

**Mornington Peninsula Planning Scheme
Amendment C243morn
Somerville Technology, Industry and Business Park**

Panel Report

Planning and Environment Act 1987

24 June 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 subject land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

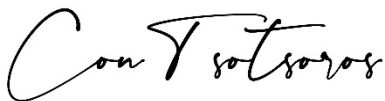
Panel Report pursuant to section 25 of the PE Act

Mornington Peninsula Planning Scheme

Amendment C243morn

Somerville Technology, Industry and Business Park

24 June 2025



Con Tsotsoros, Chair



Elizabeth McIntosh, Member

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Terms

BAO	Buffer Area Overlay
CFA	Country Fire Authority
Council	Mornington Peninsula Shire Council
DDO	Design and Development Overlay
DEECA	Department of Energy, Environment and Climate Action
DPO	Development Plan Overlay
GWZ	Green Wedge Zone
ILARS	Mornington Peninsula Industrial Land Use and Infrastructure Assessment and Rezoning Strategy
IN3Z	Industrial 3 Zone
MICLUP	Melbourne Industrial and Commercial Land Use Plan
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Mornington Peninsula Planning Scheme
Proponent	Procter Investments No 2 Pty Ltd
PSI	Preliminary Site Investigation
RTA guidelines	Roads and Traffic Authority Guide to Traffic Generating Developments, October 2002
SCO	Special Control Overlay
section 173 agreement	an agreement between Council and the subject land owner enabled by section 173 of the PE Act
SMS	Safety Management Study
SUZ	Special Use Zone

Note: A number following the zone or overlay refers to the schedule number

Overview

Amendment summary	
The Amendment	Mornington Peninsula Planning Scheme Amendment C243morn
Common name	Somerville Technology, Industry and Business Park
Brief description	Use and develop the subject land for the Mornington Peninsula (Somerville) Technology, Industry and Business Park by applying new local policy, the Industrial 3 Zone and Development Plan Overlay Schedule 24
Subject land	79 and 83 Bungower Road, Somerville
The Proponent	Procter Investments No 2 Pty Ltd
Planning Authority	Mornington Peninsula Shire Council
Authorisation	8 September 2022, with conditions
Exhibition	30 March to 12 May 2023
Submissions	115

Panel process	
The Panel	Con Tsotsoros (Chair), Elizabeth McIntosh
Supported by	Gabrielle Trowse, Planning Panels Victoria
Directions Hearing	Online by video conference, 2 April 2025
Panel Hearing	Mornington Peninsula Shire Council Chambers, 12, 13, and 15 May 2025
Site inspections	Unaccompanied, 2 May 2025
Parties to the Hearing	<p>Mornington Peninsula Shire Council (Council) represented by Jack Chiodo of Jackson Lane Legal, who called expert evidence on:</p> <ul style="list-style-type: none"> - traffic engineering from John-Paul Maina of Impact Traffic <p>Procter Investments No 2 Pty Ltd (Proponent) represented by Marita Foley SC and Adele Patterson of Counsel, instructed by Ritsa Balfoort of Macpherson Kelley, who called expert evidence on:</p> <ul style="list-style-type: none"> - economics and strategic planning from Brian Haratsis of Macroplan - traffic engineering from Simon Davies of PJA Australia <p>Joan Ebbels Robert Clarke Sharon Thresher Karin Mullenger Liza Murray-Clarkson Simone Nash Heather Browning Frederick Crump</p>
Citation	Mornington Peninsula PSA C243morn [2025] PPV
Date of this report	24 June 2025

Executive summary

The Morrington Peninsula Industrial Land Use and Infrastructure Assessment and Rezoning Strategy identified an urgent need to assess new opportunities for industrial land supply within 10 years. The strategy suggests the land in the Special Use Zone Schedule 1 that adjoins the Somerville township may provide an opportunity for further investigation, subject to appropriate land use and development standards.

Land at 79 and 83 Bungower Road, Somerville (subject land) is:

- in Melbourne's urban growth boundary
- about 2.5 kilometres from the Somerville town centre, 18 kilometres from the Port of Hastings and 6 kilometres from the Morrington Peninsula Freeway
- home to an existing heritage homestead (Brunnings)
- partly affected by Special Control Overlay Schedule 10 that facilitates use and development of land for non-port related industry for the Sealite Development.

The current Special Use Zone Schedule 1 which applies to the subject land restricts land uses to industry related to the Port of Hastings. Morrington Peninsula Planning Scheme Amendment C243morn (the Amendment) seeks to apply planning provisions to use and develop the subject land for other industry.

Key issues raised in submissions included land uses on the subject land, infrastructure including a major pipeline transmission, service connections and drainage, ecology and native vegetation, potential land contamination, bushfire risk, traffic, transport and parking, potential offsite impacts, interface issues and heritage.

Strategic issues

The Industrial 3 Zone is appropriate and justified for the subject land.

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
- supports the recommendations for increasing the supply of industrial land found throughout State and local planning policies and strategies, including the Morrington Peninsula Industrial Land Use and Infrastructure Assessment and Rezoning Strategy (September 2020)
- facilitates a technology-based industrial precinct, sized to supplement the primacy of the Hastings precinct and facilitate co-location benefits
- should proceed subject to addressing the more specific issues raised in submissions as discussed in this report.

Infrastructure

The subject land can be suitably serviced for essential services, drainage and other infrastructure.

The Amendment appropriately responds to the major pipeline infrastructure located on the subject land. A Safety Management Study should:

- inform the development plan for any land use within 200 metres of a transmission pipeline

- accompany applications lodged before a development plan has been prepared for any land uses within 200 metres of a transmission pipeline
- align with Australian Standard 2885.

Environmental values and risks

The Amendment has appropriately considered:

- ecological and native vegetation and includes an appropriate framework for assessing whether development will achieve acceptable ecological and native vegetation outcomes
- potentially contaminated land and bushfire risk, and would benefit from further associated changes.

An Ecological Assessment and Native Vegetation Management Plan that accompanies a permit application lodged before a development plan has been prepared should identify opportunities for native vegetation retention, the same as when such a plan informs a development plan.

Traffic and transport

The surrounding road network except for the Bungower Road / Frankston-Flinders Road intersection has enough capacity to manage traffic generated by future development enabled by the Amendment.

Future mitigation works for the Bungower Road / Frankston-Flinders Road intersection can be considered through the Transport and Movement Plan required by Development Plan Overlay Schedule 24.

The Amendment includes an appropriate planning framework for considering car parking generated by future development on the subject land. The onsite and offsite pedestrian and bicycle path requirements proposed through Development Plan Overlay Schedule 24 are appropriate.

The Amendment appropriately facilitates delivery of public transport infrastructure (bus stop) should the Victorian government provide public transport services to the subject land.

Surrounding area impacts

Noise, dust and odour associated with future industrial uses will not unreasonably impact the amenity of surrounding areas. Further, Development Plan Overlay Schedule 24:

- will enable future development that will not unreasonably impact the visual amenity of the surrounding green wedge area and low density residential area
- should apply a setback of a discretionary 50 metres to Bungower Road and a setback of a discretionary 30 metres to Lower Somerville Road
- should include criteria to clarify when a lesser setback is acceptable.

Other impacts

The Amendment will adequately manage heritage impacts.

The Special Control Overlay Schedule 10 should remain on the subject land to enable the Sealite development to progress without the need for a permit.

The *Planning and Environment Act 1987* does not enable the Amendment to revise a state planning provision, as requested by the Port of Hastings Corporation in its submission. Property value and crime are outside the scope of the Amendment.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Mornington Peninsula Planning Scheme Amendment C243morn be adopted as exhibited subject to the following:

1. Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to:

CONDITIONS AND REQUIREMENTS FOR PERMIT

- a) revise the permit conditions and requirements to require:
 - development setbacks along the eastern and southern boundaries
 - a continuous internal accessway for lots on the southern and eastern boundaries
 - defensible space for the lots along the eastern and southern boundaries
 - building envelopes and vegetation management along the southern and eastern boundaries
 - the Ecological Assessment and Native Vegetation Management Plan to identify opportunities to avoid and minimise impacts on the highest value native vegetation
 - a Safety Management Study, prepared in accordance with Australian Standard 2885, for any land use within 200 metres of a transmission pipeline

REQUIREMENTS FOR DEVELOPMENT PLAN

- b) require the Ecological Assessment and Native Vegetation Management Plan to identify opportunities to avoid and minimise impacts on the highest value native vegetation
- c) require a Major Pipeline Infrastructure Plan that demonstrates how the development responds to the transmission pipelines easement including:
 - locating the pipeline easement within a public reserve and managing vegetation
 - measures to mitigate the impact of development on pipeline safety
 - restricting the number of transmission pipelines crossings
 - providing clear access on and either side of the transmission pipelines
 - obtaining consent for works within 3 metres of the transmission pipeline corridor
 - avoiding childcare centre use within 200 metres of a transmission pipeline
- d) require a Safety Management Study be prepared with the Major Pipeline Infrastructure Plan, in accordance with Australian Standard 2885, for any land use within 200 metres of a transmission pipeline
- e) revise the Landscape Plan requirements to include a full flora species list for planting and including local species
- f) revise the Construction Environmental Management Plan requirements to include:
 - details of how retained native vegetation will be protected
 - that pollutant runoff is not discharged into retained native vegetation
 - details of how weeds will be controlled
- g) require an Intrusive Soil Contamination Report that assesses:
 - potential for impact to human health

- appropriate mitigation measures
- h) revise the Subdivision and Development Plan requirements to require:
 - development setbacks along the eastern and southern boundaries
 - a continuous internal accessway for lots on the southern and eastern boundaries
 - defensible space for the lots along the eastern and southern boundaries
 - building envelopes and vegetation management along the southern and eastern boundaries
- i) revise the Transport and Movement Plan to require:
 - the indicative traffic volumes to include heavy vehicles
 - further details about access arrangements
 - identification of a suitable location and design of intersection treatment of the secondary access point to the site from 83 Bungower Road
 - the location and design of any mitigation works to address the impacts of predicted heavy vehicle traffic increases on local and arterial roads
- j) revise the Staging Plan to add further details regarding the main and secondary access points
- k) replace 'Provision' with 'Measures' to the requirement associated with encouraging and supporting public transport
- l) revise the Master Plan requirements to exclude specific types of offensive and dangerous industry uses from the preferred uses list
- m) revise the Master Plan requirements to specify:
 - a discretionary setback of 50 metres to Bungower Road, including landscaping within a discretionary 15 metres from the site boundary
 - a discretionary setback of 30 metres to Lower Somerville Road to be used for landscaping and open space

GENERAL DRAFTING

- n) make drafting changes that improve its clarity, consistency and operation.

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment seeks to facilitate the use and development of 79 and 83 Bungower Road, Somerville (subject land) as a technology, industry and business park.

Specifically, the Amendment proposes to:

- introduce new local policy 17.03-2L (Industrial Land Supply – Mornington Peninsula (Somerville) Industry, Technology and Business Park Precinct)
- rezone the subject land from Special Use Zone Schedule 1 – Port Related Uses (SUZ1) to Industrial 3 Zone (IN3Z)
- apply a new Development Plan Overlay Schedule 24 (Mornington Peninsula (Somerville) Technology, Industry and Business Park Precinct) (DPO24) to the subject land
- amend Clause 72.08 Schedule to include the Industrial Land and Infrastructure Assessment and Rezoning Strategy (Mornington Peninsula Shire, 2020) as a background document.

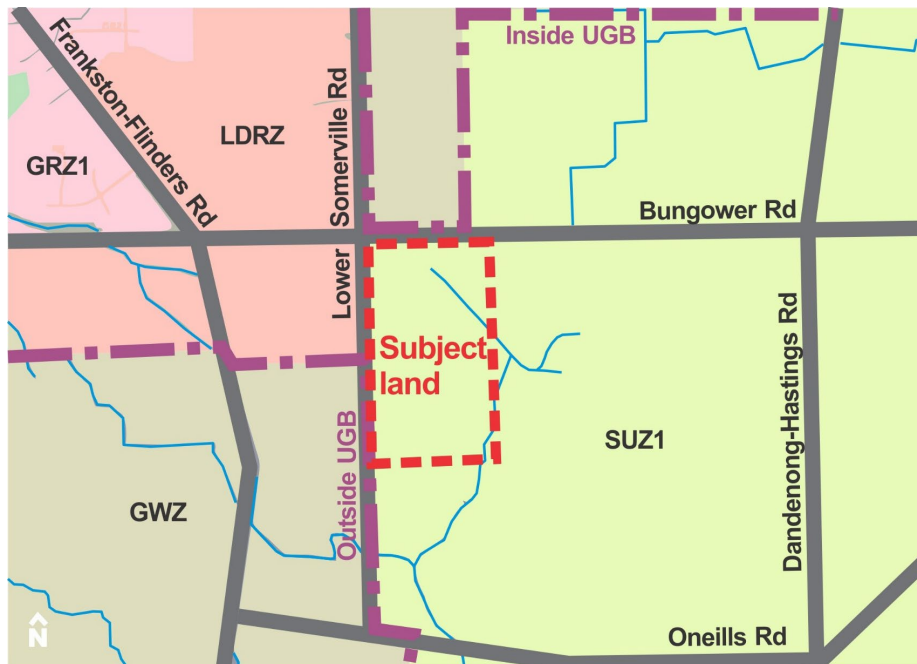
Mornington Peninsula Shire Council (Council) prepared the Amendment at the request of Procter Investments No 2 Pty Ltd (Proponent). The proposal is intended to create local employment opportunities, improve infrastructure, and provide open space.

(ii) The subject land

The Amendment applies to 79 and 83 Bungower Road, Somerville shown in Figure 1 (the subject land). The subject land is:

- about 50 kilometres southeast of Melbourne’s Central City area in the north-western corner of the Mornington Peninsula
- about 2.5 kilometres southeast of the Somerville town centre
- within an area set aside for uses associated with the Port of Hastings.

Somerville comprises a mix of general residential and low-density residential areas and green wedge and agricultural land, with an existing industrial precinct to the north-east of the town.

Figure 1 Subject land and context

Source: Planning Panels Victoria

1.2 Background

The below table summarises the background events associated with the Amendment.

Table 1 Background to the Amendment

Date	Description
9 July 2015	Council issued Planning Permit P14/1846, permitting Sealite Pty Ltd to use and develop the north-eastern corner of the subject land for manufacture of marine products. The endorsed plans included a 7,000 square metre, two-storey factory and office building. The permit has expired.
30 April 2018	Council adopted the <i>Mornington Peninsula Industrial Areas Strategy</i> (Essential Economics Pty Ltd, April 2018), which set out an assessment and plan for industrial areas on the Mornington Peninsula. The strategy did not consider potential rezoning of port-related SUZ1 land, as it considered it unavailable for general industrial use and development.
December 2018	<i>2018 Port Development Strategy</i> (Port of Hastings Development Authority, December 2018) was released which identified the need to retain the SUZ1 land immediately around the port in reserve but earmarked the SUZ1 land at the periphery for investigation for future industrial uses.
July 2019	The <i>Somerville Township Structure Plan</i> (Mornington Peninsula Shire Council, 2019) was adopted by Council to guide land use and development in Somerville.
Early 2020	The Proponent applied to Building Victoria's Recovery Taskforce with a proposal for a technology and business park at 83, 79, 75 and 73 Bungower Road, Somerville. The proposal did not proceed through the Taskforce approval process.
August 2020	The <i>Melbourne Industrial and Commercial Land Use Plan</i> (Department of Environment, Land, Water and Planning, 2020) was adopted, setting out the supply and demand for commercial and industrial land within metropolitan Melbourne.

Date	Description
September 2020	Council adopted the <i>Industrial Land Use & Infrastructure Assessment Rezoning Strategy</i> (Hansen Partnership, September 2020) which reviewed the supply and demand of industrial land in the Mornington Peninsula, this time including the potential of rezoning port-related SUZ1 land.
Late 2020 – early 2021	Council applied to the Minister for Planning in September 2020 to prepare an amendment to implement the findings of the <i>Industrial Land Use & Infrastructure Assessment Rezoning Strategy</i> and exempt the Amendment from exhibition and notice. The Minister for Planning directed the Amendment go through the normal amendment process.
November 2021	Council's application to the Minister in September 2020 also requested that an amendment be prepared to allow the Sealite Development to be used for general industrial purposes, rather than be limited to port-related uses under the SUZ1. Council requested this amendment also be exempt from exhibition and notice. This was endorsed by the Development Facilitation Program and Amendment C283morn was gazetted on 18 November 2021, facilitating the use and development of the subject land for non-marine related industry.
July 2022	<i>Navigating our Port Futures: The Victorian Commercial Ports Strategy</i> (Department of Transport, 2022) was published in July 2022 and set out a vision and plan for Victoria's commercial ports. The strategy confirmed that Bay West is the preferred site for Melbourne's second container port, and that the subject land set aside around the Port of Hastings would not necessarily be required for port-related uses and could be released for other industrial uses.
September 2022	The Minister granted authorisation to prepare the Amendment.
30 March to 12 May 2023	The Amendment was publicly exhibited.
February 2025	Council resolved to refer all submissions to a Panel.

Source: Council Part A submission

1.3 The Panel's approach

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

This Report deals with the issues under the following headings:

- Strategic issues
- Infrastructure
- Environmental values and risks
- Traffic and transport

- Surrounding area impacts
- Other issues
- Drafting.

DPO24 versions

This report refers to the following DPO24 versions:

- Exhibited – the version which submissions responded to
- Resolved – as considered at the 25 February 2025 Council meeting
- Version 1 – provided by Council on 8 May 2025 (Document 24)
- Version 2 – provided by Council on 14 May 2025 (Document 43)
- Version 3 – provided by Council on 15 May 2025 (Document 48).

1.4 Expert reports

Council called John-Paul Maina of Impact Traffic as an expert on traffic engineering.

The Proponent called the following experts:

- Brian Haratsis of Macroplan on economics and strategic planning
- Simon Davies of PJA Australia on traffic engineering.

At the direction of the Panel, Mr Maina and Mr Davies met on 6 May 2025 to confirm any agreed statements. They agreed on all documented items, as confirmed in the expert meeting statement.

The Proponent did not call Mr Davies to present at the Hearing after the Panel and other parties confirmed they had no questions to ask of him.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment.

Table 2 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Municipal Planning Strategy	- Clause 02.03-6 (Economic Development), Clause 02.02 (Vision Strategic)
Planning Policy Framework	<ul style="list-style-type: none"> - Clauses 11.01 (Victoria), Clause 11.01S (Settlement), Clause 11.02 (Managing growth), Clause 11.02-1S (Supply of urban land) - Clause 12.01-2S (Native Vegetation Management) - Clause 13.02 (Bushfire), Clause 13.02-1 (Bushfire planning), Clause 13.04 (Soil degradation), Clause 13.04-1S (Contaminated and potentially contaminated land) - Clause 17.01 (Employment), Clause 17.01-1S (Diversified economy), Clause 17.01-1R (Diversified economy – metropolitan Melbourne), Clause 17.01-2S (Innovation and research), Clause 17.03 (Industry), Clause 17.03-1S (Industrial land supply), Clause 17.03-1L (Industrial land supply – Mornington Peninsula) - Clause 18 (Transport), Clause 18.01 (Land use and transport integration), Clause 18.01-3 (Sustainable and safe transport), Clause 18.02 (Movement networks), Clause 18.02-1S (Walking) - Clause 19.02-6S (Open Space)
Other planning strategies and policies	<ul style="list-style-type: none"> - Plan Melbourne Direction 1.1, 1.2, 5.1, 5.2, 5.4, Policies 1.1.6 and 1.2.2, - Melbourne Industrial and Commercial Land Use Plan, 2020 - Port of Hastings Development Strategy, 2018 - Navigating our Port Futures: The Victorian Commercial Ports Strategy, 2022 - Economic Growth Statement – Victoria Open for Business, 2024 - Mornington Peninsula Industrial Areas Strategy, 2018 - Mornington Peninsula Industrial Areas Strategy, 2020 - Somerville Township Structure Plan, 2019
Planning scheme provisions	<ul style="list-style-type: none"> - Industrial 3 Zone - Development Plan Overlay - Special Control Overlay
Ministerial directions	<ul style="list-style-type: none"> - Ministerial Direction on The form and content of planning schemes - Ministerial Direction 1 (Potentially contaminated land) - Ministerial Direction 9 (Metropolitan strategy) - Ministerial Direction 11 (Strategic Assessment of Amendments)

	<ul style="list-style-type: none"> - Ministerial Direction 15 (The planning scheme amendment process) - Ministerial Direction 19 (Amendments that may result in impacts on the environment, amenity and human health)
Planning practice notes	<ul style="list-style-type: none"> - Planning Practice Note 23 (Applying the Incorporated Plan and Development Plan Overlays) - Planning Practice Note 46 (Strategic Assessment Guidelines, September 2022) - Planning Practice Note 30 (Potentially contaminated land)

2.2 Relevant strategies

(i) Melbourne Industrial and Commercial Land Use Plan (2020)

The Melbourne Industrial and Commercial Land Use Plan (MICLUP) sets out the supply and demand of commercial and industrial land within metropolitan Melbourne. The document:

- estimates a 23 year supply of zoned industrial land and a 17 year supply of unzoned land for future industrial use
- found that the southern region, including the Mornington Peninsula municipality, has 21 years of zoned industrial land and 12 years supply excluding land zoned SUZ1
- designates land around Port of Hastings as State Significant Industrial Land and the broader SUZ1 land as Regionally Significant Industrial Land
- encourages consultation with the Port of Hastings Corporation and Council to investigate broader industrial uses for SUZ1 land outside the Hastings State Significant Industrial Land.

(ii) Port Development Strategy (2018)

The Port Development Strategy was prepared by the Port of Hastings Development Authority and provides an overview of the current and future development of the Port of Hastings area. The document succeeded the Industrial Areas Strategy 2018 and is intended to be updated as regular intervals. The document:

- reserves land around the port for port-related purposes
- acknowledges the purpose of the reserve land was to support the Port of Hastings as Melbourne's second container port (which has since been designated in Bay West)
- recognises the potential for alternative industrial uses with lower amenity impacts on nearby communities for peripheral reserve land (which includes the subject land and surrounding land).

(iii) Mornington Peninsula Industrial Land Use and Infrastructure Assessment and Rezoning Strategy (2020)

The Mornington Peninsula Industrial Land Use and Infrastructure Assessment and Rezoning Strategy (ILARS) was prepared by Council to investigate the suitability of rezoning some of the SUZ1 land from port-related industrial uses to other industrial uses. The document found:

- industrial land take-up occurred at a faster rate than anticipated by the Industrial Areas Strategy 2018 and six years of industrial land supply remained
- at least 60 hectares of industrial land was needed to provide a 15-year land supply

- when dividing the SUZ1 land into three precincts for assessment, namely Hastings, Tyabb and Somerville, the Hastings is the preferred key strategic opportunity for growth
- the Somerville precinct is less suitable for industrial growth due to potential market garden encroachment and increased traffic through settlements
- a smaller supplementary precinct in Somerville, around 10 to 15 hectares, could support the Sealite Development (not yet constructed) and co-locate allied businesses.

(iv) Mornington Peninsula Industrial Areas Strategy (2018)

The Industrial Areas Strategy was prepared by Council to provide a framework for managing industrial land across the municipality. The document:

- assesses current industrial zones, forecasted demand and identified constraints
- excludes the SUZ1 land due to its (then) unsuitability for general industrial development
- urges Council to explore new industrial land opportunities within the next 10 years
- notes no major industrial land supply issues in Somerville but highlighted future expansion constraints due to environmental and planning factors
- suggests the SUZ1 land east of the Somerville is removed from the Port of Hastings, and may be suitable for non-port related industrial uses.

2.3 Industrial 3 Zone

(i) The issue

The issue is whether the Industrial 3 Zone is appropriate and justified for the subject land.

(ii) Background

The IN3Z purposes include to:

- provide a buffer between Industrial 1 Zone or Industrial 2 Zone and communities, allowing for uses that are compatible with the nearby community
- allow limited retail including convenience shops and small supermarkets
- ensure safety and amenity for adjacent sensitive land uses.

The SUZ1 purposes include to:

- host port and industrial uses which benefit from Westernport's deep-water channels
- allow interim rural use while preserving land for future port development.

(iii) Evidence and submissions

Several submissions questioned the proposed industrial use and requested alternative zones.

They explained:

- IN3Z was generally inappropriate
- farming, green wedge or residential uses are preferred
- industrial uses should be located in Hastings or Tyabb as intended by ILARS
- Somerville has sufficient industrial land supply
- the rezoning will undermine Somerville's rural character and identity
- the Amendment will trigger similar rezoning requests on SUZ1 land, potentially altering Somerville's rural and residential identity.

Council submitted that the IN3Z:

- is the appropriate zone
- can buffer between sensitive land uses and industrial zones that permit heavier (more offensive) land uses, such as Industrial 1 Zone or Industrial 2 Zone
- provides for some retailing and supermarkets in appropriate locations
- will work with DPO24 to ensure a comprehensive and sensitive response to amenity.

In response to a Panel question, Council considered the subject land should not be treated as part of the State's agricultural land supply. It explained:

- the subject land has not been zoned for rural use since the new format planning scheme
- its historical agricultural use is incidental
- the SUZ1 indicates agricultural uses are temporary until port-related uses are realised
- being within the Urban Growth Boundary (UGB), the subject land is not governed by the State planning policy for agricultural, rural or green wedge land.

The Proponent submitted the IN3Z is appropriate because:

- the subject land is located on the road network and at the periphery of the Somerville township
- it will buffer the potentially heavy port-related uses on SUZ1 land from sensitive uses in the residential areas.

The Proponent added:

- the subject land has been designated for port-related uses since the 1970s and zoned (as SUZ1) for such uses since 1999
- the rezoning is consistent with the site's designation in MICLUP as existing regionally significant industrial land intended to meet future demand for industrial land
- ILARS earmarks the site for investigation for industrial uses
- the proposed rezoning, coupled with the DPO24, facilitates a more appropriate use of the subject land than the current SUZ1 (which includes container storage and transport depots)
- the IN3Z and DPO24, and proposed local policy, will encourage the preferred uses of technology-based industries, research and development, manufacturing and strategic industries and will avoid offensive or dangerous industries, retail premises and homemaker centres.

Through his economic assessment, Mr Haratsis found that there was demand for technology-based industries and a shortage of industrial land in Melbourne's southern region. His evidence detailed the subject land's long history of being designated for industrial uses. He supported the IN3Z and DPO24 for reasons they would:

- discourage non-technology-related and heavy industrial uses
- ensure a supply of larger lots
- promote high amenity outcomes (open space and landscaping)
- limit retail premises to bulky goods retailing related to technology industries.

(iv) Discussion

The Panel agrees with submissions that SUZ1 already enables industrial uses on the subject land, as supported by relevant planning policy. Of note, it has already been determined that part of the

subject land is suitable for industrial and business-related uses through a previous permit approval and application of SCO10.

The Amendment therefore does not seek to allow industrial uses. Rather, it seeks to apply IN3Z to enable industrial uses that are not related to port activities.

The issue is whether IN3Z is suitable for the subject land. The Panel considers that it is for numerous reasons. The subject land is strategically located:

- on the edge of the Somerville settlement
- next to other SUZ1 land reserved for both non-port and port-related industrial purposes
- on a main arterial (Bungower Road) which provides direct access to the Mornington Peninsula Freeway, forming part of the metropolitan and statewide freeway network.

Strategic policy designates the subject land for continued industrial use and characterises it as a buffer site consistent with the IN3Z purposes. The Port Development Strategy identifies the periphery SUZ1 land for non-port related uses that can address sensitive residential interfaces. The IN3Z purpose to “*provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities*” directly translates that strategic direction.

IN3Z is intended for land that is near residential land like the subject land which is across the street from LDRZ land. The zone’s provisions:

- require permitted uses to consider the impact on amenity of nearby communities
- enable uses that cause lesser amenity impact compared to those permitted by SUZ1.

These provisions are sufficient to ensure future industrial uses on the subject land can exist harmoniously with the nearby residential land. However, amenity impact considerations will be further strengthened by the proposed DPO24 provisions.

Mr Haratsis’ evidence demonstrates a need for technology-related uses in Melbourne’s southern region. Such uses would be consistent with the IN3Z purposes and provide uses for which amenity impacts can be suitably managed. Applying DPO24 is important in this regard and will:

- encourage the preferred uses and discourage unfavourable uses permitted by IN3Z, such as retail, bulky goods retailing, supermarkets and shop
- guide high amenity design outcomes, including open space and landscaping, vital to a technology-related business precinct.

The Panel’s role is to consider whether IN3Z is suitable for the subject land. It is not to consider alternative preferred uses. Having said that, planning policy does not anticipate further residential growth in the Somerville township including the subject land. The residential area near the subject land:

- is physically constrained by the abutting Green Wedge Zone (GWZ) and SUZ1 land
- has strong policy support for continuing its agricultural and industrial uses.

Council comprehensively and soundly explained why agricultural uses are unsuitable on the subject land. The subject land:

- has been designated for industrial uses for some time
- is intended for urban purposes through its location within the UGB
- has historically had agricultural uses, however SUZ1 identifies these as interim uses.

(v) Conclusion

The Panel concludes that the Industrial 3 Zone is appropriate and justified for the subject land.

2.4 Strategic justification

(i) The issue

The issue is whether the Amendment is strategically justified.

(ii) Evidence and submissions

There were objecting submissions that considered:

- there was no demonstrated shortage of industrial land
- there is adequate local industrial land supply, particularly in Hastings
- ILARS favoured industrial uses establishing in the Hastings precinct
- the Amendment may not provide local job benefits
- the vision for the subject land may not be feasible if there was no committed anchor tenant such as Sealite.

Council and the Proponent noted there were many submissions that supported the Amendment. Recurring reasons include the urgent need for industrial land, local employment opportunities in the science and technology sector, and economic development.

Council submitted:

- the Amendment is strategically justified by a comprehensive suite of strategies and planning policies which identify a significant need for additional industrial land
- there is primary support in ILARS, which establishes the strategic basis for rezoning the subject land, supplementary to the Hastings precinct as the main growth area
- the Amendment promotes economic growth and local employment, which are key planning policy directions
- multiple industrial land strategies indicate a shortage of unconstrained industrial land, especially within the municipality
- MICLUP, the Port Development Strategy and ILARS endorse the investigation of surplus SUZ1 land for non-port-related industrial uses
- there is local demand for light industrial and technology-based employment opportunities.

The Proponent submitted:

- there are many planning policies and strategies that support rezoning the subject land to enable a technology and business park
- the subject land has more immediate development potential than the Hastings precinct.

Mr Haratsis found strong State and local planning policy support for a technology-focussed business park on the subject land. He calculated a critical shortage of industrial land in the municipality and considered that technology uses could:

- establish in Somerville by benefiting from land transfer from other regional industrial precincts at capacity
- be viable with or without Sealite as the anchor tenant
- provide better amenity impacts than current SUZ1 uses, which can be unsightly and generate environmental impacts
- create 482 construction, 187 technology information sector and 1,110 ongoing jobs
- require 37 hectares, rather than 10 to 15 hectares guided by ILARS, to beneficially cluster uses and provide the high amenity vital to attract corporate businesses.

In response to Panel questions, Mr Haratsis stated:

- the proposed precinct and the Hastings precinct would be complementary by attracting different business types due to their distinct features
- the new precinct would draw technology-related firms that benefit from high amenity and clustering, which Hastings lacks
- small businesses needing exposure to main roads will prefer Hastings since the proposal avoids this condition and favours larger lots
- this complementary nature alleviates concerns about development timing and competition.

The Port of Hastings Corporation's submission supported the Amendment without conditions regarding the precinct purpose or proposed uses. In response to the Panel's request for clarification, the Corporation reaffirmed its support for the Amendment and explained the Port Development Strategy review:

- has been delayed and is expected by late 2026
- will identify the land needed for port planning.

(iii) Discussion

The Panel agrees with Council, the Proponent and Mr Haratsis that there is strong strategic justification to support the Amendment.

State and local planning strategies such as MICLUP, ILARS and the 2018 Industrial Strategy all consistently identify a shortage of industrial land supply across Melbourne's southern region including the municipality. Without more industrial land, there is limited ability to deliver on key policy objectives for economic growth and local employment opportunities close to where people live. The Amendment delivers on these objectives.

The Panel agrees with Council that while the Port Development Strategy does not explicitly identify the subject land as surplus to port needs, the intent to repurpose the subject land from port-related uses is guided by the later strategies of MICLUP and Plan Melbourne. Most notably, the Port of Hastings Authority supports the Amendment and associated rezoning.

The Panel agrees with Mr Haratsis that a technology-based industry precinct is needed. This is supported by:

- reports of local and regional industrial land shortages in MICLUP and ILARS
- planning policies which promote economic growth in innovation and research
- analysis indicating demand for technology-based industries in Somerville due to lack of land in the region
- numerous submissions from businesses reporting a lack of industrial land.

Mr Haratsis considered the precinct remains viable without Sealite as an anchor tenant, though its presence would be beneficial. The subject land is strategically located in an area with strong demand for the proposed uses. DPO24 facilitates various technology industries, including manufacturing, research and development, ensuring viability regardless of Sealite. This is accepted.

The Panel questioned the suitability of the proposed 37 hectares precinct since ILARS supports a smaller precinct. It accepts Mr Haratsis' evidence that the larger size is necessary to attract preferred tenants with suitable lot sizes and layout, and to facilitate the benefits of clustering uses. DPO24 provisions suitably guide this outcome by:

- prioritising the delivery of larger lots
- requiring landscape and open space plans to achieve high amenity outcomes sought by corporate businesses.

Mr Haratsis considered the location and planned attributes of the proposed precinct mean it will not strategically undermine from the Hastings precinct. Attracting businesses away from the Hastings precinct could impede on its economic viability and result in underutilised land and infrastructure. Consistent with Mr Haratsis' reasoning on how economic competition between the precincts can be managed, DPO24 prefers the creation of larger lots and directs smaller lots away from the Bungower Road interface. This is a critical requirement of DPO24 to ensure the two precincts are complementary, and to attract preferred industries and discourage non-preferred industries in the proposed precinct. Mr Haratsis' findings that both precincts can develop independently and without negative economic impacts is accepted.

Providing local employment offers several economic and social benefits, such as regional economic growth, technology jobs in areas with limited industrial land and reduced travel for residents. Employment opportunities will emerge throughout the precinct's development, including short-term construction roles and ongoing technology positions from local and relocated businesses. These benefits are considered positive, align with planning policy and contribute to the Amendment's net community benefit.

(iv) Conclusions

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
- supports the recommendations for increasing the supply of industrial land found throughout State and local planning policies and strategies, including the Mornington Peninsula Industrial Land Use and Infrastructure Assessment and Rezoning Strategy
- facilitates a technology-based industrial precinct, sized to supplement the primacy of the Hastings precinct and facilitate co-location benefits
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Infrastructure

3.1 Major pipeline infrastructure

(i) The issue

The issue is whether the Amendment appropriately responds to the major pipeline infrastructure located on the subject land.

(ii) Background

A 15-metre-wide major transmission pipeline easement traverses the northwest corner of the subject land. It contains multiple pipelines of high-pressure oil and high-pressure gas. Energy Safe Victoria is the major pipeline regulator and there are multiple pipeline operators.

Clause 19.01-3S (Pipeline infrastructure):

- aims to safely transport gas and oil with minimal risk to people, infrastructure and the environment
- includes strategies to recognise existing transmission pipelines in planning schemes and protect them from further encroachment by sensitive uses, unless suitable additional pipeline protection is provided.

(iii) Submissions

Energy Safe Victoria, Esso and Viva Energy did not oppose the Amendment. Their submissions focussed on maintaining the safe operation of the major pipelines to mitigate future risks through requested revisions to DPO24 which related to:

- when a Safety Management Study (SMS) should be required
- the degree to which sensitive uses are managed (either avoided or prohibited)
- the extent of the buffer area to which the SMS applies
- the entity responsible for consenting to works within 3 metres of the pipeline.

Energy Safe Victoria stated:

- IN3Z allows several, currently prohibited sensitive uses that may conflict with the major pipelines
- the uses are considered sensitive as they allowed crowd gathering or are a potential source of ignition
- ILARS does not provide significant guidance regarding new development near the pipelines.

Energy Safe Victoria requested DPO24 be revised to:

- require a formal safety assessment, overseen by the relevant pipeline operator, to inform development of specified sensitive uses within 200 metres of a pipeline (the specified uses are in DPO24)
- avoid childcare centre use within 200 metres of the transmission pipelines, distinct from the sensitive use list
- gain consent from the pipeline owner or operator for works within 3 metres of the transmission pipeline corridor.

Esso, which operates two oil pipelines within the corridor, explained these pipelines may cause potential hazards of fire, gas and oil production disruption and significant environmental impacts. It requested DPO24 be revised to:

- require a SMS regardless of whether sensitive uses are proposed, in accordance with Australian Standard AS2885, in consultation with the relevant pipeline owner/operator and to the satisfaction of the relevant authority
- avoid locating specific sensitive uses within 200 metres of the licensed pipeline corridor
- require Ministerial consent for any structures within 3 metres of a pipeline.

Esso requested that the pipeline easement and 15 metres of land to either side be located in public open space reserves to provide adequate separation distance from sensitive uses. This was generally reflected in DPO24, though the 15 metre metric was not.

Viva Energy operates high-pressure oil and high-pressure gas pipelines within the easement. It requested DPO24 be revised to:

- require a SMS for all buildings and works within 152 metres of the licensed pipeline area in accordance with Australian Standard S2885
- prohibit education centre, place of assembly and place of worship uses within 152 metres of the pipelines
- require a permit for supermarket, shops, retail and convenience store uses within 152 metres of the pipelines (as INZ3 does not require a permit for their use if certain size and location conditions are met).

Viva Energy emphasised the importance of being consulted and having its requirements met to ensure adequate risk mitigation measures are in place to protect the community and the pipelines.

The Port of Hastings Corporation supported DPO24 including for reasons that it prohibited the subdivision of land west of the pipelines. DPO24 (Version 1) allows exceptions if the subdivision excises the land west of the pipeline or creates community precinct lots.

DPO24 (Version 1) included many of Energy Safe Victoria's requests. It also introduced requirements under 'Major Pipeline Infrastructure Plan' to protect and manage the pipeline corridor. The plan must address how development mitigates impacts on the operational safety of the transmission pipelines and must inform the preparation of the development plan. A key component of this plan is preparation of an SMS when the specified sensitive uses are proposed within 200 metres of a transmission pipeline. The specified sensitive uses are:

- education centre
- place of assembly
- informal outdoor recreation
- hotel
- outdoor market
- service station
- fuel depot
- industry with potential adverse impacts with a threshold distance more than 250 metres from a sensitive use.

Council submitted that DPO24 (Version 1) responded to the pipeline regulator and operators' submissions and that the revisions:

- added the provisions requested by Energy Safe Victoria
- included some of the provisions requested by Esso and Viva Energy

- incorporated performance-based measures for sensitive uses permitted by IN3Z.

The Panel asked Council if it consulted further with the pipeline regulator and operators about submission discrepancies. Council sent the resolved DPO24¹ to the three submitters. Energy Safe Victoria confirmed the resolved DPO24 satisfied its response, while Esso and Viva Energy did not reply. Correspondence from the further consultation was not tabled.

Council considered the explanatory report should be revised to list Clause 19.01-3S Pipeline infrastructure as a relevant policy to the Amendment.

The Proponent submitted:

- any uses, building and works proposed near the pipeline will be managed by the *Pipeline Act 2005* and the *Pipeline Regulations 2017*
- DPO24 appropriately considers the presence of and management of impacts to the pipeline by:
 - requiring the site context plan to identify the pipeline easement
 - including various requirements requested by Energy Safe Victoria, Esso and Viva Energy
 - requiring any proposed uses and building and works near the pipeline to be referred to the pipeline authorities and managed by the pipeline legislation and regulations
 - prohibiting subdivision of land west of the pipeline
- opposed Council's suggestion (at its 25 February 2025 Council meeting) for a Buffer Area Overlay (BAO) to address pipeline issues instead of DPO24
- the 25 February 2025 Council meeting minutes explained that Planning Practice Note 92 advises that a BAO can be used to manage land use and development around licensed pipelines
- the BAO should be implemented on a municipal-wide basis rather than in a fragmented manner.

Council did not present any submission to the Panel on applying the BAO.

(iv) Discussion

There is legislation and statutory regulations for managing major pipelines in Victoria. DPO24 should not replicate them, but rather ensure that future planning aligns with this statutory framework.

DPO24 appropriately responds to the major pipeline infrastructure on the subject land. Its provisions:

- plan for the practical management of pipeline matters from site planning stages
- have been drafted generally in response to the differing pipeline regulator and operators' requests.

Outstanding considerations are when a SMS should be required; which sensitive uses should it be required for; and consenting responsibilities for structures on land near the pipelines.

The site context plan is a key first step to preparing a development plan for the subject land. DPO24 suitably requires the presence of the pipelines to be considered at this early design stage.

¹ DPO24 version resolved at the 25 February 2025 Council meeting

For sensitive uses assessment, planning policy focuses on protecting pipeline assets by preventing encroachment by sensitive uses. An SMS is a key tool to assess the impact of such encroachments. DPO24 requires an SMS for specified sensitive uses, in line with Energy Safe Victoria's request, however Esso and Viva Energy requested extending this requirement to all uses or works.

The anticipated uses on the subject land are mainly non-sensitive, however sensitive uses like informal outdoor recreation and shops are contemplated in the vision². Future sensitive uses should be known at the development plan stage when the list of preferred uses is prepared. As well as the sensitive uses specified by DPO24, other requests to manage other sensitive uses near the transmission pipelines were:

- Viva Energy requested to:
 - prohibit education centre, place of worship and place of assembly
 - require a permit for supermarket and shop in all instances
- Energy Safe Victoria sought to avoid childcare centre uses (which DPO24 does), education centres, places of assembly and fuel depots.

Regarding the supermarket and shop uses, the PE Act does not enable a Panel to recommend changes to statewide provisions such as those in IN3Z. The IN3Z provisions enable a supermarket and shop without the need for a permit subject to conditions.

It is unclear whether Council informed Energy Safe Victoria about other sensitive uses specified by the pipeline operators during the post-exhibition consultation. This could have allowed the regulator to determine if additional sensitive uses needed SMS assessment. Nor is it clear whether Viva Energy and Esso considered their submissions resolved following further consultation.

However, it is apparent that DPO24 may not:

- list all the sensitive uses needing assessment or those that will be proposed for the subject land
- reflect the proper management of these uses.

This creates a level of uncertainty that the Panel considers justifies preparation of a SMS for all land uses within 200 metres of the transmission pipeline. It sees other benefits of requiring a SMS in this way, including to:

- ensure that the findings guide site planning effectively
- facilitate the preparation of an integrated land use and development framework
- manage potential land use conflicts and spatial arrangements from the outset (informal outdoor recreation spaces are typically large and challenging to rearrange at later stages)
- assess the suitability of locating near the pipelines the uses that Viva Energy sought to be prohibited or require a permit, and the uses Esso sought to be avoided
- determine the differences in appropriateness of placing sensitive uses within 152 metres (as requested by Viva Energy) compared to 200 metres of the transmission pipelines
- safeguard long-term development outcomes effectively, addressing the possibility that future revisions of development plans might inadvertently compromise pipeline safety
- reduce potential conflicts during later permit stages.

The SMS could also:

- determine the extent of land on either side of the transmission pipelines to be designated as public open space, in response to Esso's request

² D11.d.06

- provide guidance on limiting the number of transmission pipelines crossings, being an outcome sought by DPO24.

An SMS should inform applications lodged before a development plan has been prepared. Land use incompatibility between sensitive uses and the transmission pipelines is relevant to both permits and development plans. A suitably qualified pipeline licensee who prepares an SMS to inform permits can conduct a proper assessment.

DPO24 should ensure the SMS is prepared in accordance with Australian Standard 2885. This addresses Esso and Viva Energy's request and aligns with other DPO24 provisions that refer to relevant regulations where applicable.

The Panel supports the request by Energy Safe Victoria to require the pipeline operator's consent for works within 3 metres of the pipeline. Any consent requests can be redirected to other consenting bodies, such as ministers, as needed at that stage.

The Panel accepts that restricting the subdivision of land west of the pipelines and the associated exceptions are necessary, noting no technical reasons were explained. It observes land west of the pipeline generally falls within the area where other matters will inform development including the Heritage Overlay as discussed in Chapter 7.1 and the landscaped setbacks as discussed in Chapter 6.2.

The Amendment does not propose to apply the BAO so the Panel makes no findings on this matter.

(v) Conclusions and recommendations

The Panel concludes:

- The Amendment appropriately responds to the major pipeline infrastructure located on the subject land.
- A Safety Management Study should inform the development plan for any land use within 200 metres of a transmission pipeline.
- A Safety Management Study should accompany applications lodged before a development plan has been prepared for any land uses within 200 metres of a transmission pipeline.
- A Safety Management Study should align with Australian Standard 2885.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to:

a) revise the development plan requirements to include a Major Pipeline Infrastructure Plan that demonstrates how the development responds to the transmission pipelines easement including:

- **locating the pipeline easement within a public reserve and managing vegetation**
- **measures to mitigate the impact of development on pipeline safety**
- **restricting the number of transmission pipelines crossings**
- **providing clear access on and either side of the transmission pipelines**
- **obtaining consent for works within 3 metres of the transmission pipeline corridor**
- **avoiding childcare centre use within 200 metres of a transmission pipeline**

- preparing a Safety Management Study for any land uses.
- b) revise the requirements of the Major Pipeline Infrastructure Plan to include a Safety Management Study, prepared in accordance with Australian Standard 2885, for any land use within 200 metres of a transmission pipeline.
- c) revise the requirements of applications lodged before a development plan has been prepared to include a Safety Management Study, prepared in accordance with Australian Standard 2885, for any land use within 200 metres of a transmission pipeline.

3.2 Service connections, drainage and other infrastructure

(i) The issue

The issue is whether the subject land can be appropriately serviced with essential services, drainage and other infrastructure.

(ii) Background

Clause 19 Infrastructure calls for planning for the development of physical infrastructure to be provided in a way that is efficient, equitable, accessible and timely.

The Infrastructure Assessment that supported the Amendment determined that the subject land:

- was suitable for the essential service connections of sewerage, electricity, water and telecommunications, as well as gas if ultimately needed
- could be developed with appropriate drainage and transport infrastructure
- required preparation of a Stormwater Management Strategy (SWMS) to consider measures for flood mitigation
- required preparation of a Traffic Impact Assessment to inform functional layout plans for transport infrastructure.

Sewerage and drainage were a key focus of the Assessment as the subject land:

- requires extensive sewerage headworks from existing infrastructure and a sewer pump station
- is outside a Melbourne Water Drainage Scheme and not scheduled for investigation due to current zoning
- contains no drainage infrastructure, requiring suitable drainage and stormwater systems including detention basins.

DPO24 includes various reports to be prepared in relation to infrastructure including:

- a SWMS, to the satisfaction of Melbourne Water and the responsible authority, which:
 - addresses drainage catchments, flood mitigation, water quality and downstream impacts
 - incorporates Water Sensitive Urban Design and aligning with Best Practice Environmental Management and Integrated Water Management principles
 - identifies key infrastructure integrated into the precinct design.
- a Transport and Movement Plan which must include designs of the two intersections and existing and future roadworks, and which plans for cycling and pedestrian infrastructure

- a Staging Plan which must include indicative staging and timing and trigger points for key infrastructure, servicing, internal roads, landscape works and public realm as well as the primary and secondary access points along Bungower Road
- a report, to accompany applications lodged before a development plan has been prepared, to demonstrate the proposal will not prejudice the provision of necessary infrastructure and development contributions.

DPO24 requires the development plan to include a section 173 agreement, entered into by the developers, that provides for the construction of all identified infrastructure works. This includes drainage and transport infrastructure.

(iii) Submissions

Several submissions suggested the subject land lacked essential services and appropriate infrastructure to support development. They questioned who would fund required connections.

Council stated there were no drainage issues that required resolution as part of the Amendment and the subject land can be serviced for both drainage and sewerage. It submitted:

- the Infrastructure Assessment shows that drainage and sewerage matters can be managed in future land development
- necessary investigations were conducted on stormwater flow impacts
- drainage issues will be first addressed through the SWMS, then development plan approval and again at the permit stage
- neither Melbourne Water nor the sewerage authority objected to or raised concerns about the Amendment
- it is appropriate for further infrastructure matters to be resolved at the development plan stage, consistent with the DPO framework.

Further, Council submitted the section 173 agreement required by DPO24 obliges the owner to provide for the construction of all identified infrastructure works.

The Proponent submitted the Infrastructure Assessment assessed the necessary services and infrastructure, and that associated delivery will be at the cost of the developer under the section 173 agreement required by DPO24. Delivery includes:

- a sewer pump station and rising main to connect to the existing network
- the stormwater management infrastructure as part of the SWMS, including treatment systems and retarding basins
- road and intersection works along Bungower Road.

(iv) Discussion

The Panel accepts that the subject land can be suitably serviced for essential services and needed infrastructure. This is consistent with the findings of the Infrastructure Assessment. The developer will likely pay the costs of connections and infrastructure through the section 173 agreement.

As highlighted by Council, the DPO establishes a staged planning process, allowing detailed matters, such as drainage design, to be addressed through the development plan rather than resolved upfront. The level of assessment required at the Amendment stage is strategic and high-level, while more detailed evaluations occur later against the DPO framework when specific proposals are available. At this stage, the key question for the Panel is whether drainage can be

appropriately managed and how required infrastructure will be funded. These matters were adequately addressed by Council and the Proponent.

Regarding sewerage, drainage and transport infrastructure:

- Council and the Proponent confirmed that sewerage connections are feasible, necessary works are funded, and consultations with relevant authorities are complete, leaving no unresolved issues for the Panel concerning sewerage servicing
- the SWMS requirements in DPO24 align with the Infrastructure Assessment recommendations, and must be to the satisfaction of Melbourne Water and the responsible authority's satisfaction which provide appropriate oversight
- the Transport and Movement Plan outlines essential considerations for infrastructure planning, including requiring consultation with the Department of Transport and Planning and the responsible authority to ensure technical accuracy and consistency.

The Staging Plan mandates planning infrastructure delivery timing relative to development, enabling the coordinated and timely provision of essential services including drainage, sewerage, and transport.

The DPO24 section 173 agreement requirement includes a 'catch all' requirement for delivering 'all other infrastructure and contributions' to the satisfaction of Council and the service authorities. This provision enables any unforeseen infrastructure issues that may arise later to be addressed.

(v) Conclusion

The Panel concludes the subject land can be suitably serviced for essential services, drainage and other infrastructure.

4 Environmental values and risks

4.1 Ecology and native vegetation

(i) The issues

The issues are whether the Amendment:

- has appropriately considered ecological impacts and native vegetation
- includes an appropriate framework for assessing whether development will achieve acceptable ecological and native vegetation outcomes.

(ii) Background

Planning policy seeks to ensure there is no net loss of biodiversity as a result of native vegetation removal (Clause 12.01-1 Native vegetation management). The key strategy is to apply the three-step approach of avoiding, minimising and offsetting native vegetation removal.

The Existing Ecological Conditions Report that supported the Amendment found:

- the subject land has a long history of agricultural use with much of it modified by grazing and cropping, though some ecological values remain
- the development footprint includes 8.425 hectares of native vegetation, 15 scattered trees and 28 large trees
- remnant vegetation in adjacent areas includes Damp Sands Herb-rich Woodland, Swamp Scrub, and Plains Grassy Wetland Ecological Vegetation Classes
- scattered remnant trees provide moderate to high-quality habitat for native fauna, including species that may use tree hollows for foraging and refuge
- some patches may support nationally or state-significant species (though low likelihood) and further ecological assessment may be needed at the permit stage
- Clause 52.17 requires a permit to remove native vegetation
- the Proponent must secure offsets in line with the relevant guidelines
- the current masterplan must be revised to better demonstrate avoidance and minimisation, with emphasis on retaining large old trees.

DPO24 requires an Ecological Assessment and Native Vegetation Management Plan to inform the development plan, or applications lodged before a development plan has been prepared. The plan must:

- identify and assess ecological values
- make recommendations for retaining and protecting native vegetation
- make provision for offsets where native vegetation is removed
- identify opportunities to avoid and minimise impacts on native vegetation of most value.

The last dot point is a requirement when the plan informs a development plan but not for applications lodged before a development plan has been prepared.

Other relevant DPO24 requirements to inform development plans are:

- a Landscape Plan which must identify vegetation and natural features to be retained based on the Ecological Assessment and Native Vegetation Management Plan, and include a full flora species list for planting, preferably using species from the appropriate local ecological vegetation class

- an Environmentally Sustainable Development Strategy which must include considerations of urban ecology and green infrastructure including landscaping
- a Construction Environmental Management Plan which must show how retained trees will be protected, including through tree protection zones, water runoff and weed management
- for the developer to agree to enter into a section 173 agreement that makes provision for the ongoing protection of vegetation with high biodiversity value in accordance with the recommendations of the approved 'Native Vegetation Management Plan'.

(iii) Submissions

Several submissions considered the Amendment would enable development that:

- destroys the natural environment and landscape
- impacts local fauna and wildlife including wedge-tailed eagles, koalas and sugar gliders
- displaces fauna through lighting and operating hours.

Department of Energy, Environment and Climate Action (DEECA) did not object to the Amendment, and was satisfied with the DPO24 requirement to prepare an Ecological Assessment and Native Vegetation Management Plan. It provided various instructions for calculating vegetation values and conducting vegetation surveys as part of the Ecological Assessment and Native Vegetation Management Plan.

DEECA requested that DPO24:

- consider opportunities to avoid and minimise impacts on native vegetation
- require the Landscape Plan to list flora species and include local species where possible
- require the Construction Environmental Management Plan to plan for and protect retained native vegetation during construction.

DPO24 (Version 1) generally included changes sought by DEECA.

Council submitted the Amendment appropriately deals with ecological matters and the Clause 52.17 provisions would apply. It stepped out several ways in which the DPO24 requirements will appropriately manage ecological impacts through:

- the Ecological Assessment and Native Vegetation Management Plan which must consider avoiding, minimising and offsetting native vegetation
- requirements for the Master Plan to identify areas set aside for vegetation retention and restoration
- a Landscape Plan that includes local species where possible
- the Construction Environmental Management Plan which requires details of how retained vegetation will be protected during construction
- a section 173 agreement which includes the provision for the ongoing protection of retained native vegetation
- a 'failsafe' requirement for applications lodged before a development plan has been prepared to be accompanied by a site-specific Ecological Assessment and Native Vegetation Management Plan and a Construction Environmental Management Plan.

The Proponent submitted:

- the Amendment would appropriately manage impacts on ecology
- the Existing Ecological Conditions Report identifies any implications the Amendment may have on ecological values and how to address them

- many DPO24 requirements that relate to ecology will inform the site layout and incorporate areas of retained native vegetation into open spaces and landscaped areas.

(iv) Discussion

The Panel is satisfied that sufficient and appropriate ecological considerations have been made, and the Amendment will adequately manage potential ecological impacts associated with using and developing the subject land.

Like DEECA, the Panel has no reason to question the findings of the Existing Ecological Conditions Report. The Report recommends that opportunities to avoid and minimise impacts on native vegetation be considered, as translated in DPO24 at the request of DEECA. Suitably, the Ecological Assessment and Native Vegetation Management will focus on identifying opportunities that focus on areas of higher value vegetation.

However, DPO24 (Version 3) does not require the Ecological Assessment and Native Vegetation Management Plan that accompanies applications lodged before a development plan has been prepared to identify opportunities for native vegetation retention. This appears to be an omission that should be corrected. Opportunities to retain native vegetation should apply to permits and development plans, as sought by planning policy.

The Ecological Assessment and Native Vegetation Management Plan will serve as the foundation for flora and fauna considerations across the subject land. Ecological values will be assessed, including the presence of significant fauna. The plan will inform the layout of the precinct and facilitate ecological outcomes at a precinct level, rather than a site-by-site basis which would occur without a development plan. This approach allows for the retention of larger patches of native vegetation and is supported by policy strategies to strategically plan for biodiversity protection³.

Retained native vegetation will be protected and managed during the construction phase and will continue indefinitely, as required by the DPO24 provisions. This is an important outcome. Construction activities will include measures to control polluted runoff and mitigate weeds, being two potential threats to the health and viability of retained native vegetation. The section 173 agreement requires the protection of retained native vegetation areas which will ensure ongoing management and accountability.

The development plan and ecological assessments required by DPO24 will adequately inform the potential impact the future industrial precinct may have on observed fauna to ensure an appropriate response to fauna values. This includes appropriately managing land use, development and site operations.

(v) Conclusions and recommendations

The Panel concludes:

- The Amendment has appropriately considered ecological and native vegetation and includes an appropriate framework for assessing whether development will achieve acceptable ecological and native vegetation outcomes.
- An Ecological Assessment and Native Vegetation Management Plan that accompanies applications lodged before a development plan has been prepared should identify

³ Clause 12.01-15

opportunities for native vegetation retention, the same as when such a plan informs a development plan.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to:

- a) revise the application requirements for permits lodged before a development plan has been prepared and revise the development plan requirements to require the Ecological Assessment and Native Vegetation Management Plan to identify opportunities to avoid and minimise impacts on the highest value native vegetation**
- b) revise the Landscape Plan requirements to include a full flora species list for planting and including local species**
- c) revise the Construction Environmental Management Plan requirements to include:**
 - details of how retained native vegetation will be protected**
 - that pollutant runoff is not discharged into retained native vegetation**
 - details of how weeds will be controlled.**

4.2 Potentially contaminated land

(i) The issue

The issue is whether the Amendment has appropriately considered potentially contaminated land.

(ii) Background

Clause 13.04-1S aims to ensure potentially contaminated land is used and developed safely and strategies include to protect sensitive uses from the effects of contamination. The Clause defines childcare centres, kindergartens and children's playgrounds as sensitive uses even if they are ancillary to another uses.

Planning Practice Note 30 (Potentially contaminated land) outlines how to deal with potentially contaminated land during the amendment process. This can be summarised as:

- Before exhibition, Councils must identify if land proposed for rezoning may be contaminated and note this in the explanatory report.
- Before approval, appropriate investigations are required which depend on contamination levels and are typically a Preliminary Site Investigation (PSI) for non-sensitive uses and Preliminary Risk Screen Assessments or environmental audit for sensitive uses.
- Before use or development starts and if contamination is confirmed, conduct an environmental audit and complete recommended actions.

A PSI Report was prepared to inform the Amendment and assess the subject land as guided by Planning Practice Note 30. The Report:

- assessed the historical uses, potential for onsite and offsite contamination sources and potential for uncontrolled fill
- found the subject land has a medium risk for potential contamination from uncontrolled fill
- concluded that the subject land is suitable for rezoning, subject to further site-specific testing before development

- recommended conducting an Intrusive Soil Contamination Assessment before development.

DPO24 requires preparation of an Intrusive Soil Contamination Assessment that ‘assesses the potential for impact to human health and ecological receptors and appropriate mitigation measures’. The Assessment must inform the development plan and applications lodged before a development plan has been prepared. DPO24 also requires suitable buffers to adjacent agricultural properties.

Council consulted with the Environment Protection Authority (EPA) before the exhibition period in accordance with Ministerial Direction 19⁴. The EPA’s response included that:

- The PSI indicates the subject land could fall under a ‘high’ or ‘medium’ risk of potential contamination, though high risk is unlikely
- A high risk of potential contamination where non-sensitive uses are proposed requires conducting a PSI (as already occurred)
- Council should consider the recommendations of the PSI and how to implement these before development, and follow the steps in Planning Practice Note 30.

The post-exhibition explanatory report stated that future land use and development, for which industry is the ‘primary’ use, will be managed by the Intrusive Soil Contamination Assessment. Regarding potential sensitive uses, it noted:

Under the IN3Z, a permit may also be granted for a childcare centre or kindergarten which are within the MD1 definition of a ‘sensitive use’. Such uses will be supporting uses to the dominant uses of technology-based industries, manufacturing, research and development. A soil contamination assessment will ensure that any potential site contamination is addressed and managed prior to the commencement of development.

(iii) Submissions

As part of its submissions to the exhibition, the EPA reiterated its response to the Ministerial Direction 19 consultation and requested that the explanatory report be updated to:

- reference DPO24’s consistency with advice in Planning Practice Note 30
- remove reference to the EPA providing a peer review as this is not the authority’s role.

The post-exhibition explanatory report included the changes as requested.

Council’s submissions regarding potentially contaminated land were limited to the proposed changes to the Amendment documentation. These addressed the EPA’s request and included two further changes of:

- in DPO24, requiring an Intrusive Soil Contamination Assessment to inform the development plan, not just applications lodged before a development plan has been prepared
- in the explanatory report, listing Clause 13.04-1S as a relevant policy to the Amendment.

The Proponent’s submission:

- highlighted that the EPA did not object to the Amendment
- supported Council’s proposed changes to the Amendment documentation in relation to potentially contaminated land

⁴ Ministerial Direction on the Preparation and Content of Amendments that May Significantly Impact the Environment, Amenity and Human Health and the Ministerial Requirement for Information for Authorisation or Preparation of Amendments that May Significantly Impact the Environment, Amenity and Human Health

- considered that explicitly excluding offensive or dangerous industries and many heavy industrial uses from the list of preferred uses required by DPO24 will assist in reducing the risk of contamination into the surrounding sites.

Several submitters raised concern about the potential for potentially contaminated land to impact nearby market gardens. Another concern was potential contamination impacts to past visitors to the subject land.

(iv) Discussion

The Panel considers the potential for contaminated land has been adequately assessed and the Amendment appropriately guides future land use and development in this regard. It accepts the PSI was undertaken in accordance with Planning Practice Note 30. A key consideration however is whether the appropriate level of assessment has been prepared and contemplated if sensitive uses eventuate on land where a high risk of potential contamination is possible.

The subject land is mainly intended for non-sensitive uses aligning with the IN3Z purposes, but sensitive uses are permissible with a permit (and subject to other land conditions like the major pipeline infrastructure as discussed in Chapter 3.1). Though the likely risk is medium, a potential high risk of contamination should be considered.

Planning Practice Note 30 seeks an appropriate assessment of sensitive uses, whether primary or ancillary uses, despite a different interpretation outlined in the explanatory report. If the subject land is developed for non-sensitive uses only, a PSI is the highest required assessment and has already been completed. For sensitive uses, an environmental audit is needed for high-risk scenarios and Preliminary Risk Screen Assessments for medium-risk scenarios. Instead, DPO24 mandates an Intrusive Soil Contamination Assessment.

Policy guides that the level of assessment of contaminated land should match the level of risk for proposed uses. The Panel accepts the proposed Intrusive Soil Contamination Assessment is proportionate to the risk, which is likely medium, even if sensitive uses are proposed. The Assessment can follow Planning Practice Note 30 and determine, if necessary, whether further other assessment is needed for any proposed sensitive use (noting DPO24 requires the development plan is informed by a list of preferred uses).

The Amendment ensures appropriate measures are in place to identify and manage any potential contamination risks to nearby market gardens. The PSI identifies neighbouring agricultural properties, including market gardens, as potential receptors of contamination. This recognition can inform the scope of the Intrusive Soil Contamination Assessment and guide the consideration of offsite impacts. Further, DPO24 guides for suitable buffers to agricultural properties.

Concerns for historical occurrences of human contact with potentially contaminated land is beyond the scope of the Panel to consider.

(v) Conclusion and recommendation

The Panel concludes that the Amendment has appropriately considered potentially contaminated land and would benefit from further changes.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to revise the requirements of the development plan to include an Intrusive Soil Contamination Report that assesses:

- a) **potential for impact to human health**
- b) **appropriate mitigation measures.**

4.3 Bushfire risk

(i) The issue

The issue is whether the Amendment has appropriately considered bushfire risk.

(ii) Background

Clause 13.02-1S seeks to manage bushfire through risk-based planning that prioritises the protection of human life. The key strategies include to:

- identify bushfire hazards and undertake an appropriate risk assessment by consulting with the relevant fire authority and implementing appropriate bushfire protection measures
- ensure amendments and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures
- direct development to low-risk locations.

A Clause 13.02-1S Assessment informed the Amendment. It concluded the Amendment met the requirements of the clause and DPO24 would manage bushfire risk effectively. Key findings were:

- the subject land is in a bushfire prone area but not affected by a Bushfire Management Overlay
- the subject land is a low-risk bushfire landscape
- development of land will be managed through defendable space requirements
- the DPO24 provisions provide for efficient egress from the site
- future development will reduce fire risk through vegetation management and built form
- development will achieve less than Bushfire Assessment Level 12.5 if any revegetation program is managed to consider bushfire risk.

Follow up advice to the Clause 13.02 Assessment was prepared to assess the concerns raised by the Country Fire Authority (CFA) during the exhibition period. The concerns related to existing road network, defendable space setbacks, perimeter road, building envelopes and vegetation management requirements. The advice found:

- the site provided suitable access to the existing road network
- defendable space setbacks should be specified in DPO24 and be applicable to development plans and permits
- a perimeter road is not needed because:
 - the bushfire risk is low
 - the road would result in only one access and egress point adjacent to vegetation which would place firefighters and the community in danger
 - the road could increase ignition risk and illegal activity in currently inaccessible vegetated areas.

- building envelopes are not needed to manage vegetation on lots other than on the southern and eastern boundaries, as the overall development will achieve defendable space requirements
- vegetation management requirements can be suitably addressed through the management of defendable space along the southern and eastern boundaries.

The CFA confirmed the revised DPO24 resolved its concerns.

DPO24 (Version 1) requires the following for development plans and permits:

- setbacks of 19 metres from the grassland hazards at the eastern boundary
- setbacks of 27 metres from the scrub hazard at the southern boundary
- each lot along the eastern and southern boundaries to include a continuous internal accessway to allow emergency vehicles to reach those boundaries
- defendable space along the eastern and southern boundaries to ensure a bushfire risk is not created over time.

(iii) Submissions

CFA did not object to the Amendment and raised several concerns regarding likely bushfire scenario from the southwest. They were ultimately resolved after further consultation with Council. The CFA supported the:

- Clause 13.02-1S Assessment to apply setbacks of 19 metres from the eastern boundary and 27 metres from the southern boundary
- Follow up advice to manage internal accessways and defendable spaces for lots along the eastern and southern boundaries.

Council's submissions regarding bushfire risk were limited to the proposed changes to the Amendment documentation. These addressed the CFA's request and included one further change to list Clause 13.02-1S in the explanatory report as a relevant policy to the Amendment.

No other submission raised bushfire related concerns.

(iv) Discussion

The Panel acknowledges the CFA's confirmed resolution that affirms the Amendment appropriately addresses bushfire management considerations. Council is commended for its approach in resolving these matters with the CFA.

The primary considerations for bushfire matters are that the Clause 13.02-1S Assessment addressed the relevant planning policy and found the subject land is low-risk. This forms the basis of needed measures to manage bushfire risk in a developed setting.

The DPO24 provisions, as supported by the CFA, will help guide future development on the subject land. These focus on managing the eastern and southern boundaries where bushfire threat is the greatest, and various layout and access measures are proposed in response. The Panel also supports this approach. Importantly, the DPO24 provisions require the continued assessment of bushfire risk which will likely change through successive development stages.

(v) Conclusion and recommendation

The Panel concludes that the Amendment has appropriately considered bushfire risk and would benefit from further changes.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to revise the permit requirements and the Subdivision and Development Plan requirements to include:

- a) development setbacks along the eastern and southern boundaries**
- b) a continuous internal accessway for lots on the southern and eastern boundaries**
- c) defendable space for the lots along the eastern and southern boundaries**
- d) building envelopes and vegetation management along the southern and eastern boundaries.**

5 Traffic and transport

5.1 Traffic generation, impacts and access

(i) The issue

The issue is whether the surrounding road network has enough capacity to manage traffic, including heavy vehicles, generated by future development enabled by the Amendment.

(ii) Background

Traffic Technical Assessment (Stantec, April 2022) key findings:

- The subject land's location from a transport perspective is suitable to support industrial land uses given it is near future freight routes and key arterial roads, notably the Western Port Highway.
- There are Council and the Port of Hastings Authority plans and policies which support Bungower Road becoming a key east-west port access route suitable to cater for industrial traffic.
- A preliminary transport assessment supports the development of the subject land (subject to typical planning documentation being prepared and approved) to accommodate the proposed development.
- It is recommended that further analysis is undertaken to determine a suitable access strategy for the proposed site access point with Bungower Road after the subject land is rezoned.

(iii) Evidence and submissions

Submissions:

- Bungower Road does not have capacity to accommodate traffic generated by future development on the subject land.
- There will be increased traffic and heavy vehicles travelling through Somerville's local streets.
- Increased traffic, particularly trucks and heavy vehicles, will negatively impact pedestrian safety.
- Truck drivers will prefer to drive through the Somerville town centre than use other roads because it is a shorter distance to the Peninsula Link.

Mr Davies' evidence:

- Council and Department of Transport and Planning, as managers of the local and arterial road network, are required to maintain their respective roads.
- Where development occurs in an undeveloped area, there is often a requirement to upgrade the current road pavement standard to cater for additional traffic and/or heavy vehicles.
- Strategic planning documents including the Port Development Strategy and the Somerville Township Structure Plan highlight the potential for Bungower Road to be upgraded to provide an east-west link between the Peninsula Link and Port of Hastings.

- Bungower Road:
 - carries about 8,500 vehicles each day including 9 to 14 per cent heavy vehicles, and appears to be in good condition
 - can be ultimately upgraded to an arterial road standard (not necessarily duplicated) at some stage in the future because it has full-diamond interchange with Peninsula Link and connects with Western Port Highway to the east.

At the direction of the Panel, the two traffic experts met on 6 May 2025 and documented their agreed facts and opinions. They agreed on every statement, as follows:

Traffic generation

- The proposed rezoning does not change the traffic generation potential of the subject land given both the existing SUZ1 and proposed IN3Z facilitate industrial land uses.
- The preliminary concept development plan comprising approximately 140,000 square metres of development floor area is anticipated to generate in the order of 700 to 800 vehicle movements each hour (0.5 to 0.56 trips for every 100 square metres) during the morning and afternoon peak hours and 6,000 to 7,000 vehicle movements each day.
- The traffic distribution originally proposed by SALT3 and adopted by Stantec in the Preliminary Transport and Movement Plan and by IMPACT is considered an appropriate preliminary assessment.

Traffic impacts

- The following intersections are expected to operate satisfactorily following full development of the subject land including assumed background traffic growth:
 - Bungower Road / Western Port Highway
 - Bungower Road / Lower Somerville Road.
- The Bungower Road / Frankston-Flinders Road intersection is expected to require mitigation works to cater for growth in background traffic and traffic generated by development of the subject land based on the current assumed development yield.
- There are feasible options for mitigation works within the existing road reserve that could include one of the following:
 - additional lanes to existing roundabout, subject to compliance with relevant detail design standards
 - metering (signalising) the existing roundabout
 - conversion to a signalised cross-intersection.
- Any required mitigation works can be appropriately determined as part of the Transport and Movement Plan prepared as part of the development plan as required by DPO24 and to the satisfaction of the responsible authority.

Bungower Road

- Bungower Road currently carries in the order of 8,500 vehicles each day.
- Accounting for future growth of 10 percent over 10 years and full development of the subject land, Bungower Road is anticipated to carry in the order of 13,000 vehicles each day to the west and 10,000 vehicles each day to the east of the subject land.
- If future growth is 20 percent over 10 years with full development of the subject land, Bungower Road is anticipated to carry in the order of 15,500 vehicles each day to the west and 12,000 vehicles each day to the east of the subject land.

- Under either scenario, the future traffic volumes on Bungower Road are anticipated to remain below the indicative capacity of 18,000 vehicles each day for a two-lane, two-way road.
- Irrespective of the proposed rezoning of the subject land, Bungower Road is anticipated to potentially perform an arterial road function in the future as a key east-west route between the Port of Hastings and Peninsula Link as identified in the Port Development Strategy and the Somerville Township Structure Plan.
- It is understood that Council and the Department of Transport and Planning have commenced a process of freight corridor planning with the aim of reducing freight movements through Somerville.

DPO24

- The requirement to prepare a Transport and Movement Plan to the satisfaction of the responsible authority is appropriate to ensure:
 - development is suitably and safely planned
 - transport treatments are provided to address the capacity and safety requirements that arise from the additional traffic generated by the use including heavy vehicles, pedestrians and cyclists.

Regarding access, DPO24 (Version 3) revised the relevant requirements to:

Transport and Movement Plan

...

- Indicative traffic volumes anticipated on local and arterial roads, including heavy vehicles.
- Identification of a suitable location and design of intersection treatment of the main access point to the site from 79 Bungower Road, including the provision of any interim measures to accommodate initial access formation. The design of the intersection must be suitable to accommodate signalisation to be installed at the time of completion of accessway formation at the head of the development site with 79 Bungower Road.

...

Staging Plan

...

- The indicative staging of development including main access intersection and signalisation at 79 Bungower Road, internal roads, infrastructure, servicing, public realm, and landscape works, including any interim measures to accommodate initial access formation at Bungower Road and the trigger points for the provision of all other required infrastructure.
- The indicative staging of the secondary access point and internal roadway at 83 Bungower Road, infrastructure, servicing, public realm, landscape works, restriction of use to certain vehicle classes from the development at 79 Bungower Road in relation to the Transport and Movement Plan findings and the trigger points for the provision of all other required infrastructure.

(iv) Discussion

The Panel acknowledges the traffic experts agreed on every item in the expert meeting statement. No party disputed the methodology or figures in either traffic expert's report.

The Amendment itself will not generate additional traffic. Potential impacts of traffic generation can only be known at the permit stage, at which time each application will be assessed for potential impacts on the surrounding road network and parking requirements. Relevant considerations at the Amendment stage are:

- whether the surrounding road network can broadly accommodate potential future development in its ultimate form
- whether the DPO24 provisions are appropriate for assessing future traffic related impacts.

The Panel generally agrees with the traffic experts that the subject land will change from one type of industrial zoned land to another. The experts agree that this does not change the subject land's traffic generation. However, industry associated with the Port of Hastings, as required by the existing SUZ1, may enable industry of a scale and nature that generates different traffic volumes to that of broader industry enabled by IN3Z. However, the difference between the two is not enough to raise any concern.

Taking the high growth rate figure, when the subject land is fully developed, Bungower Road is expected to carry about 15,500 vehicles each day which is well below its indicative capacity (based on a two-lane, two-way road) of 18,000 vehicles each day. This increased traffic volume will be noticeable, however, this does not make it unacceptable.

Left unmitigated, the Bungower Road / Frankston-Flinders Road intersection is likely to be negatively impacted by the increased traffic generated by the subject land. The Panel is satisfied with the potential options for mitigating works within the existing road reserve. These works should be investigated in more detail through the Transport and Movement Plan that DPO24 requires as part of the development plan.

The Panel acknowledges the local community's concern regarding heavy vehicle movements using local streets. This issue can be addressed through offsite traffic management by the responsible road managers. The outcomes of Council and the Department of Transport and Planning's freight corridor planning should help reduce freight movements through parts of Somerville considered to be inappropriate for heavy vehicles. However, it cannot be resolved through the Amendment because the subject land's zone and overlay provisions cannot manage issues beyond its boundary.

Truck drivers are less likely to drive through the Somerville town centre to access the subject land than from the Peninsula Link. This is because a driver is more likely to select the fastest and simplest route rather than selecting one where they may be delayed by more traffic and turns through the town centre. In this instance, the subject land is located on Bungower Road which provides vehicles direct access to Peninsula Link.

There was no information presented to the Panel to support submissions that future traffic generation will negatively impact pedestrian safety in the Somerville township. The responsible road manager would review and consider any safety issues related to their roads.

The DPO24 provisions relating to site access and associated works will ensure the Transport and Movement Plan and Staging Plan carefully consider the main and secondary access points. This includes the signalised main access at 79 Bungower Road. The crossing points and traffic breaks created by the signals may improve safety for drivers, pedestrians and cyclists.

(v) Conclusions and recommendations

The Panel concludes:

- The surrounding road network except for the Bungower Road / Frankston-Flinders Road intersection has enough capacity to manage traffic generated by future development enabled by the Amendment.

- Future mitigation works for the Bungower Road / Frankston-Flinders Road intersection can be considered through the Transport and Movement Plan that will be required by Development Plan Overlay Schedule 24.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to:

- revise the Transport and Movement Plan requirements to require:**
 - the indicative traffic volumes to include heavy vehicles
 - further details about access arrangements
 - identification of a suitable location and design of intersection treatment of the secondary access point to the site from 83 Bungower Road
 - the location and design of any mitigation works to address the impacts of predicted heavy vehicle traffic increases on local and arterial roads
- revise the Staging Plan requirements to add further details regarding the main and secondary access points.**

5.2 Car parking

(i) The issue

The issue is whether the Amendment includes an appropriate planning framework to consider car parking that will be generated by future development on the subject land.

(ii) Background

Traffic Technical Assessment (Stantec, April 2022) key findings:

- The subject land is anticipated to generate car parking demand for about 2,500 car spaces if applying the parking rates guided by the Planning Scheme.
- Applying the Roads and Traffic Authority Guide to Traffic Generating Developments, October 2002 (RTA guidelines) for business parks would result in a total car parking demand of 2,100 car parking spaces.
- Empirical rates for the warehouse and industrial land uses could be expected to result in a total demand for 1,250 spaces for the precinct.

Planning Scheme Clause 52.06 (Car parking) will apply to a future permit seeking a proposal specified in subclause 52.06-1.

The exhibited DPO24 requires a Transport and Movements Plan that includes:

- A car parking provision and management strategy, having regard to the range of potential uses and the need to ensure adequate on-site carparking and to address potential changes in car parking demand resulting from changes in use over time.

(iii) Evidence and submissions

Submissions:

- There is currently insufficient car parking in Somerville.
- The proposed open space should have car parking provided for all its users.

Mr Davies' evidence:

- The DPO24 requirements consider car parking through the Master Plan, Development Design Guidelines and Transport and Movement Plan.

- Planning Scheme Clause 52.06 requires the provision of car parking.
- Council will be required to assess whether a future permit application is providing suitable car parking in accordance with Clause 52.06.
- There will be an opportunity to respond to actual demand levels over time because the subject land will be developed in stages.

Mr Maina's evidence:

- did not specifically address car parking in his expert report
- referred to earlier Stantec traffic report that contemplates prohibiting parking along Bungower Road and Lower Somerville Road as appropriate.

Neither traffic expert identified car parking as an issue in their expert statement.

Council submission:

- Car parking will be required to be addressed as part of the Transport and Movement Plan that will form part of the development plan and through any future permit application that will be assessed against Clause 52.06.
- Clause 52.06 provides an appropriate mechanism to deal with car parking at the permit application stage.
- It would be inappropriate to attempt to further resolve car parking through the Amendment.

(iv) Discussion

As noted earlier, future permit applications proposing development on the subject land will be assessed for car parking provision against the relevant requirements. This requirement exists at Clause 52.06 of all Planning Schemes. The RTA Guideline and empirical rates are valid measures that will be considered when determining the appropriate car parking provision at the permit stage. Based on the traffic assessment to date, the Panel is satisfied the subject land can accommodate future car parking spaces.

The Panel is satisfied that DPO24 will appropriately manage car parking by requiring:

- a Master Plan that provides for onsite car parking for all development
- Development Design Guidelines that provide for car parking including the design and location of car parking areas
- a Transport and Movement Plan that includes a car parking provision and management strategy which will ensure that car parking can be co-ordinated across the subject land.

These requirements will form an appropriate planning framework for assessing car parking needs when considering future permit applications. Accordingly, the Panel agrees with Council and the traffic experts on this matter.

(v) Conclusion

The Panel concludes that the Amendment includes an appropriate planning framework for considering car parking generated by future development on the subject land.

5.3 Pedestrian and bicycle paths

(i) The issue

The issue is whether the onsite and offsite pedestrian and bicycle path requirements proposed through DPO24 are appropriate.

(ii) Background

Planning Scheme Clause 18.02-2S (Cycling) is relevant to this issue, and seeks:

To facilitate an efficient and safe bicycle network and increase the proportion of trips made by cycling.

The Amendment explanatory report states:

The introduction of the new local policy and Development Plan Overlay (Schedule 24) will guide the future use and development of the subject land by:

...

- The provision of recreational open space which will contain facilities such as a sporting oval with walking and cycling tracks that will enhance the experience of workers, visitors to the area and residents

The exhibited DPO24 requires a Transport and Movements Plan that includes:

- A pedestrian and cycling network plan, indicating the location of shared paths within the site and provision for future connections, including the provision for the construction of a shared pedestrian and bicycle path connection within the Bungower Road reserve from the site to Frankston Flinders Road and publicly accessible toilet and changing facilities, all to the satisfaction of the responsible authority and at the cost of the subject landowner.

(iii) Evidence and submissions

Submissions:

- There is no pedestrian or cycling path proposed along Lower Somerville Road or Bungower Road to access the proposed amenities.
- Pedestrian and bicycle paths are needed along Bungower Road:
 - eastbound between Western Port Highway and Tyabb-Tooradin Road
 - from Frankston Flinders Road to access the subject land.
- The proposed pedestrian and bicycle path may be unsafe if not appropriately managed.
- The Frankston-Flinders Road shared path is considered unsafe because it has not been maintained to resolve cracks and bumps created by tree roots.

Mr Davies' evidence:

- The subject land:
 - provides relatively limited connections for pedestrian and cyclist movements
 - lacks any pedestrian facilities at its Bungower Road frontage due to its nature as a major road with limited land uses that create demand for pedestrian activity.
- The shared pedestrian and bicycle path connection required by DPO24 will:
 - help to alleviate the lack of pedestrian options on Bungower Road
 - cater for the ultimate pedestrian/cycle activity that will be generated by the subject land's full development and any adjacent further development along Bungower Road.
- Frankston-Flinders Road has good provision for pedestrian and bicycle movement, including the existing Western Port Bay Trail shared path on the west side of the road.

(iv) Discussion and conclusion

The Panel accepts Mr Davies' evidence on pedestrian and bicycle paths. The shared pedestrian and bicycle path connection required by DPO24 will encourage subject land users to consider walking or cycling.

The Panel concludes the onsite and offsite pedestrian and bicycle path requirements proposed through Development Plan Overlay Schedule 24 are appropriate.

5.4 Public transport**(i) The issue**

The issue is whether the Amendment appropriately responds to any public transport needs.

(ii) Background

The exhibited DPO24 requires a Transport and Movements Plan that includes:

- Provision to encourage and support access by public transport to and within the site by provision for future bus stop infrastructure.

(iii) Evidence and submissions

Submissions:

- There is no public transport so:
 - people will either drive private vehicles to work or not go at all if they do not have access to a vehicle
 - the subject land should not be developed with industry.
- The area has inadequate public transport services with an hourly service that operates until early evening to Frankston or Flinders with no cross-peninsula service.
- There should be planning guidelines requiring a public transport plan to allow people to get to work from a future train station in the area.

Mr Davies' evidence:

- The subject land is:
 - not serviced by public transport
 - about 2.5 kilometres from Somerville Railway Station
 - about 1 kilometre from the nearest bus stop for the route 783 bus that travels along Frankston-Flinders Road.
- It is appropriate for DPO24 to require the Transport and Movement Plan to include provision to encourage and support access by public transport to and within the subject land by provision for future bus stop infrastructure.
- It is appropriate that the details of the bus stop location can be determined as part of future functional design and in consultation with the Department of Transport and Planning which is responsible for reviewing and expanding bus services to meet future demands.
- The need for improved public transport in the area is identified in the Somerville Township Structure Plan which includes the following specific actions:

A11: Council will advocate to Public Transport Victoria (PTV), the Victorian Government and private bus providers for additional public transport options to the township and to surrounding townships to better access community and support services.

A19: Council will advocate to the Victorian Government to deliver improvements to the bus network throughout the region to provide for greater access to more destinations with higher frequency services.

Council submission:

- The lack of public transport:
 - is a shortfall of the proposal, however this is a wider issue that exists throughout the municipality
 - would be a negative factor for any industrial rezoning in the municipality.
- Notwithstanding, DPO24 requires the Transport and Movement Plan to provide for a future bus stop on Bungower Road to ensure transport infrastructure is ready should public transport routes connect to the subject land.
- Public transport routes fall outside the scope of the Amendment and are beyond Council's power to effect.

DPO24 (Version 3) revised the relevant requirement to replace 'Provision' with 'Measures' as follows:

Measures to encourage and support access by public transport to and within the site by provision for future bus stop infrastructure.

(iv) Discussion

The Transport and Movement Plan will encourage the location of, and design for, a bus stop on the Bungower Road frontage and support access by public transport to and within the subject land.

The Victorian government is responsible for introducing a bus service to this location, not Council or the Proponent. However, including requirements in DPO24 to consider a bus stop may support a future business case to justify a bus service when there is enough demand generated at this location.

The Panel supports replacing 'Provision' with 'Measures' in DPO24 because it clarifies the requirement's intent.

(v) Conclusions and recommendation

The Panel concludes:

- The Victorian government is responsible for introducing a bus service to the subject land rather than the Mornington Peninsula Shire Council or Proponent.
- The Amendment appropriately facilitates the delivery of public transport infrastructure (bus stop) should state government provide public transport to the subject land.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to replace 'Provision' with 'Measures' to the requirement associated with encouraging and supporting public transport.

6 Surrounding area impacts

6.1 Potential offsite emissions

(i) The issue

The issue is whether noise, dust and odour associated with future industrial uses will unreasonably impact the amenity of surrounding areas.

(ii) Background

Planning policy supports managing the effects of noise, air emissions and offsite impacts by ensuring appropriate separation between high-impact uses and sensitive uses. Clauses 13.05-1S, 13.06-1S, 13.07-1S, and 53.10 collectively aim to minimise risks to amenity, health and safety by promoting land use compatibility and careful siting of potentially adverse uses.

No technical reports were prepared to assess the potential for offsite emissions.

DPO24 (Version 1) requires the lists preferred uses to exclude offensive or dangerous industries. The types of uses sought for exclusion are those which:

- are listed in the table at Clause 53.01 without a specified threshold distance
- exceed a fire protection quantity under the relevant dangerous goods regulations
- require notification under the relevant occupational health and safety regulations
- require a license under relevant dangerous goods regulations.

(iii) Submissions

The EPA's response to Ministerial Direction 19 included that future industrial uses will need to have regard to Clause 53.10 and the EPA guidelines for separation distances for industrial air emissions⁵.

Council submitted the IN3Z and DPO24 work together to ensure a sensitive response to amenity is incorporated into the development plan, including measures to discourage offensive or dangerous industries. It submitted the revisions to DPO24 provide clarification on what is an offensive or dangerous industry for the purposes of excluding these types of uses on the subject land.

The Proponent submitted that DPO24 safeguards the Low Density Residential Zone (LDRZ) land to the west from pollution. This is achieved by explicitly excluding certain types of uses from the list of preferred uses. These include bitumen and concrete batching plants, shipping container storage, transfer stations, materials recycling facilities and refuse disposal sites.

The Proponent added DPO24 promotes environmentally sustainable practices through an Environmentally Sustainable Development Strategy. Key considerations of the Strategy include:

- construction materials, methods, and building orientation
- use of solar energy and electric vehicle charging
- water conservation and recycling
- integrated Water Management and Water Sensitive Urban Design
- waste minimisation and resource recovery.

⁵ EPA Publication 1518: Recommended separation distances for industrial residual air emissions.

Submissions expressed concern that industrial activities could lead to various emissions, such as noise, odour and dust. Concerns were also raised about the impact of site operations.

(iv) Discussion

The Panel considers that the Amendment adequately addresses potential offsite amenity impacts. IN3Z, DPO24 and policy clearly indicate that amenity impacts on surrounding land are key considerations for site planning and issuing permits for the subject land. Relevant provisions include:

- IN3Z aims to ensure uses do not impact the amenity of adjacent, more sensitive areas.
- DPO24 specifies industrial uses that are not preferred.
- Clause 53.10 requires certain industrial uses to be buffered from residential zoned land.
- State planning policy indicates that impacts on human health, including noise and air quality, must be managed.

Further amenity protection is enabled by the large precinct area which provides opportunity to adequately separate uses with amenity impacts from sensitive uses.

The relevant provisions plan for uses with notably lesser amenity impacts than the current provisions and will enable offsite amenity impacts to be duly considered in development proposals.

(v) Conclusion and recommendation

The Panel concludes noise, dust and odour associated with future industrial uses will reasonably impact the amenity of surrounding areas.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to revise the requirements of the Master Plan to exclude specific types of offensive and dangerous industry uses from the list of preferred uses.

6.2 Visual amenity

(i) The issue

The issue is whether DPO24 will facilitate future development that will unreasonably impact the visual amenity of the surrounding green wedge area and low density residential area.

(ii) Background

Clause 15.01-2S aims to ensure building design and siting contributes positively to the local context and strategies include ensuring development provides site-responsive landscaping⁶.

DPO24 generally manages visual impact through requirements of the development plan, including:

- a Subdivision and Development Plan which must include:
 - no development of land within 30 metres of Lower Somerville Road, other than for landscaping and open space

⁶ Clause 15.01-2S

- a minimum setback of 50 metres from Bungower Road, and landscaping in the first 15 metres.
- Development Design Guidelines which should address treatment of visual impacts of development adjacent to the precinct boundaries through a combination of scale, built form, building setbacks, treatment of visual appearance of development adjacent to precinct boundaries and landscaping.
- A Landscape Plan which must include:
 - indicative landscape areas, including front setbacks
 - landscape buffer areas where required to adjoining properties and which must be established and landscaped within the initial subdivision or development of land.
- An Open Space Plan and details indicating the location of all open space areas and the future maintenance and management of these spaces.

Existing provisions that apply to the surrounds set a range of setbacks. These are:

- Design and Development Overlay Schedule 6 (DDO6) and Design and Development Overlay Schedule 7 (DDO7)⁷ guide setbacks:
 - of a discretionary 50 metres from the south side of Bungower Road
 - of a discretionary 25 metres from Lower Somerville Road
 - to ensure new development and subdivision respects the existing streetscape, building form and landscape context, and to support integration with surrounding buildings, open space and view lines where reasonable and practical.
- SUZ1 mandates setbacks to LDRZ and GWZ land:
 - of a minimum 30 metres from car parking and internal roads
 - of a minimum 60 metres from other buildings and works
 - to be a 'buffer area' which must be planted with trees.

(iii) Submissions

Council submitted the proposed buffers were key to achieving positive visual impacts on the subject land. The DPO24 buffer metrics were intended to achieve:

- a uniform building setback along to the south of Bungower Road to that guided by DDO6 and DDO7
- a consistent setback along Lower Somerville Road to what the existing SUZ1 applies.

Council submitted the setback to Lower Somerville Road:

- reasonably replicates the existing restriction that applies to the subject land and is a reasonable expectation of residents on the western side of Lower Somerville Road
- is required to ensure an appropriate transition and buffer to the LDRZ and GWZ land in equal measures.

The Proponent requested the proposed setback to Lower Somerville Road be changed to:

- retain the 30-metre setback adjacent to LDRZ land
- reduce the setback to 15 metres adjacent to GWZ land.

The Proponent submitted:

- GWZ is less sensitive than LDRZ

⁷ Design and Development Overlay Schedule 6 Low Density – Landscape and Design and Development Overlay Schedule 7 Low Density – Environmental

- land opposite the GWZ land and south of the pipeline easement is unlikely to be developed in a way that causes offsite impacts
- reducing the buffer allows for car parking in a landscaped setting beyond the setback, which is an entirely acceptable interface to the GWZ
- allowing car parking in a landscaped setting beyond the setback would maintain the intent of providing a visual buffer
- the reduced setback would enable an additional 5,500 square metres to be developed
- there are many examples of building encroachments where the DDO6 and DDO7 setbacks apply.

The Port of Hastings Corporation supported the subject landscaped buffers in general terms because they ensure an appropriate transition occurs between the precinct and adjoining properties.

Submissions were mixed in relation to whether the proposal would result in positive or negative visual impacts. The concerns for negative outcomes included impacts on rural character. One submitter from a nearby GWZ property expressed preference to retain the 30-metre setback required by the existing provisions. Other submissions considered that future development would result in positive built form outcomes on the subject land.

(iv) Discussion

No evidence was tabled to test the appropriateness of the setbacks. Instead, the Panel's findings are based on the intent and outcomes of the setbacks and the site context. The Panel supports the proposed setbacks but recommends the metrics be discretionary.

The intent of the proposed setbacks is to align with existing provisions, which comprise both discretionary and mandatory setbacks. DDO6 and DDO7 focus on creating a consistent streetscape and open landscaping using the same discretionary metrics. SUZ1 requires a landscaped setback and mandates a minimum metric. The Panel observed varied results on adjoining the subject land, with some lots contributing to open landscape character while others have well established, tall landscaping blocking views or structures within setbacks. Despite consistent metrics, implementation has led to diverse landscaped outcomes.

The Panel supports maintaining a 50-metre setback to Bungower Road. This setback was neither tested through evidence, nor contested. However, the current provisions apply the setback on a discretionary basis, allowing decision-makers to consider site-specific conditions without enforcing uniformity. The Panel supports the metric but considers applying it on a discretionary basis aligns with the provision which Council seeks to replicate.

The Panel endorses retaining a 30-metre setback from LDRZ land along Lower Somerville Road, which remains uncontested. Discretionary application of this metric is deemed appropriate, considering that a setback with a discretionary metric of 25 metres applies on the opposite land.

The need for flexible metrics is further supported by the discrepancy between the proposed 30-metre setback and the requested 15 metre setback to GWZ land along Lower Somerville Road. This is particularly so when balancing amenity expectations of GWZ land, which are lower than LDRZ land, and development potential of the precinct. Both setbacks, it was submitted, would achieve an open space and landscaped result. The Panel considers that a 15 metre setback:

- to GWZ land may produce a suitable visual amenity outcome, particularly if it is well landscaped with low-scale structures positioned beyond it

- could achieve similar visual impacts to a 30 metre setback in both short range and long-range views
- with acceptable visual amenity outcomes would avail a considerable amount of land for development.

Further, DPO24 requires the Landscape Plan to include landscaped setbacks and:

- a maintenance schedule which can ensure the visual appearance and health of the vegetation along the road interfaces
- for landscaping to form part of the initial stage of subdivision to ensure it establishes early in the development stages.

Since this setback hasn't been thoroughly tested, the Panel concludes that a 30 metre setback to the GWZ land is appropriate, but the metric should be discretionary.

It would be helpful for DPO24 to include criteria for when lesser setbacks could be deemed appropriate to both road interfaces. This approach can guide future developments while preserving the intent of setbacks. The Panel would support this.

(v) Conclusions and recommendation

The Panel concludes that Development Plan Overlay Schedule 24:

- will enable future development that will reasonably impact the visual amenity of the surrounding green wedge area and low density residential area
- should apply a setback of a discretionary 50 metres to Bungower Road and a setback of a discretionary 30 metres to Lower Somerville Road
- should include criteria to clarify when a lesser setback is acceptable.

The Panel recommends:

Amend Development Plan Overlay Schedule 24, as shown in Appendix B, to revise the Master Plan requirements to include:

- a) a discretionary setback of 50 metres to Bungower Road, including landscaping within a discretionary 15 metres from the site boundary**
- b) a discretionary setback of 30 metres to Lower Somerville Road to be used for landscaping and open space.**

7 Other issues

7.1 Heritage

(i) The issues

The issues are whether the Amendment has appropriately considered, and appropriately responds to, existing heritage values on the subject land.

(ii) Background

The Heritage Overlay (HO269) applies to 83 Bungower Road to recognise the 'Thomas Brunning's Farm'. The site includes mature planting. The Statement of Significant states the place holds historic significance for:

- its strong link with the regionally prominent Brunnings family
- being a good example of an early twentieth century farm house.

The Heritage Overlay includes a purpose that development does not adversely affect the significance of heritage places and requires a permit for most buildings and works.

DPO24 requires that the development plan include provision for the house, any associated fabric and trees on the heritage listed property.

Clause 15.03 (Heritage) seeks to conserve places of heritage significance by retaining elements that contribute to the importance of heritage places.

(iii) Evidence and submissions

Several submissions were concerned about heritage protection and future use of the farmhouse.

Council referred to the explanatory report which states that incorporating the Brunnings Homestead heritage site into the open space area will protect the homestead and significant trees.

The Proponent submitted:

- the Heritage Overlay (HO269) affects all of 83 Bungower Road and will be retained
- DPO24 includes provisions for retaining the farmhouse
- no use is proposed for the farmhouse yet, but the Heritage Overlay requires a permit for any proposed use to readapt and restore the structure.

(iv) Discussion and conclusion

The Amendment does not seek to revise the existing Heritage Overlay (HO269) on the Brunnings Homestead site. This means the existing protection will continue to apply when a future permit application is lodged before a development plan has been prepared.

The Panel is satisfied that the Amendment suitably provides for the long-term protection of the farmhouse, and appropriately considers adaptive re-use within the broader precinct. Integrating the farmhouse into future open space may assist in protecting its heritage fabric.

The Panel concludes the Amendment will adequately manage heritage impacts.

7.2 Property value and crime

(i) The issue

The issue is whether property value and crime are within the scope of the Amendment and can be managed through the PE Act.

(ii) Evidence and submissions

Submissions:

- The increased traffic and decreased living environment will decrease property value.
- How will owners be compensated if properties are devalued?
- A future industrial park on the subject land may increase crime and attract 'hoons' to the park at night.
- Criminals have recently been caught targeting industrial areas for ram raids and illicit drug storage and production.
- The Amendment will reduce the existing high crime rate by introducing business and jobs in the area.

Council's response to property value:

- The rezoning and planning provisions are applied having regard to the planning objectives of Victoria and must be approved by the Minister for Planning.
- The objectives of planning include:
 - (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and
 - ...
 - (f) to balance the present and future interests of all Victorians.
- Property value is generally not a planning consideration, reflects many factors, and is not determined by a single planning provision.

Council's response to crime:

- The new industrial precinct when developed will have lighting of internal roads and individual businesses may engage security services for their premises.
- DPO24 will require the approval of Development Design Guidelines which will include lighting and fencing.
- Crime related activity is beyond the scope of the Amendment.

(iii) Discussion and conclusion

The Panel agrees with Council's submission regarding the issues of property value and crime. Nonetheless, no submission included information to support claims that the Amendment would affect property value or increase crime.

The Panel concludes that property value and crime are outside the scope of the Amendment.

7.3 Special Control Overlay Schedule 10

(i) The issue

The issue is whether Special Control Overlay Schedule 10 (SCO10) should remain on the subject land.

(ii) Background

SCO10 applies to part of 79 Bungower Road to facilitate the use and development of land for non-port related manufacturing uses, otherwise known as the Sealite Development. Amendment C283morn introduced SCO10 into the Planning Scheme.

The letter of Authorisation to the Amendment stated:

Your council should consider whether [SCO10] and incorporated document could be removed from the planning scheme as part of Amendment C243morn as it may no longer be required if the subject land is rezoned.

DPO24 requires the development approved by SCO10 to be included in the first development stage, with a commitment for completion before the issue of statement of compliance for further subdivision of land. DPO24 gives discretion to the responsible authority to approve otherwise.

(iii) Submissions

The Panel asked Council:

- for its response to the letter of authorisation comments
- how it envisages DPO24 and SCO10 would operate together and whether there was any potential contradictions or incompatibilities between the provisions.

Council submitted:

- SCO10 should remain on the subject land, otherwise the Proponent would need to obtain a permit for development
- Council recently extended the expiry of the control to expire if development has not commenced by 11 March 2028
- there is no inconsistency between the two provisions
- the provisions would work hand-in-hand to facilitate the future development of the subject land
- DPO24 was not intended to replace SCO10 and:
 - has been designed to facilitate the 'anchor' tenant in the location of the Sealite development
 - includes no requirements that conflict with the development facilitated under SCO10, apart from some minor matters that can be readily addressed through amendments to plans as allowed by SCO10 (through secondary consent)
 - accounts for SCO10 in the Staging Plan which requires that the development approved by SCO10 to be included in the first stage of development.

(iv) Discussion

For reasons outlined by Council, the Panel agrees SCO10 should remain on the subject land. The Panel agrees with the principle the condition of authorisation sought to achieve, which was to remove any redundant provisions. However, after further exploring this matter, SCO10 is needed to enable the Sealite development to commence construction without the need for a permit.

SCO10 and DPO24 can operate harmoniously together. DPO24 will provide a land use and planning framework for the industrial precinct while SCO10 will facilitate a specific development. The latter is like a permit being issued for the subject land before a development plan has been prepared, which DPO24 allows.

(v) Conclusion

The Panel concludes that the Special Control Overlay Schedule 10 should remain on the subject land.

7.4 Port of Hastings Precinct

(i) The issue

The issue is whether the state planning provision should be revised to change the name of the Port of Hastings Precinct through the Amendment.

(ii) Background

Clause 17.03-3S seeks to protect significant industrial land including the 'Port of Hastings Industrial Precinct'. The Port of Hastings Corporation requested for the precinct name to be changed.

The Port Development Strategy divides the SUZ1 land into two categories:

- 'Investigate for future industrial uses' refers to land on the periphery (which includes the subject land)
- 'Port of Hastings Future Port Development Area' refers to the remaining SUZ1 land.

(iii) Submissions

The Port of Hastings Corporation requested the name of the Port of Hastings Precinct be changed:

- from 'Port of Hastings Industrial Precinct'
- to 'Port of Hastings Future Port Development Area'.

The Corporation stated there was no precinct called the Port of Hastings Industrial Precinct and requested the name be corrected to one that directly correlates to the Port Development Strategy.

Council did not make submissions on this matter.

The Proponent submitted the name change affects a statewide planning provision that required the Port of Hastings Corporation to request a separate Amendment.

(iv) Discussion and conclusion

The Port of Hastings Corporation's request affects a statewide planning provision applicable to all planning schemes, not just the Mornington Peninsula Planning Scheme. The PE Act does not enable the Panel to recommend a change to a state provision through a local planning scheme amendment.

The Panel concludes the *Planning and Environment Act 1987* does not enable the Amendment to revise a state planning provision, as requested by the Port of Hastings Corporation.

8 Drafting

8.1 DPO24 drafting issues

The DPO24 provisions need to be drafted to align with Ministerial Direction 7(5) and to include provisions enabled by the head provisions in the parent DPO. Various drafting revisions to DPO24 are considered necessary to:

- improve consistency with the guidance on drafting planning provisions
- benefit interpretation without changing the intent of the provisions.

8.1.1 Background

The Practitioner's Guide to Victoria's Planning Schemes (Practitioners Guide) provides guidance on the preparation of planning scheme provisions. It relevantly guides that provisions must:

- clearly set out its purpose and the intended planning outcome
- be user focussed and consistent
- not conflict with or duplicate other planning scheme provisions
- be clear in their application
- be clear and unambiguous in their requirements
- be clear and unambiguous in their structure
- be written to be clear and unambiguous.

8.1.2 Objectives

(i) Background

The exhibited DPO24 listed five objectives for the precinct, and DPO24 (Version 2) reduces the list to four objectives. The revised list generally simplified the objectives.

(ii) Panel comments

The four objectives of DPO24 (Version 2) are preferred to the exhibited five objectives because they align better with the Practitioners Guide and precinct vision. The changes include to:

- delete parts that describe how to meet the objectives, as this guidance belongs in development requirements
- omit the precinct name since the provision already includes it
- delete parts that relate to co-locating technology uses, as rezoning the subject land and applying DPO24 inherently facilitates the co-location of these uses.

8.1.3 Requirement before a permit is granted

(i) Background

The requirements before a permit is granted relate to the event when applications are lodged before a development plan has been prepared to the satisfaction of the responsible authority. The requirements changed between the exhibited and DPO24 (Version 2), reducing from three to one. The provisions are listed below and have been simplified for discussion.

The exhibited DPO24 listed requirements of:

A permit may be granted to use [and develop] land, including minor works necessary for the continuation of an existing use of the subject land before a development plan has been prepared ...

Before granting a permit the Responsible Authority must be satisfied that the permit will not prejudice the future use and development of the subject land in an integrated and orderly manner.

A permit must not be granted to subdivide land before a development plan has been prepared ...

DPO24 (Version 2) listed requirements of:

A permit may be granted to use land [and develop the subject land] before a development plan has been prepared ...

The parent DPO provision sets requirements before a permit is granted and relevantly requires:

A permit must not be granted to use [and develop] land, or subdivide land until a development plan has been prepared ...

This does not apply if a schedule to this overlay specifically states that a permit may be granted before a development plan has been prepared. ...

(ii) Panel comments

The DPO24 (Version 2) provision is preferred because it removes duplication with the parent DPO provision while preserving necessary discretion for the responsible authority. The changes are necessary and appropriate to:

- retain the ability to issue permits for use and development before a development plan has been prepared, using the discretion allowed by the DPO parent provision
- remove the prohibition on issuing permits for subdivision before a development plan has been prepared, as this is already covered by the DPO parent provision
- delete additional tests for granting permits before a development plan is prepared, such as minor works and integrated and orderly land use and development, as these are implicit in permit application assessment and some were alternatively added as a permit requirement.

8.1.4 Requirements for development plan – Subdivision and Development Plan

(i) Background

The Department of Transport and Planning's role changed between the exhibited and DPO24 (Version 1) regarding access points in the Subdivision and Development Plan. The proposed access points to Bungower Road must be:

- to the satisfaction of the department in the exhibited DPO24
- prepared following consultation with the department in DPO24 (Version 1).

The department's name was listed as 'Department of Transport' in the subject provision.

Bungower Road is zoned Transport Zone Schedule 3, which is the zone designated to significant municipal roads.

(ii) Panel comments

The Department of Transport and Planning's revised role in planning for access to Bungower Road is supported as it aligns with its statutory responsibilities. Since Bungower Road is a municipal road, Council should oversee access point planning, although consulting the department on infrastructure designs remains beneficial. DPO24 (Version 2) is supported.

Further, the department's name should be corrected to Department of Transport and Planning.

8.1.5 Requirements for development plan – Open Space Plan and Landscape Plan

(i) Background

The way in which the requirements of the Open Space Plan and Landscape Plan are listed changed between the exhibited and DPO24 (Version 1). The provisions are listed below been simplified for discussion.

The exhibited DPO24 required:

- A plan and details indicating the location of all open space areas ...
- A Landscape Plan ... including ... [various matters].

DPO24 (Version 1) revised this to:

- An Open Space Plan that must include the location of all open space ...
- A Landscape Plan that must include ... [various matters].

(ii) Panel comments

The DPO24 (Version 2) provisions are supported for reasons that they:

- clearly distinguish the Open Space Plan as a standalone required document, rather than referring generically to 'a plan'
- set a clearer expectation of the content that 'must be included' in the Open Space Plan and Landscape Plan
- improves consistency by adopting the same naming conventions and wording as other plans required by the DPO24.

8.1.6 Section 173 agreement

(i) Background

The exhibited DPO24 requires a section 173 agreement for the ongoing protection of vegetation in accordance with the approved 'Native Vegetation Management Plan'.

No change to this requirement was proposed in DPO24 (Version 2).

(ii) Panel comments

The native vegetation plan to be approved as part of the development plan is called the Ecological Assessment and Native Vegetation Management Plan. The section 173 agreement requirement should list the same name of the plan for consistency and to remove ambiguity.

8.2 Recommendation

The Panel recommends:

Amend Design and Development Overlay Schedule 24, as shown in Appendix B, to make drafting changes that improve its clarity, consistency and operation.

Appendix A Document list

No	Date	Description	Presented by
2025			
1	7 March	Directions Hearing notice letter	Planning Panels Victoria (PPV)
2	1 April	Late submission from Simone Nash (Submission 115)	Simone Nash
3	4 April	Panel Directions and Hearing Timetable	PPV
4	4 April	Letter to Port of Hastings Corporation requesting information	PPV
5	7 April	Documents in response to Direction 10: <ul style="list-style-type: none"> a) Authorisation Letter, 8 September 2022 b) Port Development Strategy (2018) c) Somerville Township Structure Plan, 18 July 2019 d) Technical Assessment - Fire Risk, Feb 2022 e) Technical Assessment - Greencap Preliminary Site Investigation, Feb 2022 f) Technical Assessment - Ecology, 20 April 2022 g) Technical Assessment - Infrastructure, 14 April 2022 h) Technical Assessment - Traffic, 14 April 2022 i) Technical Assessment - Town Planning Report, May 2022 j) Technical Assessment - Ecological Conditions Report (Extract), May 2022 k) Technical Assessment - Traffic, Preliminary Transport and Movement Plan, 7 Jun 24 l) Technical Assessment - Traffic, Base Case 2033 (Existing + 10 Yr Growth), 24 June 2024 m) Technical Assessment - Traffic, Post Development 2033 - Mitigation, 24 Jun 24 n) Technical Assessment - Traffic, Post Development 2033, 24 Jun 24 o) Technical Assessment - Traffic, Site Access - Design Options, 24 Jun 24 p) Technical Assessment - Traffic, Somerville Traffic Surveys, 31 August 2023 q) Technical Assessment - Traffic, 25 July 2024 r) Technical Assessment - Fire Risk, 16 August 2024 s) Submission 95 - ESSO letter, 12 May 2023 t) EPA Referral Response, 31 May 2022 u) Statement of Significance - Thomas Brunnings Farm (HO269) 	Mornington Peninsula Shire Council (Council)

No	Date	Description	Presented by
6	7 April	Submitter map – Melbourne and Mornington Peninsula (provided to the Panel and Proponent only)	Council
7	7 April	Submitter map – Somerville (provided to the Panel and Proponent only)	Council
8	10 April	Site inspection locations request	Proponent
9	10 April	Site inspection locations request	Sharon Thresher
10	10 April	Site inspection locations request	Liza Murray-Clarkson
11	10 April	Site inspection requests	Robert Clarke
12	11 April	Hearing Timetable and Distribution List (Version 2)	PPV
13	16 April	Port of Hastings response to Panel request for information	Port of Hastings Corporation
14	17 April	Panel Directions, Hearing Timetable (Version 3) and Distribution List (Version 2)	PPV
15	23 April	Part A Submission	Council
16	25 April	Site inspection map	Council
17	28 April	Expert witness report – Brian Haratsis	Proponent
18	28 April	Expert witness report – Simon Davies	Proponent
19	29 April	Expert witness report – John-Paul Maina	Council
20	1 May	Panel Directions, Hearing Timetable (Version 4) and Distribution List (Version 3)	PPV
21	7 May	Traffic joint expert statement	Council and Proponent
22	8 May	Part B Submission	Council
23	8 May	Explanatory report – Version 1 (tracked changes, 25 February 2025)	Council
24	8 May	DPO24 – Version 1 (tracked changes)	Council
25	9 May	Written submission	Elizabeth Murray
26	9 May	Main submission	Proponent
27	9 May	Evidence presentation of Brian Haratsis	Proponent
28	9 May	Submission	Robert Clarke
29	12 May	Evidence presentation of Simon Davies	Proponent
30	12 May	Redacted submission and petition (31 March 2025)	Simone Nash
31	12 May	Council webpage – Position on the Future Role and Development of the Port of Hastings	Simone Nash
32	12 May	Somerville precinct map (from Industrial Land Use & Infrastructure Assessment and Rezoning Strategy)	Simone Nash

No	Date	Description	Presented by
33	12 May	Extract from Mornington Peninsula Localised Planning Statement	Simone Nash
34	12 May	Panel Directions, Hearing Timetable (Version 5) and Distribution List (Version 3)	PPV
35	13 May	Summary of 2020 petition regarding proposed marine industrial precinct	Simone Nash
36	13 May	DPO24 – Panel draft version	PPV
37	14 May	Land Use and Infrastructure Assessment and Rezoning Strategy (May 2020)	Liza Murray-Clarkson
38	14 May	Mornington Peninsula Safer Roads Somerville graphic	Liza Murray-Clarkson
39	14 May	Mornington Peninsula Housing and Settlement Strategy Refresh 2020-2036 (July 2020)	Liza Murray-Clarkson
40	14 May	Committee for Frankston and Mornington Peninsula submission to Port of Hastings Port Development Strategy 2024 (22 July 2024)	Liza Murray-Clarkson
41	14 May	Mornington Peninsula magazine article – Somerville's business park set to boom	Joan Ebbels
42	14 May	Part C submission	Council
43	14 May	DPO24 – Version 2 (tracked changes, 14 May 2025)	Council
44	15 May	Submission	Karin Mullenger
45	15 May	Submission	Sharon Thresher
46	15 May	Closing submission	Proponent
47	15 May	Submission	Simone Nash
48	15 May	DPO24 – Version 3 (tracked changes, 15 May 2025)	Council
49	15 May	Submission	Liza Murray-Clarkson
50	15 May	Submission	Joan Ebbels
51	16 May	Submission, with attachment: a) Council Planning Services Committee Meeting Minutes (10 August 2021)	Robert Clarke

Appendix B Panel recommended version of Development Plan Overlay Schedule 24

Tracked changes are marked as:

Tracked Added

~~Tracked Deleted~~

SCHEDULE 24 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO24**.

MORNINGTON PENINSULA (SOMERVILLE) TECHNOLOGY, INDUSTRY AND BUSINESS PARK PRECINCT

1.0 Objectives

To facilitate the use and development ~~of the Mornington Peninsula (Somerville) Technology, Industry and Business Park.~~

~~To encourage and support the establishment and co-location of~~ for technology-based industries, manufacturing, research, and development.

To ensure that lots and buildings with a diverse range of sizes are available to suit the needs of different industries and businesses, including industries and businesses requiring larger lots and floor areas.

To ensure the use and development of the land in a way which achieves a high standard of sustainability and amenity, ~~including through the retention of areas of significant biodiversity value, high standards of environmentally sustainable design, and the provision of open space and facilities that will enhance the experience of people working within the precinct and which will also be available to the public.~~

To ensure that use and development within the precinct has proper regard to the safety and amenity of adjoining roads and areas.

2.0 Requirement before a permit is granted

A permit may be granted to use land, construct a building or construct or carry out works, ~~including minor works necessary for the continuation of an existing use of the land~~ before a development plan has been prepared to the satisfaction of the responsible authority.

~~Before granting a permit the Responsible Authority must be satisfied that the permit will not prejudice the future use and development of the land in an integrated and orderly manner.~~

~~A permit must not be granted to subdivide land before a development plan has been prepared to the satisfaction of the responsible authority.~~

3.0 Conditions and requirements for permits

The following conditions and/or requirements apply to permits:

- A permit for subdivision and/or development of land located along the eastern and southern boundaries of the land that is subject to this schedule must ~~include~~ meet the following ~~conditions~~ requirements:
 - Identification of setbacks from classified vegetation ~~that will~~ to ensure radiant heat exposure of no greater than 12.5 ~~kW/m2~~ kilowatts per square metre:
 - 19 metres from the grassland hazards at the eastern boundary.
 - 27 metres from the scrub hazard at the southern boundary.
 - ~~Each lot located along the eastern and southern boundaries is to incorporate~~ Incorporation of an internal continuous accessway for each lot to enable access for emergency service vehicles to the eastern and southern boundaries.
 - Creation of ~~D~~defendable space ~~will be created for the lots along the eastern and southern boundaries to ensure a bushfire risk is not created over time.~~
- All proposals to use ~~the~~ land, or construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority must be accompanied by the following, to the satisfaction of the responsible authority:
 - A report which demonstrates that the proposal addresses the requirements outlined in Sections 3.0 and 4.0 of this schedule and will not prejudice the future development of the precinct, including the provision of all required infrastructure, land transfers and development contributions ~~to the satisfaction of the responsible authority.~~
 - An Intrusive Soil Contamination Assessment that assesses the potential for impact to human health and ecological receptors and appropriate mitigation measures ~~to the satisfaction of the responsible authority.~~
 - An Ecological Assessment and Native Vegetation Management Plan that includes the identification and assessment of the ecological value of flora, fauna and habitat areas on the land; ~~and~~ recommendations for the retention, conservation and management of native vegetation; ~~and~~ the provision of offsets for the removal of vegetation where necessary, ~~to the satisfaction of the responsible authority;~~ and the identification of opportunities to avoid and minimise impacts on native vegetation, focused on areas of native vegetation with the most value.
 - A Safety Management Plan for land within 200 metres of the transmission pipeline and a Construction Environmental Management Plan ~~as set out in Section 4.0 of this schedule as relevant to the proposal and to the satisfaction of the responsible authority.~~

4.0 Requirements for development plan

A development plan must include the following requirements, to the satisfaction of the responsible authority:

Intrusive Soil Contamination Assessment

An Intrusive Soil Contamination Assessment ~~to the satisfaction of the responsible authority~~ that must include:

- ~~a~~ Assessment of the potential for impact to human health and ecological receptors.
- ~~a~~ Appropriate mitigation measures.

Ecological Assessment and Native Vegetation Management Plan

An Ecological Assessment and Native Vegetation Management Plan ~~to the satisfaction of the responsible authority~~ that must include:

- ~~the~~ The identification and assessment of the ecological value of flora, fauna and habitat areas on the land.
- ~~and~~ Recommendations for the retention, conservation and management of native vegetation.
- ~~and~~ The provision of offsets for the removal of vegetation where necessary.
- ~~identifies~~ The identification of opportunities to avoid and minimise impacts on native vegetation, and that efforts to avoid and minimise focussed on areas of native vegetation with the most value.
- ~~, to the satisfaction of the responsible authority. The recommendations of the approved Native Vegetation Management Plan must be incorporated into the Master Plan to the satisfaction of the responsible authority.~~

Master Plan

A Master Plan that must include ~~to the satisfaction of the responsible authority~~:

- A site context and survey plan noting the location of the site and incorporating:
 - Existing buildings and works.
 - Existing easements and major pipelines.
 - Natural features such as vegetation, topography, drainage lines, areas subject to flooding, ~~and~~
 - The relationship between the site and existing or proposed uses on adjoining land.
- A list of the preferred uses that are proposed or likely to be developed, ~~including~~ specific provisions relating to 83 Bungower Road, that encourages the establishment of technology-based industries, manufacturing, research and development and excludes:
 - Offensive or dangerous industries, including uses that:
 - ~~are~~ Are for a purpose listed in the table to Clause 53.10 with no threshold distance specified.
 - ~~Exceed~~ Exceed a fire protection quantity under the Dangerous Goods (Storage and Handling) Regulations 2022.
 - ~~Require~~ Require notification under the Occupational Health and Safety Regulations 2017.
 - ~~Require~~ Require a licence under the Dangerous Goods (Explosives) Regulations 2011. ~~or~~
 - ~~Require~~ Require a licence under the Dangerous Goods (HCDG) Regulations 2016.
 - Bitumen/concrete batching plant, shipping container storage, transfer station, materials recycling or refuse disposal.
 - Retail premises (other than convenience shop, landscape garden supplies, trade supplies, manufacturing sales, takeaway food shop and restaurant).
 - Supermarkets and shops on land adjoining or within 30 metres of land in a Transport Zone.
 - Restricted retail premises where such uses will limit the availability of land for technology-based industries and advanced manufacturing.

- Provision for the house, any associated fabric and trees on the heritage listed property at 83 Bungower Road, Somerville (HO269).
- A Subdivision and Development Plan including:
 - A subdivision layout having regard to the types of uses that are proposed, the provision of suitable buffers to adjoining agricultural properties and the provision of suitable lot sizes ~~to the satisfaction of the responsible authority.~~
 - Provision of all required easements, road widenings and other land transfers ~~to the satisfaction of the responsible authority.~~
 - No subdivision of the land to the west of the existing gas pipeline, except for any initial subdivision to excise this land and any subsequent subdivision to facilitate any separate lots required for the community precinct.
 - The provision of a tree reserve along the Lower Somerville Road frontage to prevent direct access except in emergencies.
 - ~~No development of the land within~~ A setback which should be 30 metres ~~of~~ from Lower Somerville Road. These areas ~~are to~~ should be used and developed only for the purpose of a landscaped buffer area, or for open space.
 - A diverse range of lots within the precinct across the following lot size ranges:
 - 2,000 to 5,000 square metres.
 - 5,000 to 10,000 square metres.
 - 10,000 square metres and above.
 - Provision of at least half the developable land for the creation of lots with an area of 5,000 square metres or greater.
 - ~~All development must make~~ Provisions for adequate ~~provision for~~ landscaping, waste storage, access and on site carparking for all development.
 - Limited provision of smaller premises and associated subdivision into smaller lots ~~may be considered as part of the overall Master Plan.~~
 - ~~No~~ lots with an area of less than 2000 square metres must not be located adjacent to Bungower Road or on the main internal roads serving the precinct.
 - Provisions to ensure that, ~~to the satisfaction of the responsible authority,~~ the majority of lots created with an area of more than 5,000 square metres will be retained as larger lots suitable for larger premises and not further subdivided or developed for buildings with a floor area of less than 500 square metres.
 - A minimum building setback ~~of~~ which should be 50 metres from the Bungower Road frontage, ~~with that includes landscaping which should be the first 15 metres from the property boundary of the setback landscaped.~~
 - The proposed access points to Bungower Road and entry/intersection treatments ~~to the satisfaction of the Department of Transport and the responsible authority and~~ following consultation with the Department of Transport and Planning.
 - Access to all lots within the subdivision provided through ~~via~~ the internal roads with no direct access to Bungower Road.
 - No direct access to Lower Somerville Road, except for an emergency access if required.
 - The proposed internal road network, including provision for heavy vehicle movements within the precinct, the design of internal intersections and proposed kerbside parking bays.

- Details of pedestrian and bicycle network, including provision for the construction of a shared pedestrian and bicycle path connection within the Bungower Road reserve from the site to Frankston Flinders Road and the provision of end of trip facilities within the precinct.
- The areas set aside for drainage, surcharge routes, retarding basins and water sensitive urban design (WSUD) infrastructure as per the approved Stormwater Management Strategy and Environmentally Sustainable Development Strategy.
- The areas set aside for vegetation retention and restoration, landscape buffers and landscaping.
- The areas proposed to be set aside for passive recreational space for the benefit of persons employed within the precinct.
- Identification of setbacks from classified vegetation that will ensure radiant heat exposure of no greater than 12.5 kW/m² kilowatts per square metre:
 - 19 metres from the grassland hazards at the eastern boundary.
 - 27 metres from the scrub hazard at the southern boundary.
- ~~Each lot located along the eastern and southern boundaries is to incorporate~~
an internal continuous accessway for each lot along the eastern and southern boundaries of the land that is subject to this schedule to enable access for emergency service vehicles to the eastern and southern boundaries.
- Defendable space will be created for the lots along the eastern and southern boundaries of the land that is subject to this schedule to ensure a bushfire risk is not created over time.

Stormwater Management Strategy

A Stormwater Management Strategy (SWMS) to the satisfaction of Melbourne Water and the responsible authority:

- Identifying the site's internal and external drainage catchments, the potential downstream stormwater impacts from development and any necessary flood mitigation measures.
- Including proposals for the protection of natural systems the treatment of stormwater and water quality and the reduction of run-off and downstream flows having regard to Best Practice Environmental Management (BPEM) objectives and Integrated Water Management (IWM) opportunities.
- Incorporating Water Sensitive Urban Design principles and the "major/minor" approach to stormwater management.
- Integrating stormwater management within the precinct design, with identification of the key drainage infrastructure required, including relevant surcharge routes, retarding basins and water storage and recycling infrastructure.

Environmentally Sustainable Development Strategy

An Environmentally Sustainable Development Strategy ~~to the satisfaction of the responsible authority~~, outlining proposed measures in relation to:

- Building materials and construction practices.
- Building orientation and energy conservation.
- Use of renewable energy, including provision for the use of solar energy and electric vehicle recharging.
- Water conservation and recycling.

- Indoor environment quality.
- Integrated Water Management and Water Sensitive Urban Design (WSUD).
- Sustainable Transport.
- Waste minimisation and waste and resource recovery.
- Urban ecology and Green Infrastructure including landscaping considerations.
- Climate resilience.
- Universal design for access and mobility.

Development Design Guidelines

Development Design Guidelines, ~~to the satisfaction of the responsible authority,~~ for all land within the precinct which provide guidance and requirements for future development, having regard to the implementation of the approved Environmentally Sustainable Development Strategy, the visual impact of development on adjoining roads and surrounding areas and appropriate provision for parking, loading and storage. In addition to the Environmentally Sustainable Development Strategy, the guidelines should address:

- The appropriate scale, form, height, and materials of construction of buildings.
- Building setbacks and the siting and orientation of buildings.
- Treatment of visual appearance of development adjacent to the precinct boundaries through a combination of built form and elevations, materials, fencing and landscaping.
- Site access and on-site manoeuvring.
- The location and design of car parking areas.
- Provision for loading and unloading areas.
- Provision for servicing and waste storage.
- Signage, lighting, and fencing.

Transport and Movement Plan

A Transport and Movement Plan ~~to the satisfaction of the responsible authority~~ including following consultation with the Department of Transport and Planning ~~including that must include:~~

- An integrated transport plan in accordance with Clause 18.01-1S of the ~~Planning Policy Framework~~ Morningside Peninsula Planning Scheme.
- A Traffic Engineering Report ~~to the satisfaction of the responsible authority~~ including that must include:
 - Indicative traffic volumes anticipated on local and arterial roads, including heavy vehicles.
 - Identification of a suitable location and design of intersection treatment of the main access point ~~providing access~~ to the site from 79 Bungower Road, including the provision of any interim measures to accommodate initial access formation. The design of the intersection must be suitable to accommodate ~~future~~ signalisation to be installed at the time of completion of accessway formation at the head of the development site with 79 Bungower Road.
 - Identification of a suitable location and design of intersection treatment of the secondary access point to the site from 83 Bungower Road including the demonstration of the largest anticipated design vehicle swept path analysis in

relation to the Lower Somerville Road intersection and methods to ensure limitation of use to identified maximum vehicle class including during construction stages. The access point is to be designed to commence at a minimum of 100 metres from the Lower Somerville Road intersection.

~~— Identification of all required road widenings and road works to the satisfaction of the Department of Transport and the responsible authority.~~

- The location and design of all existing and proposed future roadworks, road widenings and intersections, including provision for a bus stop on the Bungower Road frontage and any mitigation measures required to address the impacts of predicted increases in heavy vehicle traffic on local and arterial roads.
- Provision for the transfer of all land required for road widenings and other road improvements to the relevant road authority free of cost and to the satisfaction of the responsible authority.
- A car parking provision and management strategy, having regard to the range of potential uses and the need to ensure adequate on-site carparking and to address potential changes in car parking demand resulting from changes in use over time.
- ~~Provision~~ Measures to encourage and support access by public transport to and within the site by provision for future bus stop infrastructure.
- A pedestrian and cycling network plan, indicating the location of shared paths within the site and provision for future connections, including the provision for the construction of a shared pedestrian and bicycle path connection within the Bungower Road reserve from the site to Frankston Flinders Road and publicly accessible toilet and changing facilities, all to the satisfaction of the responsible authority and at the cost of the landowner.

Open Space Plan

An Open Space p~~Plan~~ ~~and details indicating that must include~~ the location of all open space areas and facilities intended to serve the precinct and which will also be made available to the public, and the provision for future maintenance and management of these spaces and facilities to the satisfaction of the responsible authority.

Landscape Plan

A Landscape Plan ~~to the satisfaction of the responsible authority, including~~ that must include:

- Details of vegetation and natural features to be retained, having regard to the ecological assessment and native vegetation management plan.
- Indicative landscape areas including land within front setbacks and road reserves, with indicative planting layouts and cross-sections.
- Landscaped buffer areas where required to adjoining properties, waterways, or natural features. The buffer area must be established and landscaped in conjunction with the initial subdivision or development of the land but may be incorporated within the private lots, to be maintained as part of those sites.
- A full flora species list for planting, not just a tree species list. Species should be from an appropriate local EVC wherever possible. ~~Tree species list, which is to predominantly consist of locally indigenous and other native species~~
- P~~-~~planting and maintenance requirements. ~~to the satisfaction of the responsible authority.~~

Major Pipeline Infrastructure Plan

A Major Pipeline Infrastructure Plan that sets out how ~~Subdivision or~~ any development ~~must provide for~~ provides for the major transmission gas and oil pipeline corridors and easements, that must include:

- ~~The A~~ major transmission gas and oil pipeline corridors or easements located within a public reserve.
- Measures to mitigate the impact of development on the operational safety of transmission pipeline infrastructure in consultation with the pipeline operator.
- A layout that restricts the number of transmission pipeline crossings required.
- Clear access on and either side of transmission pipeline corridors.
- That ~~E~~ consent must be obtained from the pipeline owner/operator for:
 - Works within 3 metres of a transmission pipeline corridor or easement.
 - Vegetation other than light grasses along the pipeline corridor.
- That ~~D~~ development of a childcare centre should be avoided within 200 metres of a transmission pipeline.
- A Safety Management Study prepared in accordance with Australian Standard 2885, reviewed by a suitably qualified pipeline licensee and incorporated into the design and development of land uses within 200 metres of a transmission pipeline.

Staging Plan

A Staging Plan ~~indicating~~ that must include:

- The indicative staging of development including main access intersection and signalisation at 79 Bungower Road, internal roads, infrastructure, servicing, public realm, ~~and~~ landscape works, including any interim measures to accommodate initial access formation at Bungower Road and the trigger points for the provision of all other required infrastructure.
- The indicative staging of the secondary access point and internal roadway at 83 Bungower Road, infrastructure, servicing, public realm, landscape works, restriction of use to certain vehicle classes from the development at 79 Bungower Road in relation to the Transport and Movement Plan findings and the trigger points for the provision of all other required infrastructure.
- That, except with the approval of the responsible authority, the development of ~~No~~ 79 Bungower Road (part lot 2, LP200254), as approved under Special Control Overlay 10 (SCO10), must be included in the first stage of the development, and must be commenced, with a commitment to completion to the satisfaction of the responsible authority, before the issue of any statement of compliance for further subdivision of the land within the precinct.
- A mixture of lot sizes ~~to be~~ provided within each stage.

Construction Environmental Management Plan

~~The A~~ ~~e~~Construction ~~e~~Environmental ~~m~~Management ~~p~~Plan that must include:

- Details of any staging of the proposed construction.
- Details of how the site is to be accessed during construction.
- Details of tree protection zones for significant trees to be retained on the land.
- Details of how native vegetation to be retained on the land will be protected, not just significant trees and tree protection zones.

- That polluted and/or sediment-laden runoff is not to be discharged into native vegetation to be retained (in addition to drains or watercourses).
- Details of how weeds and weed spread both on and off the site will be controlled during construction activities.
- The location of any site office, off-street parking for construction vehicles and employees.
- Details for the collection and disposal of construction waste and the storage of construction materials.
- The methods to control adverse environmental effects including erosion and sediment run-off. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into drains or watercourses. Appropriate pollution or litter traps must be provided on the land at appropriate points along the drainage system or drainage lines.
- Details of how the amenity of the surrounding area is to be protected during construction, including consideration of hours of work.

Section 173 Agreement

An agreement entered into by ~~Prior to the approval of the development plan,~~ the owners of the land to which the plan applies ~~must enter into a Section 173 Agreement with and~~ the responsible authority under section 173 of the Planning and Environment Act 1987 that makes provision for the construction of all identified infrastructure works, the transfer of all required lands and the payment of all required contributions, with respect to, but not limited to, the following to the satisfaction of the responsible authority:

- The provision of all required road works on Bungower Road identified in the Transport and Movement Plan and Staging Plan prepared and approved in accordance with this schedule ~~to the satisfaction of the Department of Transport and the responsible authority~~ in consultation with the Department of Transport and Planning. This must include:
 - The provision of traffic signals at the main access to 79 Bungower Road to be installed at the time of completion of the main access road formation at the intersection of the development with Bungower Road, and ~~new intersection within three years of the date of completion of the new entry road, or at such other time agreed to the satisfaction of the responsible authority.~~
 - Access road intersection treatment at 83 Bungower Road and methods to ensure limitation of use to identified maximum design vehicle class including during construction stages.
- Provision for the construction drainage infrastructure and payment of drainage contributions to the satisfaction of Melbourne Water and South East Water.
- Provision for the construction of all cycling paths, including the shared pedestrian and bicycle path connection between the site and Frankston Flinders Road, as set out in the approved Transport and Movement Plan.
- Provision of all other infrastructure and contributions to the satisfaction of all other relevant servicing authorities and the responsible authority.
- Provision for the ongoing protection of vegetation with high biodiversity value in accordance with the recommendations of the approved Native Vegetation Management Plan.

- Payment of a public open space contribution, as per Clause 53.01 of the Mornington Peninsula Planning Scheme ~~and to the satisfaction of the responsible authority.~~

~~All to the satisfaction of the responsible authority.~~

The owner must meet all expenses in relation to preparation and registration of the agreement, including the reasonable costs of the responsible authority.