

PLANNING PANELS

VICTORIA

AMENDMENT C129 TO THE

MONASH PLANNING

SCHEME

**STATEMENT OF TOWN PLANNING EVIDENCE PREPARED BY
STUART MCGURN FOR STERLING GLOBAL PTY LTD**

AUGUST 2017

URBIS

INTRODUCTION

1. My name is Stuart Andrew McGurn and I am a Director of Urbis Pty Ltd which conducts its business at Level 12, 120 Collins Street, Melbourne. My qualifications and experience are described in **Appendix A**.
2. I have been requested by Norton Rose Fulbright on behalf of Sterling Global to prepare a town planning assessment of exhibited Amendment C129 to the Monash Planning Scheme, which relates to the land at No.1221-1249 Centre Road, Oakleigh South.
3. Amendment C129 seeks to rezone the land to the Comprehensive Development Zone and updates relevant sections of the Local Planning Policy Framework.
4. Specifically, I have been requested to provide my opinions on the following matters:
 - The strategic planning support for the proposed amendment;
 - Whether the proposed rezoning to CDZ is appropriate, having regard to the site history and context;
 - Whether any amendments to the proposed CDZ are appropriate;
 - Whether the proposed timing for approval of a SESP and ESA at the time of assessment of a permit application is appropriate from an orderly planning perspective.
5. In the course of preparing this evidence I have inspected the subject site and its environs and have reviewed the proposed amendment. In addition, I have read the relevant background documentation, the Council officer reports and the submissions lodged to the Amendment.
6. I note that Urbis had carriage of the Amendment, however I have had no involvement in the matter until the Amendment was referred to a Panel.
7. A summary of my opinions with respect to the Amendment is as follows:
 - **There is strong strategic support for the proposed Amendment.**
 - **The proposed rezoning to the CDZ is appropriate.**
 - **A number of changes to the Schedule to the CDZ are appropriate to provide greater flexibility in the range of uses permissible.**
 - **The extent of requirements to be provided as part of the ODP are unnecessary and should be provided at the planning application stage.**
 - **To enable the timely and orderly planning of the site, the SESP and ESA should be able to be prepared concurrently with any planning application, and approved, before any planning permit is issued.**
 - **A DCPO is unnecessary and unwarranted.**
8. I declare that I have made all the enquiries that I believe are desirable and that no matters of significance which I regard as relevant have, to my knowledge, been withheld from the Panel.

SITE AND SURROUNDS

9. The site comprises an irregular shaped parcel of land situated at the north-eastern corner of Huntingdale and Centre Roads in Oakleigh South. The site has an area of approximately 18.79 hectares.
10. The site has a frontage to Huntingdale Road of approximately 409.5 metres. A small frontage to Centre Road is provided in the form of Talbot Avenue.
11. In the early 1900s the site was used for poultry farming and market gardens. The site was then used as a sand quarry which operated from the early 1950s until the early 1990s. Areas of the site have also been used for land-fill during the 1970s and 1990s. Since that time, the site has not been in active use.
12. The site generally slopes to the south-west. However, the site topography has been altered significantly by the previous quarrying / landfilling works and a quarry void is still present in the south-west portion of the site. A series of 2-3 metre high soil embankments are also located along several site boundaries, which I am instructed were established as amenity buffers to adjacent residential properties.
13. Mature trees and other vegetation are present on the site, generally along the site boundaries.
14. The surrounding area can be described as follows:
 - To the north of the western portion of the site is Davies Reserve which contains an athletics track and associated recreational facilities. A Scout hut is located in the southern portion of the reserve.
 - The north-west boundary of the site abuts 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 housing with the rear of residential properties abutting the site. The character of this area comprises single and double storey buildings, predominantly brick dwellings from the 1970s.
 - 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 of the eastern portion of the site and provides informal open space, playground and BBQ facilities.
 - 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 traditional 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.
15. In the wider area, the Clayton Activity Centre is located approximately 1.3km to the east. The area is well served by education facilities with Oakleigh South Secondary College, Clarinda Primary School and Huntingdale Primary School within easy walking distance. Monash University and Monash Medical Centre are located to the north east. Employment areas are located to the south west, north (in Huntingdale and Oakleigh) and to the south-east (in Clayton South). A variety of public open spaces are also present in the area, including Davies Reserve to the north, Talbot Reserve to the south and Bald Hill Park further to the south.

16. The site is located 1.1km south of Huntingdale Railway Station and 1.8km west of Clayton Railway Station. Bus routes operate along Centre Road, providing access to Clayton Railway Station and Activity Centre, Monash University, Monash Medical Centre, and Oakleigh Activity Centre.
17. I note that in 2014, a combined Planning Application and Planning Scheme Amendment request to rezone the eastern portion of the land to the General Residential Zone and seek approval for a predominantly residential redevelopment was lodged. A separate planning application was also lodged for residential development for the western portion of the land already in the General Residential Zone. I note that these applications have been subsequently withdrawn.

PROPOSED AMENDMENT C129

18. 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.
19. The Comprehensive Development Zone (CDZ) has the following purpose:
- *'To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.'*
 - *'To provide for a range of uses and the development of land in accordance with a comprehensive development plan incorporated in this scheme.'*
20. The new Schedule 2 to the CDZ sets out:
- the purposes for the CDZ2,
 - the table of uses allowable in the zone,
 - the requirement for an Overall Development Plan,
 - The requirement for a Site Environmental Strategic Plan and an Environmental Site Assessment,
 - Application requirements, decision guidelines and permit conditions for permit applications for 'use', 'subdivision' and 'building and works'.
21. The amendment proposes a number of minor text changes to Clause 21.04 (Residential Development) and Clause 22.01 (Residential Development and Character Policy). These changes are intended to provide some direction and policy support for medium to higher density for urban renewal sites having regard to the content of local policy for new residential development is primarily focused on preserving the low scale, garden city character of the municipality.
22. A comprehensive Development Plan has been prepared which 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.

CURRENT PLANNING CONTROLS

ZONING

23. The site is currently zoned part Special Use Zone (Schedule 2 – Earth and Energy Resources Industry) and part General Residential Zone (Schedule 2).
24. 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.*
25. Accommodation uses are prohibited under the schedule to this zone.
26. 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 implement neighbourhood character policy and adopted neighbourhood character guidelines.*
 - *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
 - *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*
27. Dwellings are ‘as-of-right’ under the provisions of this zone.

ENVIRONMENTAL AUDIT OVERLAY

28. 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.
29. 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.

RELEVANT PLANNING POLICY

PLAN MELBOURNE

30. 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.
31. The site is also located within the Monash National Employment and Innovation Cluster (NEIC) which is an employment area of State Significance and an area where new housing opportunities for more medium and high density housing are encouraged.

STATE PLANNING POLICY FRAMEWORK (SPPF)

32. Policies within the State Planning Policy Framework (SPPF) which are of relevance to Amendment C129 include:
 - **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'
 - **Clause 15** 'Built Environment and Heritage'
 - **Clause 16** 'Housing'
 - **Clause 17** 'Economic Development'
 - **Clause 18** 'Transport'

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

33. The relevant policies of the Local Planning Policy Framework (LPPF) are summarised below.
34. **Clause 21.02** 'Key Influences' identifies the key influences affecting planning and development in the municipality. Of note is the move towards sustainability, maintaining the Garden City Character changing lifestyle choices, and the demands of an ageing population.
35. **Clause 21.04** 'Residential Development' sets out objectives and strategies regarding residential development. The 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.
36. **Clause 21.10** 'Open Space' encourages that open space should be located within easy walking distance of the majority of residents.
37. **Clause 22.01** 'Residential Development and Character Policy' provides local policy requirements for new residential development and consideration of the relevant identified Character Type Areas. I note that as site is not located in a Character Type Area but is adjacent to Character Type B.

REFERENCE DOCUMENTS

38. The following documents are relevant reference documents in the Scheme:
- Plan Melbourne 2017 (DEWLP)
 - Monash Housing Strategy 2004 (City of Monash).
39. The Monash Housing Strategy 2004 identifies the need to provide for smaller households and greater housing choice in the context of the predominant type of housing in the municipality is single dwellings on large blocks.

PLANNING SCHEME AMENDMENT C125

40. Council adopted a new Housing Strategy in 2014. The Strategy aims to protect the 'garden city' character of the Monash whilst also identifying preferred locations for increased housing density. Higher density residential is directed to in and around activity and neighbourhood centres, and strategic sites within the Monash National Employment Cluster.
41. The 2014 Housing Strategy is proposed be introduced into the Planning Scheme as a Reference Document under Planning Scheme Amendment C125 which was submitted to the Minister for Planning for approval in June 2017. The Amendment also seeks to update the local planning policy framework to reflect the objectives, directions and actions of the Monash Housing Strategy. Of note are the following:
- Clause 21.01 'Municipal Profile' updates population and housing figures.
 - 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).'*

PLANNING CONSIDERATIONS

42. Consistent with my instructions I have based my assessment of the proposed Amendment on the following:
- Whether there is strategic planning support for the proposed Amendment;
 - Whether the proposed rezoning to CDZ is appropriate, having regard to the site history and context;
 - Whether any amendments to the proposed CDZ are appropriate;
 - Whether the proposed timing for approval of a SESP and ESA at the time of assessment of a permit application is appropriate from an orderly planning perspective;
 - Whether a Development Contributions Plan Overlay is appropriate.

STRATEGIC PLANNING SUPPORT

43. There is strong strategic support for the redevelopment of the site as an urban renewal site located close to jobs, services and transport.
44. The site is located within the Monash National Employment and Innovation Cluster identified in Plan Melbourne. These employment clusters are identified as places of focus for investment and growth and is an area of State Significance (Clause 11.01-1).
45. Additionally, Plan Melbourne elevates the role of large, well located urban renewal sites in meeting housing growth and reducing pressure for change in established neighbourhoods. In particular, the Amendment is supported by Clause 11.06-2 which seeks to identify housing opportunity areas to provide housing choice close to jobs and services. The Amendment will facilitate the provision of increased housing in an established area and assist in creating a city of '20 minute neighbourhoods'.
46. Notably, 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.*'
47. The site also has the potential to widen the housing choice available in the municipality which Clauses 16.01-4, 21.02-3 and 21.04 identifies a need for. I also note that the Monash Housing Strategy 2014 encourages increased density developments on strategic sites in the Monash National Employment Cluster, which is also consistent with Clause 16.01-3.
48. The site is well located in terms of access to public transport, shops, services, educational facilities, health services, public open space, recreational facilities, and employment opportunities. Clayton activity centre is located 1.3km to the east, bus services operate along Centre Road, and Huntingdale and Clayton Railway Stations are located in close proximity. The area is also well provided with educational facilities with two primary schools and a secondary school in close proximity and Monash University in the wider area. The employment areas to the south-west, north and south-east, as well as the University and Monash Medical Centre, provide easily accessible employment opportunities.
49. The surrounding zoning pattern of predominantly residential zones also supports the land to be developed for predominantly residential purposes with the opportunity for other uses given its main road frontage and mix of uses in the surrounding area.
50. Clearly, the Amendment has strong strategic support.

APPROPRIATENESS OF THE PROPOSED CDZ

51. The Amendment proposes to rezone the entire site to the Comprehensive Development Zone (CDZ). The Special Use Zone is no longer an appropriate zone for the site as all quarry and landfill operations have ceased and accommodation uses are prohibited in that zone. Accordingly, a zone

that enables a masterplanned redevelopment of the site for residential or other suitable urban uses is required.

52. Whilst part of the site is already in a Residential Zone, to enable the orderly planning of the whole site given its size, and enable the environmental issues and constraints to be planned and managed in an appropriate and coordinated manner, I consider the application of the CDZ across the whole site to be the correct approach.
53. This approach is also consistent with the purpose of this zone which is *'to provide for a range of uses and the development of land in accordance with a comprehensive development plan incorporated in this scheme.'*
54. The site is already affected by the Environmental Audit Overlay (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), and the CDZ is an appropriate zone that can be tailored to allow for the staged approach to remediation, through the inclusion of the requirements for a Site Environmental Strategy Plan (SESP) and Environmental Site Assessment (ESA) in the Schedule to the CDZ. I note the EPA supports this staged approach. The CDZ also enables the consideration of a range of uses if it is not possible to develop the land for residential purposes or other sensitive uses.
55. Accordingly, in my opinion the rezoning of the land to the CDZ is appropriate.

APPROPRIATENESS OF THE CONTROLS PROPOSED IN THE CDZ2

Allowable Uses

56. The CDZ facilitates a range of uses, most of which will require a permit ('Section 2') uses. This ensures that residential uses are not 'as-of-right', given the remediation required for sensitive uses and also allows that in the unlikely situation where the remediation of the site (or part of the site) cannot be achieved to an acceptable point, other uses can be considered.
57. I am in general agreement with the table of uses proposed in the CDZ2. However, I consider there could be some greater flexibility in relation to the following:
 - 'Shop' use should be allowed to locate along Huntingdale Road (not just in the 'mixed use area' shown on the Comprehensive Development Plan) given that this road is a Road Zone (Category 1).
 - 'Place of Worship' does not need to have the condition requirements of a floor space cap and road zone reference. This would allow for the consideration of a permit and ensure it is not prohibited in the event residential / sensitive use is not permitted.
 - 'Store' does not need to have the condition requiring connection a dwelling. This would allow for the consideration of a permit and ensure it is not prohibited in the event residential / sensitive use is not permitted.
58. I further consider there is no requirement to list the uses that are prohibited if the condition to the Section 2 Use is not met. Clause 31.02 of the Planning Scheme it states *'A use in Section 2 requires a permit. Any condition opposite the use must be met. If the condition is not met, the use is prohibited'*.

CDZ plan as an Incorporated Document

59. I note that the CDZ Schedule does not include the plan known as the 'Former Talbot Quarry and Landfill Comprehensive Development Plan 2016'. Rather it refers to this plan as a decision guideline in the CDZ2 and proposes that the plan become an Incorporated Document in the Planning Scheme and listed at Clause 81.1.
60. It seems unnecessary to have it in both locations and I consider there is some merit in providing some flexibility in the implementation of the development of this land for the following reasons:

- Some flexibility will be required in the implementation and roll out of this plan and given it is in an Incorporated Document, any amendments require a Planning Scheme Amendment. Whilst I note that the plan states *'The Responsible Authority may grant planning permits which vary from this plan from time to time'*, it is unclear as to what extent of variation would be acceptable and a requirement for a planning scheme amendment to make any changes to the plan would unnecessarily delay the redevelopment of the site.
- The Decision Guidelines allows for variations to the Comprehensive Development Plan to be considered but only if a *'documented rationale for an alternative approach due to the findings of the SESP and ESA'* is provided. I consider that there should be the flexibility to vary from the approved Comprehensive Development Plan for other scenarios such as the provision of alternative uses, rather than just the outcome of the SESP and ESA.

Overall Development Plan

61. The requirement for an Overall Development Plan (ODP) is the appropriate tool to enable the orderly and logical development of the site. I note that the post-exhibited version of the CDZ2 expanded on the items the ODP must address and in my view some of these are unnecessary at the ODP stage and should be provided at the planning application stage. I further consider that these issues listed should be expressed as *'should'* rather than *'must'* and further the term *'as appropriate'* should be added. I have marked up a copy of the CDZ2 with my recommended changes and included this at **Appendix B**.
62. Essentially, the ODP should set out the framework for future planning applications. The level of detail in the ODP should be commensurate with this high level framework purpose and therefore it is not necessary to have to provide detailed information that is unknown when masterplanning a site or doubling up on information that should be provided and assessed at the planning application stage. Further, given the site is under one ownership, ensuring consistency across the site can be readily achieved. Accordingly, I am of the view that some of the ODP requirements should be moved to *'application requirements'*.
63. For example, for *'Open space and landscaping'*, a concept landscape plan should be sufficient for the ODP. *'Open space and community infrastructure management plans'*, *'communal gardens areas for higher density residential development'* and *'percentage of permeable surfaces'* are all matters that could appropriately be dealt with at planning application stage. The level of detail for *'Land Use, built form and urban design principles and outcomes'* should also be pared back to just require nominated areas for different uses, indicative heights and built form outcomes.
64. Lastly, I note that a number of residents have raised issues about potential overdevelopment of the site, traffic issues, higher density development, and lack of Public Open Space. These are matters that will be considered in the ODP and future planning application stages, which will all be advertised and local residents will have the opportunity to lodge objections once this further level of detail has been submitted.

Timing and Sequencing of SESP and ESA

65. Given the site's history, steps are required to ensure that the land is suitable to be developed for sensitive uses. 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.'* (my emphasis).
66. To do this the planning authority can either require that an Environmental Audit or Statement be issued before notice of the Amendment is given. Alternatively, 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. In any case, this is a requirement of the EAO that applies to the site.
67. The Potentially Contaminated Land General Practice Note (June 2005) suggests that one example of *'difficult or inappropriate'* is where the rezoning relates to a large strategic exercise, which is relevant in this instance.

68. I note that the issue of delaying an audit was a matter considered by the Potentially Contaminated Land Advisory Committee in its report dated 9 March 2012. The report states that *'A deferral 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'*. In this instance, the site is in one ownership and taking account of the size of the site and the past uses, the costs involved in remediation are significant.
69. The Advisory Committee report goes on to state that: *'An audit after the approval of an amendment may be appropriate when:*
- *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.'*
70. The Committee consequently recommended to *'Amend the Ministerial Direction and Practice Note to adopt a riskbased approach and only require an audit early when there will be no further management options (or limited further management options) of the development process'*. I note that the State Government supported this recommendation.
71. In this instance, the proposed CDZ2 includes all sensitive uses as 'Section 2' permit required uses and therefore there are management options available during the planning permit stages and permit conditions to requirement a statement or an audit.
72. 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 without having to do an Environmental Audit up front.
73. The Advisory Committee 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. I note that the State Government 'in principle' supported this recommendation.
74. Whilst these recommendations have not yet been implemented, the Site Environmental Strategy Plan approach has already been commenced and completed (in 2014) and has been endorsed by an appointed EPA accredited Auditor in a letter dated 28 November 2014 (included at Appendix C). The letter concludes that:
- *"Having considered the information available for the site up to November 2014, in our experience the remediation options being proposed by Coffey for this site in the Strategy Plan and the supporting documents listed in this letter, are consistent with similar approaches to remediation of these types of sites, and are considered to be feasible if implemented diligently and with due regard to the physical site properties and the materials used.*
 - *Provided that they are suitably implemented in accordance with the Plan, good practice, and any conditions required by a Statement of Environmental Audit when issued, we consider that there is no overriding issue that would prevent redevelopment of the site, or portions of the site, subject to the suitable completion of the remedial process outlined in Coffey's Strategy Plan, and completion of the audit process with acceptance by EPA."*
75. I am also instructed that permits have been issued and work commenced for the required stockpiling and backfilling of the quarry pit. These are a prerequisite for the remediation work required for the site.
76. 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. I consider that Section 2.2 of

CDZ2 should include the ability for ESAs to be lodged for each stage as the exhibited version of the CDZ2 allowed for.

77. The post-exhibition version of CDZ2 requires the lodgement and approval of the SESP and ESA prior to the submission of any planning application. I can see no planning reason as to why these documents have to be approved before a planning application is submitted. Whilst the SESP is already completed, the ESA should be able to be prepared concurrently with any planning application and approved before any planning permit is issued. This would allow for the timely progress and assessment of development proposals for the site, without the unnecessary extra step of approving the SESP and ESA before an application can even be lodged. The end result is essentially the same as a planning application has to be consistent with the SESP and ESA in any event.
78. The principles remain in terms of the general land uses and built form requirements and that development should not occur until an environmental audit is completed. However, the timing and sequencing of some of the components of the CDZ Schedule, in my view, should change to provide greater flexibility whilst reaching the same end point.

Development Contributions

79. I note that the Council is proposing a Development Contributions Plan Overlay (DCPO). This was added post exhibition and therefore does not form part of the Amendment. Notwithstanding this, it is my view that a DCPO is unnecessary and unwarranted in this instance for the following reasons:
- There is no strategic or statutory basis for a DCPO.
 - This is not a typical residential infill site. There are considerable development costs involved in the remediation and rehabilitation of the site which will result in a net community benefit in the clean up of the site and opening up the site to the surrounding community.
 - The site is in one ownership and therefore there is no need to establish infrastructure requirements up front to allow for the distribution of the cost of these between various landowners.
 - The redevelopment of the site will include roads, publicly open spaces and links and community infrastructure which will all be provided to the satisfaction of the Responsible Authority.

CONCLUSION

80. Having regard to the above I consider that in regard to the Amendment C129:

- There is strong strategic support for the proposed Amendment.
- The proposed rezoning to the CDZ is appropriate.
- A number of changes to the Schedule to the CDZ are appropriate to provide greater flexibility in the range of uses permissible.
- The extent of requirements to be provided as part of the ODP are unnecessary and should be provided at the planning application stage.
- To enable the timely and orderly planning of the site, the SESP and ESA should be able to be prepared concurrently with any planning application, and approved, before any planning permit is issued.
- A DCPO is unnecessary and unwarranted.



APPENDIX A STATEMENT OF QUALIFICATIONS AND EXPERTISE

STATEMENT OF QUALIFICATIONS AND EXPERIENCE

Name and Address

Stuart Andrew McGurn
Director
Urbis Pty Ltd
Level 12, 120 Collins Street
MELBOURNE VIC 3000

Qualifications

- Bachelor of Arts 1984
- Graduate Diploma Urban Planning 1986

Professional Experience

- Current Position: Director, Urbis Pty Ltd
- 2010-2015: Partner, Environmental Resources Management Australia Pty Ltd
- 1998 – 2010: Director, Fulcrum Town Planners Pty Ltd
- 1986 – 1998: Town Planner in local government – Cities of Broadmeadows and Melbourne, including role as Principal Planner – City of Melbourne

Area of Expertise

- Statutory planning for local and state government on a range of residential, commercial and industrial issues.
- Consulting advice to a wide range of commercial and local government clients addressing the management of urban development and the statutory planning process.
- Extensive planning advice to architects, project managers and other professionals involved in a range of projects and the built form and visual impact issues associated with the development of land.

Expertise to Prepare this Report

Professional qualifications and expertise in town planning both in the public and private sectors.

Instructions which defined the Scope of the Report

My instructions required me to undertake a town planning assessment and review the merits of the proposal. In so doing, I have relied upon those matters set down below.

Facts, Matters and Assumptions Relied Upon

I have relied upon the following in the preparation of this report:

- Inspection of the subject site and surrounds.
- Review of the Monash Planning Scheme and strategic documents.
- Review of Planning Scheme Amendment C129 documentation and supporting documents.

Documents taken into Account

Relevant documents are described above.

Identity of Persons undertaking the work

Stuart McGurn assisted by Claire Betteridge, Associate Director.

Summary of Opinions

A summary of my opinions in relation to this matter is included at paragraph no. 7 of my evidence.

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Tribunal.



Stuart McGurn
Urbis Pty Ltd

APPENDIX B TRACKED CHANGES TO CDZ2

DD/MM/YY
Proposed C129

SCHEDULE 2 TO THE COMPREHENSIVE DEVELOPMENT ZONE

Shown on the planning scheme map as **CDZ2**.

FORMER TALBOT QUARRY AND LANDFILL COMPREHENSIVE DEVELOPMENT PLAN

Land

No. 1221-1249 Centre Road, Oakleigh South (former Talbot Avenue Quarry) as shown on the Former Talbot Quarry and Landfill Comprehensive Development Plan – the land comprises the following land parcels:

- CT Vol 3645, Folio 846 (Lots 1-41 LP 12090),
- CT Vol 9402, Folio 344 (Lot 1 TP805390J),
- CT Vol 8186, Folio 871 (Lot 1, LP 38793),
- CT Vol 6313, Folio 437 (CA 6A Sec 2),
- CT Vol 10378, Fol 210 (Lot 2, PS 409879V),
- CT Vol 8343 Fol 532 (Lot 1-3 TP 803687))

Purpose

- To recognise the past uses of the land (including as a former quarry and landfill) and the residual environmental conditions of the land
- To identify a range of land uses that may be suitable for potentially contaminated or filled land
- To allow for an integrated residential and mixed use development which fosters social interaction, walkability and creates a sense of place and a new local identity
- To provide an appropriate land use solution based on environmental management approaches to deal effectively with site contamination
- To provide for a range of housing densities and building types
- To provide a framework for a contemporary residential development and opportunities for appropriately located and scaled higher density residential forms that reflect the site’s size and limited physical connections with the surrounding neighbourhood in a manner that respects key elements of the surrounding residential character
- To recognise and protect the lower density suburban amenity of existing residential properties on the east and north site boundaries
- To recognise and protect the sensitive interfaces with existing public open space to the north and south
- To provide a framework that supports alternative land uses that complement surrounding residential land uses and are aligned with relevant Council policies in the Monash Planning Scheme and the outcomes of the Environmental Audit

1.0 Table of uses

DD/MM/YY
Proposed C129

Section 1 - Permit not required

Use	Condition
Animal keeping (other than Animal boarding)	Must be no more than 2 animals.

MONASH PLANNING SCHEME

Use	Condition
Minor utility installation Railway	
Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

Use	Condition
Accommodation	
Agriculture (other than Animal keeping, Animal training, Apiculture, Horse stables and Intensive animal husbandry)	
Animal keeping (other than Animal boarding) – if the Section 1 condition is not met	Must be no more than 5 animals.
Car park	Must be used in conjunction with another use in Section 1 or 2.
Car wash	The site must adjoin, or have access to, a road in a Road Zone.
Community Market	
Convenience restaurant	The site must adjoin, or have access to, a road in a Road Zone.
Convenience shop	
Food and drink premises (other than Convenience restaurant)	
Home occupation	
Medical centre	
Leisure and recreation (other than Motor racing track)	
Office (other than Medical Centre)	Must have frontage to a road within a Road Zone
Place of assembly (other than Amusement parlour, Carnival, Circus, Nightclub and Place of worship)	
Place of worship	The gross floor area of all buildings must not exceed 250 square metres. The site must adjoin or have access to a road in a Road Zone.
Plant nursery	
Service station	Must have frontage to a road within a Road Zone
Shop (other than Adult sex bookshop, Bottle shop and Convenience shop)	Must be on the land shown as Mixed use in the approved Comprehensive Development Plan to this zone <u>or adjoin or have access to a road in a Road Zone</u>

Use	Condition
Store	Must be in a building, not a dwelling, and used to store equipment, goods, or motor vehicles used in conjunction with the occupation of a resident of a dwelling on the lot.

Utility installation (other than Minor utility installation and Telecommunications facility)

Any other use not in Section 1 or 3

Section 3 – Prohibited

Use
Adult sex bookshop
Amusement parlour
Animal boarding
Animal keeping (if Section 2 condition not met)
Animal training
Bottle shop
Brothel
Car park (if Section 2 condition not met)
Car wash (if Section 2 condition not met)
Cinema based entertainment facility
Convenience restaurant (if Section 2 condition not met)
Horse stables
Industry (other than Car wash)
Intensive animal husbandry
Motor racing track

Use

Nightclub

~~Office (if Section 2 condition not met)~~

~~Place of worship (if Section 2 condition not met)~~

Retail premises (other than food and drink premises, shop, plant nursery and community market)

Saleyard

~~Service station (if Section 2 condition not met)~~

~~Shop (if Section 2 condition not met)~~

Stone extraction

~~Store (if Section 2 condition not met)~~

Transport terminal

Warehouse (other than Store)

2.0

Overall Development Plan

DD/MM/YY
Proposed C129

Before deciding upon a planning application for the use, development or subdivision of the site, an Overall Development Plan must be submitted and approved to the satisfaction of the responsible authority. The Overall Development Plan and supporting material ~~must~~ should address as a minimum the following issues, as appropriate:

- Management of existing Site and Context issues
 - Adjacent land uses and recent development;
 - Prevailing built form characteristics ~~and emerging trends~~ in the local area;
 - Adjoining roads and pedestrian links; and
 - ~~Potential flooding issues, and~~
 - Topography
- Open Space and Landscaping
 - Existing significant vegetation on the subject site;
 - Concept Landscape plan; open space and community infrastructure management plans;
 - ~~Communal garden areas for higher density residential development, and~~
 - ~~Percentage of permeable surfaces proposed across the site.~~
- Community facilities (depending on the scale and intensity of the proposal)
 - Existing community infrastructure in the local areas, and
 - Facilities incorporated within the proposal and levels of public access.
- Access and movement

MONASH PLANNING SCHEME

- A transport plan that assesses vehicle movements, access to public transport and the provision of walking and cycling infrastructure in the local area;
- Detail regarding the internal circulation network within the site;
- ~~Provision of cycling facilities;~~
- ~~Car parking rates for all uses, including visitor parking, and~~
- ~~Potential for public transport and active transport upgrades associated with the proposal.~~
- Engineering infrastructure
 - ~~Existin~~Existing infrastructure and ~~utilites~~utilities on the subject site;
 - Drainage and land remediation plans, and
 - Detail regarding ~~an~~ infrastructure contributions ~~plan~~ that considers transport, public realm, recreation and community infrastructure needs of the site.
- Development staging and management of any common property
 - Clear sequencing of ~~land~~land remediation consistent with the Site Environmental Strategy Plan (SESP).
- Land use, built form and urban design principles and outcomes
 - Indicative uses, ~~with forecast indicative~~ building heights, ~~and built form outcomes setbacks, site coverage, number of dwellings and areas of commercial space;~~
 - ~~Urban design guidelines to ensure the orderly development of the public realm, and~~
 - ~~Interface treatments to the subject site boundaries and the differing uses presented internally n the subject site.~~
- ~~Environmentally sustainable development outcomes across the site~~
 - ~~Water Sensitive Urban Design measure required within the site, and~~
 - ~~Techniques to ensure the use of alternative water sources such as rainwater and stormwater.~~

2.1 Approval of the Overall Development Plan

Before deciding to approve an Overall Development Plan required by this schedule, the responsible authority must display the Overall Development Plan for public comment.

Notice of the Overall Development Plan must be given to:

- the owners and occupiers of adjoining land,
- the City of Kingston,
- Environment Protection ~~Agency~~Authority,
- VicRoads

The Overall Development Plan must be displayed, or further information required, no later than 28 days after the plan is received by the responsible authority.

The Overall Development Plan must be displayed within 14 days of satisfactory further information being received.

The Overall Development Plan must be displayed for at least 14 days but no longer than 28 days.

The Overall Development Plan and Planning Permit Applications may be displayed concurrently.

2.2 Amendment of the Overall Development Plan

An approved Overall Development Plan may be amended to the satisfaction of the responsible authority.

Before deciding to approve an amendment to an approved Overall Development Plan, the responsible authority must display the amended Overall Development Plan for public comment.

Notice of the amended Overall Development Plan must be given to:

- the owners and occupiers of adjoining land,
- the City of Kingston,
- Environment Protection Authority,
- VicRoads

The amended Overall Development Plan must be displayed, or further information required, no later than 28 days after the plan is received by the responsible authority.

The amended Overall Development Plan must be displayed within 14 days of satisfactory further information being received.

The amended Overall Development Plan must be displayed for at least 14 days but no longer than 28 days.

The amended Overall Development Plan and Planning Permit Applications may be displayed concurrently.

2.3 Approval of the SESP and ESA

Prior to the ~~issue submission~~ of any planning ~~application~~permit, the following reports must be submitted and approved to the satisfaction of the Responsible Authority:

- A Site Environmental Strategy Plan (SESP) (for the whole site)
- Environmental Site Assessment (pertaining to the relevant stage): An Environmental Site Assessment (ESA) must be undertaken by a suitably qualified environmental

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consultant and endorsed by an environmental auditor appointed under the Environment Protection Act 1970.

The endorsement must confirm that the ESA and SESP are consistent and adequately seek to address and manage the residual site contamination issues from the past land uses.

3.0 Use of land

3.1 Amenity of the neighbourhood

A use which is not a sensitive use should not detrimentally affect the amenity of the neighbourhood, including through the:

- Transport or materials, goods or commodities to or from the land.
- Appearance of any building, works or materials.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

3.2 Application requirements

Planning applications can be staged across the site and must be generally consistent with the approved Overall Development Plan, SESP and ESA.

3.3 Decision guidelines

Before deciding on an application to use land, the responsible authority must consider, as appropriate:

- The historical use of the land and any relevant environmental, geotechnical and contamination issues.
- For non-residential uses, the potential amenity impact on areas set aside and used for dwellings.
- The availability of and connection to urban services and utilities.
- The effect of traffic to be generated from the site on the existing road network.
- Any other matters which relate to the use of the land.
- Any ~~Site Environmental Strategy Plan (SESP)~~ prepared for the site and the ESA relating to the stage(s) impacting on the proposed use.
- Consistency with the 'Former Talbot Quarry and Landfill Comprehensive Development Plan 2016' or, for applications that propose to vary from the approved Comprehensive Development Plan, the documented rationale for an alternative approach, ~~due to the findings of the SESP and ESA.~~
- The approved 'Overall Development Plan' for the site.

3.4 Permit Conditions

A planning permit for a sensitive use (residential use, child care centre, pre-school centre or primary school) must contain the following conditions.

- Before the use permitted commences, the owner of the land must provide either:
 - A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
 - ~~An A statement made by an~~ environmental auditor appointed under the Environment Protection Act 1970 ~~must make a statement~~ in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

- Before the use permitted commences the owner of the land must enter into and execute a Section 173 Agreement for the ongoing management of the site in accordance with the requirements of the certificate of environmental audit or the statement of audit and any conditions of permit use/operations.

4.0 Subdivision

DD/MM/YY
Proposed C129

4.1 Application requirements

An application to subdivide land must be accompanied by the following information, as appropriate:

- A plan drawn to scale which shows:
 - The boundaries and dimensions of the site.
 - Adjoining roads.
 - Relevant ground levels.
 - Areas of subdivision, including any areas of common property.

4.2 Decision guidelines

Before deciding on an application to subdivide land, the responsible authority must consider, as appropriate:

- Consistency with the 'Former Talbot Quarry and Landfill Comprehensive Development Plan 2016' or, for applications that propose to vary from the approved Comprehensive Development Plan, the documented rationale for an alternative approach, ~~due to the findings of the SESP and ESA.~~
- The relevant provisions of Clause 56.
- The relevant requirements of authorities specified as referral authorities in Clause 66.
- Any ~~Site Environmental Strategy Plan (SESP)~~ prepared for the site
- Any ESA relating to the stage(s) prepared for the site
- The approved 'Overall Development Plan' for the site.

5.0 Buildings and works

DD/MM/YY
Proposed

5.1 Permit Required

A permit is required to:

- Construct or extend one dwelling on a lot less than 300 square metres
- Construct a dwelling if there is at least one dwelling existing on the lot.
- Construct two or more dwellings on a lot.
- Extend a dwelling if there are two or more dwellings on the lot.
- Construct or extend a dwelling if it is on common property.
- Construct or extend a residential building.

A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 1.0 of this Schedule.

5.2 Application requirements

- Plans drawn to scale showing
 - The boundaries and dimensions of the site.
 - Adjoining roads.
 - Relevant ground levels.
 - The layout of existing and proposed buildings and works.
 - All driveway, car parking and loading areas.
 - Proposed landscape areas.
 - All external storage and waste treatment areas.
- Elevation drawings and floor plans for all buildings to scale showing the colour and materials of all buildings and works.
- Construction details of all drainage works, driveways, vehicle parking and loading areas.
- A landscape layout which includes the description of vegetation to be planted, the surfaces to be constructed, site works specification and method of preparing, draining, watering and maintaining the landscape area.
- For buildings and works intended for non-residential use, a statement must be submitted to the responsible authority addressing any potential amenity impact on nearby areas set aside and used for dwellings.

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5.3 Decision guidelines

The responsible authority must consider, as appropriate:

- Consistency with the 'Former Talbot Quarry and Landfill Comprehensive Development Plan 2016' or, for applications that propose to vary from the approved Comprehensive Development Plan, the documented rationale for an alternative approach, ~~due to the findings of the SESP and ESA.~~
- For non-residential uses, the potential amenity impact on areas set aside and used for dwellings.
- Amenity impacts on adjoining residential ~~properties~~ properties.
- The requirements of Clause 55 (ResCode) or Clause 58 (Apartment Development), as relevant, for residential development
- Any Environmental Site Assessment (ESA) and Site Environmental Strategy Plan (SESP) prepared for the site or parts of the site.
- The approved 'Overall Development Plan' for the site.

5.4 Permit Conditions

Requirement

A planning permit for development that facilitates a sensitive use (residential use, child care centre, pre-school centre or primary school) must contain the following conditions.

- Before the construction or carrying out of buildings and works in association with a sensitive use commences, the owner of the land must provide either:
 - A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
 - ~~A~~ A statement made by an environmental auditor appointed under the Environment Protection Act 1970 ~~must make a statement~~ in accordance with

MONASH PLANNING SCHEME

Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

- Before the construction or carrying out of buildings and works in association with a sensitive use commences the owner of the land must enter into and execute a Section 173 Agreement for the ongoing management of the site in accordance with the requirements of the certificate of environmental audit or the statement of audit and any conditions of permit use/operations.

6.0 Advertising signs

DD/MM/YY
Proposed C129

Advertising sign requirements are at Clause 52.05. This zone is in Category 3



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