

**Moorabool Planning Scheme Amendment C103moor  
Hopetoun Park North, Bacchus Marsh**

**Correction to the Panel Report**

*Planning and Environment Act 1987*

**8 January 2026**

*Planning and Environment Act 1987*

Correction to the Panel Report pursuant to section 25 of the PE Act

Moorabool Planning Scheme Amendment C103moor

A handwritten signature in black ink, appearing to read 'DM', with a stylized flourish at the end.

David Merrett, Chair

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## Overview

### Amendment summary

The Amendment	Moorabool Planning Scheme Amendment C103moor
Common name	Hopetoun Park North, Bacchus Marsh
Brief description	Rezone 62 hectares of land to Neighbourhood Residential Zone Schedule 8 Apply the Development Plan Overlay Schedule 7 Apply the Design and Development Overlay Schedule 17 Delete the Significant Landscape Overlay Schedule 1 Delete the Design and Development overlay Schedule 2
Subject land	124 and 150 Hopetoun Park Road, Hopetoun Park and parts of land in Cowans Road (Lot 1 TP681605Y, Lot 1 TP749719H, Lot 1 TP414231K and TP303309S)
The Proponent	Bacchus Marsh Property Group
Planning Authority	Moorabool Shire Council
Exhibition	21 March to 4 May 2025
Submissions	Number of Submissions: 32 Opposed: 19

### Panel process

The Panel	David Merrett
Directions Hearing	By video, 4 August 2025
Panel Hearing	Council offices, Bacchus Marsh, hybrid hearing, 29 and 30 September and 1, 2 and 3 October 2025
Citation	Moorabool PSA C103moor [2025] PPV
Date of Panel Report	14 November 2025
Date of Panel Report – Addendum	8 January 2026

# 1 Correction

This report is to be read in conjunction with the Moorabool Planning Scheme Amendment C103moor Panel Report dated 14 November 2025.

## 1.1 Issues raised

Planning Panels Victoria received an email from Moorabool Shire Council on 18 December 2025, which is provided in Appendix A. In the email, Council raised the following issues:

- DDO17 in Appendix D does not contain Table 2 that was part of all earlier versions
- DPO7 in Appendix C under Clause 4.0 contains a dot point split over two dot points
- DPO7 in Appendix C does not contain an agreed text for the wastewater management strategies.

## 1.2 Panel response

The Panel appointed to consider Moorabool Planning Scheme Amendment C103moor have reviewed these items and offer the following response:

- The deletion of Table 2 from DDO17 was inadvertent and should be reinserted.
- The two dot points should be combined into a single dot point in DPO7.
- The second dot point reference to wastewater management strategies should be deleted in Clause 4.0 Integrated Water Management Plan.

## 1.3 Revisions

Having considered the above, the Panel recommends that the Panel Report dated 14 November 2025 be changed to:

1. **Amend Appendix D containing Design and Development Overlay Schedule 17 by inserting Table 2 from previously agreed versions.**
2. **Amend Appendix C containing Development Plan Overlay Schedule 7 by:**
  - a) **combining two dot points under Clause 4.0 for the development plan**
  - b) **deleting the second dot point reference wastewater management strategies from Clause 4.0 Integrated Water Management Plan.**

The Panel has prepared the Moorabool Planning Scheme Amendment C103moor (Corrected) Panel Report dated 19 December 2025 that incorporates these changes.

## 1.4 Notice to submitters

As Council has made the Moorabool Planning Scheme Amendment C103moor Panel Report dated 14 November 2025 available to the Public, they are to write to all submitters and advise them of the Moorabool Planning Scheme Amendment C103moor (Corrected) Panel Report dated 19 December 2025.

## Appendix A   Email from Council

**From:** Liam Prescott  
Moorabool Shire  
**Sent:** Thursday, 18 December 2025 3:00 PM  
**To:** Adrian H Williams  
Planning Panels Victoria  
**Subject:** Moorabool C103moor Panel Report

I ... have noticed some further things it would be good to get some clarification on.

...

In relation to:

### DDO17

Table 2 is referenced in the DDO17 text, but no longer present in the panel's version of the schedule. In the attached docs I have highlighted where it is absent, and included a new ATS edit which shows it retained.

### DPO7

The DPO contains a formatting error as below where the requirement is split into two points:

#### Requirements for development plan

A development plan must include the following requirements:

- The development plan must be generally in accordance with the Hopetoun Park North Concept
- Plan (the Concept Plan) included as Map 1, to the satisfaction of the responsible authority.

The DPO integrated water management plan requirements includes two which appear to be versions of the same requirement as shown below:

the escarpments.

- Details of minimisation of sediment loads within stormwater.
- Provision for any relevant wastewater management strategies.
- Provision for innovative wastewater management strategies that maximise opportunities for waste recycling or stormwater harvesting.
- A climate change sensitivity analysis to ensure peak flood levels are consistent with drainage footprints.

This is an extract from the proponents Day 5 Version which I believe was the preferred version on the drafting day.

- Provision for any relevant wastewater management strategies that maximise opportunities for waste recycling or stormwater harvesting.

...

Kind regards

**Moorabool Planning Scheme Amendment C103moor  
Hopetoun Park North, Bacchus Marsh**

**Panel Report**

*Planning and Environment Act 1987*

**14 November 2025**



### 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 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 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]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Moorabool Planning Scheme Amendment C103moor

Hopetoun Park Road North, Bacchus Marsh

**14 November 2025**



David Merrett, Chair

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## Glossary and abbreviations

BMID	Bacchus Marsh Irrigation District
CHMP	Cultural Heritage Management Plan
Council	Moorabool Shire Council
CVA	Cultural Values Assessment
DDO2	Design and Development Overlay Schedule 2
DDO17	Design and Development Overlay Schedule 17
DEECA	Department of Energy, Environment and Climate Action
DPO7	Development Plan Overlay Schedule 7
DTP	Department of Transport and Planning
ESO7	Environment Significance Overlay Schedule 7
Head, TfV	Head, Transport for Victoria
the land	124 and 150 Hopetoun Park Road and Cowans Road comprising the eastern portion of lots: Lot 1 TP681605Y; Lot 1 TP749719H; Lot 1 TP414231K; TP303309S
NDA	Net developable area
NRZ8	Neighbourhood Residential Zone Schedule 8
PE Act	<i>Planning and Environment Act 1987</i>
s173	section 173 Agreement
SLO1	Significant Landscape Overlay Schedule 1
sqm	square metres
BMUGF	Bacchus Marsh Urban Growth Framework 2018
VGED	Victorian Grassland Earless Dragon

## Overview

### Amendment summary

The Amendment	Moorabool Planning Scheme Amendment C103moor
Common name	Hopetoun Park North, Bacchus Marsh
Brief description	Rezone 62 hectares of land to Neighbourhood Residential Zone – Schedule 8 Apply the Development Plan Overlay – Schedule 7 Apply the Design and Development Overlay – Schedule 17 Delete the Significant Landscape Overlay – Schedule 1 Delete the Design and Development overlay – Schedule 2
Subject land	124 and 150 Hopetoun Park Road, Hopetoun Park and parts of land in Cowans Road (Lot 1 TP681605Y, Lot 1 TP749719H, Lot 1 TP414231K and TP303309S)
The Proponent	Bacchus Marsh Property Group
Planning Authority	Moorabool Shire Council
Authorisation	27 November 2024, with conditions
Exhibition	21 March to 4 May 2025
Submissions	Number of Submissions: 32 Opposed: 19

### Panel process

The Panel	David Merrett
Directions Hearing	By video, 4 August 2025
Panel Hearing	Council offices, Bacchus Marsh, hybrid hearing, 29 and 30 September and 1, 2 and 3 October 2025
Site inspections	Accompanied 29 September 2025 and unaccompanied 6 August 2025
Parties to the Hearing	Refer to Appendix A
Citation	Moorabool PSA C103moor [2025] PPV
Date of this report	14 November 2025

## Executive summary

Moorabool Planning Scheme Amendment C103moor (the Amendment) seeks to facilitate the future subdivision and residential development of 62 hectares of land in Hopetoun Park North for residential development.

The land is located on the elevated plateau of Hopetoun Park, north of a low density residential estate, south of the Western Freeway and the Old Western Highway, east of the Bacchus Marsh Irrigation District separated from the land by a 50 metre high escarpment and west of Hopetoun Park Road.

Specifically, the Amendment proposes to rezone the land to the Neighbourhood Residential Zone Schedule 8, apply the Development Plan Overlay Schedule 7 (DPO7), apply the Design and Development Overlay Schedule 17 (DDO17) and apply the Environmental Significance Overlay Schedule 7 to areas of biodiversity significance.

The Bacchus Marsh Property Group seeks to develop the land for around 400 residential lots consistent with a development plan to be approved by Council that allows for a:

- 1,500 square metre minimum lot size along the escarpment (Area A of the concept plan in DPO7) and the southern boundary (Area B) abutting the existing low density residential estate
- 800 square metre minimum lot size in the balance of the area (Area C).

An early iteration of the Amendment included the land east of Hopetoun Park Road with a cumulative lot yield of 800 lots. Due to environmental constraints the land east of Hopetoun Park Road was removed from the Amendment however the commitment from the Proponent to development and community infrastructure was retained. This included a 2 hectare park for active open space, a kindergarten, maternal and child health centre and community room, a local convenience centre, neighbourhood park and a 6 hectare conservation reserve.

Initially two external road projects were proposed for a Western Freeway roundabout at the on ramp for east bound traffic and a protected left turn lane at Hopetoun Park Road onto the Old Western Highway.

Of the 32 submissions received, five were from government agencies and 19 opposed the Amendment in full or in part.

Key issues raised in submissions included:

- loss of agricultural land and the impact of the irrigation district
- Aboriginal cultural heritage
- interface between area A and the irrigation district
- interface between Area B and existing properties in Hopetoun Park
- traffic
- infrastructure and open space
- biodiversity and the Werribee River
- bushfire risk.

Shortly before the Hearing and after the receipt of submissions the Proponent's traffic engineer prepared a report that found the Western Freeway roundabout was not required as the development of the land would not result in a reduced level of service that justified the work.

While the Head, Transport for Victoria agreed with this position, Council considered there was a denial of procedural fairness as the community expected the roundabout would be constructed. The Panel finds there has not been a denial of procedural fairness.

The Panel finds the identification of this land for urban growth was settled with its identification for residential development in the Bacchus March Urban Growth Framework which was implemented the planning scheme by Amendment C81moor in December 2018. The Amendment C81moor Panel supported the use of either the Neighbourhood Residential Zone or Low Density Residential Zone and the Development Plan Overlay *“to guide the future form of the area and it will be able to address a range of lot size and interface issues.”* The Panel finds the use of the Neighbourhood Residential Zone and the Development Plan Overlay to address the sensitive interfaces of the land are appropriate. Importantly the Bacchus Marsh Urban Growth Framework Plan at Clause 11.01-1L-02 identifies the land for *lower* density residential development, not low density residential development.

On the key issues raised in submissions the Panel concludes as follows:

**(i) Agricultural land**

The loss of agricultural land is inevitable with greenfield urban growth and the land is not identified as high value agricultural land. The irrigation district has a distance and elevation separation to ensure the use of sprays and general activity will not impact the amenity of the new residents.

**(ii) Aboriginal cultural heritage**

Aboriginal cultural heritage has been appropriately addressed at this stage of the planning process. Council initially required a Cultural Heritage Management Plan, but this was replaced by a Cultural Values Assessment as part of DPO7. The Panel agrees with the Proponent that while a Cultural Heritage Management Plan is not required for a planning scheme amendment as it is not considered a high impact activity, one would be required to support the subdivision of the land. The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation identified that a Cultural Heritage Management Plan would be required for subdivision and requested that future development avoid the areas of cultural heritage sensitivity. The Panel finds the Council requirement for a Cultural Values Assessment is unlikely to serve any additional purpose beyond the preliminary investigation already completed by Clarkeology.

**(iii) Area A interface**

The escarpment land between the Area A and the irrigation district is protected from residential development and will become a public linear reserve with a shared path. Residential development is setback at least 37.3 metres from the top of the escarpment to the front of residential lots (or 47.3 metres to new dwellings). The use of a 1,500 square metre minimum lot size provides an appropriate interface transition in this area.

**(iv) Area B interface**

The southern boundary abuts existing low density residential development and the use of a 1,500 square metre minimum lot size in Area B provides an appropriate interface transition from this area. This includes a 20 metre setback to the rear of dwellings, including a 5 metre landscape strip. The Panel supports the 5 metre landscape strip being a ‘no build’ area. The larger lots to the south are developed and have significant setbacks to dwellings already in place.

**(v) Traffic**

The proposed internal traffic network includes a perimeter road to address bushfire risk with two connections to Hopetoun Park Road at the local convenience centre north of the conservation area and a new connection to the existing roundabout at the southern end of the land. The Panel supports the new connection to the roundabout to distribute traffic more evenly.

There is no traffic demand or safety issue associated with the existing access to the Western Freeway for east bound traffic. The position of the Head, Transport for Victoria that it is not required is an important consideration. The Panel acknowledges the position of the Bacchus Marsh Property Group to provide the intersection works at the Old Western Highway even though its traffic expert gave evidence it was not required.

**(vi) Infrastructure and open space**

The development of the land relies on the provision of infrastructure to ensure existing water, stormwater and sewerage systems are adequate and, if augmentation is required, is provided as a developer cost. The Panel finds this is routinely provided infrastructure for new development at the expense of the developer.

The Panel acknowledges the developer commitment to provide development and community infrastructure in an area which is isolated and will be to the benefit of the existing population of Hopetoun Park.

Open space provision is proposed to cover 10.8 per cent of the land which is well above that required by Clause 53.01 (5 per cent). The Panel finds the provision of open space will meet the needs of the existing and future population of Hopetoun Park.

**(vii) Biodiversity**

The large area of remnant vegetation adjacent to Hopetoun Park Road is to be protected in a 6 hectare conservation reserve. There is a smaller area of vegetation on the escarpment. Both areas are to have the Environmental Significance Overlay applied and ultimately become public land. The Panel supports this.

The Panel does not consider the Amendment will inappropriately impact kangaroo movements in Hopetoun Park. Access to vegetation and the escarpment land will still be available as part of any future development.

The Panel finds Council's cat local law which requires them to be contained at night will appropriately address the impact of cats on local fauna.

**(viii) Bushfire**

The Panel finds bushfire risk has been addressed appropriately and notes the:

- need for a Bushfire Mitigation and Management Plan in DPO7
- Country Fire Authority was not a submitter to the Amendment and is therefore assumed to be supportive of it.

The drafting of the DPO7, and DDO17 to a lesser degree, at the end of and after the Hearing was the focus of significant submissions. This has been addressed by the Panel in Chapter 11 and the Panel-preferred versions of both are contained in Appendices C and D.



## **Recommendation**

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

- 1. Adopt Moorabool Planning Scheme Amendment C103moor as exhibited in accordance with the Panel-preferred versions of the Development Plan Overlay - Schedule 7 shown in Appendix C and the Design and Development Overlay – Schedule 17 shown in Appendix D.**

# 1 Introduction

## 1.1 The Amendment

### 1.1.1 Amendment description

The purpose of the Amendment is to facilitate the future subdivision and residential development of 62 hectares in Hopetoun Park North for residential development.

Specifically, the Amendment proposes to:

- rezone approximately 62 hectares from the Farming Zone to the Neighbourhood Residential Zone Schedule 8 (NRZ8)
- apply the Development Plan Overlay Schedule 7 (DPO7) to ensure the land is developed in an orderly manner and manages the design and layout of the future subdivision and the future road network (including bushfire management requirements)
- apply the Design and Development Overlay Schedule 17 (DDO17) to manage setbacks and siting requirements for future dwellings
- apply the Environmental Significance Overlay Schedule 7 (ESO7) to two areas of biodiversity significance
- delete the existing Significant Landscape Overlay Schedule 1 (SLO1) and Design and Development Overlay Schedule 2 (DDO2) which relate to rural land uses.

### 1.1.2 The land

The Amendment applies to land shown in Figure 1 ('the land' as outlined in yellow). The Bacchus Marsh Property Group (Proponent) owns 58 hectares at 124 Hopetoun Park Road. The balance of the land is made up of the eastern portion of four lots to the west which are owned by Submitter 15 and 150 Hopetoun Park Road which is in separate ownership. The lots to the west cover land within the Bacchus Marsh Irrigation District (BMID), an escarpment that rises approximately 50 metres to and includes part of the Hopetoun Park plateau.

Specifically, the land comprises:

- 124 Hopetoun Park Road
- 150 Hopetoun Park Road
- Cowans Road comprising the eastern portion of lots: Lot 1 TP681605Y, Lot 1 TP749719H, Lot 1 TP414231K and TP303309S as shown in Figure 2.

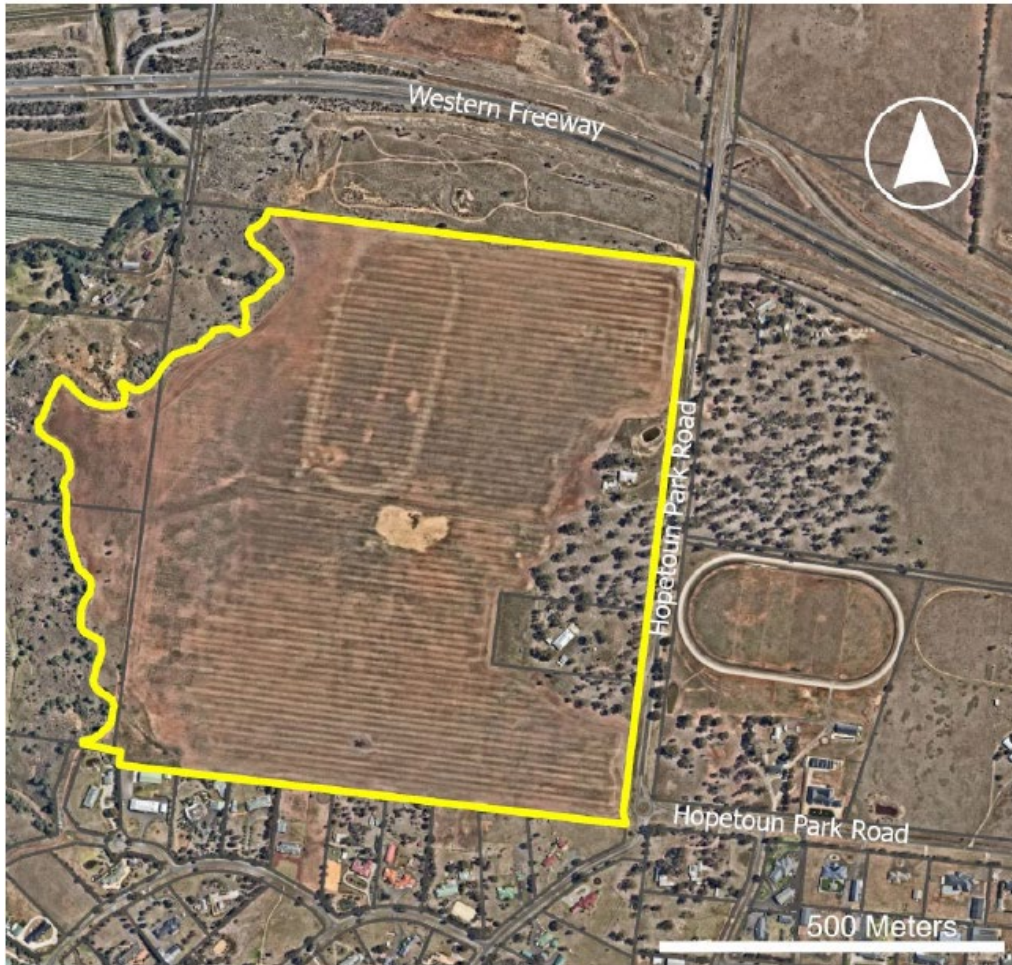
Figure 3 contains the current zone map.

The land is bound by the Western Freeway reservation to the north, Hopetoun Park Road to the east, existing low density residential development to the south and the edge of the escarpment to the west. In the case of the western boundary, the escarpment edge has been defined by the distinct change of grade in that location down to the BMID and Pyrites Creek.

The land has been used for cropping and currently contains a canola crop. There is an area of Grey Box Woodland at its eastern boundary that extends somewhat into the land.

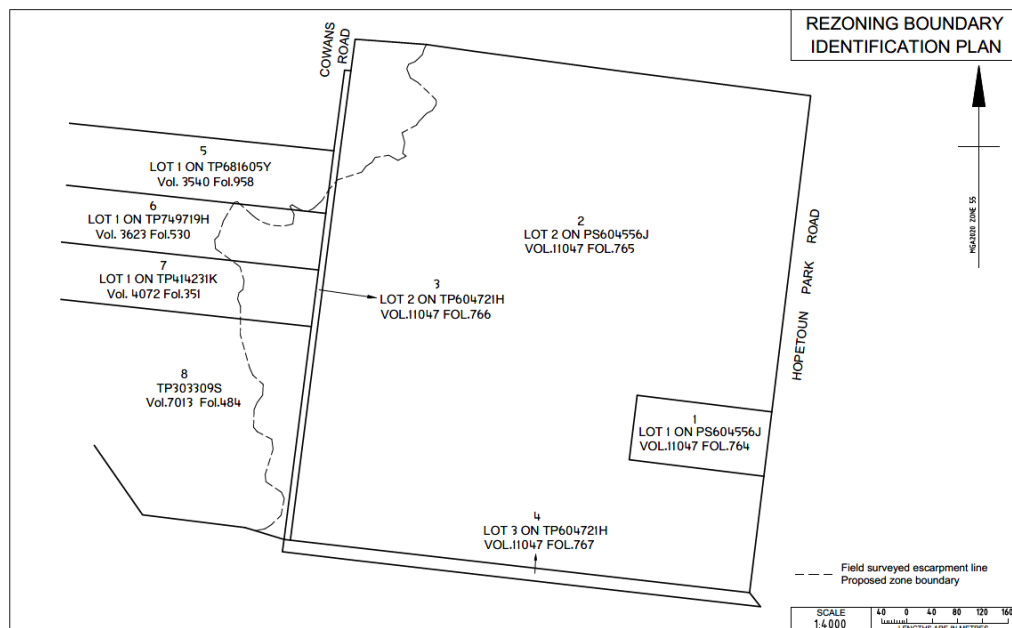
To the south of the land is the Hopetoun Park low density residential estate. This land is in the Low Density Residential Zone and comprises 264 dwellings on lots ranging in area from 4,000 to 13,000 square metres (sqm).

**Figure 1** Aerial photo of the land

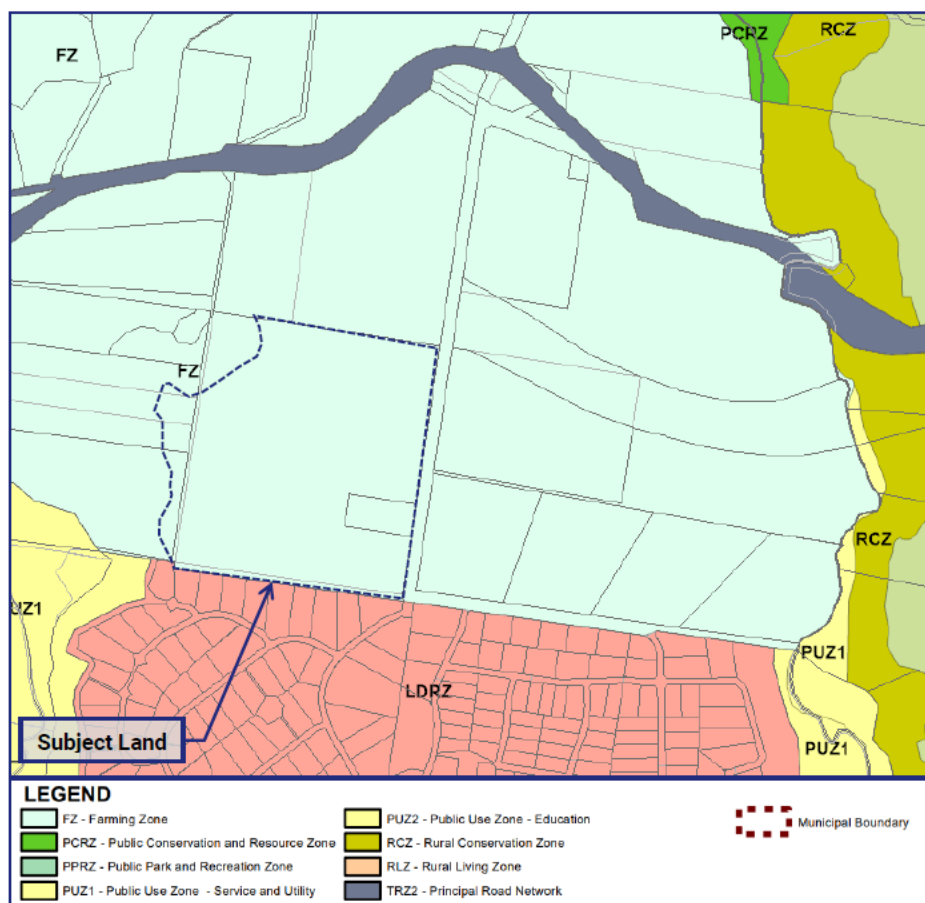


Source: Council Part A submission, page 2, paragraph 7

**Figure 2** Title arrangement of the land



Source: Council Part A submission, paragraph 8

**Figure 3** Current zone map

Source: DTP submission, page 6

### 1.1.3 The Neighbourhood Residential Zone

The NRZ8 neighbourhood character objectives are to:

- establish an open and spacious neighbourhood character including through the establishment of larger lots around the perimeter of the new residential area
- provide development that is respectful of the existing open and spacious character of Hopetoun Park through the implementation of front, rear and side setbacks that provides adequate area for appropriate landscaping
- increase the presence of indigenous and native vegetation both within the public and private realms, particularly canopy trees, to reinforce the open woodland character of the area
- strengthen habitat corridors between waterways, conservation reserves, and grassland to the east.

The NRZ8 includes a minimum lot size of 800 sqm. No local content is proposed for Clauses 3.0 (construction or extension of a dwelling), 4.0 (requirements for Clauses 54 and 55), 5.0 (maximum building height), 6.0 (application requirements) and 7.0 (decision guidelines).

### 1.1.4 The Development Plan Overlay

The DPO7 objectives are to:

- guide and facilitate a staged master-planned development of the land
- ensure the identification and effective management of areas of environmental, heritage and landscape significance

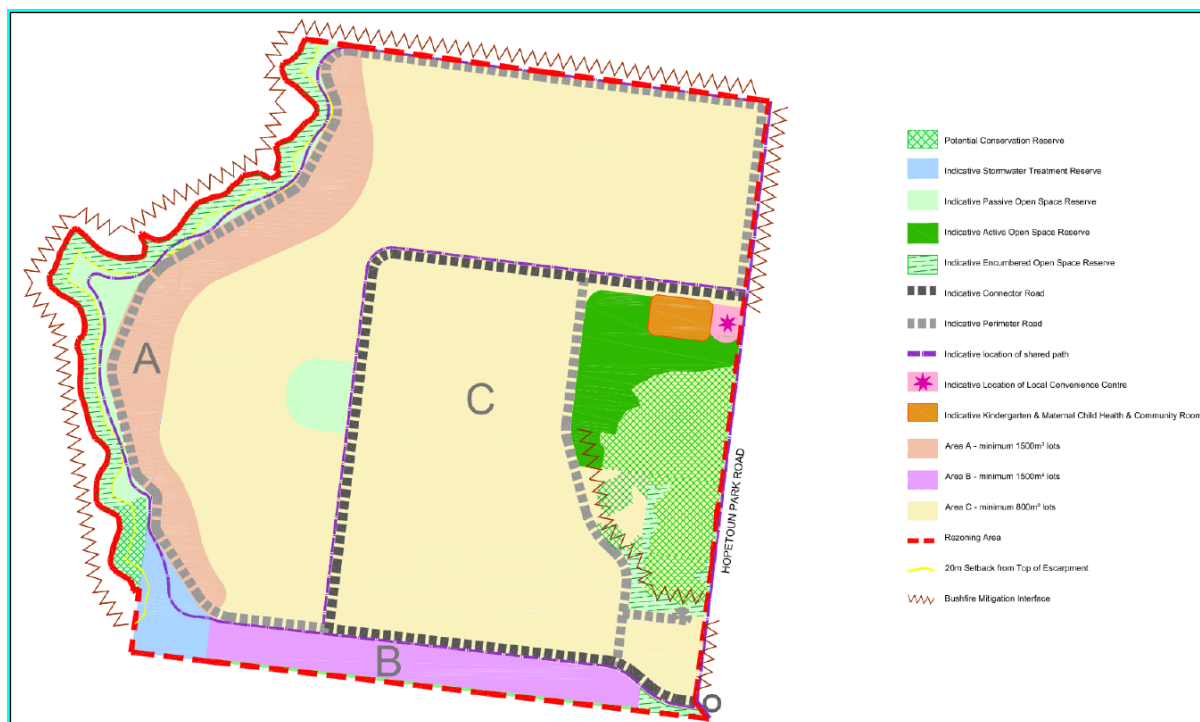
- provide an appropriate transition between the new residential growth area and the existing low density residential development at Hopetoun Park
- enhance the amenity, safety and liveability of the existing development at Hopetoun Park, through increased services and infrastructure delivered in the growth area
- implement measures to mitigate potential noise, environmental and bushfire impacts.

A draft concept plan (Figure 3) is attached to DPO7 that broadly indicates the way the land should be developed. This shows larger residential lots (1,500 sqm) on the western and southern boundaries (Areas A and B) to address environmental and visual impact sensitivities and the amenity of the adjoining low density residential development, respectively. The core residential area (Area C) will have a minimum lot size of 800 sqm. This is primarily driven by the strategic need for lower density residential development established by the Bacchus Marsh Urban Growth Framework (BMUGF).

As shown in Figure 4 the Amendment will facilitate the provision of:

- significant native vegetation to be protected in reserves
- active open space, open space and escarpment reserves above 10 per cent of net developable area (NDA)
- up to 6 hectares of conservation reserve
- an area identified for local activity centre (up to 540 sqm)
- land for a kindergarten, community centre and Maternal Child Health Centre
- a drainage reserve of approximately 0.9 hectare
- community and transport infrastructure contribution including a cash contribution towards construction of a kindergarten, community centre and netball court
- developer works to upgrade the Old Western Highway and Hopetoun Park Road intersection
- developer works to construct a shared path connection to Cowans Road.

**Figure 4** Draft Concept Plan from DPO7

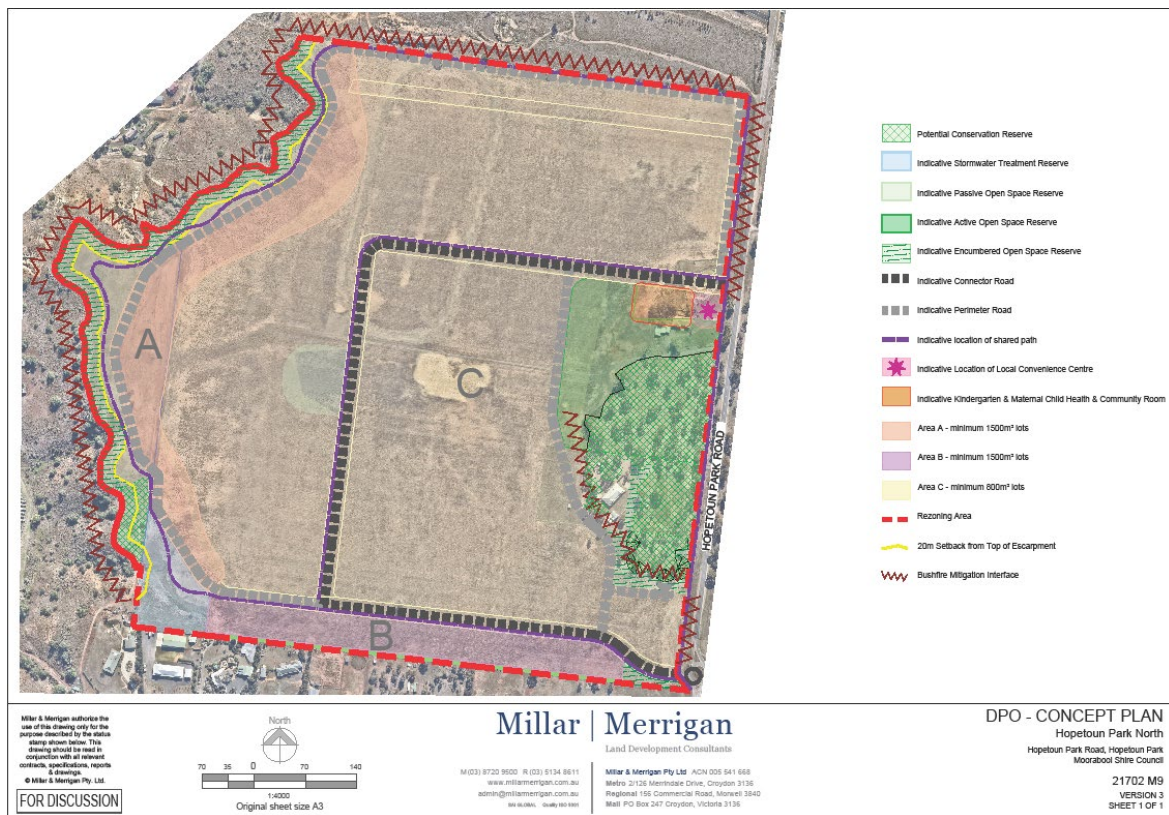


Source: DPO7



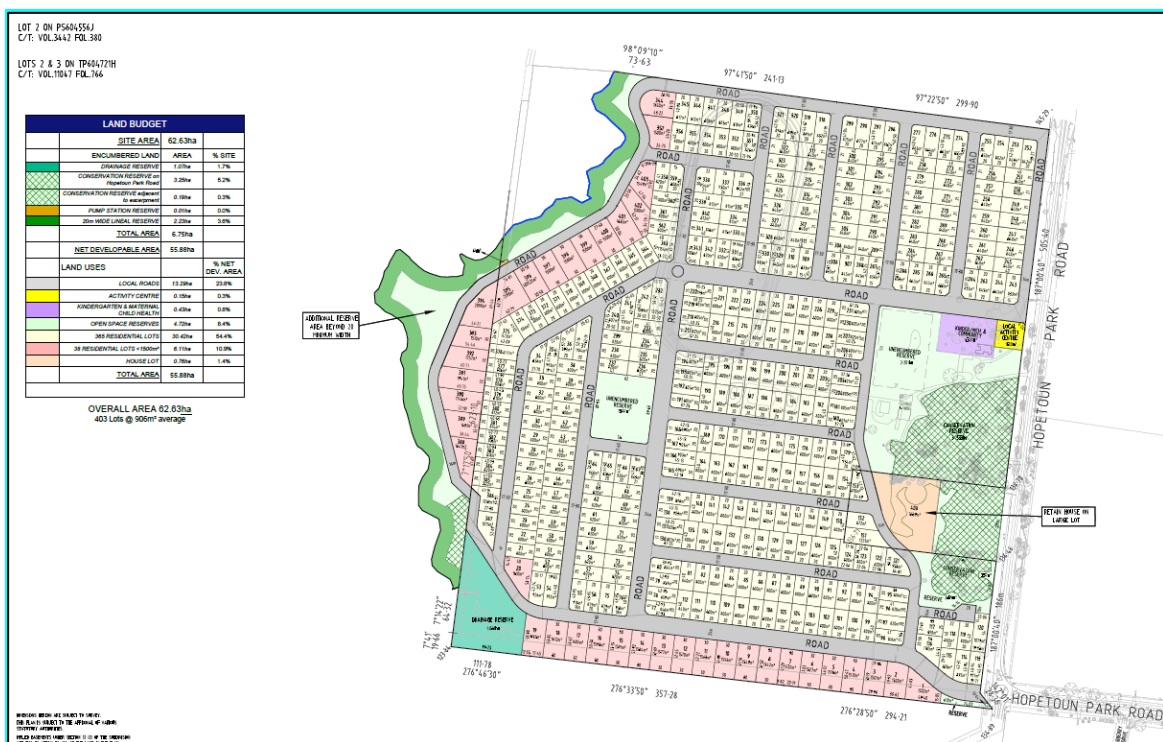
Figure 5 overlays the draft concept plan on an aerial photograph. Figure 6 contains an ‘indicative’ subdivision layout for the land. The Panel gives no weight to this, but it is useful in indicating how the provisions of DPO7 may be addressed.

**Figure 5** Draft Concept Plan overlaid on an aerial photo base



Source: Document 31

**Figure 6**      **Draft Subdivision Plan of the land**



Source: Document 25

### 1.1.5 Development contributions

The Proponent proposes to provide the following development and community infrastructure:

- active open space including embellishments such as multi-purpose oval, district-level playground, tennis court, half basketball court, BMX pump track, toilets, amenities, barbeques in a two hectare park (construction)
- 2-hectare park (land for the above active open space)
- netball court (construction – cash contribution)
- kinder, maternal and child health and community Room (land)
- kinder, maternal and child health and community Room (48 per cent of construction costs)
- Community Infrastructure Levy at \$1,253 per dwelling (in 2022 dollars)
- the external road upgrade (Hopetoun Park Road and Old Western Highway) and shared path provision
- the provision of land for a neighbourhood park (0.76 hectares) separate to and in addition to the active open space
- landscaping improvements to the neighbourhood park
- the provision of western escarpment linear reserve land.

The land is not the subject of a Development Contributions Plan so development and community infrastructure will be delivered through agreements with the landowner(s) pursuant to section 173 (s173) of the Planning and Environment Act 1987 (PE Act).

### 1.1.6 Supporting documents

Planning for this land started in formally in September 2021 when the amendment request was lodged with Council. The Amendment is supported by and extensive list of technical documents. Where addendums or revisions are referred to this is largely the result of retracting the Amendment to land west of Hopetoun Park Road.

The supporting documents are:

- *Draft Concept Plan* prepared by Millar Merrigan Land Development Consultants.
- *Planning Report* by DB Consulting, with accompanying draft amendment documents.
- *Landscape and Visual Amenity Supplementary Report* by Hansen Partnership dated April 2023, accompanied by *Neighbourhood Character Assessment, Landscape and Visual Amenity and Design Guidelines Report* by Hansen Partnership dated April 2020.
- *Revised Infrastructure Needs and Development Contributions Analysis* dated August 2023 accompanied by the *Hopetoun Park Community and Recreation Infrastructure Needs Assessment* by Urban Enterprise dated August 2021.
- *Hopetoun Park Retail Needs Assessment* by Urban Enterprise dated May 2020.
- *Hopetoun Park Retail Needs Peer Review* dated December 2020 and *Updated Retail Needs Peer Assessment* by Macroplan dated April 2023.
- *Hopetoun Park Residential Demand and Supply Assessment* by Ethos Urban dated July 2023.
- *Flora and Fauna Assessment, Hopetoun Park North West Precinct* by Nature Advisory, dated August 2023.
- *Open Space and Landscape Report Hopetoun Park North* by Weir and Co Pty Ltd dated August 2023.
- *Bushfire Risk Assessment – Response to Clause 13.02* by South Coast Bushfire Consultants dated August 2023.

- *Aboriginal Cultural Heritage Preliminary Assessment* by Clarkeology dated August 2023.
- *Preliminary Site Investigation* July 2022, *Remediation Report* August 2023 and accompanying correspondence dated August 2023 by Helia EHS (formerly Edge Group Pty Ltd).
- *Stormwater Management Plan Hopetoun Park North – Western Catchments* by Afflux Consulting dated August 2023.
- *Traffic Engineering Assessment* prepared by SALT dated April 2022 and *Addendum to Traffic Engineering Assessment* prepared by SALT dated April 2023 accompanied by correspondence dated December 2022.
- *Interpretive Geotechnical Investigation* and *Geotechnical Investigation for Hopetoun Park Road*, by Black Geotechnical Pty Ltd, both dated May 2023.
- *Geomorphological Assessment* by Brizga Environmental dated August 2020.
- *Hopetoun Park Rezoning Traffic Noise Impact Assessment* by ARUP dated June 2023.
- *Hopetoun Park North Servicing Review* by Millar Merrigan dated September 2021.
- *Residential Interface Impacts Assessment* by Phillips Agribusiness dated March 2023 with accompanying correspondence dated May 2023.
- Extractive industry interest area advice from CK Prowse and Associates Pty Ltd dated March 2020.

### 1.1.7 The deletion of Significant Landscape Overlay 1 and Design and Development Overlay 2

The Amendment proposes to delete:

- Significant Landscape Overlay Schedule 1 (Scenic hilltops and ridgeline areas)
- Design and Development Overlay Schedule 2 (Visual amenity and building design).

This is because these overlays relate to agricultural and rural areas of the Shire. DDO2 applies to agricultural outbuildings for non-reflective materials, and the Panel considers it appropriate to delete this control as the land is transitioning to urban development.

In regard to the SLO1, the explanatory report states:

In the case of Significant Landscape Overlay Schedule 1, the landscape character objectives to be achieved have been considered in the preparation of the amendment, and in the various siting and design controls that are proposed to be applied by the new Development Plan Overlay and Design and Development Overlay. Accordingly, this overlay would be superseded upon application of the proposed controls. In addition, it is noted that the requirement under SLO1 for a planning permit to be required for all buildings and works is an inappropriate level of control for a growth precinct, particularly given the detailed nature of the overlay controls that are proposed to be applied in its place.

The deletion of these controls was not the subject of any submissions, and the Panel accepts their retention would be inappropriate as the land is required for urban development.

## 1.2 Background

The BMUGF was prepared by the Victorian Planning Authority and implemented by Amendment C81. Its purpose was to guide growth in Bacchus Marsh to 2041 and beyond.

The BMUGF identified Hopetoun Park North as a residential expansion area as one of three residential growth areas, that also included the much bigger Merrimu and Parwan Station precincts. The Hopetoun Park North area included the Amendment land and land east of Hopetoun Park Road but did not include land between the Old Western Highway and the Western Freeway.



The BMUGF identified the following principles for development of the land:

- new local-level community infrastructure
- consider opportunities to improve connectivity with the Western Freeway to and from the west and with the Old Western Highway from Hopetoun Park Road
- identify its preferred character
- set development back from the escarpment
- protect habitat values
- identify new public open space incorporating environmental values and features
- respond to bushfire risk
- provide for sustainable water management
- undertake a land capability study of the BMID.

The Panel that considered Amendment C81 supported:

- Hopetoun Park North as a residential growth area
- the use of the Low Density Residential Zone or the Neighbourhood Residential Zone
- the use of the DPO *“to guide the future form of the area and it will be able to address a range of lot size and interface issues.”*

Amendment C81 was gazetted on 6 December 2018.

Amendment C103moor initially included land on both sides of Hopetoun Park Road. The potential lot yield at that time was around 850 lots (400 lots for the land west of Hopetoun Park Road and 450 lots for land to the east).

Between October 2021 and October 2022 significant environmental constraints were identified for the land to the east of Hopetoun Park Road. This was supported by flora and fauna reports and targeted species surveys that identified existing and potential grasslands and species of National significance. As a result, the eastern side of Hopetoun Park Road was removed from the Amendment but a reduced lot yield of 200 lots (down from 450 lots) from this area was retained to inform infrastructure requirements.

Supporting reports were updated, including a *Revised Infrastructure Needs and Development Contributions Analysis* from Urban Enterprise that required:

- Hopetoun Park Road roundabout with Western Freeway
- Old Western Highway intersection upgrade
- a 2 hectare park (land and construction)
- netball court (cash contribution)
- kindergarten, Maternal Child Health and Community Centre (land and cash contribution)
- community infrastructure levy.

Subdivision works included a shared path in public open space along the escarpment and its connection to Cowans Road and a 0.76 hectare neighbourhood park (land and construction).

At the time the Proponent did not reduce the provision of infrastructure with the removal of land east of Hopetoun Park Road and reduced NDA.

Following exhibition of the Amendment and after Council considered submissions to the Amendment the Proponent wrote to the Head, Transport for Victoria (Head, TfV) and copied in Council on 29 July 2025 advising it would no longer provide the Western Freeway roundabout based on the most recent traffic advice from the Jason Walsh of the Traffix Group. This letter, sent via Norton Rose Fulbright lawyers, stated<sup>1</sup>:

<sup>1</sup> Document 20

BMPG has received an independent expert opinion concerning the Intersection Upgrade from Mr Jason Walsh of Traffix Group dated 17 July 2025 (**copy enclosed**). Mr Walsh's expert assessment considers the traffic generated by the potential yield of 600 lots across the *Hopetoun Park North Residential Growth Precinct*<sup>1</sup> (which includes 400 lots in the Amendment area, as well as a conservative estimate of a further 200 lots east of Hopetoun Park Road, outside of the Amendment area).

.....

BMPG intends to be guided by the independent expert opinion of Mr Walsh concerning the Intersection Upgrade and will no longer pursue the Intersection Upgrade as part of Amendment C103moor on this basis. Accordingly, BMPG seeks to engage with you further in respect of this issue, with a view to forming a joint position ahead of the Panel Hearing for the Amendment.

The Traffix Group report did not support the need for the roundabout based on the level of service under existing and post development scenarios following a SIDRA analysis and safety assessment.

The Head, TfV responded by email dated 23 September 2025 that<sup>2</sup>:

Head, TfV does not intend to pursue the upgrade of the existing intersection of Hopetoun Park Road and east bound on-ramp to the Western Freeway as part of this Amendment.

This position is based on the Expert Evidence Statement provided by Mr Walsh of Traffix Group dated 5 September 2025, which demonstrates that the intersection of Hopetoun Park Road and east-bound on-ramp to the Western Freeway operates within acceptable limits from both a capacity and safety perspective.

Given the uncontrolled nature of the intersection, and risks of increased traffic volumes on intersection safety, Head, TfV will require further assessment for any development beyond 400 lots.

## 1.3 Procedural issues

### 1.3.1 The Western Freeway roundabout

The need for a roundabout to be constructed at the on ramp to the Western Freeway from Hopetoun Park Road was a focus of discussion at both the Directions Hearing and Public Hearing. The roundabout was estimated to cost \$2 million.

The decision not to proceed with the roundabout by the Proponent is described above.

Council considered there was a denial of procedural fairness by the Proponent's decision not to proceed with the roundabout. It submitted<sup>3</sup>:

This impacts on the community understanding of the future development outcomes in Hopetoun Park and has potential to damage community members trust in Council as a planning authority.

Accordingly, Council maintains its position that the Amendment should include a requirement for the Proponent to fund a roundabout at the intersection of Hopetoun Park Road and the Western Freeway On-ramp, as exhibited.

The Panel understands that Council did not consider *it* had been denied procedural fairness. The Proponent's view, confirmed by Council in response to a Panel question, is that<sup>4</sup>:

... the point being made is that there may be a member of the community who has chosen not to attend the Panel on the basis that the roundabout was proposed, or more accurately, contemplated, as part of the Amendment.

In response to a Panel question about what it wanted the Panel to do about the issue; Council responded that it wanted the Panel to conclude there was a denial of procedural fairness but did

<sup>2</sup> Document 21

<sup>3</sup> Council Part B submission, paragraphs 212-213

<sup>4</sup> Proponent closing submission, paragraph 9

not want the Panel to do anything about it. It did not invite the Panel to adjourn the Hearing to rectify the issue via further notification or re-exhibition. Council advised it would deal with this when it considers the Panel's recommendations.

The Proponent submitted Council and Head, TfV were notified 62 days before the start of the Hearing of this changed position which provided "*ample opportunity to seek traffic engineering advice, both from its own engineers and from external traffic engineering firms.*" The Proponent submitted that Council had not:

- produced any memorandums authored by its own engineers
- produced any memorandums created by external providers
- not called any independent evidence on the subject
- challenged Mr Walsh on his opinion (concerning the roundabout)
- made any submissions on the need for the roundabout.

If the Panel considered there was denial of procedural fairness, then the Panel is compelled to do something about it. It is odd that Council has not asked the Panel to do anything about it, aside from concluding there was a denial of procedural fairness.

Factors that have assisted the Panel is reaching this conclusion are:

- The Western Freeway is a road managed by the Head, TfV. It supports the Proponent's view the roundabout should not be constructed.
- Council had ample opportunity to address this issue before the Hearing, with specific Directions provided by the Panel around this. It chose not to.
- No community submissions refer to specific support for the roundabout. Submitter 17 states "*a roundabout at the freeway entrance seems a waste.*"
- Finally, the Panel Hearing process is iterative. Planning Panels explore issues and make recommendations that may have the effect of changing parts of an Amendment from its exhibited version. In this case, no exhibited documents of the Amendment refer to the roundabout as a required piece of infrastructure.

The Panel is satisfied there has not been a denial of procedural fairness.

### **1.3.2 Post hearing submissions**

The Panel provided an opportunity to Council and the Proponent to submit final comments on the Day 5 drafts of the DPO7 and DDO17 by 12 noon on Wednesday 8 October 2025.

In response the Panel received:

- Email 9 October 2025 from Council (Document 34) – containing the Day 5 DPO7 with edits. This email referred to the need to provide greater clarity in drafting and raised concerns with the Day 5 DPO7 version from the Proponent that it:
  - departs from the DPO schedule style guide (in the Ministerial Direction on the Form and Content of Planning Schemes – Annexure 1)
  - does not consistently align with the plain English principles in the Ministerial Direction.
- Email 10 October 2025 from Head, TfV (Document 35) supporting Council's need for greater clarity in drafting with some specific edits related to its role.
- Email 14 October 2025 from the Proponent with attached letter (Document 36) that expressed concern Council and Head, TfV proposed additional changes that were not discussed at the drafting session on the last day of the Hearing. The Proponent considered it would not be procedurally fair for the Panel to consider the additional changes without a further opportunity for the Proponent to comment on them.

The Panel advised all parties (Document 37) that it had allowed the Proponent to comment on the additional changes. The Proponent provided its response (Document 38) on 23 October 2025.

## 1.4 Versions of the Amendment

The Panel directed Council and the Proponent to circulate a 'Day 1' version of the Amendment documentation (the DPO7 and DDO17) before the commencement of the Hearing, and an agreed version (between Council and the Proponent) with areas of disagreement tracked shortly after the closure of the Hearing.

Council and the Proponent circulated its Day 1 Amendment documents as Document 10 and Document 12, respectively. Further versions were submitted but considering the procedural issue discussed at Chapter 1.3.2 the final version of DPO7 the Panel received is the post-Hearing version with Council and Head, TfV comments (Document 35).

Except where stated otherwise, the Panel supports the agreed changes contained in the DPO7 (Document 35) and DDO17 (Document 33) which provide greater clarity and improve the operation of the controls. It considers the post hearing additions referred to above in Chapter 11.

The Panel's preferred DPO7 in Appendix C uses the agreed final version (Document 35) as the starting point. The Panel's recommended DDO17 in Appendix D uses the agreed final version (Document 33) as a starting point.

## 1.5 The Panel's approach

Of the 32 submissions received, five were received from the following government agencies:

- Heritage Victoria (Submission 2)
- Agriculture Victoria (Submission 3)
- Department of Energy, Environment, and Climate Action (DEECA – Submission 13)
- Melbourne Water (Submission 30)
- Department of Transport and Planning (Submission 32).

Of these, Heritage Victoria did not object, Agriculture Victoria was concerned about the loss of agricultural land and DEECA requested changes to the DPO7 and DDO17. Melbourne Water and the Department of Transport and Planning requested changes to the DPO7. Most of these issues were addressed in the agreed versions of the DPO7 and DDO17.

Key issues raised in submissions were:

- loss of agricultural land and the impact of the irrigation district
- Aboriginal cultural heritage impacts
- interface between Area B and existing properties in Hopetoun Park
- interface between area A and irrigation district
- increased traffic and impacts on existing residents and existing infrastructure including the adequacy of the existing roundabout at the south of the site
- continuation of existing Hopetoun Park character
- impacts on biodiversity and the Werribee River
- bushfire risk.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

The issue of neighbourhood character and lot size controls are addressed in Chapters 2, 5 and 6.

This Report deals with the issues under the following headings:

- strategic issues
- loss of agricultural land and the impact of the irrigation district
- Aboriginal cultural heritage
- interface between area A and irrigation district
- interface between Area B and existing properties in Hopetoun Park
- traffic
- infrastructure and open space
- biodiversity and the Werribee River
- bushfire risk
- form and content of the Amendment.

## 1.6 Limitations

Some submissions referred to increased illegal driving and antisocial behaviour (such as rubbish dumping and poor presentation of properties) because of the Amendment.

Council submitted and that *“poor road behaviour of drivers on existing roads is outside the scope of this planning process.”* The Panel agrees.

Council submitted the maintenance of future properties is not a relevant consideration for this Amendment and there are other local laws in place to address illegal dumping of rubbish. The Panel agrees.

Submitter 28 stated there had been no engagement with directly impacted residents. Council noted community consultation had spanned several years and informal consultation that occurred prior to the exhibition of the Hearing included letters sent to existing residents, including the submitter, and three community consultation sessions. These residents were notified formally with the exhibition of the Amendment. The Panel is satisfied the community has been engaged both informally and formally on the potential development of this land, aside from the matter of procedural fairness the Council has raised and is addressed in section 1.4 of this Report.

The Panel does not address these issues further.

## 2 Strategic issues

### 2.1 Planning context

This chapter identifies planning context relevant to the Amendment.

**Table 1** Planning context

	Relevant references
<b>Victorian planning objectives</b>	- section 4 of the PE Act
<b>Municipal Planning Strategy</b>	- Clauses 02.03-1 (Settlement), 02.03-2 (Environmental and landscape values), 02.03-3 (Environmental risks and amenity), 02.03-4 (Natural resource management), 02.03-5 (Built environment and heritage), 02.03-6 (Housing) - Clause 02.04 (Moorabool Shire Strategic Framework Plan)
<b>Planning Policy Framework</b>	- Clauses 11.01-1R (Settlement – Central Highlands), 11.01-1L-01 (Settlement in Moorabool), 11.01-1L-02 (Bacchus Marsh), 11.02-2L (Structure planning in Moorabool) - Clauses 12.01-1L (Biodiversity), 12.05-2S (Landscapes in Moorabool) - Clauses 15.01-1L (Urban design), 15.01-5S (Neighbourhood character), 15.01-5L (Landscape and neighbourhood character) - Clause 18.02-4L (Road system) - Clause 19.02-6L (Open space) - Clauses 19.03-2L (Infrastructure design and provision) and 19.03-3L-02 (Integrated water management)
<b>Other planning strategies and policies</b>	- Plan for Victoria - Bacchus Marsh Urban Growth Framework
<b>Other amendments</b>	- Amendments C34 and C81
<b>Planning scheme provisions</b>	- Neighbourhood Residential Zone - Development Plan Overlay - Design and Development Overlay
<b>Ministerial directions</b>	- Ministerial Direction 11 (Strategic Assessment of Amendments)
<b>Planning practice notes</b>	- Planning Practice Note 46: Strategic Assessment Guidelines

### 2.2 Strategic justification

#### (i) The issue

The issue is whether the Amendment will facilitate development that is consistent with strategic planning for the area.

#### (ii) Evidence and submissions

Many community submissions (Submitters 3, 5, 6, 8, 9, 10, 12, 14, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29) either objected outright to the Amendment or objected to aspects of the Amendment, particularly proposed lot size and the need to protect local character, vegetation and local wildlife. This has been taken as an objection to the strategic basis of the Amendment as, for example the

proposed lot sizes are enabled by the zone control. Some submitters considered the Low Density Residential Zone should be used.

It was Mr Granger's evidence that the Amendment "*aligns well with the strategic directions of both State and local policy.*" He stated:

Clause 11.01-1S (Settlement) identifies Bacchus Marsh as a regional service centre where growth should be directed, and the BMUGF specifically earmarks Hopetoun Park North as a residential growth precinct. On this fundamental question of settlement strategy, the amendment is consistent with policy intent.

He considered the Amendment met the following State policy:

Clauses 11.02-1S (Development capacity) and 16 (Housing)<sup>5</sup>

It provides additional land supply in the broader Bacchus Marsh area, which has been assessed to have less than five years of residential land supply available, and is therefore considered to represent 'a constrained supply situation'.

It delivers lot sizes different than those proposed in other growth precincts, thereby injecting a level of diversity into the local housing market.

Clauses 12 (Environmental landscape values) and 14 (Natural resource management)<sup>6</sup>

Conservation reserves have been defined as part of the Concept Plan and include appropriate buffers.

Viewlines to the subject land and escarpment from notable viewsheds, such as the Western Freeway, have informed the layout of the Concept Plan and associated development setback distances.

Through the consideration of potential impacts on the Bacchus Marsh Irrigation District, it has been found that the proposed development of the land for residential purposes will not result in the loss of highly productive farmland, or detrimentally affect the highly valuable irrigated land to the subject land's west.

The amendment has been prepared in the context of considering future extractive industry activities. Notably, as part the BMUGF amendment process (Amendment C81), the then Department of Economic Development, Jobs, Transport and Resources considered that the subject land was unsuitable for extractive industries development.<sup>19</sup> This view is supported by a more contemporary analysis of land suitability, prepared by CK Prowse and Associates in support of the amendment.

Clause 19.02-6S (Open space)<sup>7</sup>

The Concept Plan identifies a community hub and open space network that will deliver on these expectations. This is a positive feature of the amendment and contributes to its policy alignment.

Mr Granger supported the use of the NRZ with the schedule that specifies a minimum lot size of 800 sqm. He noted Planning Practice Note 91 (Using the residential zones) supported the use of the NRZ in areas that have been identified as having specific environmental and landscape character values. He considered the NRZ "*will help to create a spacious, landscaped neighbourhood character, while not limiting the subject land's potential to deliver much-needed housing supply.*" Mr Granger considered the NRZ would deliver a future lower density residential precinct in Hopetoun Park as is required by the BMUGF.

Mr Granger referred to the conclusion of Helia EHS that the land is not contaminated and on the basis of this assessment considered the requirements of Ministerial Direction No.1 – Potentially Contaminated Land were met.

<sup>5</sup> Mr Granger evidence statement, page 22, paragraph 136

<sup>6</sup> Mr Granger evidence statement, page 22, paragraph 137

<sup>7</sup> Mr Granger evidence statement, page 22, paragraph 140

The Proponent and Council supported the evidence of Mr Granger, both noting the difference between the need for a *lower*-density residential precinct and a low density residential precinct. The former is a reference to the strategic role of the land and the latter, preferred by some submitters, infers the use of the Low Density Residential Zone.

Council submitted the Amendment was consistent with the BMUGF because<sup>8</sup>:

- it improves connectivity through the shared path to Cowans Road and upgrades to the external road network at the intersections of Hopetoun Park Road / Western Freeway On-ramp and Hopetoun Park Road / Old Western Highway
- residential development is set back from the escarpment with requirements for an ultimate road interface (and interim interface road as necessary)
- habitat is protected in conservation reserves
- public open space networks and facilities are enhanced
- bushfire risk is managed
- an Integrated Water Management Plan must be provided to protect nearby waterways and manage stormwater treatment and runoff
- the development will not affect the irrigation district.

### (iii) Discussion

A description of the BMUGF and how it relates to the land is provided in section 1.3. The key messages from the BMUGF are:

- that residential development of the land is expected as it is identified as one of three residential growth precincts in Bacchus Marsh
- the form of this development should be *lower* density residential, not low density residential.

The Panel agrees with Council that the question that remains is not if residential development is appropriately located in Hopetoun Park North, but what form this should take. For this reason, the Panel does not support submissions that the land should not be developed. The question of 'if' was settled with the BMUGF and Amendment C81 that implemented it in the planning scheme.

The selection of the NRZ and not the Low Density Residential Zone is consistent with the role of the land as a lower density residential area. The NRZ mandates a minimum lot size of 800 sqm and the use of the DPO7 ensures there will be a transition to larger lots at the western and southern boundaries to protect environmental and landscape values and residential amenity, respectively.

A requirement of the Master Plan in DPO7 is it must show:

- Residential lots with a minimum area of 1500 square metres, and a minimum frontage width of 30 metres, in Areas A and B, as defined on the Concept Plan.
- Residential lots with a minimum area of 800 square metres and a minimum frontage width of 20 metres for Area C, as defined on the Concept Plan.

The Panel supports Council, the Proponent and Mr Granger's evidence that the NRZ, DPO7 and DDO17 set of controls will deliver a lower density residential development. The DDO17 contains front side and rear setbacks, fencing controls and setbacks to accommodate defensible space. A degree of flexibility is provided as they are not mandatory, and a permit can be issued to vary these if circumstances warrant. However, they are there for a strategic purpose to create a lower density estate and the Panel does not expect there will be many circumstances where a variation should be entertained.

<sup>8</sup> Council Part B submission, paragraph 16



The Panel notes the Environment Significance Overlay (ESO) will also ensure areas of environmental sensitivity are protected.

The Panel agrees with Mr Granger the land is not potentially contaminated and an appropriate investigation has taken place.

The Amendment is consistent with the strategic policy objectives for Bacchus Marsh and will provide a modest contribution approximately 400 dwellings to the housing target set for Moorabool of 20,000 new dwellings by 2051. In this regard, the Panel supports Council's position that *"every lot counts."*

The Amendment will also result in a net community benefit as it will provide for the existing and new community of Hopetoun Park a:

- a local convenience centre
- two hectare park
- netball court
- Kindergarten, Maternal Child Health and Community Centre
- conservation reserve that protects most remnant vegetation
- a shared path with views over Bacchus Marsh.

The Panel is satisfied the Amendment will result in the sustainable development of the land guided by its own development plan.

#### **(iv) Conclusions and recommendation**

For the reasons set out in this report, the Panel concludes that the Amendment:

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

The Panel recommends Council:

**Adopt Moorabool Planning Scheme Amendment C103moor as exhibited in accordance with the Panel-preferred versions of the Development Plan Overlay - Schedule 7 shown in Appendix C and Design and Development Overlay – Schedule 17 as contained in Appendix D.**

## 3 Loss of agricultural land and impact on irrigation district

### 3.1 The issues

The issues are whether the:

- Amendment will result in the inappropriate loss of agricultural land
- amenity of new residents will be impacted the Bacchus Marsh Irrigation District (BMID).

### 3.2 Background

Phillips Agribusiness completed an assessment of agricultural land in March 2023.

### 3.3 Submissions

Agriculture Victoria raised broad concerns about the loss of agricultural land to meet the housing target for Moorabool of 20,000 new houses by 2051 and the need to provide buffers to agricultural land uses.

The Phillips Agribusiness report and its addendum dated May 2023 address this matter. The March 2023 report notes:

The direct elevation of the plateau is 50 metres higher than the BMID. A significant buffer exists between residential and the BMID through direct elevation, slope, lineal and road reserves and dwelling setbacks. Even at the closest escarpment distance after road reserves and proposed dwelling setbacks are included, the distance from orchards to the first residence will be greater than 150 metres.

The May 2023 addendum concluded:

... if the type of agricultural use were to change, in my view, the buffer distances when combined with the height differential, are sufficient to ensure protection of the amenity of the future residential area, irrespective of the type of agricultural use.

### 3.4 Discussion

The Panel agrees, in part, with Agriculture Victoria that greenfield urban expansion usually results in the loss of agricultural land, but that this is inevitable and unavoidable. In the Panel's view the land has not been identified as strategically important agricultural land. This matter was effectively settled when the land was identified in the BMUGF for urban development.

The BMID is located at least 150 metres to the west of the land, and 50 metres lower in the landscape. The Panel is satisfied the continued agricultural use of the BMID will not impact the amenity of the new residents.

### 3.5 Conclusions

The Panel concludes that:

- The land does not contain high value or strategically important agricultural land and will not result in an inappropriate loss of agricultural land.
- The land uses and context of the strategically important BMID will not impact the future residential development of the land.

## 4 Aboriginal cultural heritage

### 4.1 The issue

The issue is how Aboriginal cultural heritage issues should be addressed in the Amendment.

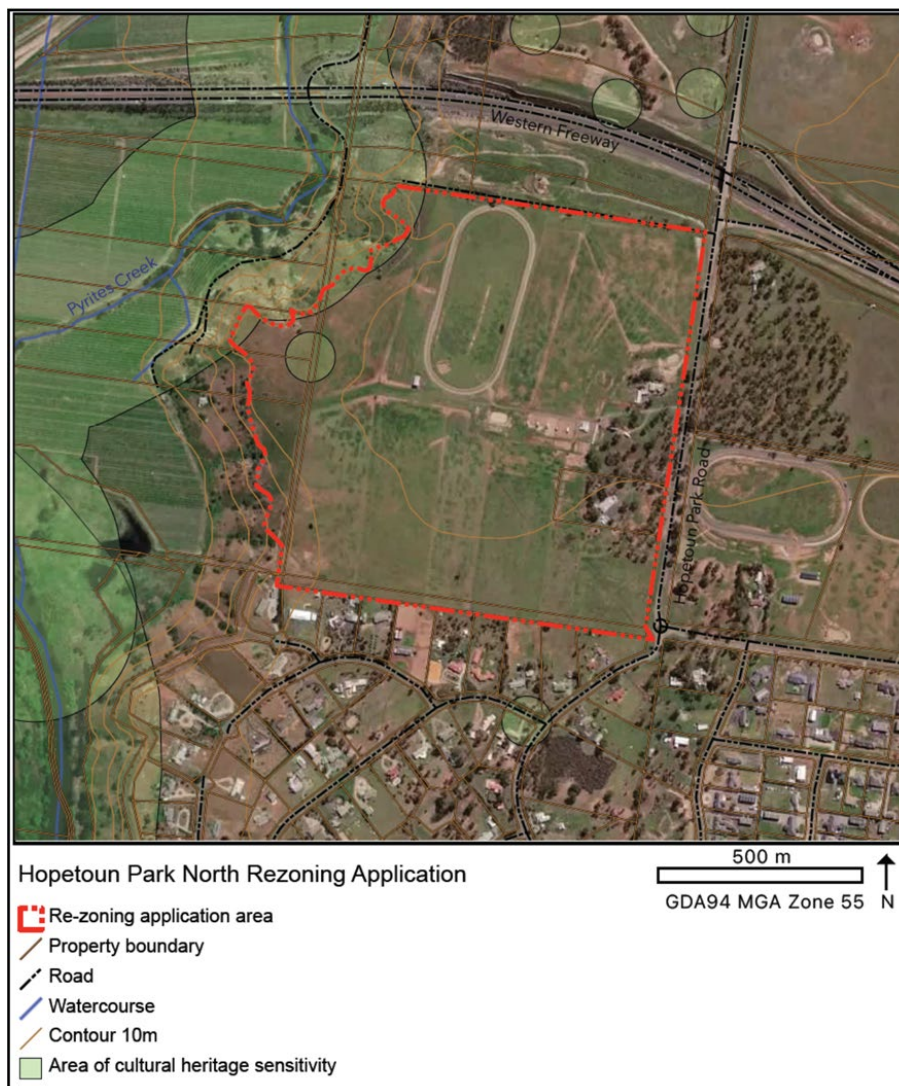
### 4.2 Background

As part of its due diligence the Proponent engaged Clarkeology to prepare an Aboriginal cultural heritage preliminary assessment report (August 2023). This included consultation with Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, and it found there was one Aboriginal cultural heritage place on the land. It confirmed a Cultural Heritage Management Plan (CHMP) was not required for the rezoning of the land.

### 4.3 Evidence and submissions

The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation identified that a CHMP would be required for subdivision and requested that future development avoid the areas of cultural heritage sensitivity which are shown on Figure 7.

**Figure 7** Aboriginal cultural heritage sensitivity mapping



Source: Council Part B submission, paragraph 39

Council accepted that a CHMP was not required at the Amendment stage or in the preparation of a development plan, but the subdivision of the land would be considered a high impact activity which triggered the need for a CHMP. It submitted<sup>9</sup>:

A comprehensive assessment of cultural heritage, particularly around the escarpment, at the permit stage may reveal constraints on the anticipated lot layout and, for example, may lead to relocation of elements of the development to more appropriate places to minimise impact on cultural heritage. In this way, the approved CHMP may be inconsistent with an approved Development Plan, resulting in difficulty satisfying 'generally in accordance' requirements, or impacting on developable areas.

In response to the submission of Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Council initially proposed to require a CHMP as a requirement of the development plan and that it be to the satisfaction of Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. At the Hearing and in its Part B submission Council reconsidered its approach<sup>10</sup>:

Council considers the preferable approach to be that the development plan should be informed by a Cultural Values Assessment (CVA). Council considers that a more consultative process in preparing a comprehensive response to Aboriginal cultural heritage to inform the development plan will improve guidance on Aboriginal cultural value management and assist in the preparation of the CHMP when required for planning permission.

Council's Day 1 version of DPO7 (Document 10) contains the CVA requirement. Council agreed in its Day 5 version of DPO7 that it should not be to the satisfaction of the responsible authority. It submitted this approach was supported in Melton Planning Scheme Amendment C232melt and Greater Bendigo Planning Scheme Amendment C263gben.

The Proponent objected to the need for a CHMP or CVA at this stage of the process and submitted<sup>11</sup>:

This Panel is invited to be very cautious about any aspect of this Amendment which seeks to impose controls or processes which are inconsistent with, displace, or even represent a well-intentioned attempt to supplement, the regime established by the Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2018 (collectively, the AH regime).

The Proponent submitted the Council approach was unsound because:

- a CHMP is to be approved by the traditional custodians of the land and does not need to be to the satisfaction of the responsible authority
- a CHMP has its own legislative status pursuant to the Aboriginal Heritage regime
- the Aboriginal Heritage regime establishes when a mandatory CHMP is required. A planning scheme amendment and preparation of a development plan is not a high impact activity, and it is inappropriate for a planning overlay to mandate one where the Aboriginal Heritage regime does not.

Mr Granger's evidence was that a CHMP should not be required as a high impact activity was not proposed and in oral evidence conceded the Proponent should consider completing a voluntary CHMP to inform the preparation of the development plan.

The Proponent referred to the need for a CVA as "*a de facto or shadow CHMP*" and that it is "*an instrument not recognised at all by the Aboriginal heritage regime.*" The Proponent emphasised it was not trying to avoid the need for this investigation but that it should be required at the appropriate point in the planning process.

<sup>9</sup> Council Part B submission, paragraph 41

<sup>10</sup> Council Part B submission, paragraph 44

<sup>11</sup> Proponent submission, page 49, paragraph 196

## 4.4 Discussion

The Panel agrees with the Proponent that a CHMP or a CVA should not be a requirement for the development plan in DPO7. It does however support the oral evidence of Mr Granger that a voluntary CHMP at this point in the process to inform the development plan would be useful.

The Panel reaches this conclusion on the basis there has been an investigation into cultural heritage issues for the land by Clarkeology in 2023, which found a CHMP is required for the subdivision of the land but not at the Amendment stage.

The other examples cited by Council where a CVA was required was for large tracts of land for either a Precinct Structure Plan process or major regional urban expansion. This land is markedly smaller in size and is supported by a preliminary cultural heritage assessment.

The Panel asked Council what the difference was between a CVA and the assessment already completed. It responded that it would include a site walkover, desktop review but no digging. The Clarkeology assessment does not confirm whether a site inspection was conducted and does not have results from digging. The Panel finds there would be very little difference between a CVA, and the assessment already completed.

The Panel accepts that it might be prudent for the Proponent to voluntarily complete a CHMP to inform the development plan preparation, but this is a matter (and a risk should it not choose to do so) for the Proponent.

## 4.5 Conclusions and recommendation

The Panel concludes:

- A CHMP or CVA should not be a requirement for the development plan
- The Clarkeology assessment provides a preliminary indication of the lands' cultural heritage constraints and a CVA is unlikely to provide further detail.
- It may be prudent for the Proponent to prepare a voluntary CHMP.

The Panel recommends:

**Amend Clause 4.0 of the Development Plan Overlay 7 to delete the need for a Cultural Values Assessment as contained in Appendix C.**

## 5 Interface between Area A and irrigation district

### 5.1 The issues

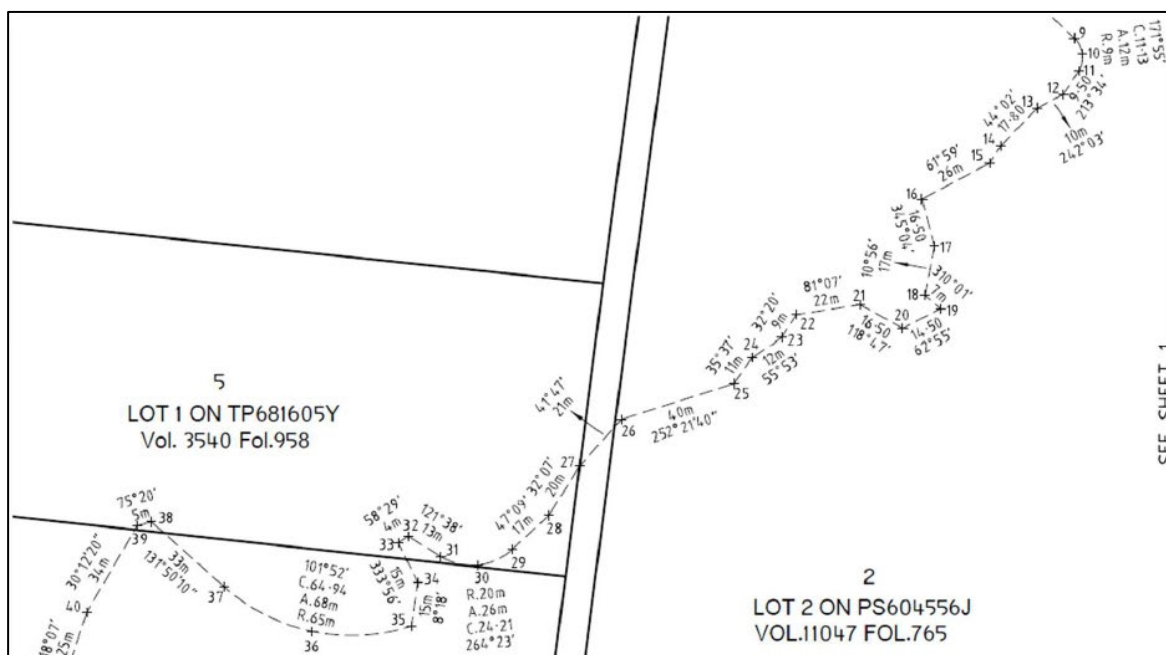
The issues are whether the controls relating to the public open space and the development of residential lots in Area A appropriately respond to:

- overlooking
- public access
- erosion and landslip risk
- interim measures.

### 5.2 Background

The location of the top of the escarpment on the western boundary is important as the new planning controls for the land take setbacks from this point. Millar Merrigan surveyed the escarpment and defined the top of the escarpment. Figure 8 contains part of this survey for the north west corner of the land.

**Figure 8** Escarpment survey plan



Source: Proponent submission, page 21, paragraph 76

The relevant background reports are:

- Hopetoun Park North Landscape and Visual Amenity Assessment Report (Hansen Partnership) April 2020 (2020 Hansen report).
- Hopetoun Park North Landscape and Visual Amenity Assessment Report (Hansen Partnership) Supplementary Report April 2023 (2023 Hansen report).
- Hopetoun Park North Interpretive Geotechnical investigation (Black Geotechnical) May 2023 (2023 Black Geotechnical report).
- Hopetoun Park North Residential Impacts Assessment (Phillips Agribusiness) May 2023.

The land containing most of the escarpment land is not owned or managed by the Proponent which is a consideration for the use of interim measures for the western interface before the other land is developed.

## 5.3 Overlooking

### 5.3.1 Evidence and submissions

Submitter 28 raised concerns about the interface between the lots in Area A and the escarpment and irrigation district, including public open space overlooking properties in the irrigation district and public access to the escarpment.

The submitter requested the following changes:

- Locate the farm style fence at the top of the escarpment.
- Increased the revegetation buffer from 5 metres to 20 metres.
- Construct a 1.8 metre high paling fence between this extended revegetation buffer and the 20 metre wide linear open space.
- Instal engineered road barriers to prevent vehicle run offs down the escarpment.

The increased revegetation buffer would result in a 62.3 metre setback to new dwellings from the top of the escarpment.

The Proponent referred to the evolution of the setbacks along the escarpment. An initial report from Hansen Partnership that was not exhibited as a background report established the need for a setback from the escarpment comprising a 10 metre wide linear open space corridor, a 20 metre wide road reserve and a 10 metre front setback to dwellings. This provided a 40 metre setback to new dwellings. The 2020 Hansen report recommended a 17.3 metre wide road reserve, instead of 20 metres. The 2023 Hansen report recommended a 20 metre wide linear open space reserve, instead of 10 metres. This provided a minimum 47.3 metre setback to new dwellings.

The Proponent advised the yellow line on the concept plan (see Figure 3) attached to DPO7 shows the 20 metre wide linear open space reserve.

Mr Schutt supported the approach to western escarpment interface with Area A:

The requirement for a western escarpment interface abutting the western site boundary, comprised of a linear reserve of a minimum 20 metres in width which incorporates a 2.5m shared path for pedestrian and cyclist access and a 5 metre revegetation strip ensures the ability to establish an appropriate landscape buffer along this sensitive interface, which will provide opportunities to mitigate any perceived visual impacts through the provision of appropriate landscape treatments and contribute to the provision for appropriate opportunities for passive recreation usage by future residents.

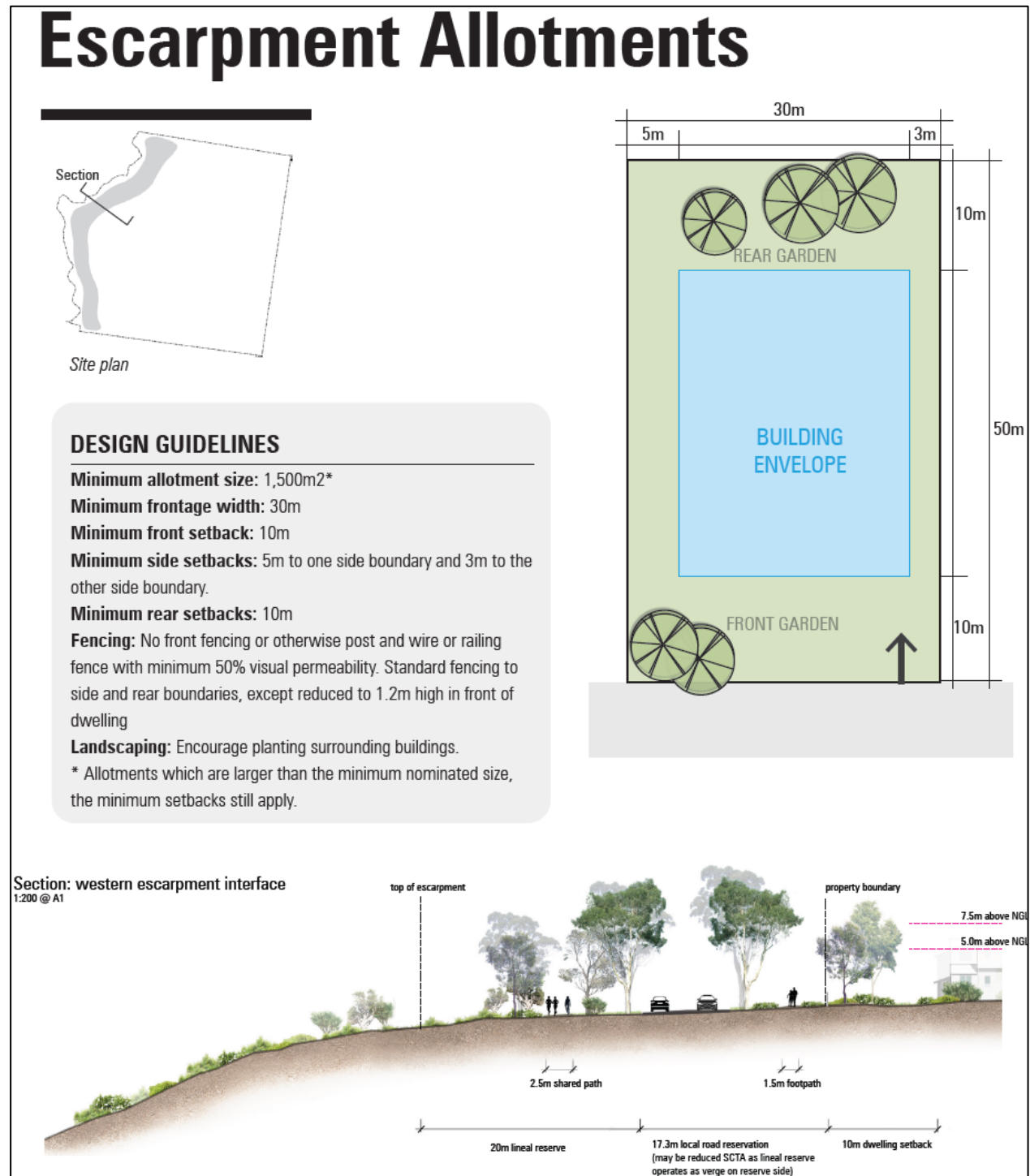
The proposed planning controls in this area are depicted in Figure 9 which shows the escarpment interface.

Council submitted the 2023 Hansen report recommended an 8-wire farm fence to be either located at the top or bottom of the escarpment to prevent public access.

Council considered *“this generous setback will ensure future built form is well separated from the existing properties.”*



Figure 9 Design guidelines for escarpment lots



Source: 2023 Hansen report

Overall Council concluded<sup>12</sup>:

The linear park design provides a significant setback from the top of escarpment. A standard linear park edge treatment will include bollards or low fencing at the road reserve boundary (e.g. Marriott Boulevard, Weir Views). The road at this interface will be a low speed residential road with low traffic volumes. During detailed road design, risk assessments will determine if additional traffic barriers are required to prevent vehicles entering the linear reserve.

<sup>12</sup> Council Part B submission, paragraphs 105-106



The submitters proposed variations for the escarpment interface comprising of timber paling fencing and a visual screening barrier of thick vegetation is inconsistent with the design of the linear open space which should have passive surveillance from surrounding streets and homes to maximise public safety and enjoyment of the extensive views across the Bacchus Marsh Irrigation District to the town of Bacchus Marsh and the landscape beyond.

### 5.3.2 Discussion

The interface of the land with the escarpment land that is currently held in private ownership is the most sensitive part of the land and requires a high level of consideration. This is because it:

- will be a focus of the CHMP for the land
- contains some remnant vegetation
- retains the potential for significant views across Bacchus March
- has the potential to impact dwellings at the bottom of the escarpment in the BMID.

The Panel considers there has been an appropriate focus on the escarpment and what controls should apply. This assessment started in 2019 with an initial assessment by Hansen Partnership, followed by its 2020 report and finally the 2023 report. Mr Schutt was involved in all these assessments and provided evidence to the Panel. The need for an appropriate setback was a consistent feature and over time has resulted in an increased setback from what was initially proposed. As the top of the escarpment does not follow a straight line these setbacks are a minimum and, in many areas, will result in greater setbacks being provided.

The Panel considers that a minimum setback of 47.3 metres is generous, appropriate and will address the sensitivity of this interface.

The Panel does not consider a high paling fence in this area should be used to restrict public access. It would be visually intrusive and inhibit the ability to maintain an open landscaped character around the escarpment. As future public open space it is appropriate the public has access to it.

A 37.3 metre setback to the front of residential lots will ensure new residents cannot overlook dwellings at the bottom of the escarpment.

## 5.4 Landslip

### 5.4.1 Evidence and submissions

Submitter 28 raised concern over the risk of erosion and landslip on the escarpment.

Council referred to the 2023 Black Geotechnical report which found:

There are no landslide risk concerns impacting the subject site, and the proposed building setbacks are appropriate. The landslide risk assessment determined a risk to loss of life is within an acceptable threshold of less than 10<sup>-6</sup> per annum (which is at least 10 times better than the limit of 10<sup>-5</sup> commonly adopted for new developments).

Mr Burke provided the following evidence on landslip:

- any permanent loading more than 10 metres from the escarpment will have no influence on stability, and any short-term loading from construction activities more than a few metres from the escarpment will have no influence on stability
- any erosion caused by drainage will be reduced by the development of the precinct, due to the *“substantial improvement of in drainage conditions proposed”*
- there is no landslide risks associated with the development of the precinct.

## 5.4.2 Discussion

The Panel defers to the investigation by Black Geotechnical which has confirmed there is no landslip risk.

## 5.5 Interim measures

### 5.5.1 Evidence and submissions

The escarpment land is largely contained on land not under the Proponents ownership or control. This presented an issue for Council as to how to address this interface if development occurred just on the Proponent's land.

Figure 10 contains an excerpt of this area from Mr Shutt's evidence statement. The land circled in yellow is currently not owned by the Proponent. The effect of the Council's proposed condition is that the western interface escarpment road would need to be provided to the east of the yellow lots or those lots circled in purple could not be developed until a western escarpment interface road has been constructed.

The effect of the Proponent's condition would be to:

- prohibit the rear boundary fencing of the purple circled lots, unless it is a rural post and wire style rear fence
- require landscaping to the west of the rural fence.

Council proposed the following mandatory permit condition to address interim measures at the western interface:

**Mandatory permit condition: Interim western escarpment interface road**

Except with the written consent of the Responsible Authority, if a western escarpment interface road has not been constructed: Any permit to subdivide land at 124 Hopetoun Park Road that would create lots within 100 metres of the western boundary of 124 Hopetoun Park Road must include a local road that:

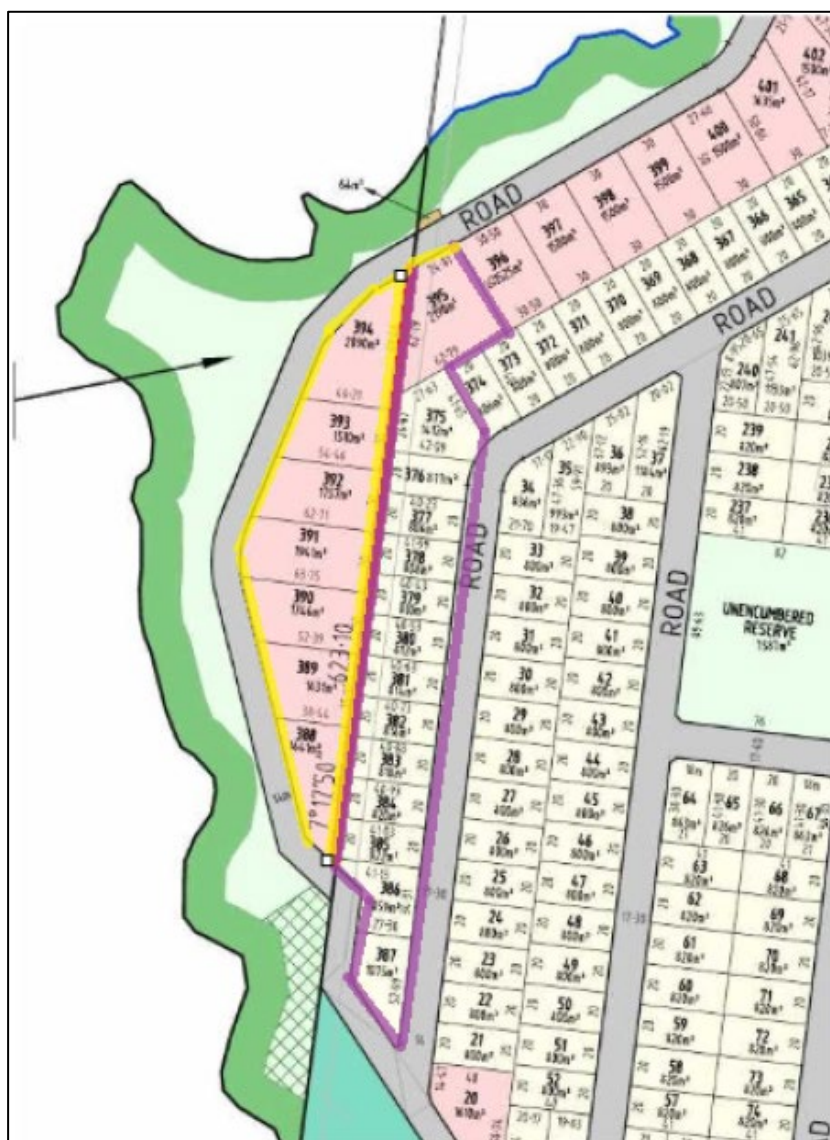
- Is aligned generally north-south;
- Is located to the west of all residential lots; and
- Provides a staged interface to undeveloped land to the west.

Note: The western escarpment interface road refers here to the perimeter road in land comprising the eastern portion of lots: Lot 1 TP681605Y, Lot 1 TP749719H, Lot 1 TP414231K, and TP303309S, required as part of the western escarpment interface described in the development plan.

The Proponent proposed:

**Mandatory permit condition: Interim western escarpment interface road**

If a Western Escarpment Interface Road has not been constructed, any permit for the subdivision of 124 Hopetoun Park Road must include a condition relating to any lots within 100 metres of the west boundary of Lot 3 on PS604556J, prohibiting any fencing presenting towards the escarpment to the west unless the fence is of a rural post-and-wire style, until such time as a Western Escarpment Interface Road is constructed, after which time the prohibition shall not apply, and requiring the planting of vegetation along any west-facing residential lot fence line prior to the issue of a Statement of Compliance, unless otherwise agreed in writing by the Responsible Authority.

**Figure 10** Interim western interface

Source: Council submission, paragraph 188

Mr Granger gave evidence the interim measures would not likely be required because<sup>13</sup>:

I say an unlikely event because following the rezoning, future residential lots on the escarpment interface are likely to be the most valuable due to their large lot sizes and rare views of the Bacchus Marsh Irrigation District below. As a result, landowners will have a compelling reason to subdivide and develop this land in accordance with the Concept Plan.

## 5.5.2 Discussion

The Panel was advised the interim measures would not be required if the Proponent could purchase that part of the land it does not currently own. This would be a good outcome, but the Panel accepts this important interface, under the current ownership, should be addressed with an interim measure if a land purchase did not proceed. The Panel agrees with Mr Granger there will be an incentive to develop this land as it will likely contain the most expensive lots with views over the BMID and Bacchus March.

The Panel considers the Council drafting would sterilise a key part of the land from development (land circled in purple) and that, as the Panel did at the Hearing, suggest there might be better way

<sup>13</sup> Mr Granger evidence statement, page 27

to address this with other measures. The Proponents drafting adopted the scenario discussed at the Hearing where the purple circled lots could be developed but with rural style rear boundary fencing with landscaping to its west. The Proponent advised at the Hearing a licence or agreement would be required with the landowner(s) so the escarpment land could be managed. The maintenance of this landscaping could then form part of that arrangement.

The Panel supports this outcome.

## **5.6 Conclusions**

The Panel concludes:

- A 47.3 metre setback to new dwellings will ensure is appropriate and, in many areas, will be greater.
- The setback will avoid the potential for overlooking.
- There is no landslip risk.
- As an interim measure the use of rural style fencing and landscaping for the rear western boundary of lots on 124 Hopetoun Park Road at the western interface is appropriate.

## 6 Interface between Area B and existing properties in Hopetoun Park

### 6.1 The issues

The issues are whether:

- it is appropriate to have smaller lots abutting existing larger lots in the LDRZ
- the development of land in Area B will have an acceptable impact on existing uses of land in the vicinity of the land.

### 6.2 Evidence and submissions

Submitters 5, 6, 9, 10, 20 and 29 raised concerns about the interface between the lots in Area B and the existing lots within the LDRZ. Submitter 5 was concerned about the inconsistency in lot size at the shared boundary. Submitters 6, 9, 10 and 20 were concerned about the impact on residents who keep horses.

Submitter 29 was concerned about the existing residents' abilities to continue to undertake acreage activities such as motorbiking, trucking and firepits.

Council submitted the land in Area B has been identified for larger lots than the core area (800 sqm) to transition to the larger lots of the Hopetoun Park estate. Council referred to the following as evidence of this transition role:

- the evidence of Mr Schutt
- lots with a minimum lot size of 1,500 sqm
- the objectives of the NRZ8 that seeks:
  - To establish an open and spacious neighbourhood character including through the establishment of larger lots around the perimeter of the new residential area
  - To provide development that is respectful of the existing open and spacious character of Hopetoun Park through the implementation of front, rear and side setbacks that provides adequate area for appropriate landscaping.
- the objectives of the DPO7 that seek:
  - To provide an appropriate transition between the new residential growth area and the existing low density residential development at Hopetoun Park.
- the design objectives of the DDO17 that seek:
  - To ensure new residential development minimises its visual impact when viewed from the Western Freeway, Bacchus Marsh Valley and the existing Hopetoun Park residential development.
  - To provide development that respects the existing open and spacious character of Hopetoun Park through the implementation of front, rear, and side setbacks, ensuring adequate space for landscaping that reinforces the open woodland character.
- DDO17 requirement for a 20 metre setback from the new dwelling to the rear boundary (with existing development).

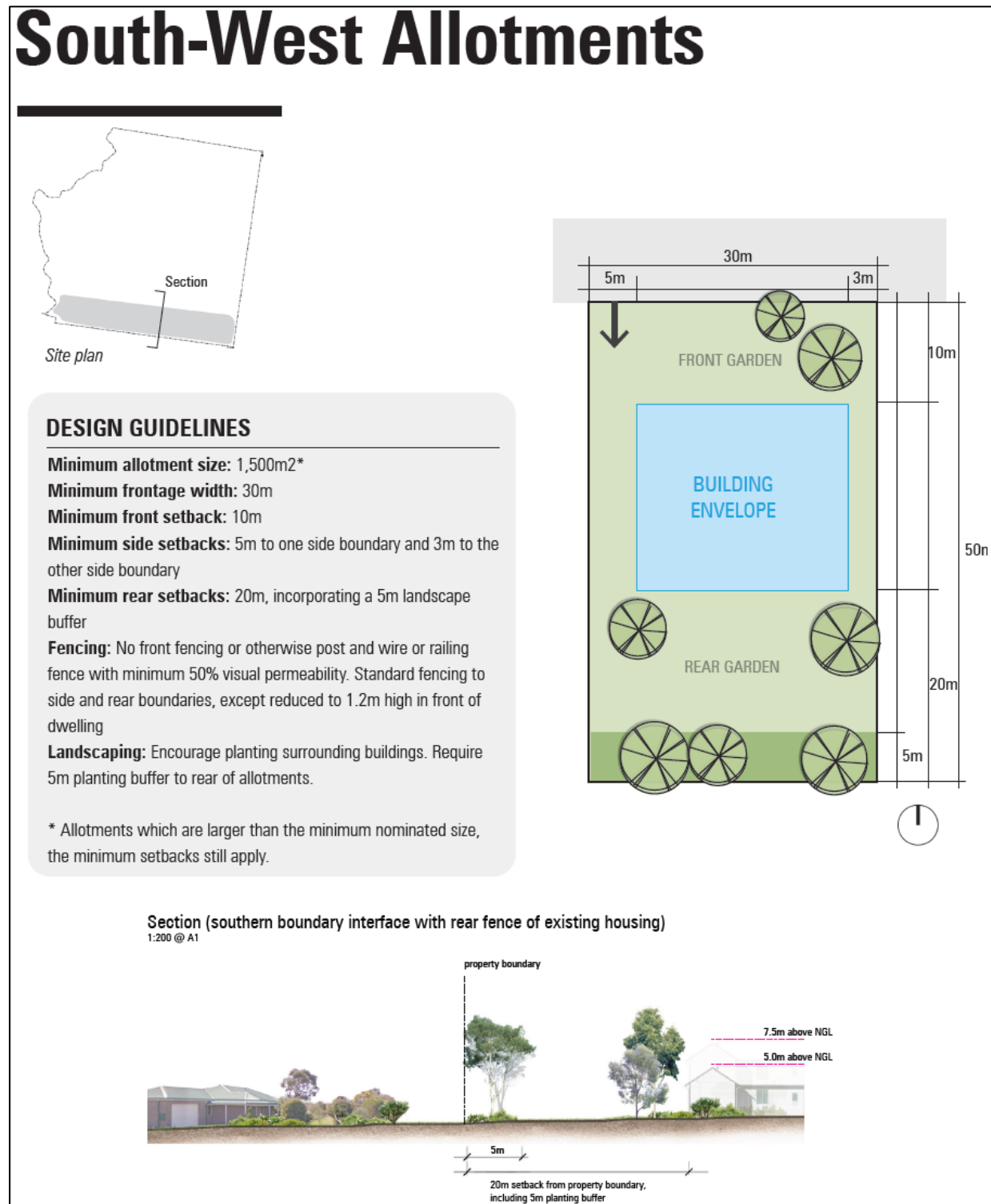
The proposed planning controls are depicted in Figure 11 which shows the southern interface lots. The setbacks result in a building envelope of at least 440 sqm.

Mr Schutt supported the objectives of the NRZ8, DPO7 and DDO17. Mr Schutt supported 1,500 sqm lots in Areas A and B with a 30 metre wide frontage as it *"will allow for a transition in development density from existing rural and low-density residential interfaces to the west and south to higher density lots within the central part of the subject land."*

Mr Schutt sought to clarify the intent of the 20 metre rear setback and confirmed the 5 metre landscaped area should also be a 'no build' area. The revised text for this part of the DDO17 is:

20 metres, which must include a 5 metre landscape buffer on the southern boundary. No outbuildings can be located within the 5 metre landscape buffer.

**Figure 11** Area B Interface and Design Guidelines



Source: Mr Schutt's evidence, paragraph 69



Mr Schutt concluded<sup>14</sup>:

With regard to concerns that proposed development will destroy the rural character of Hopetoun Park, it is my opinion that the provision of a transition in lot sizes afforded by the requirement for Area B Southern Allotments, which abut the existing low-density residential area of Hopetoun Park, and the incorporation of a 5 metre wide landscape buffer along this interface will assist in contributing to the protection of the neighbourhood character of the existing low-density residential area of Hopetoun Park, noting that it is my observation that the existing character of Hopetoun Park is more akin to a low density suburban typology than it is to a rural typology.

With regard to concerns that proposed development will result in a loss of views available from the existing residential area of Hopetoun Park, it is my observation that the only views likely to be affected are from the properties directly adjacent to the southern boundary of the subject land, and that those views are relatively unremarkable views of the subject land itself.

With regard to suggestions that a solid paling fence be included between the proposed revegetation zone adjacent to the southern boundary of the subject land and the planned linear reserve, it is my opinion that this is an unnecessary visual intrusion given its likely proximity to existing residential properties and contradicts the concerns above regarding loss of views.

With regard to suggestions that the proposed revegetation buffer be extended in width from 5 metres to 20 metres and managed as a public conservation reserve, it is my opinion that this is unnecessary given the relatively low number of existing properties which abut the southern boundary of the subject land (10 in total), the setback and vegetation buffer requirements as set out in DDO17 and the setback of the dwellings on those properties from the boundary shared with the subject land, which range from approximately 18 metres (at 2 Selby Court) to approximately 110 metres (at 2 Hammond Circuit and 4 Riverview Drive).

Mr Granger supported the need for Area B to transition to existing development with an appropriate lot size.

### 6.3 Discussion

While lots to the south in the existing Hopetoun Park estate are larger and in a different zone, the dwellings are generally located centrally on these lots with large setbacks to boundaries and the need for lot sizes to match or exceed those existing is not required or appropriate. Creating a larger minimum lot size would inevitably countenance the use of the LDRZ in Area B. The Panel has supported the use of the NRZ in Chapter 2 of this report.

The Panel agrees with Mr Schutt that the 5 metre wide landscaped strip should be a 'no build' area. Both Council and the Proponent supported this change to DDO17. This will still provide for a building envelope which is at least 440 sqm in area. The Panel considers there is ample area for a new dwelling with the proposed setbacks, and it will assist in meeting the transition of this area to existing development.

### 6.4 Conclusions and recommendation

The Panel concludes:

- A minimum lot size of 1,500 sqm is appropriate in Area B and will assist in the transition to existing development.
- The rear setback and landscaping requirement will assist in screening new residential development on lower density lots from existing development.
- The proposed controls contain objectives to ensure the transition role of Area B is achieved.

<sup>14</sup> Mr Shutt's evidence statement, page 33, paragraph 73

The Panel recommends:

**Amend Table 1 of the Design and Development Overlay Schedule 17 for dwelling rear setbacks to confirm the 5 metre wide landscaped area on Area B lots is a 'no build' area as contained in Appendix D.**



## 7 Traffic

### 7.1 The issues

The issues are whether:

- the proposed subdivision will have an acceptable impact on traffic volumes and traffic movement on the surrounding streets
- the proposed traffic works, and intersection treatments are appropriate.

### 7.2 Background

Traffic is supported by the following background report and evidence:

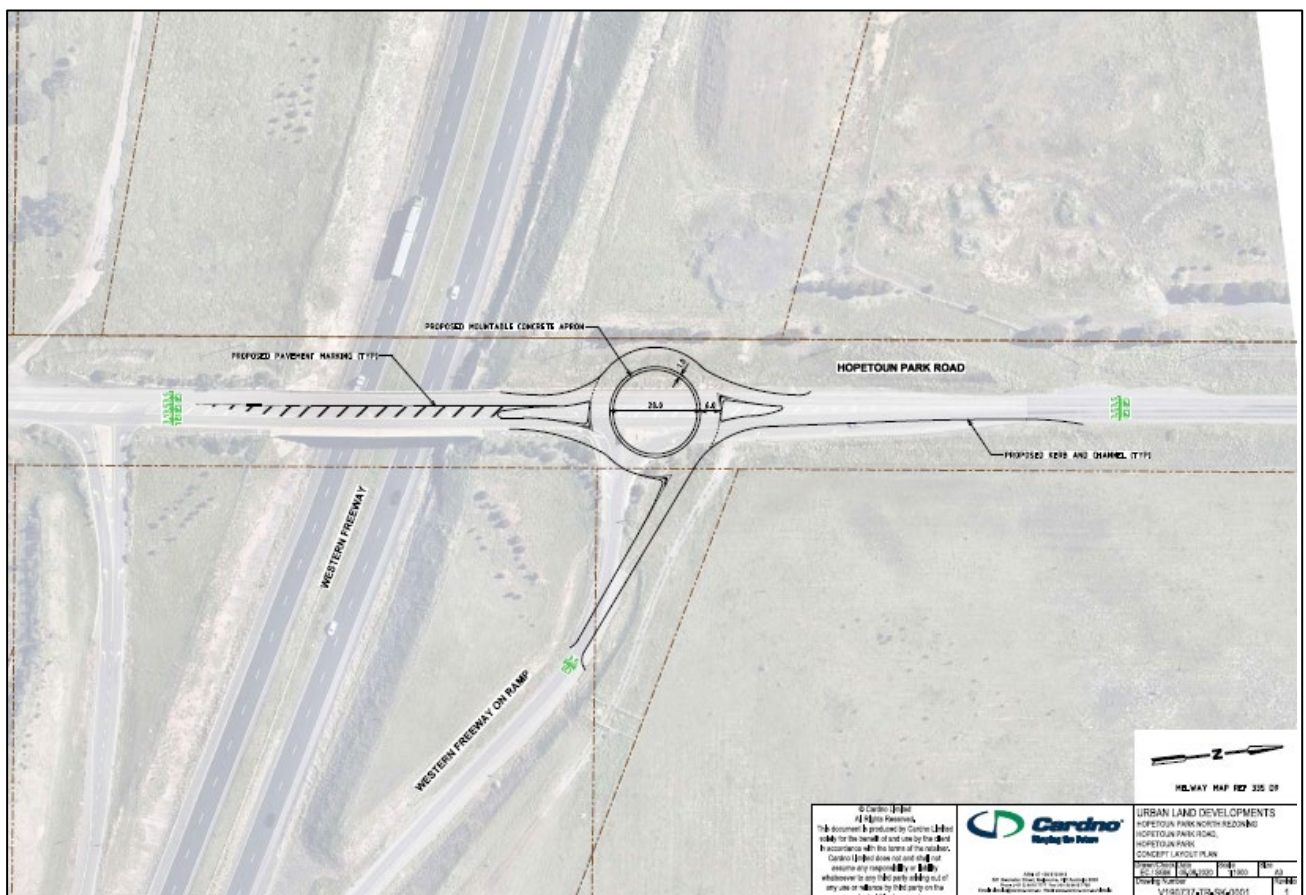
- *Traffic Engineering Assessment* prepared by SALT dated April 2022 and *Addendum to Traffic Engineering Assessment* prepared by SALT dated April 2023 accompanied by correspondence dated December 2022.
- Traffic Engineering Evidence Statement to Planning Panels Victoria, dated 5 September 2025 prepared by Jason Walsh of Traffix Group.

At the time of exhibition, the most important external road infrastructure upgrades were at the:

- intersection of Hopetoun Park Road and the Old Western Highway
- Western Freeway on ramp for east bound (Melbourne) traffic.

These are shown in Figures 12 and 13.

**Figure 12 Western Freeway east bound on ramp**



Source: SALT Traffic Impact Assessment Report 2022



The Proponent submitted *“there is no need to upgrade the intersection of Hopetoun Park Road and the Old Western Highway, however the Proponent is willing to do so at its own cost.”*

As an agreed position, the only point of difference is how it is referenced in DPO7 and the timing of this upgrade. All parties agreed it should be required as part of the section 173 Agreement (s173) between the landowner, Council and the Head, TfV. The points of difference are:

- Council and Head, TfV want the s173 to be entered into before the approval of a Development Plan and the Proponent wants any permit that creates residential lots to have a condition requiring the s173. The use of the term ‘residential lots’ is to distinguish this from subdivisions that could create superlots that are capable of further residential development.
- Council supports the trigger for the works before the Statement of Compliance for the 250<sup>th</sup> lot and the Proponent and Head, TfV support a trigger at the 350<sup>th</sup> lot, with some discretion provided by *“or at a later time as agreed.”*

### 7.3.2 Discussion

There is one road in and out of Hopetoun Park that distributes traffic either the Old Western Highway or the Western Freeway. It is an isolated area compared to other areas of urban Bacchus Marsh. This results in a disproportionately high use of the motor vehicle, especially with the lack of any public transport. The Head, TfV provided this view:

As currently there are no public transport services planned for Hopetoun Park due to its location, safe and efficient access to the arterial road network will be critical to maintain connectivity for residents.

Therefore, the management of traffic generated from the development of the land is an important consideration.

The evolution of the Amendment and its retraction to land west of Hopetoun Park Road have reduced the traffic generation to a level where, according to Mr Walsh, no external works are required at the Old Western Highway intersection. There was no other traffic evidence provided to the Panel. The Proponent has agreed with Council and Head, TfV that it should be completed to address safety issues at the intersection. The Panel appreciates and welcomes this commitment from the Proponent.

The works will introduce a dedicated left turn lane onto the Old Western Freeway which will reduce the potential of queuing, particularly for those wanting to turn right towards Melton. This, in addition to the 2019 intersection works, in the Panel’s view will ensure the operating efficiency and safety of this intersection.

The Panel considers the need for these intersection works should be locked in sooner rather than later. It is not unusual for s173’s to be secured before any approvals take place, whether that be a development plan or planning permit. They often reflect requirements that are central to the support of the Amendment.

The Panel considers there is ample time available to secure the s173 that includes its drafting, discussion with relevant parties and to finalise it before a development plan is approved. The Panel notes Council and Head, TfV want the s173 secured before the approval of a development plan. The Panel supports this. Having this commitment secured early in the planning process avoids the potential of any changes later.

There is no particular science to selecting an appropriate trigger for the works. Mr Walsh considers the works are not required and he did not address what an appropriate lot yield would be. But it is this unchallenged evidence that the intersection would operate well for the life of the

development and, with the support of Head, TfV, that the Panel is satisfied a later trigger is appropriate. The Panel therefore supports a trigger of 350 lots.

## 7.4 Western Freeway roundabout

### 7.4.1 Evidence and submissions

Submitter 28 requested that a:

- new Western Freeway entrance near Hopetoun Park Road, prior to the Old Western Highway, be constructed to accommodate future traffic volumes and reduce congestion along the Old Western Highway and Avenue of Honour
- review of the intersection of Cowans Road and the Old Western Highway be completed.

Submitter 17 stated that *“a roundabout at the freeway entrance seems a waste.”*

Chapter 1.2 outlines the consideration of the roundabout at the Western Freeway on ramp in this Amendment. It is now not proposed to be constructed as:

- Mr Walsh has assessed the traffic generated from the reduced area of land to be rezoned and associated reduction in lot yield does not indicate the need for the roundabout
- Head, TfV agreed with Mr Walsh the roundabout was not required.

Mr Walsh, in respect of the Western Freeway roundabout, concluded that<sup>15</sup>:

In my view, the existing intersection arrangement is suitable in its current form to accommodate the full buildout (600 lots) of the Hopetoun Park North Residential Growth Precinct.

To this end, there is no nexus to suggest the intersection should be upgraded as a result of the development of Hopetoun Park, and therefore any such requirement should be removed from the Amendment documentation.

Head, TfV provided a useful summary of its involvement and submitted (Document 19) advised:

The need to upgrade the intersection at the Western Freeway On-Ramp and Hopetoun Park Road to a roundabout was identified by the Head, TfV in 2020 as part of the review of the proposal for an 850-lot subdivision in Hopetoun Park North. Head, TfV provided in-principle support for the development in 2020 based on the intersection to be upgraded to a roundabout at 250 lots to safely accommodate for additional traffic expected to be generated by the development.

The submission made by Head, TfV in May 2025 as part of the public exhibition process for this Amendment also supported this upgrade. However, Head, TfV recognises that the advice requiring a roundabout at this location was provided based on an 850-lot development at a time where there was a significant crash history at this location (6 casualty crashes including 2 serious injury crashes between 2015-2019). In late 2019 Head, TfV had undertaken improvement works at this location, which has considerably improved the safety of this intersection.

The Head, TfV received a letter from Norton Fullbright Rose on behalf of Bacchus Marsh Property Group dated 29 July 2025 which outlined that the proponent was no longer pursuing the intersection upgrade of the Western Freeway On-Ramp and Hopetoun Park Road on the basis of updated expert traffic advice provided by Mr Jason Walsh of Traffix Group.

The updated expert traffic advice by Mr Walsh relies on a SIDRA analysis which demonstrates that the intersection operates within acceptable Level of Service limits (LoS A) (Table 2). Furthermore, Mr Walsh shows that there have been no recorded crashes at this location for the last 5 years and concludes that the existing configuration of the Hopetoun Park Road/ Western Freeway On-ramp intersection can suitably accommodate the full development of the growth area from both a traffic capacity and road safety perspective.

<sup>15</sup> Mr Walsh evidence statement, page 27, paragraphs 101-102



This position is reiterated in the Expert Traffic Evidence Statement provided in September 2025.

The Head, TfV has reviewed this further work, and accepts that the intersection performs within acceptable limits from both a capacity and safety perspective at full build out under the densities proposed as part of the Neighbourhood Residential Zone (NRZ). As such based on the expert advice of Mr Walsh, Head, TfV will not pursue the upgrade of the intersection of Western Freeway as part of this Amendment. However, given the uncontrolled nature of the intersection, and risks of increased traffic volumes on intersection safety, Head, TfV will require further assessment for any development beyond 400 lots.

Council submitted in its Part A submission that *“the provision of this intersection upgrade is one issue in dispute between the Proponent and Council.”*

The Proponent referred to the intersection upgrade as a without prejudice offer and conditional that Council would pass a resolution at its December 2022 meeting to seek authorisation to prepare the Amendment. This did not occur.

The Proponent submitted:

- the intersection upgrade should not be considered as a commitment by the Proponent
- the genesis of the intersection upgrade was in response to another form of the Amendment that included the land east of Hopetoun Park Road with a total yield of 850 lots
- Regional Roads Victoria (at the time) requested the upgrade not on traffic capacity grounds, but road safety
- the intersection upgrade was part of the Shared Infrastructure Funding Plan when both sides of Hopetoun Park Road were part of the Amendment. This is no longer the case, and the Proponent is funding all precinct-based and community infrastructure
- the Cardno and SALT traffic reports included the intersection upgrade but none of these reports *“record any opinion that the upgrade was necessary for either capacity or road safety reasons.”*

The Proponent concluded<sup>16</sup>:

That should be the end of the matter, noting that Head, TfV is the coordinating road authority for freeways, and is the responsible road authority for the whole of the road reserve associated with a freeway.

## 7.4.2 Discussion

The Western Freeway is located closer to the land than the Old Western Highway where agreed road works will occur. There is an overpass for Hopetoun Park Road which, on its north side, has an on ramp for traffic heading east in the direction of Melbourne.

This is not an issue of its proximity to the land, but whether the new roundabout is required. The freeway network in Victoria is managed by the Head, TfV. The Panel is presented with road management authority *not* wanting the roundabout to be constructed, a view shared with at least one submitter who considered the roundabout was not required. The Panel supports the view of the Proponent and Head, TfV the Western Freeway roundabout is not required.

Submitter 28 requested an on ramp for west bound traffic into Bacchus March or beyond to relieve traffic congestion along the Old Western Highway and Avenue of Honour. Works at Cowans Road were also requested. Both Mr Walsh and Head, TfV did not support the need for this work. The Panel is of the same view.

<sup>16</sup> Proponent submission, page 58, paragraph 234

## 7.5 Conclusions and recommendation

The Panel concludes:

- The works proposed at the Old Western Highway and Hopetoun Park Road are supported by Head, TfV and Council and committed to by the Proponent. The Panel considers the works are required.
- The works should be triggered on the approval of the 350<sup>th</sup> lot as proposed by Head, TfV and the Proponent.
- The roundabout at the Western Freeway is not required.

The Panel recommends:

**Amend Clause 3.0 to the Development Plan Overlay Schedule 7 to trigger the works at Hopetoun Park Road and the Old Western Highway at the delivery of the 350<sup>th</sup> lot as contained in Appendix C.**

## 8 Infrastructure and open space

### 8.1 The issue

The issue is whether new infrastructure and open space is adequate for the new population.

### 8.2 Background

Infrastructure is supported by the:

- Hopetoun Park Community and Recreation Infrastructure Needs Assessment by Urban Enterprise August 2021.
- Revised Infrastructure Needs and Development Contributions Analysis dated August 2023.

### 8.3 Submissions

Submitters 7 and 27 raised concerns about the capacity of existing water and sewerage infrastructure to service additional development. Submitter 19 raised concerns about stormwater runoff in the northwest of the land. Submitters 26, 27 and 29 raised concerns about the adequacy of new infrastructure and open space.

Council submitted *“roads within the Amendment area will be constructed to meet Infrastructure Design Manual requirements including kerb and channel to urban standards.”*

In regard to water and sewerage Council submitted *“new development will be subject to necessary approvals from the water and sewerage network operator, including any augmentations to the network that the operator may require the Proponent to provide.”*

The Proponent addressed stormwater management and submitted<sup>17</sup>:

There ought be no concern in relation to the proposed drainage solution for the precinct. Indeed, the drainage outcome will contribute a community benefit by reducing overland flows over the western escarpment.

The Proponent referred to the draft concept plan in DPO7 that showed the location of stormwater retarding basin in the south-west corner of the land that will retard, filter and regulate the discharge of waters to Pyrites Creek at the bottom of the escarpment. In regard to overland flows the Proponent submitted *“the proposed road network in the precinct will be designed to direct flows away from the escarpment area, towards the controlled drainage system.”*

Council addressed open space provision and submitted<sup>18</sup>:

The concept plan shows areas indicated as passive open space reserves, conservation reserves and an active open space reserve. The development provides approximately 2 hectares of playing areas for sports and recreation (active open space), and a local park, consistent with the objectives of the Planning Scheme. The concept plan shows approximately 3.5 hectares of encumbered open space to be used for conservation and a further 2 hectares in passive open space through a neighbourhood park and linear parks.

The Proponent submitted<sup>19</sup>:

Together, the active open space (3.5 per cent of the site), passive open space (3.3 per cent of the site) and lineal reserves (4 per cent of the site) comprise 10.8 per cent of the total site area. Clause 53.01 of the Moorabool Planning Scheme does not specify an open space

<sup>17</sup> Proponent submission, page 53, paragraph 218

<sup>18</sup> Council submission, paragraph 158

<sup>19</sup> Proponent submission, page 58, paragraph 234

provision. Hence, the maximum site area that may be required for open space in conventional subdivision circumstances is 5 per cent.

Despite the retraction of the Amendment to land west of Hopetoun Park Road, the Proponent has not reduced the extent of community and other infrastructure to be provided. The Proponent submitted<sup>20</sup>:

The Proponent is generously providing the above extent of infrastructure such that, in the event that the land to the east of Hopetoun Park Road is developed, there will be sufficient infrastructure available for all residents. The Proponent accepts that if the land to the east is developed, it will take the benefit of the Proponent's provision of community and other infrastructure, without any mechanism to recover the cost.

## 8.4 Discussion

The development of this land relies on the provision of infrastructure to ensure existing water, stormwater and sewerage systems are adequate and, if augmentation is required, is provided as a developer cost. The Proponent will be required to enter into agreements with the relevant infrastructure authorities for the provision of this infrastructure.

The Panel is satisfied the land can be developed with the required water, drainage and sewerage infrastructure provided.

Chapter 1.1.5 details the community infrastructure and open space the Proponent has committed to provide. The Panel welcomes this commitment and the lack of any scaling back of this provision with the reduced land area. There is currently no community infrastructure in Hopetoun Park so it will also service the needs of the existing population that currently need to leave Hopetoun Park to access these services.

Open space provision is proposed to cover 10.8 per cent of the land which is well above that required by Clause 53.01 (5 per cent). A two hectare park (land and construction) will provide a multi-purpose oval, district-level playground, tennis court, half basketball court, BMX pump track, toilets, amenities and barbeques in Hopetoun Park that currently does not these facilities.

The Panel is satisfied the provision of open space will meet the needs of the existing and future population of Hopetoun Park and is an excellent outcome.

## 8.5 Conclusions

The Panel concludes:

- the land can be developed with the required water, drainage and sewerage infrastructure provided
- the provision of open space will meet the needs of the existing and future population of Hopetoun Park.

<sup>20</sup> Proponent submission, page 30, paragraph 114



## 9 Biodiversity and the Werribee River

### 9.1 The issue

The issue is whether the proposed impacts to biodiversity and impacts to the Werribee River are acceptable.

### 9.2 Background

Biodiversity is supported by:

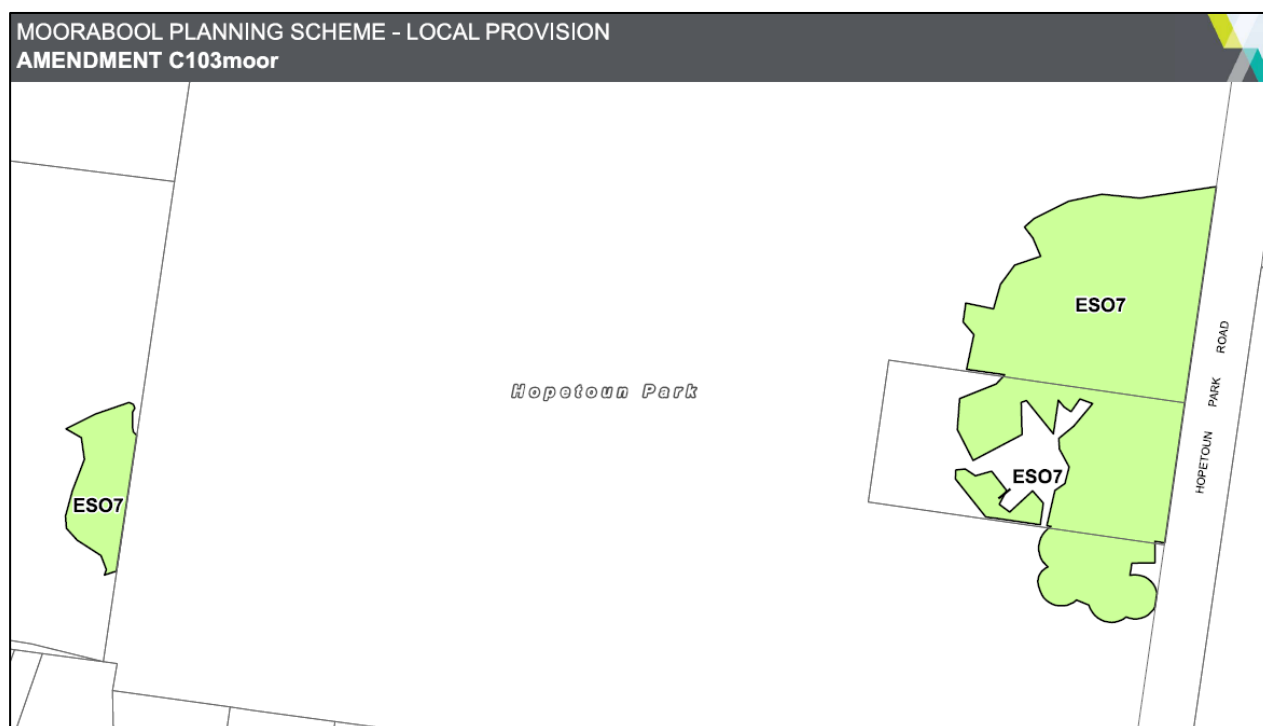
- background flora and fauna report prepared by Nature Advisory and its addendum prepared after the discovery of the Victorian Grassland Earless Dragon (VGED) in Victoria
- peer review of the Ecology and Heritage Partners flora and fauna assessment in Mr Lebel's evidence statement.

### 9.3 Evidence and submissions

Submitters 6, 9, 10, 12, 13, 14, 17, 18, 20, 21, 24, 25, 26, 27, 28, 29 and 30 raised concerns about the impact of the Amendment on biodiversity. Submitter 17 raised concerns about the impact on kangaroo movements across the land.

Council submitted any potential areas for the VGED on the land are already within conservation areas to be protected. Council considered the other requirements of DPO7 (that is, a Landscape Masterplan, a Biodiversity Conservation Management Plan and an Integrated Water Management Plan) will all assist in the protection of biodiversity. The application of ESO7 (Grasslands within the Werribee Plains hinterland) to the conservation areas (Figure 14) *“will ensure their consideration and protection.”*

**Figure 14** Environment Significance Overlay Schedule 7 map



Source: Amendment documents

In regard to kangaroo behaviour Council submitted this *“cannot be controlled by residential development layouts, and providing kangaroo habitat in an urban area would introduce significant potential conflicts with vehicles, children and domestic animals. In the context of Hopetoun Park local kangaroo movement is likely to adapt to utilise retained open farmland, waterways and public land.”*

Submitter 29 raised concerns of the impact of cats on native fauna. Council submitted it has a local law that cats were to be confined between 6.00pm and 7.00am the next day, and 8.30pm to 7.00am during daylight savings.

Mr Lebel proposed some changes to DPO7 which were broadly supported by the Proponent and Council. These are addressed in Chapter 11.

## **9.4 Discussion**

The Panel notes that Pyrites Creek is located within the BMID at the base of the escarpment west of the land and discharges into the Werribee River a short distance further to the west.

The Panel is satisfied the extensive work completed prior to exhibition of the Amendment has identified areas of biodiversity significance which are proposed to be protected by ESO7.

The Panel appreciates kangaroos do frequent Hopetoun Park given its semi-rural context. Kangaroos will adapt to the new environment and importantly the development of the land will not cut off the escarpment land and access to the Pyrites Creek environs is maintained.

The Panel considers Council’s cat local law will appropriately address the impact of cats on local fauna.

## **9.5 Conclusion**

The Panel concludes the requirements of DPO7 will appropriately address biodiversity and protect conservation values of the land.

## 10 Bushfire risk

### 10.1 The issue

The issue is whether bushfire risk management is acceptable.

### 10.2 Background

Bushfire is supported by:

- *Bushfire Risk Assessment – Response to Clause 13.02* by South Coast Bushfire Consultants dated August 2023.
- The evidence of Mr Potter who peer reviewed the above report.

### 10.3 Evidence and submissions

Submitter 27 raised concerns about bushfire management.

Mr Potter noted the land does not have the Bushfire Management Overlay applied but is in a Bushfire Prone Area and the subject of Clause 13.02 provisions of the planning scheme.

Mr Potter concluded<sup>21</sup>:

The proposed bushfire mitigation measures outlined within the DPO and DDO Schedules are reflective of the bushfire risk assessment outcomes. This is an effective method of managing the bushfire risk and ensuring the mitigating measures are in place for the life of the development.

...

In summary, the management of bushfire risk is effective and will provide options for the future occupants to either shelter within the development or to leave early along the new and existing road network. The assessment of the bushfire risk and the proposed mitigation measures ensure the proposed development meets the bushfire relevant clauses of the planning scheme.

The Proponent submitted *“it is noteworthy that the Proponent undertook extensive consultation with the CFA in the course of preparing the Amendment. It is instructive that the CFA supports the Amendment and has not sought to appear at this Panel Hearing to ventilate any concerns.”* The Proponent submitted<sup>22</sup>:

The exhibited DPO7 included detailed requirements for a Bushfire Mitigation and Management Plan, which is required to be generally in accordance with the Bushfire Risk Assessment prepared by South Coast Bushfire Consultants (18 August 2023).

### 10.4 Discussion and conclusion

The Panel agrees with Council and the Proponent that bushfire risk has been addressed as part of the Amendment and will be managed with the preparation of a Bushfire Mitigation and Management Plan. These are requirements of the DPO7.

The Panel concludes bushfire risk has been appropriately addressed.

<sup>21</sup> Mr Potter evidence statement, page 3, paragraphs 20 and 23

<sup>22</sup> Proponent submission, page 30, paragraph 114

# 11 Form and content of the Amendment

## 11.1 General comments

At Chapter 1.3.2 the Panel addressed a procedural issue the Proponent raised with regard to post-Hearing changes Council and Head, TfV proposed to DPO7. At Chapter 1.3.3 the Panel refers to changes proposed by Council and Head, TfV to the Day 5 version of the DPO7. The Proponent was critical of Council and Head, TfV in proposing additional changes not discussed at the drafting session on Day 5 and changing position on some agreed text. This chapter largely addresses the Proponents response to these issues.

## 11.2 Development Plan Overlay Schedule 7

Table 1 assesses the changes proposed by either Council or Head, TfV to DPO7.

The Panel notes Figure 1 and Map 1 of DPO7 need to be updated to reflect the most recent agreed versions. This should be done prior to the gazettal of the Amendment.

**Table 2** Assessment of changes to DPO7 (Document 35)

Clause	Council	Head, TfV	Panel assessment
3.0 Conditions and requirements for permits	Delete 'mandatory permit condition' subheading	No comment	The Proponent has accepted these changes and the Panel agrees.
3.0 Definitions	Introduce proposed definitions within text instead of being separately defined	No comment	The Proponent has accepted these changes and the Panel agrees.
3.0 Development contributions	Delete Proponent drafting that requires a Community Infrastructure Levy (CIL) because there is no Development Contributions Plan in place. Supports own drafting with trigger for s173 prior to development or a Statement of Compliance to subdivide the land.	No comment	The Panel agrees with Council a CIL (and reference to section 46L(3) of the PE Act) cannot be required where a DCP is not in place. The Panel supports the 'short form' drafting of Council, without the trigger of prior to development as development will occur after the issue of a Statement of Compliance to subdivide the land. The Panel notes the s173 must be to the satisfaction of the responsible authority.
3.0 Old Western Highway and Hopetoun Park	Council and Proponent propose alternate text.	Amend 'shared path' to 'shared use path' in Council version of text.	The Panel supports a mix of both versions of the drafting. In Chapter 7.3 the Panel supported the need for the s173 prior to the approval of a Development Plan and

Clause	Council	Head, TfV	Panel assessment
Road and Cowans Road shared path			not as a condition of permit to subdivide the land.  The Panel does not support the change to shared use path and agrees with the Proponent this is the term use in the Infrastructure Design Manual.
	Delete 'that creates residential lots' from the preamble	No comment	As the Panel supports the need for the s173 prior to the approval of Development Plan in the preamble this point is now not relevant.
	Proposes a 50 <sup>th</sup> lot trigger for the shared path	No comment	The Panel agrees with the Proponent that a 50 <sup>th</sup> lot trigger will not facilitate a meaningful link within the subdivision as staging is likely to commence on Hopetoun Park Road and not in the north west of the land.  The Panel supports the Proponents view that it should be triggered when a Statement of Compliance is issued for land that abuts the north west boundary of the land
	Proposes a trigger of the 250 <sup>th</sup> lot instead of the 350 <sup>th</sup> lot for the intersection upgrade	No comment	As addressed in Chapter 7.3 the Panel supports a lot trigger of 350.
		Delete the delivery of the intersection upgrade to the satisfaction of Council, and retain only for Head, TfV	Agreed
		In Proponent drafting delete 'all to the satisfaction of the responsible authority and Head, TfV'	The Panel agrees with the Proponent this should be retained
3.0 Southern landscape buffer	Insert 'must be planted' into preamble and maintenance.	No comment	The Proponent has accepted these changes and the Panel agrees

Clause	Council	Head, TfV	Panel assessment
3.0 Interim escarpment road	Requires an interim perimeter road.	No comment	The Panel has addressed this in Chapter 5 and supports the alternate position discussed at the drafting session for a rural style fence and landscaping to the rear of the lots.
3.0 Sodic and dispersive soils	Delete 'an application to subdivide land..'  Amend reference to the two step approach agreed to on Day 5	No comment	The Panel shares the concern of the Proponent that Council seeks to change an agreed position at the Day 5 drafting session.  The reference to 'an application to subdivide land' should be retained to make the requirement work and the two step approach agreed on Day 5 should be retained.
4.0 Requirements for development plan		Add 'or unless specified otherwise'	The Proponent agrees with this addition and the Panel supports this.
4.0 Masterplan		Add a requirement for an Acoustic Design Response	The Panel agrees with the Proponent that an acoustic assessment is not required. ARUP prepared a noise assessment that found the DTP noise policy requirements were complied with and no barriers or built form mitigation was required. ARUP noted the land was 150 metres from the Western Freeway in its own cutting and on land 50 metres higher in elevation and this presented an effective barrier to noise.  The Panel notes the Head, TfV was a later submitter and this issue was not raised in its submissions as it was primarily addressing the need for the Western Freeway roundabout. If it was raised early enough the Proponent would have had the opportunity to call evidence from ARUP.
4.0 Landscape Masterplan	Insert 'as defined' in map 1 dot point 1  Delete 'where practical' from 10 <sup>th</sup> dot point		The Panel agrees with the Proponents support for this change.  This represents a change to the agreed position at the Day 5 drafting session. The Panel agrees with the Proponent this should be retained to allow for flexibility in implementing DPO7.

Clause	Council	Head, TfV	Panel assessment
	Amend drafting for the 5 metre wide landscaping strip at the southern boundary		The Proponent considers the alternate drafting is overly complex. The Panel considers the additional detail such as a planting schedule and botanical names are routinely required for a landscape plan and there is no need to specify this when the Landscape Masterplan is to be to the satisfaction of the responsible authority.
4.0 Integrated Water Management Plan	Insert the need to consider Growling Grass Frog Habitat Design Guidelines		The Panel agrees with the Proponent and Mr Lebel that the land does not support Growling Grass Frog Habitat and it does not support the need to reference the guidelines.
	Insert the need for a Wetland / Retardation Basin Management Plan in consultation with DEECA.		The Panel supports the need for the plan but not in consultation with DEECA as it has not requested this.
4.0 Cultural Values Assessment	Inserts the need or a Cultural Values Assessment		The Panel addressed this issue in Chapter 4.
4.0 Biodiversity Conservation Management Plan	Insert the general need for targeted surveys for threatened flora and fauna species.		The Panel agrees with the Proponent that it should be sufficient to list the threatened species that could potentially occupy the land and not have a general requirement which could be interpreted more widely.
	Retains general need to complete an arboricultural assessment of all trees on the land.		The Proponent seeks to exempt the tress within the conservation reserve from the arboricultural assessment. The Panel agrees with Council these trees should be assessed as it will inform recommendations for their long term preservation.

### 11.3 Design and Development Plan Overlay Schedule 17

Appendix D contains the Panel-preferred version of DDO17.

## Appendix A Parties to the Panel Hearing

Submitter	Represented by
Moorabool Shire Council	John Hannagan of Harwood Andrews
Bacchus Marsh Property Group	<p>Represented by Paul Connor KC and Alex Gelber of Counsel, calling the following expert evidence:</p> <ul style="list-style-type: none"> <li>- Traffic and Transport from Jason Walsh of Traffix Group</li> <li>- Planning from Evan Granger of Urbis</li> <li>- Drainage from Chris Beardshaw of Afflux Consulting</li> <li>- Bushfire Planning from Mark Potter of Fire Risk Consultants</li> <li>- Landscape and Character from Steve Shutt of Hansen Partnership</li> </ul>
Head, Transport for Victoria	Jozef Vass
Joan Addison	
Elley Camilleri	
Clare Mizzi	



## Appendix B Document list

No.	Date	Description	Provided by
1	4 Aug 25	Melbourne Water submission	Bacchus Marsh Property Group (Proponent)
2	12 Aug 25	Panel Directions and Hearing Timetable (version 1)	Planning Panels Victoria (PPV)
3	22 Aug 25	Confirmation of expert witnesses	Proponent
4	11 Sep 25	Melbourne Water supplementary submission	Moorabool Shire Council (Council)
5	12 Sep 25	Email confirming Council not calling traffic evidence	Council
6	15 Sep 25	Council Part A submission and appendices	Council
7	18 Sep 25	Late DTP submission and supported version of DPO7	Council
8	22 Sep 25	Expert evidence statements from: <ul style="list-style-type: none"> <li>• Evan Granger (Planning)</li> <li>• Steve Schutt (Landscape and character)</li> <li>• Mark Potter (Bushfire risk)</li> <li>• Jason Walsh (Traffic)</li> <li>• Chris Beardshaw (Drainage)</li> <li>• Shannon LeBel (Ecology)</li> <li>• Billy Burke (Geotechnical)</li> </ul>	Proponent
9	24 Sep 25	Part B submission	Council
10	24 Sep 25	Day 1 version of DPO7, NRZ8 and DDO17	Council
11	24 Sep 25	Site inspection map	Council
12	24 Sep 25	Day 1 version of DPO7, DDO17	Proponent
13	24 Sep 25	Dr Sommerville letter on sodic and dispersive soils	Proponent
14	25 Sep 25	Submitter map	Council
15	29 Sep 25	Submission	Joan Addison
16	29 Sep 25	Submission	Elley Camilleri
17	29 Sep 25	Submission	Clare Mizzi
18	29 Sep 25	Beardshaw Stormwater Management Appendix to evidence	Proponent
19	29 Sep 25	Submission	Head, Transport for Victoria (Head, TfV)
20	30 Sep 25	Harwood Andrews letter to DTP re Western Freeway roundabout	Council
21	30 Sep 25	11 Sep 25 DTP email to Council re Western Freeway roundabout	Council

No.	Date	Description	Provided by
22	30 Sep 25	Submission	Proponent
23	30 Sep 25	Photo of kangaroo	Joan Addison
24	30 Sep 25	Option B Eastern Link Road	Council
25	1 Oct 25	Subdivision concept plan	Proponent
26	2 Oct 25	Day 5 DPO7 changes	Head, TfV
27	2 Oct 25	Day 5 DPO7 changes	Proponent
28	2 Oct 25	Day 5 DDO17 changes	Proponent
29	3 Oct 25	Closing submission	Proponent
30	3 Oct 25	Mitchell C155mith Panel Report	Proponent
31	3 Oct 25	Concept plan with aerial base	Proponent
32	8 Oct 25	DPO7 agreed version with unresolved issues tracked	Proponent
33	8 Oct 25	DDO17 agreed version with unresolved issues tracked	Proponent
34	9 Oct 25	DPO7 with comments	Council
35	9 Oct 25	DPO7 with comments	Head, TfV
36	14 Oct 25	Letter regarding post Hearing Day 5 controls	Proponent
37	16 Oct 25	Letter to parties re DPO7 issues	PPV
38	23 Oct 25	Response to post Hearing DPO7	Proponent

## Appendix C Panel-preferred version of the Development Plan Overlay Schedule 7

30/07/2018

### **SCHEDULE 7 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY**

Shown on the planning scheme map as **DPO7**

#### **HOPETOUN PARK NORTH GROWTH AREA**

#### **1.0**

##### **Objectives**

30/07/2018

To guide and facilitate a staged master-planned development of the land.

To ensure the identification and effective management of areas of environmental, heritage and landscape significance.

To provide an appropriate transition between the new residential growth area and the existing low density residential development at Hopetoun Park.

To enhance the amenity, safety and liveability of the existing development at Hopetoun Park, through increased services and infrastructure delivered in the growth area.

To implement the measures to mitigate potential environmental and bushfire impacts.

#### **2.0**

##### **Requirement before a permit is granted**

30/07/2018

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority, for:

- Realignment or consolidation of lots.
- Removal, variation or creation of easements or restrictions.
- Agriculture, and any buildings or works in association with the use of the land for agricultural purposes.
- Extensions, additions, or modifications to existing buildings, works or development.

All proposals to use or subdivide land, construct a building or construct and carry out works, before a development plan has been prepared, must be accompanied by a report demonstrating that the proposal will not prejudice the long term future development of the land for residential purposes or unreasonably impact residential amenity.

#### **3.0**

##### **Conditions and requirements for permits**

30/07/2018

The following conditions and/or requirements apply to permits, except for a permit issued under Clause 2.0 of the Schedule:

##### **Development contributions / Works in kind**

Unless otherwise agreed by the responsible authority, prior to the issue of a Statement of Compliance the landowner must enter into an agreement under section 173 of the Planning and Environment Act 1987 (section 173 agreement), providing for development contributions to the satisfaction of the responsible authority. The costs of preparation and registration of the section 173 agreement are to be borne by the landowner.

##### **Southern landscape interface**

Any permit for the subdivision of 124 Hopetoun Park Road (defined as Lot 2 on PS604556J, Lot 2 on TP604721H, and Lot 3 on TP604721H) that creates residential lots within Area B of Map 1 must include the following condition:

- Prior to the issue of a Statement of Compliance;
  - a 5 metre wide landscape buffer must be planted along the southern boundary to the satisfaction of the responsible authority
  - measures must be put in place for the ongoing protection and maintenance of the 5 metre landscape buffer areas along the southern boundary by title restrictions or other agreements.

**Interim western escarpment interface road**

If a Western Escarpment Interface Road has not been constructed, any permit for the subdivision of 124 Hopetoun Park Road must include a condition relating to any lots within 100 metres of the west boundary of Lot 3 on PS604556J, prohibiting any fencing presenting towards the escarpment to the west unless the fence is of a rural post-and-wire style, until such time as a Western Escarpment Interface Road is constructed, after which time the prohibition shall not apply, and requiring the planting of vegetation along any west-facing residential lot fence line prior to the issue of a Statement of Compliance, unless otherwise agreed in writing by the Responsible Authority.

**Sodic and dispersive soil site assessment and management plan**

A construction management plan which includes an assessment for the existence of and any necessary management of sodic and dispersive soils to the satisfaction of the Responsible Authority.

**Intersection of Hopetoun Park Road and Old Western Highway and shared path to Cowans Road**

~~Prior to the approval of the Development Plan, the landowner of 124 Hopetoun Park Road shall enter into a Section 173 Agreement under the *Planning and Environment Act 1987* with the responsible authority and the Head, Transport for Victoria. The agreement will be prepared at no cost to the Head, Transport for Victoria and/or the responsible authority, unless agreed in writing and will provide for:~~

- ~~• the delivery of a shared use path connection from the development land to Cowans Road before the issue of a Statement of Compliance that creates the 50<sup>th</sup> residential lot within 124 Hopetoun Park Road, Hopetoun Park defined as Lot 2 on PS604556J, Lot 2 on TP604721H, and Lot 3 on TP604721H, or at a later time as agreed. Any path within the road reserve for the Western Freeway is required to restrict all access from the path to the Freeway and will be maintained at no cost to the Head, Transport for Victoria. Delivery funding and identification of land requirements for a shared path connection from the development land to Cowans Road is at no cost to the Moorabool Shire Council or the Head, Transport for Victoria.~~
- ~~• the delivery of the intersection upgrade of Hopetoun Park Road and Old Western Highway as identified in the Functional Layout Plan Drawing No. V190737-TR-SK-0004 dated 28 August 2020 included in the Traffic Engineering Report (Salt, 19 April 2022), before the issue of a Statement of Compliance that creates the 250<sup>th</sup> residential lot within 124 Hopetoun Park Road, Hopetoun Park defined as Lot 2 on PS604556J, Lot 2 on TP604721H, and Lot 3 on TP604721H, or at a later time as agreed. The intersection upgrade must be delivered to the satisfaction, and at no cost to the Head, Transport for Victoria.~~

Prior to the approval of the Development Plan, the landowner of 124 Hopetoun Park Road shall enter into a Section 173 Agreement under the *Planning and Environment Act 1987* with the responsible authority and the Head, Transport for Victoria. The agreement will be prepared at no cost to the Head, Transport for Victoria and/or the responsible authority, unless agreed in writing and will provide for:

- the delivery of the shared path connection from the land to Cowans Road prior to the issue of a Statement of Compliance for the subdivision of land abutting the north west boundary generally in accordance with that identified in the Open Space and Landscape Report (Weir & Company, August 2023) at the owner's cost, provided that any path within the road reserve for the Western Freeway must restrict all access from the path to the Western Freeway; and
- the delivery of the intersection upgrade of Hopetoun Park Road and Old Western Highway as identified in the Functional Layout Plan Drawing No. V190737-TR-SK-0004 dated 28 August 2020 included in the Traffic Engineering Report (SALT, 19 April 2022), before the issue of a Statement of Compliance relating to a plan of subdivision that creates the 350th residential lot within 124 Hopetoun Park Road, or at a later time as agreed; and

- [the Responsible Authority and the Head, Transport for Victoria's reasonable costs of preparation and registration of the section 173 agreement to be borne by the landowner.](#)

[all to the satisfaction of the responsible authority and Head, Transport for Victoria.](#)

## 4.0

30/07/2018

### Requirements for development plan

A development plan must include the following requirements:

- The development plan must be generally in accordance with the Hopetoun Park North Concept
- Plan (the Concept Plan) included as Map 1, to the satisfaction of the responsible authority.
- The development plan must comprise, to the satisfaction of the responsible authority or unless specified otherwise:
  - A design response that is based on the outcomes of the site analysis process and is generally consistent with the Concept Plan.
  - A written report addressing the requirements outlined in this Schedule.
  - A Masterplan.
  - A Landscape Masterplan.
  - An Integrated Transport Management Plan.
  - An Integrated Water Management Plan.
  - A Biodiversity Conservation Management Plan.

### ~~A Cultural Values Assessment for the Development Plan area.~~

- A Bushfire Mitigation and Management Plan.

### Masterplan

The Masterplan must include:

- Contours of land at 1.0 metre intervals.
- Details of the likely staging of land-use and development.
- Key climatic conditions (i.e. solar orientation arc and prevailing wind arrows).
- Residential lots with a minimum area of 1500 square metres, and a minimum frontage width of 30 metres, in Areas A and B, as defined on the Concept Plan.
- Residential lots with a minimum area of 800 square metres and a minimum frontage width of 20 metres for Area C, as defined on the Concept Plan.
- Local roads separating all residential lots from the western escarpments and escarpment reserves.
- Layout of street networks to provide lots oriented east-west, and north-south neighbourhood streets, wherever possible.
- A perimeter road along the northern interface with the Western Freeway reservation.
- Details of how the development will provide sustainable development practices including measures to reduce greenhouse gas emissions, energy use, water consumption and waste generation.
- Measures to avoid and minimise potential environmental impacts, including but not limited to:
  - Land degradation - minimisation of topsoil disturbance;
  - Preservation and enhancement of the environmental attributes of the area.
- Provision for community facilities on a minimum 4300 square metres site, in an appropriate location generally in accordance with the Concept Plan, to the satisfaction of the responsible authority.
- Provision for a Local Convenience Centre of a minimum 540 square metres floor area that comprises commercial/retail facilities in an appropriate location abutting Hopetoun Park Road, to the satisfaction of the responsible authority.

- Local Convenience Centre interfaces which are designed to activate frontages and implement Crime Prevention Through Environmental Design principles.
- Details of unencumbered and encumbered open space, passive open space, land suitable for active open space, and any additional open space required to perform a streetscape function or to link open space areas, generally in accordance with the Open Space and Landscape Report by Weir and Co [August 2023].
- Details of the infrastructure and sporting facilities to be provided on site.
- Details of how ecological values will be protected on land set aside for conservation purposes.
- A western escarpment interface abutting the western site boundary, comprised of a linear reserve of a minimum 20 metres in width which incorporates a 2.5m shared path for pedestrian and cyclist access and a 5 metre revegetation strip.
- A development sequencing plan that identifies the likely sequence of development, the staging and provision of infrastructure, drainage, roads and other key facilities and evidence that reticulated water supply and sewerage services can be provided.
- Demonstration of how infrastructure including water supply, sewerage, drainage, telecommunications, public transport and roads will be cost effectively provided.
- Incorporate the outcomes and requirements of the Landscape, Integrated Transport Management, Integrated Water Management and Bushfire Mitigation and Management Plans.

### **Landscape Masterplan**

The Landscape Masterplan must include:

- Linear reserves, a minimum 20 metres in width, abutting the edge of the western escarpment area (Area A, as defined on Map 1) with local roads abutting the linear reserves.
- Details of landscaping within the linear reserves consistent with the recommendations of the Open Space and Landscape Report by Weir & Co [August 2023], and Landscape and Visual Amenity Assessment Supplementary Report by Hansen Partnership [April 2023], including large canopy vegetation to provide visual screening of built form when viewed from Bacchus Marsh and the Western Freeway.
- Details of EVC appropriate native/indigenous and drought tolerant vegetation for landscaping, and retention of existing indigenous vegetation wherever possible.
- Measures to limit weed invasion.
- Management plan for the escarpment areas within 10 metres of the linear open space reserves (located adjacent to the escarpments) including revegetation (if required), litter and weed management.
- A character/theme for each open space area and a street tree theme for streets incorporating EVC appropriate native/indigenous plantings.
- Integration of Urban Heat Island cooling objectives with 30% tree canopy targets across public realm and open spaces above pre-development levels and areas of cool retreat. Preference should be given to indigenous and drought tolerant native vegetation to enhance local habitat values and respond to waster sensitive urban design objectives.
- Details of fencing treatments proposed for private land abutting open space and between escarpment break of slope and Farming Zone properties.
- Details of fencing treatments proposed for conservation reserves.
- Details of the layout of roads, open space and infrastructure which promotes the protection of large native trees and patches of native vegetation where practical.
- Details of the 5-metre-wide landscape buffer on the southern boundary of Area B as defined by Map 1 to provide visual screening for adjoining residential properties.
- Integration of the pedestrian and cycle path plan showing paths routed outside of all Conservation Reserves.

### **Integrated Transport Management Plan**

The Integrated Transport Management Plan must be prepared to the satisfaction of the Head, Transport for Victoria and must include:

- The distribution, hierarchy and characteristics of vehicular and pedestrian circulation networks including road cross sections for all road categories and intersection treatments onto Hopetoun Park Road.
- Connector roads designed to safely accommodate car, bus, bicycle and pedestrian users.
- A Traffic Impact Assessment that adopts the typical internal road cross sections in Plan 2170E 00 TR1 prepared by Millar Merrigan included at Appendix 1 to the Traffic Engineering Report (SALT, 19 April 2022).
- A pedestrian and cycle path plan which is generally in accordance with the *Open Space and Landscape Report* by Weir and Co [August 2023] and which identifies:
  - Connections through open space, pathways and street networks.
  - Pathway and road reserve design to Infrastructure Design Manual requirements.
  - Connections to the existing perimeter path that extends around the development at Hopetoun Park.
  - A shared path connection to Cowans Road.
- Details of the likely staging of infrastructure.

### **Integrated Water Management Plan**

The Integrated Water Management Plan must be generally in accordance with the Stormwater Management Plan by Afflux Consulting [May 2023] and must include:

- Allowance for water quality assets and land to the satisfaction of the relevant authority.
- Details, as appropriate, of maintenance requirements, machinery requirements and access arrangements, including specific reference to the escarpment areas and maintenance responsibilities for any drainage areas/wetlands.
- Details of measures that mitigate the steep outfall conditions for individual asset design, to the satisfaction of the relevant authority.
- Stormwater discharge flow and outlet designs, to the satisfaction of the relevant authority.
- The requirement for best practice stormwater management as part of planning approvals in accordance with the Infrastructure Design Manual.
- Provision for the implementation of appropriate Water Sensitive Urban Design techniques to minimise inappropriate drainage and runoff impacts, support Blue Green infrastructure in streets and open space where possible, and address possible impacts to the escarpments.
- Details of minimisation of sediment loads within stormwater.
- Provision for any relevant wastewater management strategies.
- Provision for innovative wastewater management strategies that maximise opportunities for waste recycling or stormwater harvesting.
- A climate change sensitivity analysis to ensure peak flood levels are consistent with drainage footprints.
- A Stormwater Management Strategy.
- A Wetland / Retarding Basin Management Plan, that:
  - Describes how the wetlands/retarding basins will be designed and constructed in accordance with stormwater best practice Environmental Management through nature-based solutions, which may- provide appropriate structure and native vegetation diversity to attract native wildlife (insects, fish and birds in particular).
  - Identifies risks to the Pyrites Creek and Werribee River, resulting from water released from the wetlands / retarding basins. Risks to be considered include water quality, erosion potential, flow regime/volume changes and impacts to biodiversity.
  - Recommends appropriate risk mitigation measures and management regimes.

### Biodiversity Conservation Management Plan

The Biodiversity Conservation Management Plan must include:

- A report on the results of a habitat assessment for the Victorian Grassland Earless Dragon and if required, results of targeted surveys and appropriate management measures for the Victorian Grassland Earless Dragon.
- A report on the results of targeted surveys undertaken for the Diamond Firetail, Matted Flax-Lily, Striped Legless Lizard and Tussock Skink across all areas of Plains Grassland and Open Woodland.
- Actions for retention, management, revegetation and restoration in the conservation areas, and the conservation area's integration with adjoining open space reserves, showing how ecological values will be protected within the conservation areas, and their integration with adjoining open space reserves, as appropriate.
- Recommendations with regard to management of weeds and pest animals identified by the Catchment and Land Protection Act 1994 and *Weeds of the Moorabool Shire* [Moorabool Shire Council].
- A response to key recommendations of the *Hopetoun Park North, Northwestern Section Flora and Fauna Assessment* by Nature Advisory [August 2023] and *Addendum to Flora and Fauna Assessment Report* by Nature Advisory [July 2024].
- An arboriculture assessment of existing trees/groups of trees on the land which provides a description of the condition, health and integrity of all trees proposed to be retained and includes recommendations for the long-term preservation of all tree(s) identified to be retained.

### Bushfire Mitigation and Management Plan

The Bushfire Mitigation and Management Plan must be generally in accordance with the Bushfire Risk Assessment by South Coast Bushfire Consultants [August 2023] and must include:

- The requirement for the completed subdivision of the growth area, as well as any stage of the subdivision, to include a design that meets the requirements of Clause 13.02-1S such that no future development will be exposed to a radiant heat load greater than 12.5kW/m<sup>2</sup>.
- The requirement for a perimeter road abutting the northern interface of the growth area, adjacent to the Western Freeway reserve.
- The requirement for a perimeter road in proximity to the western escarpment, abutting the east side of the linear open space reserve.
- The requirement for a perimeter road abutting the woodland conservation reserve located on the west side of Hopetoun Park Road, in locations where the woodland conservation reserve would otherwise abut residential development to the west and south.
- The requirement for a perimeter road abutting the woodland conservation reserve located on the west side of Hopetoun Park Road, in locations where the reserve would otherwise abut residential development to the west and south.
- The design of the road and lot layout to ensure that the setback requirements in the following table and figure are met:

**Table 1: Bushfire Setback Requirements**

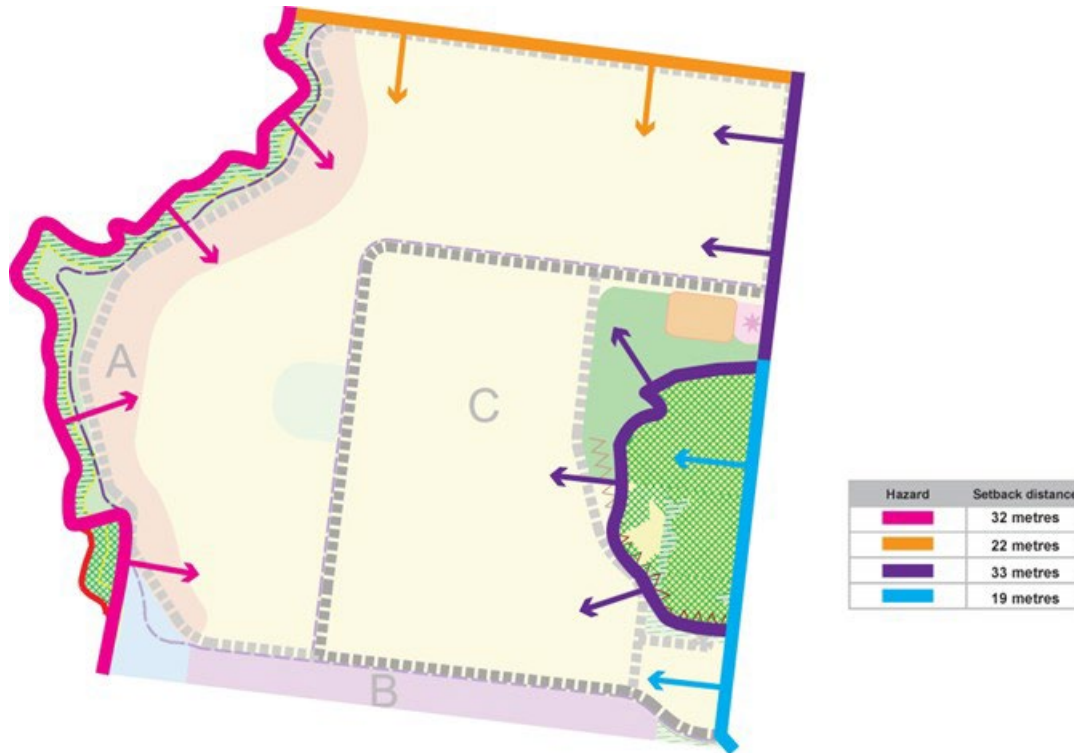
Hazard identified	Area relevant	Setback required from hazard to building façade*
Grassland, escarpment vegetation and revegetation buffer	A	32 metres
Grassland beyond northern boundary	A, C	22 metres



<b>Woodlands east of Hopetoun Park Road, and Grey Box conservation woodlands within site</b>	C	33 metres
<b>Grassland east of Hopetoun Park Road</b>	B, C	19 metres

\*The setbacks can include road reserves and open space areas if they are managed to a low threat state.

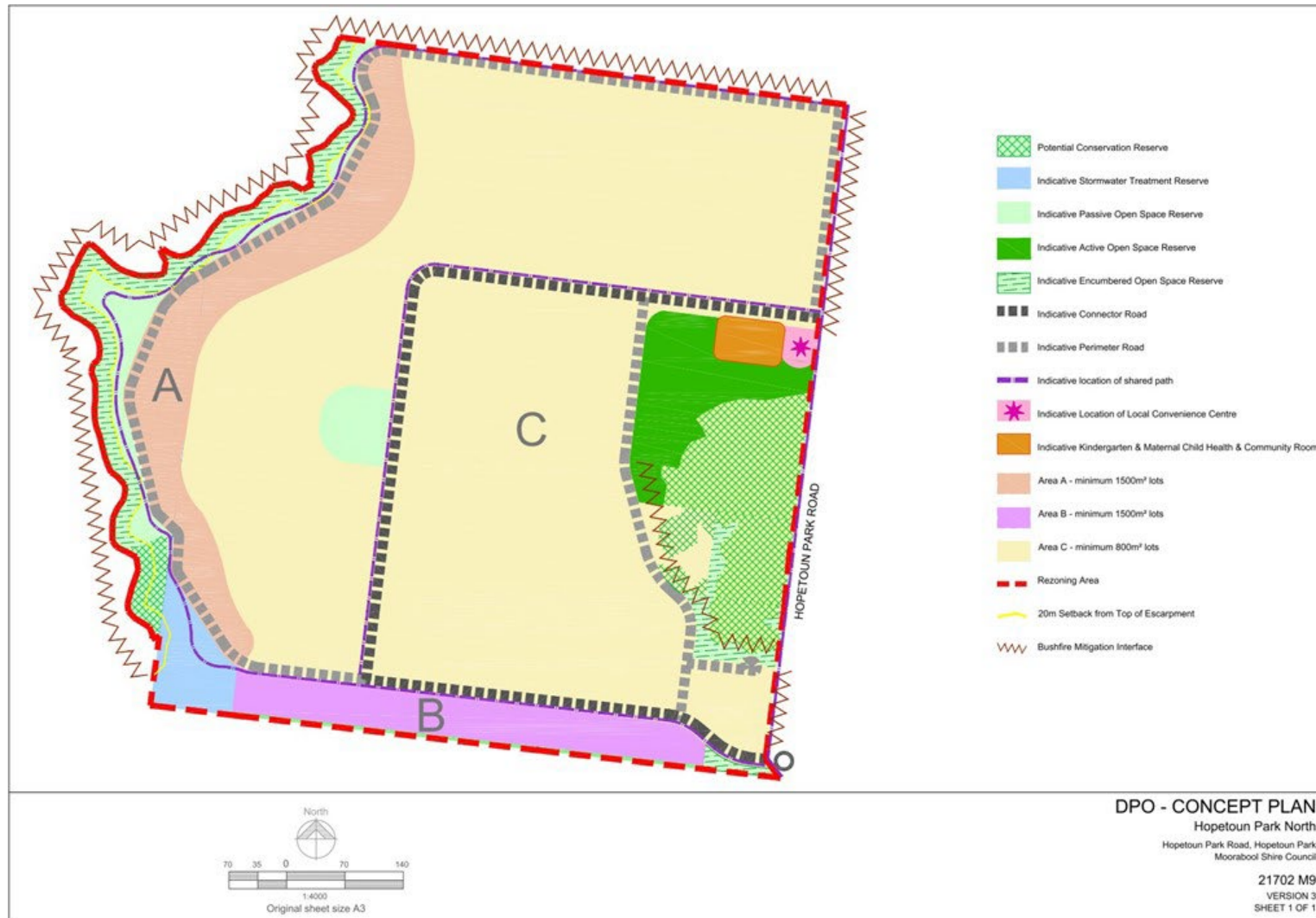
**Figure 1: Areas A, B and C, hazard interfaces and relevant bushfire setbacks**



- In the setback distances specified above, the requirement for landscaping to be planted and managed in accordance with the defendable space requirements as outlined at Clause 53.02-5 Table 6 Vegetation management requirement (as appropriate) if located in:
  - The setbacks to dwellings.
  - The perimeter road reserves.
  - Public open space areas.
- The design of a road network and access and egress points that address interim hazards for each anticipated stage of subdivision, as well as the final layout, to minimise bushfire risks for all vehicles in an emergency.
- The design of a road and lot layout that ensures the ability to provide areas of BAL LOW for each stage, as well as the final layout.

Map 1 to Schedule 7 to Clause 43.04

Hopetoun Park North Concept Plan



## Appendix D Panel-preferred version of the Design and Development Overlay Schedule 17

04/10/2018

### SCHEDULE 17 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO17**

#### HOPETOUN PARK NORTH GROWTH AREA

#### 1.0

##### Design objectives

30/07/2018

To ensure new residential development minimises its visual impact when viewed from the Western Freeway, Bacchus Marsh Valley and the existing Hopetoun Park residential development.

To provide development that respects the existing open and spacious character of Hopetoun Park through the implementation of front, rear, and side setbacks, ensuring adequate space for landscaping that reinforces the open woodland character.

To encourage fencing that provides a 'rural' feel, and sense of openness towards the street.

To encourage the use of materials for building construction that blend aesthetically with the landscape.

To ensure setbacks to dwellings respond to the requirements of Clause 13.02.

#### 2.0

##### Buildings and works

30/07/2018

A permit is required to construct a fence. This does not apply if the requirements for fencing in Table 1 have been met.

A permit is not required to construct a building or construct and carry out works where the setback requirements in Table 1, in addition to the bushfire setback requirements in Table 2, have been met.

**Table 1: Minimum setback requirements for dwellings, and fence requirements**

Setback requirements for dwellings, outbuildings; and fence requirements	Area A Escarpment Allotments	Area B Southern Allotments	Area C Typical Allotments
<b>Dwelling and outbuilding front setback (minimum)</b>	10 metres	10 metres	6 metres
<b>Dwelling side set back (minimum)</b>	3 metres	3 metres	3 metres
<b>Dwelling rear set back (minimum)</b>	10 metres	20 metres which must include a 5 metre landscape buffer on the southern boundary. <a href="#">No outbuildings can be located within the 5 metre landscape buffer</a>	10 metres
<b>Front fence</b>	No front fence unless it is post and wire or railing and has at least 80% visual permeability	No front fence unless it is post and wire or railing and has at least 80% visual permeability	No front fence
<b>Rear and side fence (maximum height)</b>	1.8 metres, reduced to 1.2 metres for side fences forward of the facade	1.8 metres, reduced to 1.2 metres for side fences forward of the facade	1.8 metres, reduced to 1.2 metres for side fences forward of the facade

**Figure 1: Areas A, B and C, hazard interfaces and relevant bushfire setbacks**



**Requirements for landscaping**

Landscaping is encouraged in all setback areas to dwellings.

**3.0**

30/07/2018

**Subdivision**

None specified

**4.0**

04/10/2018

**Signs**

None specified

**5.0**

30/07/2018

**Application requirements**

The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A site analysis and design response, which demonstrates how the proposal achieves the Design Objectives and Requirements of this Schedule.
- A planning assessment that demonstrates how the proposal responds to any approved Hopetoun Park North Development Plan.
- A landscape plan that demonstrates how the proposal achieves the desired landscape character.

**6.0**

30/07/2018

**Decision guidelines**

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether an application is generally in accordance with any approved Hopetoun Park North Development Plan.
- Whether an application provides adequate setbacks that can accommodate appropriate landscaping.