

1.2 PROPOSED AMENDMENT C156 – REZONING OF THE PMP PRINTING SITE, 209-211 CARINISH ROAD, 31-49 BROWNS ROAD, AND BENDIX DRIVE, CLAYTON
(SMC: File No. W19-211)

Responsible Director: Peter Panagakos

RECOMMENDATION

That Council:

1. *Prior to proceeding further with proposed Amendment C156, that the amendment documentation be modified to:
 - a. *Retain third party notice and appeal rights;*
 - b. *Include the Environmental Audit Overlay requirements in the Comprehensive Development Zone to require a that prior to the commencement of use or development either:
 - i. *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
 - ii. *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 use.**
 - c. *Include a requirement in the planning provisions that the land owners must meet any subsequent costs Council may incur that are associated with peer and legal review of environmental contamination issues, including those related to compliance with the Environmental Audit Overlay on the site at permit stage incurred by Council.**
2. *Clarifies that any land proposed to be transferred to Council as the Public Open Space contribution pursuant to Clause 53.01 is to be unencumbered by contamination or appropriately remediated and must be unencumbered from any ongoing contamination management obligations, all to Council's satisfaction, or, if that cannot be satisfied, that a 10% cash contribution for Public Open Space would be required.*
3. *Requires written support from the 2 main land owners of the PMP Printing site to the provisions of the amendment package.*
4. *Requires the written agreement of the 2 main land owners to meet all costs associated with the Amendment and any subsequent costs for peer review of contamination issues as part of any planning permit process.*
5. *Once the documentation has been modified and agreements made in respect of the resolutions 1, 2 and 3, requests the Minister for Planning to authorise Council, pursuant to Section 8A of the Planning and Environment Act 1987, to prepare Amendment C156.*
6. *Authorises the Director City Development to prepare and finalise the planning scheme amendment documentation in accordance with this report.*

7. Upon receiving authorisation from the Minister for Planning, prepares Amendment C156 and exhibits the amendment in accordance with Section 19 of the Planning and Environment Act 1987.

INTRODUCTION

The purpose of this report is to consider a request from the owners of land at 209-211 Carinish Road and 31-49 Browns Road, known as the PMP Printing site to rezone the land through a planning scheme amendment. The proposed amendment also includes all of the land in neighbouring Bendix Drive, Clayton.

The proposed amendment seeks to amend the Monash Planning Scheme to rezone the land from the existing Industrial 1 Zone to a Comprehensive Development Zone with an Environmental Audit Overlay. Initially it was only proposed to rezone the PMP site. But as a result of initial community engagement, it is proposed that the amendment now include the adjacent properties in Bendix Drive.

BACKGROUND

History of the proposed amendment

The owners of the PMP Printing site – Make Properties and BeWise - approached the Victorian Planning Authority (VPA) in 2015 to facilitate the rezoning of their land. Council had agreed to work collaboratively with the VPA on this rezoning project as part of the Monash National Employment and Innovation Cluster on a “without prejudice” basis.

Officers have worked closely with the VPA, the property owners and numerous consultants engaged by the VPA on behalf of the owners to develop a shared vision for the future of the site. In the initial stages, only the main PMP site was included in discussions, but this was later expanded to include all of the properties in Bendix Drive, that were also in the Industrial 1 zone.

The proposed planning scheme Amendment C156 has been drafted to reflect and implement the future vision for the site.

Background Technical Reports

The VPA on behalf of the site’s owners engaged a range of consultants to provide background technical reports on the following:

- Urban Context Report – Tract
- Economics & Retail Assessment – Essential Economics P/L
- Transport, movement and access – Carndo
- Stormwater Drainage Assessment – Alluvium
- Engineering Services Advice - Taylors
- Community Facilities & Social Impact Assessment – Public Place
- Arboricultural Assessment – Homewood
- Environmental Site Assessment – Senversa
- Affordable Housing Strategy – Affordable Development Outcomes (ADO)

In addition, advice was sought from the following authorities:

- Melbourne Water & South East Water
- Department of Transport (DoT)
- Environment Protection Agency (EPA)
- Department of Environment, Land, Water and Planning (DELWP)

As part of the VPA process commencing in 2015, the issue of site contamination and the need for a satisfactory resolution to this issue was raised consistently with the land owners and the VPA. Despite raising these concerns, the land contamination assessment was dealt with late in the development process for the site.

The Subject Site

The land proposed as part of Amendment C156 is the PMP Printing site at 209-211 Carinish Road, 31-49 Browns Road, all properties in Bendix Drive and 1455A to 1457B Centre Road Clayton. **Figure 1** below shows the subject properties.

Initially the proposed Amendment was to apply to the PMP Printing site only. However, following preliminary discussion with land owners in Bendix Drive it was considered appropriate that the remaining properties in the Industrial 1 zone in this location – Bendix Drive and Centre Road properties – be included as part of this amendment. All properties included in proposed Amendment C156 are currently zoned Industrial 1 zone.

To the north of the site is the former Clayton Primary School site that was sold by the Victorian State Government and is being redeveloped for medium density townhouses and 4 storey apartments in accordance with a Development Plan. This site is in the General Residential Zone Schedule 6, as is residential land to the west of Browns Road. Land to the north of the former school site is a staff car park owned by Monash Health and zoned Industrial 1 Zone.

To the east of the amendment site is Moriah Street residential area, which is a mix of low density predominantly one and two storey single houses and townhouses. This area is in the General Residential Zone Schedule 3.



Figure 1: Proposed Amendment Site.

On the south side of Carinish Road the elevated railway creates open space areas with bicycle and pedestrian trails connecting to Clayton Station to the west and Springvale to the east. Further to the south on Centre Road in the City of Kingston is the medium density Jacksons Green development

ISSUES AND DISCUSSION

Proposed Amendment C156

The proposed amendment package submitted by the VPA seeks to:

- Rezone the subject land from the Industrial 1 Zone to the Comprehensive Development Zone Schedule 2;
- Apply an Environmental Audit Overlay over the whole of the site, requiring an audit to be undertaken prior to the commencement or any works associated with a sensitive use;
- Remove the existing Schedule 1 to the Design and Development Overlay from the subject land;
- Insert Clause 45.06 Development Contributions Plan Overlay (DCPO) into the Scheme;

- Amend the Schedule to Clause 53.01 to require subdivision within the amendment area to provide an open space contribution of 10% (this will be subject to the suitability of the land for Public Open Space having regard to recommendation 1c) of this report);
- Include two new incorporated documents into the Monash Planning Scheme – the “*PMP Printing Comprehensive Development Plan*” and “*PMP Printing Development Contributions Plan*”, and
- Facilitate the provision of affordable housing outcomes through the application of a Section 173 Agreement with the owners of all affected lots.

Comprehensive Development Plan (CDP) – Future Urban Structure

A comprehensive development plan has been prepared for the proposed rezoning in consultation with the VPA and the land owners and with some initial consultation with neighbours and Council officers. The urban structure is part of the CDP and provides the overall layout for the future development of the site and is considered broadly acceptable from a design, traffic and land use basis. It provides for residential development over the majority of the site, with commercial and mixed uses in the southern portion of the site, and two parcels of public open space – see Figure 2 below.



Figure 2: Future Urban Structure

The Comprehensive Development Plan also includes requirements for the provision of:

- affordable housing as part of any redevelopment of the site;
- 10% of the site as Public Open Space; and
- Development Contributions for traffic and community infrastructure.

A copy of the proposed amendment documentation is included as **Attachment 1**. The Comprehensive Development Plan is included as **Attachment 2**.

Potential contamination of the site.

As a current and long operating printing facility the site is considered potentially contaminated. As part of the planning for the site an Environmental Site Assessment was undertaken by Senversa. This report concluded that:

“Based on the information reviewed, the site is likely to be considered suitable for a sensitive use provided further site assessment and remediation is undertaken as a part of environmental audit. As such, an Environmental Audit Overlay (EAO) should be imposed on the precinct to allow a planning scheme amendment. The environmental audit can be undertaken after imposition of the EAO so that the conditions contained within the final Statement of Environmental Audit can be tailored to the proposed development (i.e. installation of a vapour barrier or active venting under basements). The conditions will therefore be able to address the development specific environmental risks and not require overly onerous conditions to be placed on the site that may unnecessarily restrict the proposed development.”

The key issue here is that the report states that the site *“is likely to be considered suitable for a sensitive use provided further site assessment and remediation is undertaken as a part of environmental audit.”* The proposed solution is to apply an Environmental Audit Overlay (EAO) that requires contamination to be dealt with prior to the commencement of a sensitive use such as residential or child care.

The exact type of remediation or contamination management required would not be known until the current print works ceased operations and the site was subject to further more extensive testing.

Timing of audit – Application of an Environmental Audit Overlay

Officers have previously advised the land owners and the VPA that in accordance with the Ministers Direction No. 1 - Potentially Contaminated Land, the experience with Talbot quarry and the uncertainty around the exact nature and level of contamination on the site, as the printing business continues to operate, that the audit would be required prior to exhibiting an amendment to rezone the land.

Recent discussions with senior officers at the Department of Planning have indicated that the Department is supportive of the proposal to address contamination through the EAO and proceed with considering a rezoning ahead of the site clean-up.

Unfortunately, throughout the development of the plans for this site the EPA have provided a variety of advice – the most recent being that they, “see no reason why the amendment cannot proceed at this time”.

This approach would see the land rezoned and an Environmental Audit Overlay applied with audit requirements addressed prior to commencement of any sensitive uses or construction of buildings and works for sensitive uses.

This approach has been used on other sites in Monash where the contamination risk has been assessed as lower, such as the Body Shop site and the Gary & Warren Smith site in Oakleigh.

Whilst this approach covers off on the development of sensitive uses ahead of resolving contamination, it still allows a use deemed “non-sensitive” to establish on the site. Such uses could include office buildings with basement car parks. Officers are aware of instances where basement car parks have been constructed but rendered unusable due to vapours and gas emissions pooling in the basement car parks as a result of not contamination not being addressed in the construction as the building was deemed

“non-sensitive.” This is a situation that should be avoided. To this end the proposed Comprehensive Development zone (CDZ) should be modified to transfer the Environmental Audit Overlay requirements for that apply for sensitive uses into the CDZ so that they apply for any use or development of the site. This would allow for the issue of a permit for an office, but also require contamination to be addressed prior to the commencement of any works for the development.

Third party appeal rights

The proposed Comprehensive Development Zone provided by the VPA includes an exemption from Notice and Appeal provisions of the Planning & Environment Act where the proposal is generally in accordance with the endorsed Comprehensive Development Plan. This has been included in the draft despite officer advice to the VPA that it would not be supported.

The proposed rezoning of the site should not remove third party notice and appeal rights.

Proposed changes to planning provisions for contaminated sites

As part of the States review into the Environment Protection Authority there are a number of changes proposed to the planning framework that deals with potentially contaminated sites.

The consultation draft of changes was released for comment on Friday 3 April. The essence of the proposed changes are to clarify when it is appropriate to defer an audit as part of a rezoning proposal.

Key changes proposed are:

- Updated definition of ‘potentially contaminated land’ to be consistent with the definition in proposed VPP Clause 73.01 General Terms.
- Expanding the definition ‘sensitive uses’ to also include secondary schools and children’s playgrounds, even if ancillary to another use.
- Updating environmental audit requirements to bring them in line with the Environment Protection Act 2017 (as amended to commence on 1 July 2020). This includes reference to the preliminary risk screen assessment as an alternative to an environmental audit in some circumstances.
- Updates to the requirements to allow a planning authority to defer the requirement for an audit by including in the amendment the application of the Environmental Audit Overlay in the Victoria Planning Provisions to all land that it has determined to be potentially contaminated.

Although it is a consultation draft, as the changes fall out of changes to the Environment Protection Act, it is considered likely that the changes will be brought into effect sometime this year.

Amendment content and fees

Given that the urban design of the re-development of the site was prepared with input from both major land owners and provides a significant uplift for these land owners it is appropriate that the landowners agree to pay all fees associated with the amendment, including any panel fees.

Additionally, given the extensive work that has gone into the development of the urban framework it is also considered appropriate that the land owners provide a written agreement to the form and content of the draft amendment. The amendment process should not be used by the major landowners to revisit issues of affordable housing or public open space which have been worked through and agreed as part of the development of the amendment package.

Should the amendment ultimately proceed as proposed, contamination issues will be addressed through planning permit processes and prior to the commencement of those planning permits. This process will include the submission of technical reports by EPA approved auditors, which in turn will require independent peer review as part of the planning permit process. These costs should fall to Council and the community to fund. It proposed to include a requirement in the Amendment documentation for land owners to fund the peer review and legal advice for any contamination, audit or environmental certificate advice.

Public Open Space

The agreed urban design framework provides for approximately 10% of the amendment area as public open space. This design has been developed on the basis that the site can and will be remediated to an appropriate level. This should mean that the public open space is not encumbered by contamination or an ongoing, unreasonable need to manage contamination through usage constraints, vapour barriers, vents and the like.

Should the land identified as Public Open Space not be able to be deemed unencumbered by contamination, appropriately remediated or is unencumbered ongoing contamination management obligations, that are not to Council's satisfaction, then the Public Open Space requirement would be met through a 10% cash contribution. The land proposed as park land would remain as part of the overall redevelopment via a body corporate structure and not vest in Council.

It should be noted that the exhibition of the amendment is the first stage in the process. After the conclusions of the exhibition period the amendment will be reported to Council for consideration. The exhibition period may also result in objection which in turn would mean that an independent panel would be convened.

Developer Contributions Plan (DCP) and Affordable Housing

As part of the planning for the site a Development Contributions Plan has been prepared. The DCP includes a contribution traffic intersection works in surrounding streets, pedestrian projects and community facilities in the broader Clayton area. The detail of the projects is contained in the PMP Printing Precinct DCP.

The redevelopment of the sites also proposed to make provision for up to 10% of the housing stock as affordable housing. There are a number of way this could be delivered including:

- The delivery of up to ten (10) per cent Affordable Housing by way of one of the following options; 1.1. Transfer of a land parcel or parcels with the capacity to support the development of 10 per cent of the site's total dwellings as

Affordable Housing dwellings, to be provided to a Registered Housing Agency at nil consideration; or

- Sale of four per cent of total dwellings as completed dwellings at a 50 per cent discount to the established market value to a Registered Housing Agency for use as Affordable (rental) Housing; or
- The gifting of two per cent of total dwellings as Affordable Housing, delivered in the form of completed dwellings gifted to a Registered Housing Agency for use as Affordable (rental) Housing; or
- Any other model that achieves ten per cent of total dwellings as Affordable Housing for a minimum 15-year period, on the condition that these dwellings are managed through an appropriately

Strategic Assessment Guidelines

All planning scheme amendments are required to be assessed against the Strategic Assessment Guidelines required by the Minister's Direction No. 11, and these form the basis of the Explanatory Report for the proposed Amendment. The key strategic considerations that must be addressed, where relevant, are:

1. Why is the amendment required?
2. Does the amendment implement the objectives of planning and address any environmental, social and economic effects?
3. Does the amendment address relevant bushfire risk?
4. Does the amendment comply with all the relevant Minister's Directions?
5. How does the amendment support or implement the Planning Policy Framework (PPF)?
6. How does the amendment support or implement the Local Planning Policy Framework (LPPS) and, specifically the Municipal Strategic Statement (MSS)?
7. How does the amendment support or implement the Municipal Planning Strategy (MPS)?
8. Does the amendment make proper use of the Victoria Planning Provisions?
9. How does the amendment address the views of relevant agencies?
10. Does the amendment address the requirements of the transport Integration Act 2010?
11. What impact will the new planning provisions have on the administrative costs of the responsible authority?

It is considered that the proposed amendment adequately addresses the Strategic Assessment Guidelines.

CONSULTATION

Initial consultation was undertaken by the VPA with the local community about the potential redevelopment of the PMP Printing site. A community workshop was held in May 2018 and was attended by 19 residents and property owners. A further drop in session was held in February 2019 to gain feedback on the proposed urban structure that had been developed. This session was attended by 20 persons. Feedback from these sessions assisted in finalising the proposed urban structure for the site, and highlighted

areas of greatest concern to residents in surrounding areas, particularly car parking and traffic and density of development.

It is proposed that upon receiving authorisation, the amendment would be exhibited in accordance with Section 19 of the *Planning and Environment Act 1987*. The formal exhibition process and (non-statutory) consultation measures would include:

- Notice in the Victorian Government Gazette
- Notice in the Early General News section of the Monash Leader newspaper
- Letters to owners and occupiers of abutting and nearby properties, including all industrial properties within the same precinct
- Information on Council's website
- Information in the Clayton Library
- Media releases and social media posts, as appropriate

The statutory exhibition period is a minimum of one month from the gazettal notice, and provides an opportunity for interested persons to make a submission to Council about the amendment. Following the exhibition period, the submissions would be considered and a further report made to Council. If there are objecting submissions, then Council will be required (unless it chooses to abandon the amendment) to request an independent planning panel to hear submissions and prepare a report for Council to consider.

POLICY IMPLICATIONS

The proposed Amendment C156 is consistent with the strategic policy directions of *Plan Melbourne 2017-2050*, the Council Plan 2017-2021 and the Monash Planning Scheme.

Specifically, Plan Melbourne Direction 1.3 is to "Create development opportunities at urban renewal precincts across Melbourne" and Policy 1.3.1 is to "plan for and facilitate the development of urban renewal precincts", and goes on to state that:

"Urban renewal precincts should be developed as mixed-use neighbourhoods that offer a range and choice of housing as well as other services. They should offer high levels of amenity and connectivity and integrate into surrounding neighbourhoods... A number of former industrial and other sites— including government sites—around Melbourne are currently underutilised. Local planning authorities should identify and plan for ways these sites can be repurposed to create jobs and accommodate growth."

This subject site has been identified as a potential urban redevelopment site in the Monash Industrial Land Use Strategy (MILUS). The Strategy, adopted by Council in February 2014, identifies the PMP site as Precinct 22 was identified as a property that was appropriate to be rezoned to allow for a mix of uses.

FINANCIAL IMPLICATIONS

The financial implications to Council are minimal as there are statutory fees that are charged to the proponents, and the proponents will be expected to cover the costs (except for costs associated with the representation of Council) of a planning panel if required.

The central public open space area is part of the open space contribution, with the remaining contribution to a total of 10% provided through a financial contribution that Council can use in accordance with the *Monash Open Space Strategy (2018)*.

CONCLUSION

Given the proposed changes to the State planning framework in clarifying when it is appropriate to defer dealing with contamination prior to rezoning land and the detailed work that has been undertaken in preparing the urban design and development layout of the site, it is now considered appropriate to proceed to the first step in the amendment process and seek authorisation for the preparation and exhibition of the amendment.

It is proposed that Council request the Minister for Planning for authorisation to prepare proposed Amendment C156 to rezone the subject land subject to:

- The draft CDZ being modified to retain Third Party Notice and Appeal rights;
- The draft CDZ being modified to include Environmental Audit Overlay requirements for all “non-sensitive” uses;
- The draft CDZ be modified to make it clear that any land handed to Council as the Public Open Space contribution is to be unencumbered by contamination or ongoing contamination management obligations or in lieu of that a 10% cash contribution would be required;
- The land owners agreeing to meet all costs associated with amendment, including any subsequent costs associated with peer review of environmental contamination issues at permit stage; and
- The land owners providing written support for the amendment package.

Attachments:

1. Draft VPA Amendment C156 Documents
2. Comprehensive Development Plan
3. Developer Contributions Plan