

Government Land Standing Advisory Committee

Tranche 35 Report

1-15 & 1A Johnson Street, Oakleigh

17 June 2022

Contents

About this report.....	1
1 Summary and recommendation	2
1.1 The site.....	2
1.2 Issues raised in submissions	2
1.3 Committee conclusion	3
1.4 Recommendation	3
2 Process issues for this site	5
2.1 Process summary.....	5
2.2 Process issues.....	6
3 Site constraints and opportunities	8
3.1 The site.....	8
3.2 Planning context	8
4 Issues with the proposed changes	10
4.1 What zone and built form controls	10
4.2 What overlays are appropriate	11
Appendix A: About the Government Land Standing Advisory Committee	13

List of Tables

Table 1:	Existing and proposed controls.....	3
Table 2:	Proposal summary.....	5
Table 3:	Exhibited planning scheme changes	5
Table 4:	Committee process	5
Table 5:	Summary of ownership.....	6

List of Figures

Figure 1:	Site location.....	2
Figure 2:	Site lots.....	6
Figure 3:	Current zoning	8
Figure 4:	Proposed zoning	8
Figure 5:	Proposed Environmental Audit Overlay	9

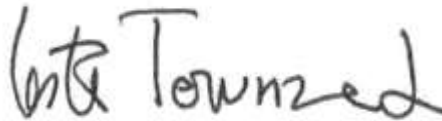
List of Abbreviations

DDO11	Design and Development Overlay–Schedule 11
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority
GLPS	Government Land Planning Service
the Structure Plan	Oakleigh Major Activity Centre Structure Plan, 2012

About this report

On 8 December 2021, the Minister for Planning referred 1-15 & 1A Johnson Street, Oakleigh to the Government Land Standing Advisory Committee as Tranche 35.

This is the report under section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for 1-15 & 1A Johnson Street, Oakleigh.

A handwritten signature in black ink that reads "Lester Townsend". The signature is written in a cursive, slightly slanted style.

Lester Townsend, Lead Chair

A handwritten signature in blue ink that reads "Jessica Tulloch". The signature is written in a cursive, slanted style.

Jessica Tulloch, Member

17 June 2022

1 Summary and recommendation

1.1 The site

Draft Monash Planning Scheme Amendment C151mona (the Amendment) applies to land at 1-15 and 1A Johnson Street, Oakleigh (the site).

The site is currently used as a commuter car park. It is irregular in shape, with a total area of 2,384 square metres. It is bound by Haughton Road to the north, Johnson Street to the east, Mill Road to the south and the Warrigal Road overpass to the west. To the north of Haughton Road is the Pakenham/Cranbourne railway line, with the Oakleigh Station entrance located approximately 50 metres to the north-east of the site.

The site forms part of the Oakleigh Major Activity Centre. The land to the south and southeast is residential, with the Sacred Heart Catholic Church located on the corner of Mill Road and Warrigal Road.

Figure 1: Site location



Source: Planning Report, Auld Planning & Projects, November 2020

1.2 Issues raised in submissions

The Amendment was exhibited on the Engage Victoria website from 24 February to 8 April 2022. No submissions were received through Engage Victoria during exhibition.

The EPA raised issues in a letter to the Government Land Planning Service (GLPS) dated 30 March 2022 about the need for planning controls to address the potential contamination of the site.

1.3 Committee conclusion

The site owners propose to rezone the site from part Transport Zone 2 and part General Residential Zone–Schedule 5 to Commercial 1 Zone. The Amendment also rezones Mill Road immediately to the south of the site to part Commercial 1 Zone and part General Residential Zone–Schedule 3 to correspond with zones on either side of the road. The Committee agrees that this is an appropriate approach if the land is to be sold.

The Environmental Audit Overlay (EAO) is proposed to be applied to the site. The Committee agrees that this is appropriate given the site has a high potential for contamination based on its former use as a service station. Based on the July 2021 changes to Planning Practice Note 30–Potentially Contaminated Land, the Committee also believes that changes should be made to Design and Development Overlay–Schedule 11 (DDO11) to give greater transparency to the implementation of any requirements from of an Environmental Audit Statement.

The proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the *Ministerial Direction on The Form and Content of Planning Schemes*.

The Committee notes that reference to the Road Zone–Category 1 in the Amendment documents will need to be updated to reference a name change to the Transport Zone 2 as introduced through Amendment VC205 on 20 January 2022.

The Committee’s recommendations are summarised in Table 1.

Table 1: Existing and proposed controls

Current planning scheme controls	Exhibited planning scheme changes	Committee recommendation
Existing car park land Transport Zone 2 and General Residential Zone–Schedule 5	Commercial 1 Zone Environmental Audit Overlay	Commercial 1 Zone Environmental Audit Overlay Amend existing DDO11
Part of Mill Road Transport Zone 2	Commercial 1 Zone General Residential Zone–Schedule 3	Commercial 1 Zone General Residential Zone–Schedule 3

1.4 Recommendation

The Committee recommends that a planning scheme amendment be prepared and approved for 1-15 & 1A Johnson Street, Oakleigh to:

1. **Rezone the site to apply the Commercial 1 Zone.**
2. **Rezone Mill Road between Warrigal Highway and Johnson Street to part Commercial 1 Zone and part General Residential Zone–Schedule 3 as shown in Figure 4.**
3. **Apply the Environmental Audit Overlay to the site.**
4. **Amend Design and Development Overlay–Schedule 11 to:**
 - a) **Include a new precinct objective in Clause 6 which states:**

To ensure the recommendations of an Environmental Audit Statement as required by the Environmental Audit Overlay (where applicable) are incorporated into the design.

b) Include a new application requirement at Clause 10 which states:

A report outlining how recommendations of an Environmental Audit Statement as required by the Environmental Audit Overlay (where applicable) have been incorporated into the design.

c) Include a new decision guideline at Clause 13 which states:

Whether the recommendations of an Environmental Audit Statement Assessment as required by the Environmental Audit Overlay (where applicable) have been appropriately incorporated into the proposal.

2 Process issues for this site

2.1 Process summary

The following tables set out the details of the process for this matter.

Table 2: Proposal summary

Proposal summary	
Tranche	35
Site address	1-15 & 1A Johnson Street, Oakleigh
Previous use	Commuter car park, with approximately 88 spaces
Site owners	VicTrack and Monash City Council
Council	Monash City Council
Exhibition	24 February to 8 April 2022
Submissions	One (from the EPA)

Table 3: Exhibited planning scheme changes

Existing controls	Exhibited changes
Existing car park land Transport Zone 2 and General Residential Zone– Schedule 5	Commercial 1 Zone Environmental Audit Overlay
Part of Mill Road Transport Zone 2	Commercial 1 Zone and General Residential Zone– Schedule 3

Table 4: Committee process

Committee process	
Members	Lester Townsend (Chair) and Jessica Tulloch
Information session	6:30pm – 7:30pm, 15 March 2022
Hearing	There was no hearing, the matter was considered on the papers
Site inspections	The Committee did not undertake a site inspection
Date of this Report	17 June 2022

2.2 Process issues

2.2.1 Site owners and boundary

The site is predominantly owned by VicTrack. The parcel of land at 1A Johnson Street, Oakleigh (Lot R1 on LP1696) shaded in Figure 2 is owned by the City of Monash.

Mill Road is a local road, owned by the City of Monash.

Figure 2: Site lots

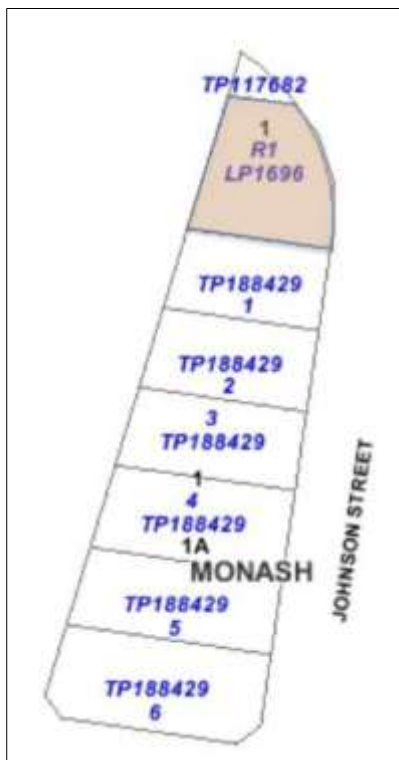


Table 5: Summary of ownership

Parcel	Approximate area	Ownership
Lot 1 on Title Plan 117682	37 sqm	VicTrack
Lot R1 on LP1696	346 sqm	City of Monash
Lots 1, 2, 3, 4, 5 & 6 on Title Plan 118429	1962 sqm	VicTrack

2.2.2 Hearing process

The GLPS referred correspondence from Monash City Council and the Environment Protection Authority (EPA) to the Committee.

Council noted that the Amendment is consistent with the *Oakleigh Structure Plan, 2012* and that no changes to DDO11 were proposed. Council advised that it did not wish to make a formal submission or appear before the Committee.

The letter from the EPA related to the potential contamination on the site given its former use as a service station, and sought changes to the Amendment. The Committee has treated the letter as a submission.

On 29 April 2022, the Committee wrote to the site owners seeking additional information noting that the Planning Report (Auld Planning and Projects, November 2020) accompanying the proposal was prepared before the changes to the *Environment Protection Act 2017* and associated regulations. The changes, which came into effect in July 2021, resulted in changes to Ministerial Direction No 1 and Planning Practice Note 30.

The Committee requested the site owners provide a further submission which:

- explains how the proposal has had regard to the current Ministerial Direction No 1 and Planning Practice Note 30
- provides a response to the EPA’s letter, specifically the recommendation which states:
Make provisions in the planning controls for recommendations of environmental audit to be given effect.

The site owners provided a response on 12 May 2022.

On 25 May 2022, the site owners met with the EPA and a further response outlining the views of the EPA was provided to the Committee on 27 May 2022.

The application of the EAO is discussed further in Chapter 4.2 of this report.

The Committee considered this matter ‘on the papers’.

3 Site constraints and opportunities

3.1 The site

History of the site

The site is currently used as a commuter car park, accommodating approximately 88 spaces. The land has been used as a car park since 1969. Before this the site was used as a service station and workshop.

Current site conditions

The site:

- is within the Oakleigh Major Activity Centre
- is generally flat with mature trees along the Johnson Street boundary
- has vehicular access from Johnson Street
- is surrounded by roads on all sides
- has a direct line of sight to the Oakleigh Station and the Commercial 1 Zone land on the eastern site of Johnson Street.

Potential contamination

The site is potentially contaminated as a result of previous uses.

3.2 Planning context

3.2.1 Zones

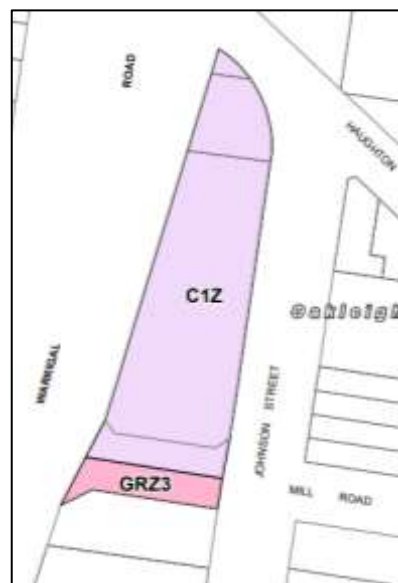
Figures 3 and 4 show the current and proposed zonings. The Amendment also proposes to rezone the land to Commercial 1 Zone which will be an extension of the existing Commercial 1 Zone to the east of the site.

The Amendment also proposes to rezone part of Mill Road between Warrigal Highway and Johnson Street to Commercial 1 Zone and General Residential Zone–Schedule 5 to correspond with the adjoining sites to the north and south.

Figure 3: Current zoning



Figure 4: Proposed zoning



3.2.2 Overlays

The site is affected by DDO11 which implements the requirements of the *Oakleigh Major Activity Centre Structure Plan, 2012* (the Structure Plan). The Structure Plan is a reference document to the Monash Planning Scheme.

The Amendment proposes to apply the EAO as shown in Figure 5.

Figure 5: Proposed Environmental Audit Overlay



4 Issues with the proposed changes

4.1 What zone and built form controls

Submissions

Auld Planning & Projects prepared a Planning Report dated November 2020 (the planning report) in support of the Amendment. The planning report stated:

The zoning of the land is clearly erroneous and does not reflect either the existing use of the land or the desired future of the precinct.¹

The planning report outlined that policy basis for the proposed Commercial 1 Zone was established through Amendment C93mona which implemented the Structure Plan by applying DDO11 and introduced policy at Clause 21.15. The planning report stated that DDO11 and Clause 21.15:

... provides a good policy and built form direction for the parcel of land. Specifically, that the land is a strategic redevelopment site and is encouraged to achieve a preferred height of 8-stores.²

The planning report noted that given the current fragmented land ownership, redevelopment consistent with that envisaged in the Structure Plan can only be realised through lot consolidation. Combined, the site is large enough to accommodate the types of land use and development permitted by Commercial 1 Zone and DDO11.

With respect to the rezoning of Mill Road, the planning report stated:

The extension of the General Residential Zone – Schedule 3 and the Commercial 1 Zone to the centreline of Mill Road will correct an anomaly in the zoning of the road.³

Discussion

The Committee supports rezoning the site to Commercial 1 Zone on the basis that it is consistent with the strategic direction for the site outlined in the Structure Plan. DDO11, which already applies to the site, will determine the form of any future development.

The Committee agrees that the Commercial 1 Zone is an appropriate zone if the land is to be sold.

The associated zone changes to Mill Road are administrative and are supported by the Committee.

Recommendation

The Committee recommends that a planning scheme amendment be prepared and approved to:

- 1. Rezone the site to apply the Commercial 1 Zone.**
- 2. Rezone Mill Road between Warrigal Highway and Johnson Street to part Commercial 1 Zone and part General Residential Zone–Schedule 3 as shown in Figure 4.**

¹ Planning Report 1-15 & 1A Johnson Street, Oakleigh (November 2020), Auld Planning & Projects, p2

² Planning Report 1-15 & 1A Johnson Street, Oakleigh (November 2020), Auld Planning & Projects, p17

³ Planning Report 1-15 & 1A Johnson Street, Oakleigh (November 2020), Auld Planning & Projects, p22

4.2 What overlays are appropriate

Submissions

The site has previously been used as a service station and workshop and therefore has the potential to be contaminated. The Commercial 1 Zone allows for sensitive uses.⁴ The planning report stated:

An Environmental Site Assessment ... was undertaken by Sanversa in July 2019 and identified that historical land uses of the land included a service station and workshop. The [Environmental Site Assessment] concluded that an environmental audit is not required to support the rezoning of the land based on the limited contamination levels that would pose a risk to human health and the environment.⁵

The planning report also stated:

It is proposed to apply the Environmental Audit Overlay to the land to ensure an environmental audit (or other mechanism) is triggered for any sensitive land use that may be proposed in future.⁶

In its letter dated 30 March 2022, the EPA supported the application of the EAO. However, in addition to applying the EAO, the EPA sought amendments to the planning controls to give effect to any outcomes of a future environmental audit statement. The EPA outlined:

Failure to implement these recommendations can pose a significant risk to human health and environment. Where there is no assurance that the recommendations will be implemented, there is no assurance that the land is suitable for the purposes specified in the environmental audit statement and that the users of that land are not exposed to contamination.⁷

In its letter dated 27 May 2022, the site owners submitted:

Practice Note 30 does address the implementation of Environmental Audit recommendations in both the drafting of planning provisions (page 9) and with guidance in the application of planning permit conditions to require implementation of Environmental Audit requirements (page 12).

Therefore, VicTrack does not object to the recommendation in the EPA submission, that the planning provisions are modified to implement the recommendations of any Environmental Audit conducted for the site. In this instance, we understand that this would mean modification of schedule to the existing DDO to incorporate a requirement to implement any recommendations of any Environmental Audit conducted for the site.⁸

The site owners noted that modifying the DDO11 is appropriate in this instance, only because no other tool is currently available.

Discussion

The Committee supports the application of the EAO as it will ensure any contamination on the site is appropriately addressed at the permit stage.

The Committee also supports the suggestion from the EPA that further guidance is needed in the planning scheme to ensure recommendations of an environmental audit statement are met. This is consistent with the July 2021 update to the Planning Practice Note 30—Potentially Contaminated Land which states:

⁴ Residential use, child care centre, preschool centre or primary school

⁵ Planning Report 1-15 & 1A Johnson Street, Oakleigh (November 2020), Auld Planning & Projects, p18

⁶ Planning Report 1-15 & 1A Johnson Street, Oakleigh (November 2020), Auld Planning & Projects, p18

⁷ Letter from the EPA, 3 March 2022

⁸ Letter from VicTrack, 27 May 2022

Where an environmental audit is to be completed in response to an EAO, it is necessary to carefully draft the planning provisions in the planning scheme amendment to address implementation of the environmental audit statement recommendations.⁹

The Committee understands that the EAO applies a requirement for a certificate or statement before the use commences, but not before a permit is issued. In the absence of a requirement under a planning permit, any requirements of a statement would need to be enforced under the *Environment Protection Act (2017)*. As a general principle it is laudable to make audit requirements clear in the planning process.

The Committee agrees that in the absence of another available tool, it is appropriate in this instance to update DDO11. The Committee agrees with the site owners:

The planning system is primarily reliant on Planning Practice Note 30 – Potentially Contaminated Land to implement recommendations of Environmental Audits rather than on VPP tools (which could include mandatory requirements) which are arguably stronger.¹⁰

Conclusion

The Committee recommends that a planning scheme amendment be prepared and approved to:

- 3. Apply the Environmental Audit Overlay to the site.**
- 4. Amend Design and Development Overlay–Schedule 11 to:**
 - a) Include a new precinct objective in Clause 6 which states:**

To ensure the recommendations of an Environmental Audit Statement as required by the Environmental Audit Overlay (where applicable) are incorporated into the design.
 - b) Include a new application requirement at Clause 10 which states:**

A report outlining how recommendations of an Environmental Audit Statement as required by the Environmental Audit Overlay (where applicable) have been incorporated into the design.
 - c) Include a new decision guideline at Clause 13 which states:**

Whether the recommendations of an Environmental Audit Statement Assessment as required by the Environmental Audit Overlay (where applicable) have been appropriately incorporated into the proposal.

⁹ Planning Practice Note 30–Potentially Contaminated Land (PPN30), July 2021

¹⁰ Letter from VicTrack, 27 May 2022

Appendix A: About the Government Land Standing Advisory Committee

The Government Land Planning Service is a 2015 initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned by the Victorian Government. The Government Land Standing Advisory Committee (the Committee) was initially appointed under Part 7, section 151 of the *Planning and Environment Act 1987* in July 2015.

A revised Terms of Reference for the Committee was approved in June 2020.

The Committee currently consists of:

- Lead Chair: Lester Townsend
- Chairs: Tim Hellsten, Lisa Kendal, Alison McFarlane
- Deputy Chairs: Michael Ballock, Elissa Bell, Mandy Elliott, Annabel Paul
- Members: Brodie Blades, Debra Butcher, Geoffrey Carruthers, Sally Conway, Shannon Davies, Noelene Duff, Peter Edwards, Meredith Gibbs, Jonathan Halaliku, John Hartigan, Elizabeth McIntosh, Gabby McMillan, Michael Malouf, Rachael O'Neill, Kate Partenio, Cazz Redding, John Roney, Lynn Sweeney, Adam Terrill, Jessica Tulloch.

The Committee is assisted by Chris Brennan, Project Officer in Planning Panels Victoria.

The Committee's Terms of Reference state that the purpose of the Advisory Committee is to:

- a. advise the Minister for Planning on the suitability of new changes to planning provisions for land owned, proposed to be acquired or to land required to facilitate the delivery of priority projects by the Victorian Government, and
- b. provide a timely, transparent and consultative process to facilitate proposed changes to land owned or proposed to be acquired; or to support delivery of priority projects by the Victorian Government.

The Advisory Committee must produce a written report for the Minister for Planning providing:

- a. an assessment of the appropriateness of any changes of planning provisions in the context of the relevant planning scheme and State and Local Planning Policy Frameworks,
- b. consideration of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes,
- c. an assessment of whether planning scheme amendments could be prepared and adopted for each proposal, including the recommended planning provisions,
- d. an assessment of submissions to the Advisory Committee,
- e. any other relevant matters raised during the hearing(s),
- f. a list of persons who made submissions considered by the Advisory Committee,
- g. a list of persons consulted or heard,
- h. endorsement by the Chair or the Deputy Chair.