



# **Monash Amendment C129**

**Submission on behalf of the  
Planning Authority**





## Introduction

1. These submissions are made on behalf of the City of Monash (**Council**).
2. Amendment C129 seeks to rezone the land 1221 -1249 Centre Road Oakleigh South (**site**)<sup>1</sup> from part GRZ (schedule 2) and part SUZ (schedule 2) to the Comprehensive Development Zone and updates relevant sections of the Local Planning Policy Framework.
3. Specifically, the Amendment proposes to:
  - Rezone the land at 1221-1249 Centre Road, Oakleigh South from part Special Use Zone Schedule 2 and General Residential Zone Schedule 2 to the Comprehensive Development Zone Schedule 2.
  - Introduce Schedule 2 of the Comprehensive Development Zone to the Monash Planning Scheme.
  - Make a minor correction to the boundary of the existing Environmental Audit Overlay to incorporate the whole of 1221-1249 Centre Road, Oakleigh South, within the Overlay.
  - Amend Clause 21.04 and Clause 22.04 within the Local Planning Policy Framework to refer to urban renewal sites, including the subject land.
  - Amend Schedule 81.01 (Incorporated Document) to include the Comprehensive Development Plan
4. The proponent's preference is to use and develop the site as a master planned residential development, consisting predominantly of medium density dwellings, with high density (apartments), retail and mixed use components also to be considered as part of the overall master plan.<sup>2</sup>
5. Whether any or all of these uses might in the end be possible, will depend on the further work to be undertaken by way of environmental assessment.
6. The site has already been subject to many years of various assessments, which have inter alia informed the Comprehensive Development Plan 2016<sup>3</sup>. The Comprehensive Development Plan is proposed to be an Incorporated Development. The plan identifies opportunity areas for higher density residential and conventional residential development, a mixed use area adjacent to Huntingdale Road, indicative public open space areas, vehicle entry points from Centre Road and Huntingdale Road and a green space running through the centre of the site.

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<sup>1</sup> For the purposes of the various environmental assessments, the site has been separated out into zones as follows: including Folio and Volume Numbers

Volume 63313, Folio 437 (Zone 3 & 5)

Volume 3645, Folio 846 (Zone 2)

Volume 8550, Folio 541 (Zone 4)

Volume 8343, Folio 532 (Zone 1)

See figure 2

<sup>2</sup> Sinclair Figure 10A - D: This figure shows the architectural Master Plan layout with various remediation approach

<sup>3</sup> See Sinclair references at 10

7. The Comprehensive Development Zone allows the inclusion of site specific requirements and a tailored list of **potentially** appropriate uses.
8. Unlike the current zoning of GRZ on part of the site, the proposed rezoning of the site is not a guarantee that the land can be used for sensitive uses such as residential.
9. Council must be satisfied that the environmental condition of the land is or will be suitable for the proposed use and development that would be allowed under the planning scheme amendment.
10. The first question is then whether the SESP and other previous assessments is sufficient for it to make a decision to give notice of the planning scheme amendment and if so, secondly, whether the proposed staging of the provision of further information is an appropriate approach.

### **Process**

11. At its meeting on 27 September 2016, Council resolved to request authorisation from the Minister for Planning to prepare and exhibit an amendment to the Monash Planning Scheme to rezone land at 1221- 1249 Centre Road, Oakleigh South to the Comprehensive Development zone.
12. Amendment C129 was exhibited between 2 February 2017 and 3 March 2017. The consultation included:
  - Letter and formal Notice of Amendment to all owners and occupiers within the vicinity of the site
  - Public notice in the Monash Bulletin, Monash Leader and the Victoria Government Gazette.
  - Information available on Council's website
  - Signage on the site, displaying the Notice of Amendment
  - A drop in information session on Wednesday 15 February 2017 held in the Clayton Community Centre. Council officers facilitated the session, with the assistance of representatives of the site owners. Approximately 15 people attended this session
13. Seven submissions have been received to the amendment from:
  - Four local residents
  - The Victorian Planning Authority<sup>4</sup>
  - The Environment Protection Authority<sup>5</sup>
  - The City of Kingston (officer submission)
14. Advice was also received from South East Water, confirming it had no comment and did not wish to be further notified of the amendment.

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<sup>4</sup> 3 March and 21 April 2017

<sup>5</sup> 10 March 2017 and further email correspondence 3-18 May 2017

## Site and surrounds

15. The site is an irregular shaped parcel of land situated at the north-eastern corner of Huntingdale and Centre Roads in Oakleigh South. It has an area of approximately 18.79 hectares<sup>6</sup>.
16. The site generally slopes to the south-west. The site topography has been altered significantly by the previous quarrying / landfilling works. A quarry void is still present in the south-west portion of the site.
17. The site has a frontage to Huntingdale Road of approximately 409.5 metres. Talbot Avenue where it meets Centre Road provides a small frontage to that road.
18. To the north of the site is Davies Reserve which is zoned PPRZ. To the east of this reserve and east of the subject site is the residential area zoned GRZ2. Talbot Park to the south of the subject site is also zoned PPRZ and on the west side of Huntingdale Road, the golf course is in a Special Use 3 Zone. On the south side of Centre Road in the City of Kingston, is a predominantly residential area zoned GRZ3 and the Clarinda Primary School – PUZ2.
19. The surrounding area can be described as follows:
  - To the north western is Davies Reserve
  - The north-west boundary of the site there is the rear of a row of single and double storey houses located at 412-426 Huntingdale Road.
  - To the north-east and east of the site are areas of single and double storey housing with the rear of residential properties abutting the site.
  - The former Clayton West Primary School site is located to the north-east which was rezoned to the General Residential Zone 1 in 2014.
  - Talbot Park is located to the south east
  - To the south of the western portion of the site is a two storey apartment building fronting Centre Road. To the west of this, on the corner of Centre and Huntingdale Roads is a site that has a permit for a 5 storey apartment complex.
  - To the south of Centre Road is Clarinda Primary School and residential areas. A service station is located at the south-east corner of the Huntingdale Road and Centre Road intersection. Bunnings is located to the south west of the site with commercial and industrial premises forming a large employment precinct extending south from Centre Road.
  - To the west, on the opposite side of Huntingdale Road is the Huntingdale Golf club.
20. Clayton Activity Centre is approximately 1.3km to the east. Oakleigh South Secondary College, Clarinda Primary School and Huntingdale Primary School are within walking distance. Monash University and Monash Medical Centre are located to the north east (approx 1.5km and 2.4km). Employment areas are located to the south west, north (in Huntingdale and Oakleigh 700m and 1.5km) and to the south-east (in Clayton South) ( 2km). A variety of public open spaces are also present in the area, including Davies Reserve to the north, Talbot Reserve the south and Bald Hill Park further to the south (1km)

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<sup>6</sup> McGurn; 19.09 Sinclair

21. As for public transport, 1.1km south of Huntingdale Railway Station is 1.1km south of the site and Clayton Railway Station is 1.8km west. Bus routes operate along Centre Road, providing access to Clayton Railway Station and Activity Centre, Monash University, Monash Medical Centre, and Oakleigh Activity Centre.

### **Current zoning and controls**

22. The site is currently zoned part Special Use Zone (Schedule 2 – Earth and Energy Resources Industry) and part General Residential Zone (Schedule 2).

23. The Special Use Zone seeks to provide for the use and development of land for specific purposes as identified in schedules to the zone. The purpose of Schedule 2 – Earth and Energy Resources Industry is:

- To recognise or provide for the use and development of land for specific purposes as identified in a schedule in this zone.
- To encourage interim use of the land compatible with the use and development of nearby land.
- To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land

24. Accommodation uses are prohibited under the schedule to this zone.

25. The purpose of the General Residential Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of residential uses to serve local community needs in appropriate locations.

26. Dwellings are as of right in the GRZ.

27. The entire site (save for a slim section of land on the eastern boundary of the site which is proposed to have the EAO applied as part of this Amendment) is affected by an Environmental Audit Overlay.

28. This overlay requires that prior to the commencement of a sensitive use or construction in association with a sensitive use, either a certificate of environmental audit must be issued for the land or an environmental auditor appointed under the Environmental Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the conditions are suitable.

## History of the site

29. Council relies on the information provided by the proponent and in particular the evidence of Mr Sinclair<sup>7</sup>.
30. Council understands that in the early 1900s the site was used for poultry farming and market gardens. It was then used as a sand quarry from the early 1950s until the early 1990s. Areas of the site were used for land-fill during the 1970s and 1990s. Since that time, the site has not been in active use.
31. The site has been the subject of a number of environmental studies over a number of years since 2004.<sup>8</sup> In summary, these studies have found that:

### Zone 1

32. Zone 1 is a former sand pit that has been used as landfill. It:

*“ . . . appears to be capped with un-engineered fill between 1 to 5 m in thickness. . . Based on a review of aerial photographs of the site, landfilling was completed between 1970 and 1975. Information from EPA Victoria<sup>9</sup> indicates that approximately 535,000 m<sup>3</sup> of solid inert and putrescible waste was accepted during its operation as a municipal landfill. Gas measurements taken within this area indicate that the landfill continues to produce some landfill gas; however, the generation rates are expected to have reduced from when the landfill was established, due to the landfill being in the later stages of its gas generation lifecycle ”<sup>10</sup>*

### Zone 4

33. *“Zone 4 comprises an open former quarry pit approximately 15m deep. Some backfilling occurred in the north east portion of the pit using soil stockpiled in Zone 1. Some existing bunds, clay slimes and water are also present within parts of the pit”<sup>11</sup>*

### Zones 2, 3 and 5

34. *“Zones 2 and 3 comprise former sand pits that have been backfilled with remnant slimes from the former sand mining operations. Historical information indicates that Zones 2 and 3 were backfilled predominantly with slimes in the 1990s. . . Solid inert waste (building waste) and some foundry waste is also present in these Zones. . . It is noted that the western portion of Zone 5 formerly supported the processing plant used as part of the sand mining operations, and such mining operations and slimes are more limited in this area. Uncontrolled fill up to 9m thick does exist within the western portion of Zone 5.”<sup>12</sup>*

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<sup>7</sup> See Site History Overview at 2.3; Council has very little material re the history of the site in addition to that listed in Sinclair et al. Of that material listed in Sinclair, Council only has some of that material.

<sup>8</sup> Evidence of P Sinclair at 1.6 pursuant to the relevant policies and guidelines set out at 1.7; reports findings summarized at 3.1

<sup>9</sup> Council does not have the EPA material referred to

<sup>10</sup> Sinclair at 2.1.1

<sup>11</sup> Sinclair at 2.1.2

<sup>12</sup> Ibid at 2.1.3

## **Post exhibition changes to the Amendment**

35. Post exhibition changes were prompted in large part by the VPA submission and the email correspondence with the EPA in May. The changes require the submission and approval of:
  - An Overall Development Plan for the site; and
  - An endorsed Site Environmental Strategy Plan (SESP) and Environmental Site Assessment (ESA) that are linked to the land uses proposed by the Overall Development Plan
36. These documents must be submitted prior to the lodgement of a planning permit application for the use, development or subdivision of the land i.e. there can be no permit application until the ODP is approved with concurrent sign off of ESA and SESP.<sup>13</sup>
37. The ODP will be subject to notification and third party rights will be retained. Many of the issues in third party submissions will be resolved through the ODP including road layout, public open space etc.
38. A DCPO was introduced<sup>14</sup>.
39. In large part, the post exhibition changes were made as a result of the submissions of the VPA and the EPA. While both were generally supportive of the proposed amendment and staging of the development, both expressed concerns and stressed the need to obtain more information at an early point in the process. That the VPA subsequently reneged on its initial view gives Council little comfort in light of the EPA's ongoing concern.

## **Policy**

40. Plan Melbourne<sup>15</sup>. The site is located in the Eastern Sub-region which is anticipated to accommodate approximately 175,000 new dwellings. A key objective of Plan Melbourne is to provide housing choice close to jobs and services and the creation of a '20-minute city'. New housing and mixed use developments are encouraged in urban renewal sites across Melbourne.
41. The site is also located on the periphery, but within the investigation area of the Monash National Employment and Innovation Cluster (NEIC)<sup>16</sup> which is an employment area of State Significance. However, the site is not specifically marked as an area for new housing opportunities for more medium and high density housing.
42. Policies within the State Planning Policy Framework (SPPF) which are of relevance to Amendment C129 include:

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<sup>13</sup> The VPA initially recommended that the Overall Development Plan (ODP) should be prepared in accordance with a more detailed list of requirements before planning applications could be lodged. However, following a meeting with the site's owners and representatives, the VPA submitted a supplementary submission, suggesting that the ODP be concurrently considered with future planning applications

<sup>14</sup> VPA supported a mechanism to recover contributions. It considered a s173 or list of projects might be appropriate. A list is not possible at this time until it is established what uses can occur on site and in what densities. See also Flemington Life and MVRC eggs

<sup>15</sup> 2017 reference document

<sup>16</sup> Housing Strategy 2014



- Clause 9 ‘Plan Melbourne’
- Clause 10.04 ‘Integrated Decision Making’
- Clause 11 ‘Settlement’ – Clause 11.01-1 Settlement Networks – Clause 11.02 ‘Urban Growth’ – Clause 11.04 ‘Open Space’ - Clause 11.06 ‘Metropolitan Melbourne’
- Clause 13.3-1 ‘Use of contaminated and potentially contaminated land’<sup>17</sup>
- Clause 15 ‘Built Environment and Heritage’
- Clause 16 ‘Housing’
- Clause 17 ‘Economic Development’
- Clause 18 ‘Transport’

43. The relevant policies of the Local Planning Policy Framework (LPPF) are:

- Clause 21.02 ‘Key Influences’ identifies the key influences affecting planning and development in the municipality. These include the need to address changing demographics.
- Clause 21.04 ‘Residential Development’ sets out objectives and strategies regarding residential development. A key objective is the encouragement of the provision of a diversity of housing styles and sizes that will accommodate future housing needs and preferences of the Monash community.
- Clause 21.10 ‘Open Space’ encourages that open space should be located within easy walking distance of the majority of residents.
- Clause 22.01 ‘Residential Development and Character Policy’ provides local policy requirements for new residential development. It identifies Character Type Areas. The site is adjacent to Character Type B.

44. Housing Strategy. The 2004 Housing Strategy is a reference document in the Planning Scheme. It stresses the importance of providing for smaller households and greater housing choice.

45. Council adopted a new Housing Strategy in 2014. It is the subject of Amendment C125 and will be included as a reference document to the Monash Planning Scheme<sup>18</sup>.

46. The 2014 Strategy aims to protect the ‘garden city’ character of the Monash whilst also identifying preferred locations for increased housing density. Consistent with clause 16, higher density residential is directed to in and around activity and neighbourhood centres and strategic sites within the Monash National Employment Cluster.

47. C125 also seeks to update the local planning policy framework to reflect the objectives, directions and actions of the 2014 Strategy:

- Clause 21.01 ‘Municipal Profile’ updates population and housing figures.

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<sup>17</sup> Objectives include “To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely. Strategies include to obtain adequate information on the potential for contamination to have adverse effects on the future land use”.

<sup>18</sup> submitted to the Minister for Planning for approval in June 2017

- Clause 21.02 ‘Key Influences’ identifies that as ‘the suburban housing stock ages and the size and profile of the community changes, different forms of housing will be needed to address contemporary requirements, expectations and environmental standards.’
- Clause 21.03 ‘A Vision for Monash’ adds the following strategic direction: – ‘direct residential growth to neighbourhood and activity centres, the Monash National Employment Cluster and the boulevards (Springvale Road and Princes Highway).’

48. The site is not in and around an activity or neighbourhood centre, nor is it identified in the cluster. However, no doubt it has a valuable role to play in potentially providing more and more diverse housing in the municipality. This, of course, will depend on the outcome of the ODP, SESP and ESA (and indeed, the audit).

### **Relevant duties and guidance**

49. In assessing the amendment and any potential planning permit, the planning and responsible authority must consider any significant effects which the responsible authority considers the environment may have on the use and development<sup>19</sup>.

50. It may consider any other strategic plan, policy statement, code or guideline which was been adopted by a Minister, government department, public authority or municipal council<sup>20</sup>.

51. Relevant policies and guidelines include:

- Ministerial Direction No 1
- The State Environment Protection Policy (Prevention and Management of Contamination of Land) (SEPP (Contaminated Land)) (clause 13 and 14)
- The General Practice Note: Potentially Contaminated Land (June 2005) (Practice Note); and
- The Landfill BPEM

52. Ministerial Direction No 1 on Potentially Contaminated Land states that ‘In preparing an amendment which would have the effect of allowing (whether or not subject to the grant of a permit) potentially contaminated land to be used for a sensitive use, agriculture or public open space, a planning authority must satisfy itself that the environmental conditions of that land are or will be suitable for that use.’

53. How the planning authority is to be so satisfied is by requiring an Environmental Audit or Statement be issued before notice of the Amendment is given.

54. If testing of land before a notice or copy of the amendment is given ‘is difficult or inappropriate’, the Amendment can include the requirement that before a sensitive use commences or before the construction or carrying out of buildings or works in association with a sensitive use commences an Environmental Audit or Statement must be issued.

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<sup>19</sup> s.12 P&E Act

<sup>20</sup> *ibid*

55. The SEPP (Contamination) provides that in considering an application for a planning permit or a request for a planning scheme amendment, a responsible authority (and a planning authority) 'should require the applicant to provide **sufficient information** on the potential for existing contamination to have adverse impacts on the future land use, to enable a decision regarding the suitability of the site for the proposed use and development'.

56. The Practice Note states that:

*“Generally an environmental audit should be provided as early as possible in the planning process. This may not always be possible or reasonable and requiring an environmental audit as a condition of permit may be acceptable if the responsible authority is satisfied that the level of contamination will not prevent the use of the site”*

57. It gives one example of 'difficult or inappropriate' is where the rezoning relates to a large strategic exercise. Council and the proponent disagree on the relative strategic importance of this site.

58. The Practice Note encourages the provision of information as early in the planning process as possible.

59. The Landfill BPEM provides that<sup>21</sup> responsible and planning authorities need to be provided with **sufficient information** by the proponent to satisfy them that the proposed new development will not be adversely impacted by its proximity to a previous landfill site.

60. Where the proposed development encroaches into the recommended landfill buffer area or increases the extent of development within the already encroached buffer area, EPA recommends that Council require an environmental audit be conducted under Section 53V of the EP Act. The audit must assess the risk of harm to the proposed development posed by the potential offsite migration of landfill gas and amenity impacts resulting from the landfill.

61. The Landfill BPEM states that responsible and planning authorities "need to be provided with sufficient information by the proponent to satisfy them that the proposed new development or rezoning will not be adversely impacted by its proximity to the landfill site"<sup>22</sup>.

62. The EPA recommends that the planning or responsible authority require an environmental audit under section 53V of the Environment Protection Act 1970, unless council has sufficient information from previous assessments. This approach is supported in the comments from the EPA in this case.

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<sup>21</sup> section 8.2.2, p.56

<sup>22</sup> p.56

### **Is there strategic planning support for the proposed Amendment?<sup>23</sup>**

63. There is strategic support for remediation and development of the site. It has too long been a blight on the area. For many years, its use has not reflected the SUZ zoning. Clause 11.06-2 also seeks to 'Facilitate the remediation of contaminated land, particularly on sites in developed areas of Melbourne with potential for residential development.'
64. Whilst Council does not put its strategic role as high as the proponent, it does accept that it has a potential role to widen the housing choice available in the municipality.

### **Is the CDZ the appropriate planning tool?**

65. It is clear that the Special Use Zone is no longer an appropriate zone for the site. All quarry and landfill operations ceased a long time ago. The current zoning prohibits the potential use of accommodation. Accordingly, "a zone that enables a master planned redevelopment of the site for residential or other suitable urban uses is required"<sup>24</sup>.
66. But why need that part of the site zoned GRZ be rezoned? The primary reason is to ensure that the site is considered holistically. Planning for it may then proceed in an orderly fashion and environmental risks addressed together.
67. Permit 2 uses ensure that residential uses are not 'as-of-right'.
68. The CDZ, unlike the more restrictive GRZ, allows for the consideration of a range of uses if it is not possible to develop the land for residential purposes or other sensitive uses.
69. Council notes but disagrees with Mr McGurn's responses to the control wording. In large part they emerge from the VPA submission and continue to garner support from Council.

### **Timing and sequence**

70. The call for sufficient or adequate information and the timing of the provision of that information was considered in the Potentially Contaminated Land Advisory Committee report dated 9 March 2012.
71. The report states that a deferral of an audit may be justified for a site specific amendment with land in one ownership where the proponent seeks approval prior to undertaking an audit due to the significant cost involved'.
72. In this instance, the site is in one ownership but, taking account of the size of the site and the past uses, the costs involved in remediation are significant.
73. The report concludes that an audit after the approval of an amendment may be appropriate when:

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<sup>23</sup> For all other portions of the strategic assessment please see the explanatory memorandum which Council adopts with the additions of its submissions re timing on production of the ODP, SESP and ESA and the introduction of and need for a DCPO.

<sup>24</sup> McGurn

- The site is a higher density residential or mixed use redevelopment of an area where contamination issues can be dealt with as part of overall construction, there are options for ongoing management, and where there are reasonable development options for the site if some or all of the site it cannot be used for a sensitive use.’

74. The Committee consequently recommended to ‘Amend the Ministerial Direction and Practice Note to adopt a risk based approach and only require an audit early when there will be no further management options (or limited further management options) of the development process’. The State Government supported this recommendation.
75. The Report also recommended that the Practice Note on Contaminated Land formalise a Site Remediation Strategy Plan (also known as a Site Environmental Strategy Plan) as a way for councils to satisfy themselves that contamination can be managed. The State Government ‘in principle’ supported this recommendation.
76. There has been no further action by any arm of government to action these recommendations but various proposals across Melbourne have been dealt with in ways that echo the risk base approach recommended. These include the approaches in Amcor and Epping.<sup>25</sup>
77. The risk based approach is provided in the CDZ Schedule in the form of the requirement for a Site Environmental Strategy Plan (SESP) and an Environmental Site Assessment (ESA). These documents enable environmental investigations of the site to demonstrate that the site is capable of being remediated so that sensitive uses can be contemplated.
78. The SESP was started in 2014 and has been endorsed by an appointed EPA accredited Auditor in a letter dated 28 November 2014<sup>26</sup>.
79. The SESP addresses preferred remedial measures, the proposed validation works for the remediation, a broad outline for environmental issues management and a data gap assessment for information required to complete staged Section 53X Environmental Audits of the site.
80. Existing permits<sup>27</sup> have been issued for the required stockpiling and backfilling of the quarry pit. These are a prerequisite for the remediation work required for the site.
81. The ESA provides the next level of investigation works which includes site testing to appraise the contamination status of soils and/or groundwater and will address and the management of site contamination issues and confirm that the land is suitable for sensitive uses subject to the completion of an environmental audit. This assessment will be carried out by a qualified environmental consultant and endorsed by an environmental auditor.

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<sup>25</sup> Refer to Amcor control and Whittlesea minutes

<sup>26</sup> Appendix C to McGurn

<sup>27</sup> Planning Permit TPN43337 issued on 1 June 2015 for use and development of the Property for stockpiling of earth, treatment of existing onsite slimes, sediments and uncontrolled fill material and associated earthworks to facilitate the backfilling of the former quarry. Planning Permit TPA/43336 issued on 1 June 2015 for backfilling and site rehabilitation of the former quarry. A Construction Environmental Management plan dated 10 June 2015 has been prepared by Coffey for the backfilling works.

82. The only issue between Council and the proponent is when the ODP, SESP and ESA ought be completed and approved by Council. Following VPA's submission and having assessed the regulatory landscape and the ongoing concerns of the EPA, Council have formed the view that whilst an audit might be deferred until after notice of the amendment is given the other risk based approach documents ought be provided as early as possible in the planning process and before any application for a planning permit.
83. The EPA do not comment specifically on the recommendations of the EPA publication Siting, design, operation and rehabilitation of landfills (Publication 788.3, August 2015) (Landfill BPEM). However, in email dated 12 June 2014, Leigh Bryant (Manager - Southern Metro, EPA) commented that the EPA supported an audit being completed prior to consideration of the planning scheme amendment and that this is consistent with EPA's approach to developments within 500m of a current or closed landfill.
84. In relation to the SESP, in email dated 14 August 2014, Leigh Bryant commented that it is possible to defer the audit, provided that an audit is completed before works associated with a sensitive use are commenced on site. Further the EPA state that "we would see that the Site Remediation Strategy (SRS) as a level of surety to the council than an acceptable audit can be produced following implementation of the SRS. We would suggest to council that the audit be completed prior any works associated with a sensitive use are commenced'.
85. In relation to the Permit Application, the EPA states in letter dated 4 February 2015, relevantly, that any permit should include a condition that an environmental audit under section 53X of the Environment Protection Act 1970 is required to be completed 'prior to any buildings and works, development or subdivision associated with a sensitive use'.
86. EPA has advised Council that it needs to have reasonable certainty that the site can be made suitable for the proposed use before approving a change in use. In EPA's view, it is not in anyone's interest to discover at the permit stage, at the end of a long assessment, remediation, and audit process, that the site cannot be made suitable for the uses allowed in the zone. As there are currently doubts about this, a comprehensive SRS/ESA prior to the land rezoning is the most appropriate tool to resolve this question in EPA's view.
87. The EPA are concerned that rezoning the land ahead of the completed SESP may send the wrong signal about the development potential of the land, particularly for sensitive urban uses and not provide for alternative non-sensitive urban uses.

## **DCPO**

88. Council acknowledge that there will be considerable development costs involved in the remediation and rehabilitation of the site and that will result both in a commercial benefit to the proponent and in a net community benefit.
89. However, as VPA recommended in its submission, as a large infill site the inclusion of a requirement for a development contribution is appropriate. This is also consistent with the approach that was taken in Amendment C125 for the renewal/growth areas of Clayton and in other recent Panel reports for Flemington Life and the Moonee Valley Racecourse.

90. The State Government is currently finalising an “off the shelf” development contribution for application in urban infill areas. It is appropriate to apply a Development Contribution Overlay to the site now. This introduces the collection mechanism, allowing Council to secure agreement payment of the contribution in the future, once introduced by the State Government.
91. This approach is also consistent with the degree of flexibility around potential urban land uses that arises from the remediation and management of the site.

### **Conclusion**

92. Council is supportive of the rezoning but subject to an appropriate staging of the provision of further environmental assessments to ensure that the potential of the site is achieved in an orderly manner.