subsequent development can meet acceptable environmental standards while providing much needed housing.

The Panel also considers that the Amendment meets the requirements of the planning scheme in relation to open space. The Panel notes submissions regarding the need for more open space and does not disagree with them, but the provision of open space over and above planning scheme requirements cannot be forced by the Amendment.

It is also important to note that the site is transitioning from an industrial use, and much of the site is derelict now, to a residential use which will by its nature result in a much higher amenity outcome.

⁶⁷ Submission 26.

⁶⁸ Document 39, para 124 onwards.

⁶⁹ Document 39, para 140 onwards.

⁷⁰ The Panel is referred to the Part A submission at pages 36 to 37 for the full details.

6.3.4 Conclusion

The Panel concludes:

- The environmental sustainability and open space elements of the Amendment are acceptable.

7 Draft development plans

7.1.1 Background

As included in Appendix A, the Committee's appointment as an Advisory Committee requires it to:

... advise on the planning merits of the Northern Sub Precinct and Central Sub Precinct Development Plans which were prepared in support of Amendment C114hbay to the Hobsons Bay Planning Scheme and the provisions of proposed schedule 2 to the Development Plan Overlay.

7.1.2 Discussion

With some relatively minor exceptions, the draft development plans were not challenged substantially by submitters. The exceptions tended to go to matters of details and discussion of most of these is included in the issue chapters in this report. The Committee makes the following recommendations elsewhere in this report on issues related to the Northern Sub Precinct Development Plan.

Table 3 Recommendations on development plan issues

Precinct	Recommendations
Northern Sub Precinct	<ul style="list-style-type: none"> - Consult the Department of Transport to ascertain if the 432 Bus Route should be amended to utilise the East-West access road and Sutton Street to access Blackshaws Road using the proposed traffic signals. If the change is supported, the Development Plan Overlay Schedule 2 and development plans may need to be modified accordingly. - Treat uncontrolled cross intersections (excluding laneways) with traffic management and: <ul style="list-style-type: none"> ○ Amend the development plan(s) to show these intersections requiring traffic management ○ Resolve this issue during detailed design. - Remove the redundant footpath from the railway reserve between Stephenson Street and the pedestrian rail crossing from the Northern Sub-Precinct Development Plan - Modify the Northern Sub-precinct Development Plan to ensure the South Melbourne – Brooklyn High Pressure Gas Pipeline is referenced to be consistent with the Somerton – Altona Joint Venture pipeline.

There were a number of other submissions on matters of details including:

- Crossovers and setbacks
- Internal spaces
- Obscure glazing.⁷¹

Whilst these matters of details took up some considerable time in the Hearing, the Committee considers, and this was acknowledged by parties and experts, that these are matters which can be satisfactorily addressed within the framework of the DPO and development plans. The Committee does not consider that they warrant changes to the exhibited draft development plans at this time.

⁷¹ These last two raised in particular in the supplementary evidence of Mr Milner, Document 81.

The Committee also notes that the documents are very lengthy and would benefit from a significant edit by a technical editor, a task the Committee has not attempted in the time available to it.

7.1.3 Conclusions

The Committee concludes:

- The Northern and Central Sub Precinct Development Plans have significant planning merit.
- Subject to changes recommended in this report and subsequent changes driven by changes in the DPO2, the Northern and Central Sub Precinct Development Plans should form the basis for a sound detailed planning framework for the two sub precincts.
- Both draft development plans would benefit from a significant 'policy neutral' edit to simplify them.

Appendix A Terms of Reference

Terms of Reference

Amendment C114hbay – Proposed Northern and Central Development Plans

Advisory Committee

Version: 27 October 2021

Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to report, concurrently with a Planning Panel, on the planning merits of proposed Northern Sub Precinct and Central Sub Precinct Development Plans.

Name

The Advisory Committee is to be known as the 'Proposed Northern and Central Development Plan Advisory Committee'.

1. The Advisory Committee is to have members with the following skills:
 - a. Statutory and strategic planning,
 - b. Urban design

Purpose

2. The purpose of the Advisory Committee is to advise on the planning merits of the Northern Sub Precinct and Central Sub Precinct Development Plans which were prepared in support of Amendment C114hbay to the Hobsons Bay Planning Scheme and under the provisions of proposed schedule 2 to the Development Plan Overlay (Precinct 16 West).

Background

3. The CEO of Hobsons Bay City Council, under delegation of the Council (resolution of 14 April 2020) has requested that the Minister for Planning appoint an independent planning panel under Part 8 of the Act to consider all of the submissions received to Amendment C114hbay.
4. Hobsons Bay City Council has also requested that the Minister appoint an Advisory Committee pursuant to section 151 of the Act to complement the Panel hearing on Amendment C114hbay and advise on the appropriateness of the two Development Plans submitted in response to the draft Development Plan Overlay Schedule 2 (DPO2).
5. Amendment C114hbay applies to land at 5-7 Sutton Street (Southern Sub-Precinct), 9-9A Sutton Street (Central Sub Precinct) and 41-59 Stephenson Street (Northern Sub Precinct).
6. This land has been identified as industrial land with the potential for future residential development in the Hobsons Bay Industrial Land Management Strategy 2008. The land is within a larger precinct, with the eastern half of the precinct already rezoned to support residential development (with permit in place).
7. Amendment C114hbay seeks to transition the land from industrial to residential use. Specifically, Amendment C114hbay proposes the following changes:
 - a. Rezone land from Industrial 3 Zone (IN3Z) and part General Residential Zone to General Residential Zone - Schedule 4 (GRZ4) and Residential Growth Zone - Schedule 2 (RGZ2).
 - b. Apply a Development Plan Overlay - Schedule 2 (DPO2).
 - c. Apply an Environmental Audit Overlay (EAO) to areas not already covered by an EAO.
 - d. Remove Heritage Overlay HO274 from part of 41-59 Stephenson Street as a permit was granted for demolition of buildings in 2011 and the buildings have since been removed.

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- e. Amend Clause 53.01 to introduce a 5 per cent public open space contribution.
- 8. Two Development Plans have been submitted for the Northern Sub Precinct (prepared by Tract dated 26 March 2021) and the Central Sub Precinct (prepared by Hollerich Town Planning dated March 21), Hobsons Bay City Council is the responsible authority for determining to approve the Development Plans.
- 9. Two planning permits for subdivision have also been submitted with Amendment C114hbay to align title boundaries with the future proposed residential boundaries.
- 10. Hobsons Bay City Council received 34 submissions (32 objecting or seeking changes, two supportive or no changes) in response to the exhibition of Amendment C114hbay and Development Plans.
- 11. Hobsons Bay City Council has requested that the Panel and Advisory Committee operate concurrently with the dual role of hearing submissions in response to Amendment C114hbay and the Development Plans.
- 12. Working together, the Panel and Advisory Committee will provide interested parties who have made submissions that relate to Amendment C114hbay and/or the Development Plans an opportunity to have their views heard at a single forum.
- 13. The Advisory Committee will provide advice on the Development Plans to Hobsons Bay City Council in a single report.

Method

- 14. The Advisory Committee may apply to vary these Terms of Reference in any way it sees fit before submitting its report.
- 15. The Advisory Committee may inform itself in anyway it sees fit, but must consider:
 - a. Relevant documentation submitted with Amendment C114hbay and the Development Plans.
 - b. The objectives of the Act, *Plan Melbourne 2017-2050* and any relevant provisions in the Hobsons Bay Planning Scheme including those proposed under Amendment C114hbay.
- 16. The Advisory Committee is not expected to carry out any additional public notification or referral, but may do so if it considers it to be appropriate.
- 17. The Advisory Committee must consider all relevant submissions.
- 18. The Advisory Committee is expected to carry out a public hearing.
- 19. The Advisory Committee may conduct workshops or forums to explore design issues or other matters. Any workshops or forums will be a public process.
- 20. The following parties should be asked to present to the Advisory Committee:
 - a. Hobsons Bay City Council
 - b. The landowners and their representatives
 - c. Any person who made a submission regarding the Development Plans
- 21. The Advisory Committee may limit the time of parties appearing before it.
- 22. The Advisory Committee may prohibit or regulate cross-examination.

Submissions are public documents

- 23. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it until a decision has been made on its report or five years has passed from the time of its appointment.

24. Any written submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain 'in camera'.

Outcomes

25. The Advisory Committee must produce a written report for the Minister for Planning providing the following:
- An assessment of the planning merits of the Northern Sub Precinct Development Plan and Central Sub Precinct Development Plan against the Draft DPO2 provisions.
 - An evaluation of the proposed urban design response within the Development Plans including but not limited to the building setbacks, building heights, temporary acoustic measures, public realm quality and street network (refer also letter dated 26 March 2021 prepared by Hollerich Planning in relation to the Central Development Plan).
 - An assessment of submissions to the Advisory Committee.
 - Any other relevant matters raised in the course of the Advisory Committee Hearing.
 - A list of persons who made submissions considered by the Advisory Committee.
 - A list of persons to be consulted or heard.
26. The report is to be a single report prepared in conjunction with the Panel for Amendment C114hbay.

Timing

27. The Advisory Committee is required to complete its joint hearings with the Panel for Amendment C114hbay as soon as practicable once all parties have been advised and directions hearing held.
28. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 40 business days from the from the completion of its hearings.

Fee

29. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
30. The costs of the Advisory Committee will be met by proponents of Amendment C114hbay and the Development Plans.



Richard Wynne MP
Minister for Planning

Date: 12/12/21

The following information does not form part the Terms of Reference.

Project Management

- 1 Administrative and operational support to the Committee will be provided by Daniela Antovska, Planner, of the Department of Environment, Land, Water and Planning, on 8508 0569 and daniela.antovska@delwp.vic.gov.au.
- 2 Day to day liaison for the Advisory Committee will be through Tom Milverton, Project Support Officer, of Planning Panels Victoria on 8508 2691 and tom.milverton@delwp.vic.gov.au.

Appendix B Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Barbara Heggen	19	Matt Sauvarin
2	Charles Moscato	20	John Milanese
3	Daniel Summers	21	Adrian Han Yang Lee
4	Damian Fratric	22	Paul Scarpari
5	George Tothill	23	Matthew Tan
6	Rhonda Kaminski	24	Bradley Frick
7	Paul Edney	25	Sarah Thomas
8	Alex Panayi	26	Paul Eden
9	Anastasia Kontogiorgis	27	Leisa Davies
10	Adrian Bishop	28	Trisha Brice
11	Brenton Barnes	29	George Lattouf
12	Catherine Power	30	James Noy
13	Carmela Puopolo	31	Michael Mielczarek
14	Darren Sant	32	Kate Kraft
15	Julia Ius	33	Nick Bradley
16	Bruce MacKenzie	34	Cheng Wai Kwong
17	Tim Crawford	35	Energy Safe Victoria
18	Johnny Fernandez		

Appendix C Parties to the Hearing

Submitter	Represented by
Hobsons Bay City Council	Adeline Lane of Jackson Lane Legal, who called expert evidence on: <ul style="list-style-type: none"> - planning from Chris De Silva of Mesh Planning - planning from David Barnes of Hansen Partnership - traffic from Charmaine Dunstan of Traffix Group
Alceon Group No. 67 Pty Ltd	Paul Chiappi and Carly Robertson of Counsel instructed by Norton Rose Fulbright, who called expert evidence on: <ul style="list-style-type: none"> - acoustics from Jim Antonopoulos of SLR Consulting - planning from Rob Milner of Kinetica - traffic from Hilary Marshall of Ratio
Newport Apartments (Vic) Pty Ltd	Andrew Natoli of Equipe Lawyers, who called expert evidence on: <ul style="list-style-type: none"> - planning from John Glossop of Glossop Town Planning - acoustics from Jim Antonopoulos of SLR Consulting
Brymart Pty Ltd (and Able Industries)	James Lofting of HWL Ebsworth Lawyers, who called expert evidence on: <ul style="list-style-type: none"> - property economics from Emma Carstairs of Resin - urban planning / design from Tim Biles of Ratio - traffic from Russell Fairlie of Ratio - acoustics from Nicholas Peters of Renzo Tonin
Vega One Pty Ltd	Sarah Thomas of SJB Planning
Mobil Oil Australia Pty Ltd	Brad Frick
John Milanese	

Appendix D Document list

No.	Date	Description	Provided by
1	22 Oct 21	Directions Hearing Notification Letter	PPV
2	9 Nov 21	Directions and Timetable	PPV
3	12 Nov 21	Map of submitters and details <i>For Panel Only</i>	Hobsons Bay City Council
4	"	Addendum to the EPA Submission	"
5	"	Information received after exhibition - Arborist Final Report	"
6	"	Information received after exhibition – DoT response	"
7	"	Information received after exhibition - Melbourne Water response	"
8	"	Information received after exhibition - SLR letter dated 6 October in response to EPA submission	"
9	"	Information received after exhibition - Ecology and Habitat Assessment - Ecology and Heritage Partners	"
10	"	Information received after exhibition - Odour & Air Quality assessment prepared by SLR	"
11	"	Proposed post exhibition changes to Schedule 2 to DPO	"
12	"	Precinct 16 West - Landowner Map	"
13	15 Nov 21	Statement of position from Newport Apartments (Vic) Pty Ltd	Newport Apartments
14	22 Nov 21	Letter from Council to the Panel 22 Nov 21	Council
15	"	Late submission from Energy Safe Victoria	"
16	24 Nov 21	Council Part A Submission including attachments: <ul style="list-style-type: none"> a. Attachment 1 - PA1945411 Permit Approved Building A#2 b. Attachment 1 - PA1945441 Permit Approved Building B#2 c. Attachment 2 - Officer report d. Attachment 2 - Urban context and design response e. Attachment 3 - Masterplan f. Attachment 3 - Section 173 Agreement g. Attachment 4 - Permit Approval h. Attachment 5 - Amended Permit 30 April 2021 i. Attachment 5 - Architectural plans j. Attachment 5 - Original permit k. Attachment 6 - Submissions and Council response l. Attachment 7 - Affordable Housing Policy Statement 	Council

No.	Date	Description	Provided by
2016			
Attachment 7 - Section 173 Agreement - C114hbay - Affordable housing			
17	25 Nov 21	Email from PPV to Parties - Filing of expert evidence	PPV
18	"	Further Hearing details	"
19	29 Nov 21	Hearing submission	Mobil
20	"	Expert Witness Statement - Charmaine Dunstan - Traffic	Council
21	"	Expert Witness Statement - David Barnes - Planning	"
22	"	Letter from Proponent to Panel filing evidence	Alceon Group No 67 Pty Ltd
23	"	Expert Witness Statement - Jim Antonopoulos - Acoustics	"
24	"	Jim Antonopoulos - Proposed Schedule 2 to DPO Markup	"
25	"	Expert Witness Statement - Rob Milner - Planning	"
26	"	Expert Witness Statement - Hilary Marshall - Traffic	"
27	30 Nov 21	Expert Witness Statement - Christophe Delaire - Acoustics	Alceon Group No 67 Pty Ltd
28	1 Dec 21	Letter from Newport Apartments (Vic) Pty Ltd to Panel - Filing of Expert witness statements	Newport Apartments (Vic) Pty Ltd
29	"	Expert Witness Statement - John Glossop - Planning	"
30	"	Expert Witness Statement - Chris De Silva - Planning	Council
31	"	Expert Witness Statement - Nicholas Peters - Acoustics	Brymart Pty Ltd
32	"	Expert Witness Statement - Russell Fairlie - Traffic	"
33	"	Expert Witness Statement - Emma Carstairs - Economics	"
34	"	Expert Witness Statement - Tim Biles - Urban Design and Planning	"
35	6 Dec 21	Correspondence between Council and Energy Safe Victoria	Council
36	8 Dec 21	Statement of Facts & Outcomes of meeting of Traffic Experts	Alceon Group No 67 Pty Ltd
37	"	Notes of meeting of Acoustic Experts	"
38	"	Marked up version of proposed Schedule 2 to DPO by Acoustic Experts	Alceon Group No 67 Pty Ltd
39	10 Dec 21	Council Part B Submission	Council
40	"	Explanatory Report for s96A Exhibition - EAO changes	"
41	"	Instruction Sheet	"

No.	Date	Description	Provided by
42	"	Schedule 2 to Clause 32.08 General Residential Zone - Track changes	"
43	"	Schedule 2 to Clause 43.04 Development Pan Overlay - Track changes	"
44	"	Schedule to Clause 43.01 Heritage Overlay	"
45	"	Schedule to Clause 53.01 Public Open Space Contribution and Subdivision	"
46	"	Development Plan Overlay Schedule 2 Map	"
47	"	Environmental Audit Overlay Map	"
48	"	General Residential Zone and Residential Growth Zone Map	"
49	"	Heritage Overlay Map	"
50	"	Draft Memorandum of Understanding	"
51	"	Draft Section 173 Agreement - Central Sub-precinct	"
52	"	Draft Section 173 Agreement - Northern Sub-Precinct	"
53	"	Draft Section 173 Agreement - Southern Sub-Precinct	"
54	"	Draft Section 173 Agreement Affordable Housing - Track changes	"
55	"	Development Plan Central Sub-Precinct - Hollerich Town Planning March 2021	"
56	"	Development Plan Northern Sub-Precinct - Tract March 2021	"
57	"	Central sub-precinct ESD Report	"
58	"	Draft Signalised Intersection Signs - Sutton Street Blackshaws Road	"
59	"	Environmental Report - Environmental Assessment Service - September 2018	"
60	"	Infrastructure and Development Contribution Report – O'Neill Group - April 2021	"
61	"	Noise and Vibration Report - SLR - August 2020	"
62	"	Northern sub-precinct ESD Report	"
63	"	Planning Report - Hollerich Town Planning - May 2021	Council
64	"	Social Impact Assessment - Public Place - March 2019	"
65	"	Stormwater Drainage Strategy – O'Neill Group - June 2020	"
66	"	Traffic Impact Assessment - GTA - June 2020	"
67	"	Draft Planning Permit PA1943532	"
68	"	Draft Planning Permit PA1943533	"
69	"	Plan of subdivision 41-59 Stephenson Street	"

No.	Date	Description	Provided by
70	"	Plan of subdivision 9A Sutton Street	"
71	13 Dec 21	Figure 2 from Chris De Silva Expert Witness Statement - Draft Outline Development Plan (High resolution)	Council
72	"	Preston Place Neighbourhood Home 06 plan - 13 December 2021	Alceon Group No 67 Pty Ltd
73	"	Proposed Northern and Central Development Plans Advisory Committee - Terms of Reference	PPV
74	14 Dec 21	Hobsons Bay C88 Panel Report (PSA) [2018] PPV 11 (22 February 2018)	Council
75	"	Expert Witness Statement from SGS Economics and Planning for Hobsons Bay C88 Panel	"
76	"	Homes for Victorians Report- March 2017	"
77	15 Dec 21	Email from Council filing Day 3 versions of the Draft Schedule 2 to the DPO and Draft Section 173 Agreement	Council
78	"	Day 3 version of the draft Schedule 2 to the DPO	"
79	"	Day 3 version of the draft Section 173 agreement - Affordable housing	"
80	"	Outline of Submissions	Alceon Group No 67 Pty Ltd
81	"	Supplementary Evidence of Rob Milner	"
82	16 Dec 21	Definition of Sensitive Use	Mobil
83	"	Precinct 15 Altona North Comprehensive Development Plan August 2018 Gazetted	Council
84	"	Alceon proposed changes to DPO2 - 16 December 2021	Alceon Group No 67 Pty Ltd
85	"	Alceon proposed changes to Development Plan - 16 December 2021	"
86	17 Dec 21	Hearing Submission including attachments: <ul style="list-style-type: none"> a. Attachment 1 - Priority Projects Standing Advisory Committee Referral 9 Report (AC) [2021] PPV 16 (23 March 2021) b. Attachment 2 - SMC Planning Permit No. 6176 issued 13 Feb 1996 c. Attachment 3 - Amended pollution abatement notice OP-HOC-PAN-08 d. Attachment 4 - Proposed changes to Schedule 2 to DPO - Vega tracked changes 17 Dec 21 	Vega One Pty Ltd
87	19 Dec 21	Hearing Submission including attachments: <ul style="list-style-type: none"> a. Attachment 1 - Hobsons Bay C131hbay Panel Report (PSA) [2021] PPV 63 (9 August 2021) 	Newport Apartments Vic Pty Ltd

No.	Date	Description	Provided by
		<ul style="list-style-type: none"> b. Attachment 2 - Hobsons Bay C88 Panel Report(PSA) [2018] PPV 11 (22 February 2018) c. Attachment 3 - Priority Projects Standing Advisory Committee Referral 9 Report (AC) [2021] PPV 16 (23 March 2021) d. Attachment 4 - Green v Hobsons Bay CC (Includes Summary) [2013] VCAT 2091 e. Attachment 5 - Hobsons Bay City Council Planning Permit No, PA1736660 	
88	20 Dec 21	Proposed Schedule 2 to DPO - John Glossop Track changes	Newport Apartments Vic Pty Ltd
89	"	John Glossop - Evidence picture slides	"
90	"	Tim Biles - Hearing Presentation - Urban Design and Planning	Brymart Pty Ltd
91	"	Draft DPO2 from Alceon Group - HWLE tracked changes	"
92	"	Draft DPO2 from John Glossop - HWLE tracked changes	"
93	21 Dec 21	Signed Planning Permit PA1900727 346-350 Macaulay Road, Kensington	Vega One Pty Ltd
94	22 Dec 21	Hearing submission	Brymart Pty Ltd
95	"	Council amended draft Section 173 Agreement - Northern Sub-Precinct (Track changes)	Council
96	"	Council amended Infrastructure Contributions Strategy (prepared by O'Neill Group)	"
97	"	Council amended Sutton Street Concept Design – Infrastructure Staging	"
98	"	Swept Path Diagram	Brymart Pty Ltd
99	23 Dec 21	Reply and closing submission	Council
100	"	Closing submission	Alceon Group No 67 Pty Ltd
101	"	Email from Council providing Part C documentation	Council
102	"	Tracked change Draft Schedule 2 to the DPO (DPO2)	"
103	"	Tracked change Schedule 4 to Clause 32.08 General Residential Zone (GRZ4)	"
104	"	Tracked change Northern sub-precinct - s173 agreement	"
105	14 Jan 22	Tracked change draft Schedule 2 to the DPO (DPO2)	Vega One Pty Ltd
106	"	Tracked change draft Schedule 2 to the DPO (DPO2)	Brymart Pty Ltd
107	"	Tracked change draft Schedule 2 to the DPO (DPO2)	Newport Apartments Vic Pty Ltd

Appendix E Panel preferred version of the Development Plan Overlay Schedule 2

--/-- SCHEDULE 2 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO2**

PRECINCT 16 WEST

1.0 Objectives

- /--
- To create a residential area that is responsive to its context, including industrial operations and provides a transition in character at its interfaces with existing adjoining residential areas.
 - To encourage sustainable urban renewal and increased housing affordability, diversity and density within the site.
 - To create varied, engaging and high quality architectural forms, a landscaped environment and sustainable movement networks.
 - To ensure residential development provides a reasonable level of amenity for future occupiers of the site, including but not limited to protecting future residents from the adverse impacts of industrial and traffic noise, odour, dust, vibration and the visual impact of the railway line and industrial development.
 - To protect the operations of the state and nationally significant Spotswood Locomotive Maintenance Centre from potential adverse effects of residential encroachment.

2.0 Requirement before a permit is granted

- /--
- A permit may be granted before a development plan has been approved for:
- Any buildings or works associated with the remediation of land in accordance with or for the purpose of obtaining a preliminary risk screen assessment statement stating that an environmental audit is not required or a Statement of Environmental Audit under the *Environment Protection Act 2017*.
 - Subdivision.
 - Creation, variation or removal of easements or restrictions.
 - Any buildings and works associated with the existing operations at 5-7 Sutton Street.
- Before granting a permit, the responsible authority must be satisfied that the permit will not prejudice the future use and integrated and orderly development of the site in accordance with the Development Plan requirements specified in this Schedule.

3.0 Conditions and requirements for permits

- /--
- The following conditions and/or requirements apply to permits unless otherwise agreed in writing with the Responsible Authority:
- Any development that will accommodate residential or other noise sensitive uses must be designed and constructed to include noise attenuation measures. These noise attenuation measures must ensure that:
 - Combined external noise from industry, trains and road traffic impacting residential uses is attenuated to achieve the following noise levels:
 - Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.

- Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.

Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed.

- Combined external noise from industry, trains and road traffic impacting sensitive uses other than residential uses or impacting areas of residential development other than bedrooms and living areas, is attenuated to achieve the median value of the range of recommended design sound levels of Australian Standard AS/NZ 2107:2016 (Acoustics – Recommended design sound level and reverberation times for building interiors).
These noise levels are to be measured internally at the expected occupancy position(s) in the space relevant to the noise of interest with doors and windows closed. The preferred positions are at least 1 m from the walls or other major reflecting surface, 1.2 m to 1.5 m above the floor and about 1.5 m from windows.
- Industrial noise received at new residential or other noise sensitive uses achieves internal noise levels assessed in accordance with the Noise Protocol (EPA Publication 1826.4) with the implementation of an indoor adjustment of 20 dB, while allowing for operable windows. These noise levels are to be measured internally at the expected occupancy position(s) in the space relevant to the noise of interest with doors and windows closed. The preferred positions are at least 1 m from the walls or other major reflecting surface, 1.2 m to 1.5 m above the floor and about 1.5 m from windows.
- The assessment of noise emanating from the Spotswood Maintenance Centre and Able Industries Engineering used to inform reasonably practicable noise mitigation measures must consider the status of compliance at the new sensitive use in relation to the Noise Protocol and also include a comprehensive assessment of the activities in consultation with Spotswood Maintenance Centre and Able Industries Engineering – both current and reasonably foreseen planned future activities (subject to those activities being compliant with environmental noise obligations at existing sensitive uses).
- Train airborne noise received at new residential or other noise sensitive uses is attenuated to achieve a noise level of 55 dBA, Lmax in bedrooms at night and a noise level of 60 dBA, Lmax in living areas. These noise levels are to be measured at the expected occupancy position(s) in the space relevant to the noise of interest with doors and windows closed. The preferred positions are at least 1 m from the walls or other major reflecting surface, 1.2 m to 1.5 m above the floor and about 1.5 m from windows. -The measurements should be undertaken using a ‘fast’ meter time weighting, and must be achieved for 95% of train pass-bys (i.e. 5%, 1 in 20 trains may exceed).
- Train ground borne noise received at new residential or other noise sensitive uses is attenuated to achieve a noise level of 35 dBA, Lmax, slow, in bedrooms and 40 dBA, Lmax, slow, in living areas. These noise levels are to be measured internally at the expected occupancy position(s) in the space relevant to the noise of interest with doors and windows closed. The preferred positions are at least 1 m from the walls or other major reflecting surface, 1.2 m to 1.5 m above the floor and about 1.5 m from windows. The measurements should be undertaken using a ‘slow’ meter time weighting, and must be achieved for 95% of train pass-bys (i.e. 5%, 1 in 20 trains may exceed). This assessment of train ground borne noise is only to be applied for new residential or other noise sensitive uses where train ground borne noise is the dominant source of noise (i.e. higher than the train airborne noise).
- Noise associated with Spotswood Maintenance Centre and Able Industries Engineering received at new residential or other noise sensitive uses is attenuated to achieve an internal maximum noise level of 55 dBA Lmax, in

bedrooms, during the night. These noise levels are to be measured internally at the expected occupancy position(s) in the space relevant to the noise of interest with doors and windows closed. The preferred positions are at least 1 m from the walls or other major reflecting surface, 1.2 m to 1.5 m above the floor and about 1.5 m from windows.

- Any development that will accommodate residential or other vibration-sensitive uses must be designed and constructed to include vibration attenuation measures. These vibration attenuation measures must ensure that train vibration received at new residential or other vibration-sensitive uses meet acceptable vibration levels in accordance with British Standards BS 6472-1:2008 or other industry accepted vibration assessment standards addressing human exposure.

The following conditions apply to permits for development:

- Prior to the occupation of any building, a report prepared by a suitably qualified acoustic and vibration consultant which certifies compliance with the noise and vibration criteria set out in clause 3.0 of Schedule 2 to the Development Plan Overlay must be provided to the satisfaction of the responsible authority.
- Any buildings and works required to achieve compliance with the noise and vibration criteria set out in clause 3.0 of the Schedule 2 to the Development Plan Overlay must be installed and maintained to the satisfaction of the Responsible Authority.
- Prior to the commencement of the development, the owner must submit to the satisfaction of the Head, Transport for Victoria and the Responsible Authority, a report prepared by a suitably qualified traffic engineer that provides an analysis of pedestrian and traffic movements at the intersection of Blackshaws Road and Sutton Street. The report must include:
 - Analysis of an appropriately prepared base conditions model, incorporating:
 - Recently collected existing traffic, bicycle and pedestrian volumes.
 - Traffic impacts of nearby development, including but not limited to development within Precinct 16 West, Precinct 16 East, Precinct 15, Precinct 17, and 31-69 McLister Street, Spotswood.
 - Consideration of the West Gate Tunnel works.
 - Traffic growth along Blackshaws Road until the implementation of the traffic signals.
 - B-Double movements to and from 5-7 Sutton Street.
 - Analysis of a post-development conditions model, reflecting the base conditions model and development traffic.
- Unless the traffic report demonstrates that traffic management and associated civil works are not required earlier to support the development and safe movements of pedestrians, cyclists and traffic the following works must be delivered to the satisfaction of the Head, Transport for Victoria and the Responsible Authority:
 - the interim intersection treatment at the corner of Sutton Street and Blackshaws Road including a dedicated right turn lane on Blackshaws Road and localised widening on east side Sutton Street with a painted centre median prior to the statement of compliance of the 50th residential lot within Precinct 16 West. (Generally in accordance with Traffic Group Plan Sutton Street South Kingsville Concept Plan – Interim Dwg No. G27836-01-01 Issue G)
 - the pre-ultimate intersection treatment including a signalised intersection at the corner of Sutton Street and Blackshaws Road with the interim configuration prior to the statement of compliance of the 150th residential lot within Precinct 16 West (Generally in accordance with Traffic Group Plan Sutton Street South Kingsville Concept Plan – Pre-ultimate Dwg No. G27836-01-03 Issue D)
 - the ultimate intersection treatment including separate right and left turn lanes exiting Sutton Street after the cessation of operations on-site at 5-7 Sutton Street Spotswood or a traffic management plan for the site identifies that pre-ultimate intersection configuration is not required to facilitate construction access. (Generally in accordance with Traffic Group Plan Sutton Street South Kingsville Concept Plan – Ultimate Dwg No. G27836-01-02 Issue D)

4.0 Requirements for development plan

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A development plan, which may consist of plans and/or other documents, must be prepared for the site to the satisfaction of the responsible authority.

The development plan for the site or for any sub-precinct may be amended from time to time to the satisfaction of the responsible authority.

The development plan may be prepared in parts relative to the sub-precincts depicted on the Precinct 16 West Framework Plan if the responsible authority is satisfied that this will not prejudice the future use and integrated and orderly development of the site in accordance with the development plan requirements.

The development plan for the site or for any sub-precinct must achieve the following Vision for the site, and be generally in accordance with the Precinct 16 West Framework Plan at Clause 5.0 to the satisfaction of the responsible authority.

Vision

Precinct 16 West will:

- Become a sustainable residential community, integrated with Precinct 16 East and complementing the broader existing residential neighbourhood.
- Be redeveloped to provide a predominantly medium to higher density residential development, providing homes for a diversity of households including affordable housing and incorporating public open space and sustainable movement links.
- Implement innovative ESD features, providing opportunities for best practice in environmental management.
- Protect the ongoing operation of industrial land use and infrastructure, incorporating residential amenity protection measures that display a high level of architectural resolution, even if temporary in nature.
- Ensure stages of the development will be managed to minimise amenity impacts to new residents until industrial uses on the site are discontinued.

The development plan(s) must include the following requirements to the satisfaction of the responsible authority:

General

- A site analysis plan that identifies the key attributes of the site (or the sub-precinct), its context, the surrounding area and its relationship with adjoining land.
- An urban context and analysis response that contains a thorough assessment of the opportunities and constraints of the site (or the sub-precinct).
- A land use summary including an indicative number or density of dwellings for the site or the sub-precinct.

Built form and layout

- Concept plans or equivalent documents that describe the layout and development of the site or the sub-precinct including:
 - building heights;
 - street layout;
 - indicative location of public open space (if proposed);
 - the siting and orientation of built form;
 - variation to building forms across the site or sub-precinct;
 - waste collection and storage locations;
 - graduation of taller buildings with reference to analysis of shadow, visual amenity impacts and the character of the area;

- measures needed to ensure reasonable residential amenity is achieved given amenity impacts and emissions from non-residential uses;
- indicative architectural and building design details including materials, styles, elevations and cross sections;
- a maximum average site coverage of 85%;
- setbacks including but not limited to:
 - a minimum 4 metre setback from Sutton Street;
 - a minimum 3 metre setbacks on internal roads.

Design guidelines for the site (or sub-precinct) to ensure development will:

- Integrate with development in adjoining sub-precincts and respond to the character of established areas in particular the established character to the western side of Stephenson Street
- Provide appropriate internal amenity for new residents and protect the amenity of existing residents
- Provide for a diversity of dwelling types, as appropriate, to cater for a variety of housing needs
- Provide typical dwelling layouts for standard lot sizes proposed
- Include active frontages for lots that share an interface with a reserve or street to ensure a quality design, surveillance and permeable outcomes as appropriate
- Include sustainable design features to address water management, solar access and energy saving initiatives, to deliver lower living costs for future residents and aid in the reduction of energy and water consumption, the generation of waste and greenhouse emissions
- Ensure out buildings and service areas have minimal visibility from any public open space or street
- Include temporary acoustic measures where appropriate that are designed to a high standard and are not visually intrusive within the landscape
- Promote urban legibility and public access to and through the site
- Ensure new buildings are designed to distribute access to outlook and sunlight between built forms
- Demonstrate high quality and diverse built form outcomes that contribute to the built form character of the neighbourhood and its surrounds
- Ensure that building heights consider and respond to the over shadowing effects within the site
- Ensure that building heights provide an appropriate transition to site interfaces
- Ensure street level interface treatments contribute to high levels of pedestrian amenity and safety
- Provide acoustic design treatments that addresses the impact of existing and potential noise particularly from the Spotswood Maintenance Centre
- Collectively form a coherent and identifiable precinct
- Provide for safe and convenient vehicular and pedestrian access
- Minimise, where practical, the impact of vehicles on public space.

Access and transport

A Traffic Impact Assessment and car parking plan prepared by a suitably qualified engineering consultant that ensures the creation of a safe and efficient road network within and adjacent to the site. The Traffic Impact Assessment should include:

- The existing capacity of the surrounding road network having regard to a traffic base case that includes the impact of traffic from Precinct 16 East, Precinct 15, Precinct 17 and 31-69 McLister Street, South Kingsville and the Westgate Tunnel as well as pedestrian and road safety requirements;
- Existing roads, pedestrian, cyclist and vehicle access locations;
- An assessment of the impact of traffic and car parking generated by the use and development of the site;
- A summary of the internal road network (including street widths and general design) and its appropriateness when considered in relation to clause 56;
- Details of proposed car parking;
- The design of internal network to encourage cycling and pedestrians to travel through the site;
- How the impacts of new vehicle access points on pedestrian and bicycle priority routes will be reduced;
- Any proposed traffic management measures within the site or in the surrounding street network;
- Location and linkages to the public transport network;
- Any necessary transitional arrangements to ensure existing access rights are protected for the industrial operations at 5-7 Sutton Street, South Kingsville;
- No direct access from future dwellings to Stephenson Street;
- Proposed staging plan (if relevant);
- Measures to ensure development does not compromise the delivery of future public transport.

Use transition

Demonstrate measures to protect the ongoing industrial uses during transition of the site to residential use, including protection of existing access rights to 5-7 Sutton Street, South Kingsville while the industrial uses on this property continue. The development plan should include interim and ultimate arrangements in response to this issue with the interim arrangements demonstrating how the existing access from Sutton Street and via Blackshaws Road will be maintained.

Open space and landscape

A landscape report, which identifies:

- Key measures and objectives to ensure that a high quality public realm is achieved with details of proposed landscaping in streets and public open spaces;
- Links to existing and proposed open spaces;
- A landscape concept plan for public open space and roads, with indicative themes and planting schedules;
- Street and public open space cross sections to demonstrate an appropriate landscape outcome;
- Details of water sensitive design initiatives.

Site Remediation Strategy

A Site Remediation Strategy must be submitted with the Development Plan to the satisfaction of the responsible authority to address and make recommendations in relation to:

- Potential impacts of any land or ground water contamination on the proposed land use;

- The proposed pattern, siting and arrangement of land uses across the site or sub-precinct (including residential, public and community uses) and any particular design requirement the development may be subject to;
- Options and a preferred approach to the testing and clean up activities;
- An indicative site map showing locations across the site or sub-precinct of any identified contamination and any proposed clean up activities;
- A schedule of proposed clean up activities;
- Expected staging and indicative timeframes for any works required by the preliminary risk screen assessment or Statement of Environmental Audit across the site following the clean up activities for the site or sub-precinct, if required;
- Indicative site management and monitoring controls that will be necessary following each clean up activity; and
- The parties responsible for key activities and for subsequent site management and monitoring.

The Site Remediation Strategy may be prepared in stages.

Prior to the approval of Development Plans a preliminary risk screen assessment statement must be issued stating that an environmental audit is not required or a Statement of Environmental Audit must be prepared and approved for the site.

The Site Remediation Strategy will be required to reflect the recommendation or requirement of any Statement of Environmental Audit or preliminary risk screen assessment statement.

Affordable housing

Measures to encourage that an affordable housing contribution is provided equivalent to a minimum of 5 per cent of the total number of dwellings to be developed in each sub-precinct. The contribution is to be based on a discount of 25 per cent to the market value.

Acoustic and vibration impacts

A report, which addresses the following:

- An assessment of acoustic and vibration impacts on the site with reference to the existing Spotswood Maintenance Centre, existing industrial use at 5-7 Sutton Street and the adjacent railway line. The assessment must include recommended measures to manage acoustic and vibration impacts at the ultimate developed outcome and also confirm that a reasonable interim arrangement can be achieved during development of the site. The report must have consideration for EPA publication 1826.4 Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (Noise Protocol).
- Identification of potential impacts on future development in the site.
- The proposed design treatment of the interface with industry, including setbacks, fencing, landscaping, internal building layout, noise attenuation construction measures and any other measures required to minimise impacts.
- The proposed design and treatment of the interface with the railway line specifically relating to how it will ensure:
 - Any pedestrian or cyclist breaks in the noise wall for the pedestrian rail crossing still enable the noise attenuation targets to be met.
 - Reflected noise north of the railway line will not result in an unacceptable increase in noise at existing residences.
- Consider amenity of future residents in line with Standard D16 at Clause 58 of the Scheme, assuming that the site is located in a 'noise influence area'.

Environmentally Sustainable Development Strategy

An Environmentally Sustainable Design Strategy must be prepared which considers and responds to the proposed development and construction processes and:

- Demonstrates the incorporation of recognised technologies and best practice;
- Identifies and nominates the level of sustainability performance standards to be adopted;
- Assesses options by which the nominated level of sustainable performance standards will be achieved.

The ESD Strategy must have regard to the local policy, Environmentally Sustainable Development at Clause 15.02L.

Stormwater

A stormwater management strategy to the satisfaction of the council addressing the requirements for volumes and quality of stormwater runoff, details of on-site stormwater retention (if required) and how the development of the site will meet the requirements of Clause 53.18 – Stormwater Management in Urban Development (where applicable) and Melbourne Water Guidelines for Development in Flood Affected Areas (DELWP, 2019).

Major pipeline infrastructure

A report that outlines the impact of the proposed development of that sub-precinct of the site adjacent to pipeline infrastructure both during construction and post-construction on the Somerton to Altona, South Melbourne to Brooklyn and West Footscray to Williamstown Licensed Pipelines, in the context of a pipeline risk assessment, and any measures required to ensure the ongoing maintenance and operation of the pipeline.

This report must be prepared in conjunction with the relevant authorities and stakeholders and according to their requirements. The recommendations of this risk assessment are to be incorporated into any final development plan approval.

Infrastructure and staging

A report must be submitted with the development plan that assesses the impact of the development on local infrastructure and a staging plan that includes (but is not limited to) the following (as required):

- Access arrangements while the southern sub-precinct continues to operate as an industrial use;
- Any temporary acoustic attenuation measures;
- Staging for delivery of infrastructure to facilitate the development including traffic signals at Sutton Street and Blackshaws Road; and
- Anticipated staging of the development.

5.0 Precinct 16 West Framework Plan

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