

**IN THE MATTER OF GOVERNMENT LAND STANDING ADVISORY
COMMITTEE**

Melbourne Water

Submittor

AND

Mornington Peninsula Shire Council

Submittor

AND

Others

Submitters

SUBMISSIONS OF MELBOURNE WATER

Introduction

1. This submission is made on behalf of Melbourne Water as the owner of the land which is the subject of the amendment.

Background

2. The Advisory Committee will be aware of the Victorian Government Landholding Policy and Guidelines and of the Fast Track Government Land Service which is a Government initiative for planning scheme changes to zoning of surplus government land in preparation for sale to the private market.

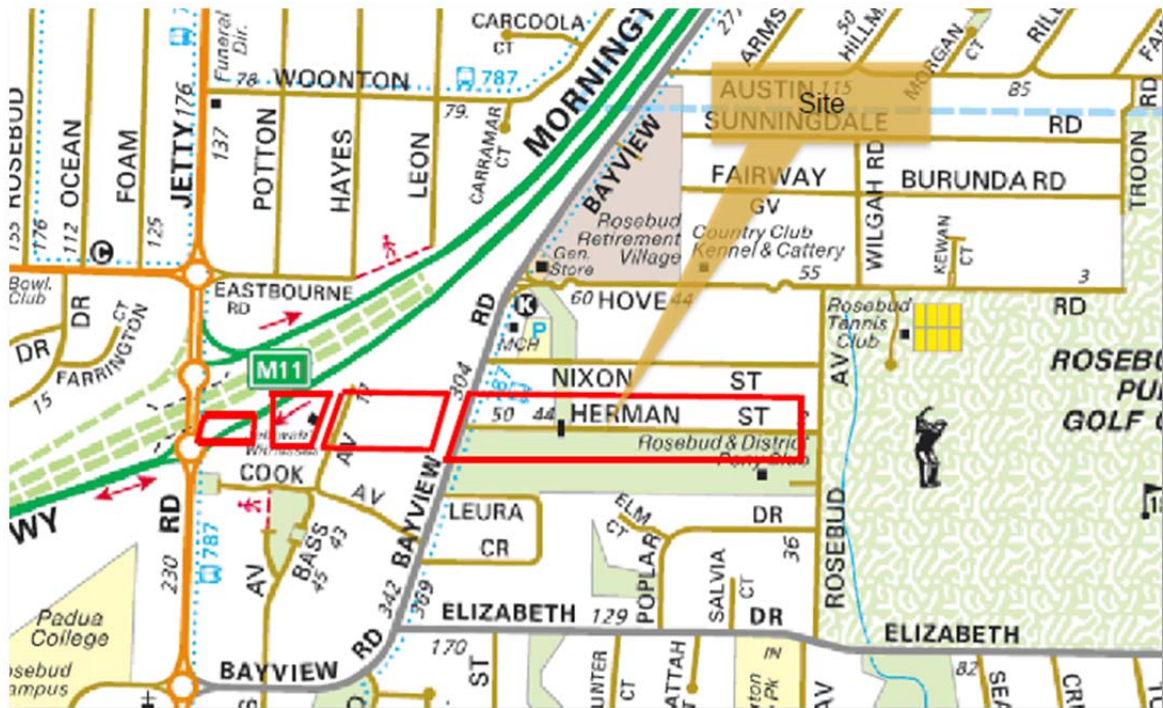
Terms of Reference

3. The Advisory Committee has been given Terms of Reference by the Minister.
4. It is noted that some of the submissions relate to matters that are outside the scope of the terms of reference. In particular, those submissions which

seek a public land zoning for the subject land. Clause 20 of the Terms of Reference precludes the Advisory Committee from considering the application of any public land zones unless requested to by DELWP. DELWP has made no such request. For this reason, this submission does not respond to submissions that seek to have public land zones applied to the land.

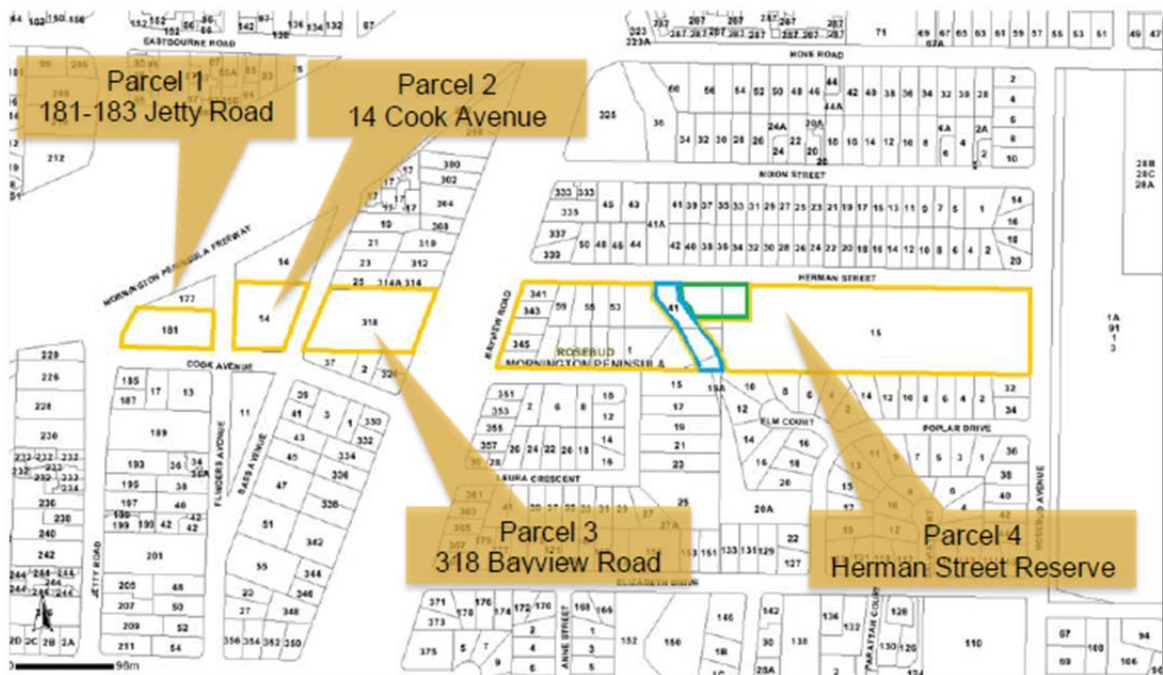
The site and surrounds

5. The subject land, together with surrounding land is illustrated in the plan and aerial photograph below.





6. The site is in an existing residential area and is accessible from various roads.
7. The subject land is comprised of four parcels of land as shown in the plan below.



8. The land which is proposed to be rezoned has an area of 5.6 hectares inclusive of the easement that will be privately owned land but provide appropriate protection for any infrastructure within the easement.
9. The subject site is presently undeveloped aside from a shed and pump station on parcel 4. As stated in the evidence of Mr Glossop¹:

A 2.5m diameter subterranean pipeline adjoins the northern boundary. The pipeline forms part of the 56km long 'South Eastern Outfall' that collects treated effluent from the Eastern Treatment Plant and the Mt Martha and Boneo sewerage treatment plants and discharges it to the ocean outfall at Boags Rocks near Gunnamatta. Following the sale of the land, Melbourne Water will retain an easement (of approximately 40 metres in width) over the northern section of the land to protect future access to the pipeline.

10. Mr Glossop describes each of the parcels as follows²:

Parcel 1

- *181-183 Jetty Road, which is the most westerly parcel of land. The land abuts a splay of Jetty Road / Mornington Peninsula Freeway to the west, Cook Avenue to the south (a cul-de-sac to Jetty Road), Flinders Avenue to the east (an unmade road reserve that is heavily vegetated) and 177 Jetty Road to the north (a vegetated triangular allotment). The land contains some vegetation.*

Parcel 2

- *14 Cook Avenue, which abuts Flinders Avenue to the west (an unmade road reserve that is heavily vegetated), Cook Avenue to the south, Bass Avenue to the east and 14 Bass Avenue to the north (an irregular allotment developed with a Jehovah's Witnesses*

¹ Paragraph 5.4.

² Paragraph 5.6.

facility). There appears to be informal vehicle access from Bass Avenue, through the site, to a fenced off carport structure at the rear (western end) of 14 Bass Avenue. The land is otherwise densely vegetated.

Parcel 3

- 318 Bayview Road, which abuts Bass Avenue to the west, Bayview Road to the east (including a wide strip of land on the western side of Bayview Road that is vegetated), 25 Bass Avenue and 314 Bayview Road to the north, and 37 Bass Avenue, 2 Cook Avenue and 326 Bayview Road to the south. Each of these properties is developed with a dwelling except for 326 Bayview Road which is vacant (vegetated). The land appears to be used for informal pedestrian access and contains scattered vegetation.

Parcel 4

- The largest and most easterly parcel of land within the site is locally referred to as 'Herman Street Reserve'. It is also known as 341-349 Bayview Road, 15, 41, 53-59 Herman Street, and 1-11 Leura Crescent. The land abuts Bayview Road to the west, Rosebud Avenue to the east (which has vegetation adjoining the site), and Herman Street to the north (which is a no-through road for a short section opposite 41 Herman Street with vegetation that extends the length of the site). The western portion of the land (1-11 Leura Crescent) abuts Leura Crescent to the south (unsealed road) and the eastern portion of the land abuts residential development to the south. Each lot is developed with a dwelling. 15 Leura Crescent and 32 Rosebud Avenue have a side abuttal to the site and all other adjoining properties have a rear abuttal. The land contains a shed, pumping station and scattered vegetation and Murray Anderson Creek. It appears to be used for informal vehicle access

from Rosebud Avenue and informal pedestrian access across the site. Some maps indicate that the land is used by the Rosebud & District Pony Club.

11. The subject site enjoys good exposure to roads and the surrounding pedestrian network.
12. The Mornington Peninsula Freeway is to the north of the site and the Rosebud Golf Course is to the east.

Current planning controls

13. The land is currently zoned Public Use Zone 1 (Service and Utility) as depicted on the plan below.



14. The land is either wholly or partly affected by the following overlays:
 - a) Environmental Significance Overlay – Schedule 17 (Streamlines)
 - b) Vegetation Protection Overlay – Schedule 1 – Township Vegetation
 - c) Design and Development Overlay – Schedule 1 – Township Design
 - d) Bushfire Management Overlay.

The Amendment

15. As described in the evidence of Mr Glossop³:

The amendment seeks to rezone the land at 181 Jetty Road to Herman Street, Rosebud (the 'site') from Public Use Zone – Service and Utility (PUZ1) to General Residential Zone – Schedule 1 (GRZ1) and retain all existing overlays. Murray Anderson Creek and the adjoining pumping station in Parcel 4 will be retained by Melbourne Water and will not be rezoned.

Submissions

16. The terms of reference prevent the Advisory Committee from considering public land zones. That is sensible in the context of a process where the land will be in private ownership in future. As stated in Planning Practice Note 2: Public Land Zones, June 2015⁴:

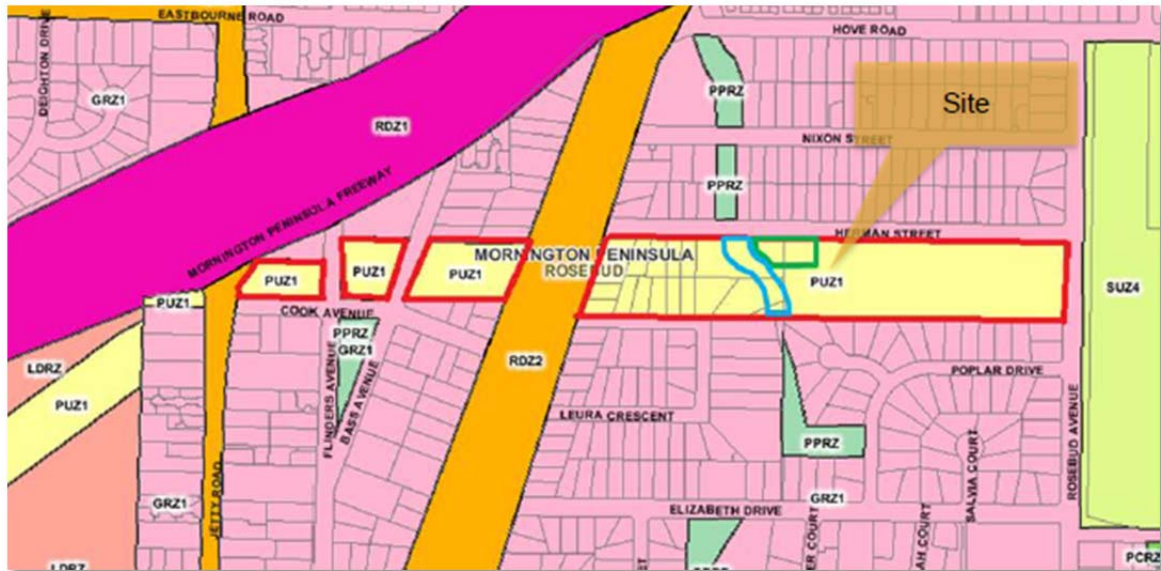
A public land zone will normally be applied to public land owned or managed by a government department or public land manager, including national parks, state forests, coastal crown land and land reserved under the Crown Land (Reserves) Act 1978.

17. Public land zones are obviously not appropriate for privately owned land.
18. The question then becomes, what is the appropriate zone for this land considering that it will be in private ownership.
19. It is worth noting that the existing zoning, Public Use Zone 1 – is designated by clause 36.01-6 of the Scheme as the having the 'Purpose of public land use' nominated as Service & Utility. The land is not zoned for any other purpose. It is not for example within the Public Park and Recreation Zone.

³ Paragraph 1.2.

⁴ Page 1.

20. The concept of the underlying zoning is one that is helpful in this matter. That is, but for the public ownership, what would this land be zoned? In this respect, the surrounding pattern of development, zoning and framework of overlays is enlightening. This is illustrated in the plan below.



21. All of the surrounding land is zoned General Residential Zone 1.
22. The land has good access to roads and is within area that is connected to services like sewer, power, water and the like.
23. The Council has raised the Neighbourhood Residential Zone as a candidate for this land.
24. It is submitted that it would be inappropriate to apply the NRZ to this land. It is not a zone that is used anywhere else within this municipality.
25. It is also a zone that was considered by the Residential Zone Standing Advisory Committee which did not support the use of the zone.
26. A further reason as to the inappropriateness of the NRZ is that the Council is yet to undertake a housing strategy – to apply the NRZ to this land would prejudice the outcome of any such housing strategy.

27. As stated in the evidence of Mr Glossop⁵:

- *Rezoning the land General Residential Zone – Schedule 1 (GRZ1) is appropriate, consistent with the surrounding land and the statutory architecture of the Mornington Peninsula Planning Scheme;*
- *The GRZ1 and the existing overlays including the Design and Development Overlay – Schedule 1 Township Design (DDO1), Environmental Significance Overlay – Schedule 17 Streamlines (ESO17), Vegetation Protection Overlay – Schedule 1 Township Vegetation (VPO1) and Bushfire Management Overlay (BMO) together with the Particular and General Provisions are sufficient to protect the site’s environmental features and guide future development outcomes*

28. Mr Glossop has undertaken an assessment of the Amendment with reference to the *Strategic Assessment Guidelines* as set out in Planning Practice Note 46 (see pages 5-9 of Mr Glossop’s evidence). It is submitted that his assessment is compelling.

29. Mr Glossop has also considered *Planning Practice Note 78: Applying the Residential Zones*.

30. It is submitted that the appropriate zoning for this land is the General Residential Zone supported by the existing range of overlay controls. This suite of controls will provide an appropriate assessment and decision making framework for any future development proposals on the land.

31. It is submitted that an important consideration for the Advisory Committee is that no particular development outcome is proposed under this Amendment – that is a matter for any future permit applications that may be considered. Under the proposed suite of planning controls, all relevant matters will be able to be considered and assessed, including with the participation of third

⁵ Paragraph 1.7.

parties. The existing suite of overlay controls, when combined with the GRZ and the range of other provisions in the planning scheme such as clauses:

- a) 54 – one dwelling on a lot;
- b) 55 – two or more dwellings on a lot;
- c) 56 – residential subdivision;
- d) 52.06 – car parking;
- e) 52.17 – native vegetation;
- f) 65 – decision guidelines

will ensure that all of the built form, road, traffic, parking, vegetation and environmental concerns that have been raised by other submitters will be appropriately assessed as part of any future use and development proposals for the land.

Conclusion

32. It is respectfully submitted that following consideration of the submissions and evidence, the Committee ought conclude that the subject land is appropriately zoned General Residential combined with the existing framework of overlay controls.
33. Melbourne Water seeks a recommendation from the Committee that the Amendment ought be approved.

Peter O'Farrell

Counsel for the Permit Applicant

Instructed by Norton Rose Fulbright Lawyers

10 February 2017