



# Planning Scheme Amendment Request

South Eastern Outfall

Mornington Peninsula Planning Scheme

Application on behalf of Melbourne Water

Date of report: October 2016





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<b>Date Issue</b>	<b>October 2016</b>	<b>Revision Number</b>	

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## 1. Introduction

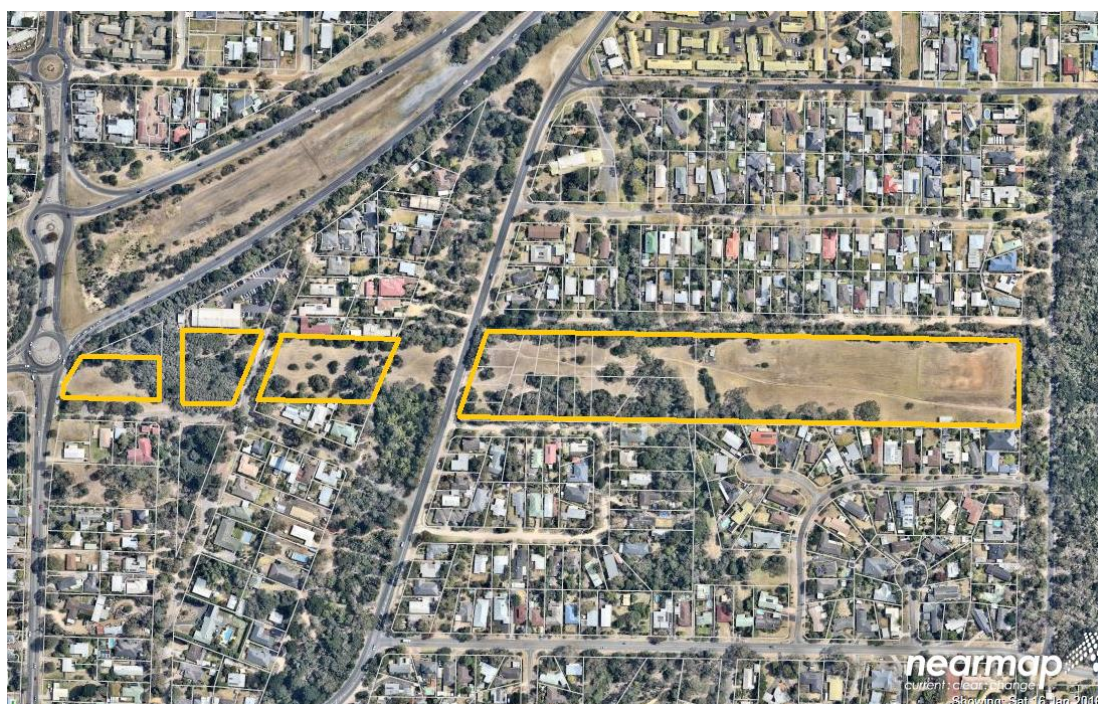
This planning report has been prepared on behalf of Melbourne Water Corporation (trading as Melbourne Water) and accompanies an application for an amendment to the Mornington Peninsula Planning Scheme.

Melbourne Water is one of the State's 19 water corporations and is owned by the Victorian Government. It provides bulk water and bulk sewerage services to water corporations in the Melbourne metropolitan area and manages rivers, creeks and major drainage systems in the Melbourne, Port Phillip and Westernport regions.

The subject site is a discrete section of the 56km long 'South Eastern Outfall', a significant asset belonging to Melbourne Water that runs from the Eastern Treatment Plant in Bangholme to the ocean outfall at Boags Rocks, near Gunnamatta.

As a public authority and government agency, Melbourne Water has obligations under the *Victorian Government Landholding Policy and Guidelines* (Department of Treasury and Finance, 2015) to not retain land where it does not (inter-alia) '*contribute directly to current or future service delivery outcomes expected of agencies*'.

The subject site does not directly contribute to current or future service delivery outcomes and has been identified as surplus to Melbourne Water's requirements.



Aerial Photograph taken 16 January 2016 (Source: [www.nearmap.com](http://www.nearmap.com))



This application proposes to rezone part of the site from a Public Use Zone 1 (PUZ1) to a General Residential Zone (GRZ). The rezoning of the land will allow Melbourne Water to dispose of this surplus land in accordance with State Government requirements.





## 2. The Subject Site and Surrounds

### The Subject Site

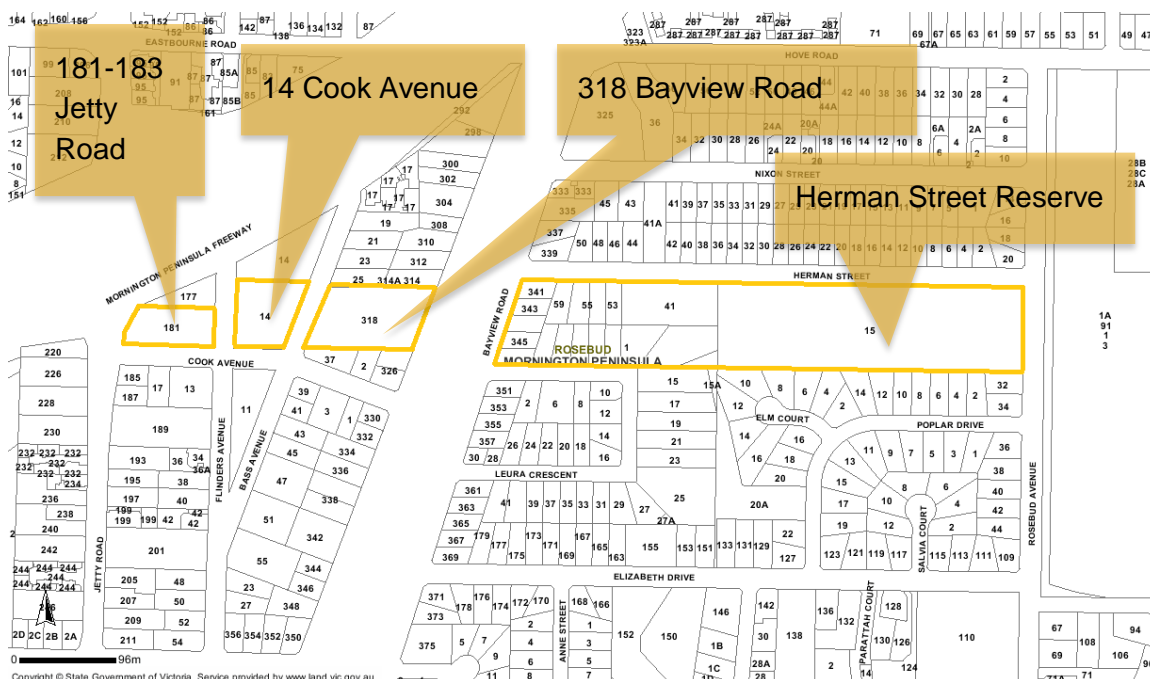
The subject site comprises various, non-contiguous parcels of land generally bounded by Rosebud Avenue (to the east), Jetty Road (to the west), Herman Avenue and a series of residential properties (to the north) and an unnamed road and residential properties (to the south), as shown on the cadastral map below.

The land has an overall area of 5.6 hectares and is bisected by Bayview Avenue, Bass Avenue and Flinders Avenue.

At surface level, the subject site is vacant, save for a pumping station and scattered vegetation. The site is not fenced and is known to be used for informal recreation and illegal dumping of materials and wastes from time to time. An unnamed ephemeral waterway runs north-south through the site.

A 2.5m diameter subterranean pipeline runs adjacent to the northern boundary of the land. The pipeline forms part of the 56 kilometre long 'South Eastern Outfall'. The Outfall collects treated effluent from the Eastern Treatment Plant and Mt Martha and Boneo sewerage treatment plants and discharges it to the ocean outfall at Boags Rocks, near Gunnamatta.

The land is within an area of Aboriginal cultural heritage sensitivity.



Cadastral Map (Source: [land.vic.gov.au](http://land.vic.gov.au))



The subject site includes the land described as 'parcels' outlined in the cadastral map above. The site comprises four parcels of vacant land (but also includes a pumping station and a shed on the eastern parcel), and is described as follows:

#### 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 no-through road to Jetty Road), Flinders Avenue to the east (an unmade road reserve that is heavily vegetated) and 177 Jetty Road (a vacant but vegetated triangular allotment) to the north. The site 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 (an irregular allotment currently developed with a Jehovah's Witness facility) to the north. 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 site 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 predominantly 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 site appears to be used for informal pedestrian access and contains scattered vegetation. It is also shown as parkland in many map images<sup>1</sup>.

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<sup>1</sup> Including Nearmap roadmap image and Google Maps.



## Parcel 4

The largest and most easterly parcel of land within the subject site is referred to as 'Herman Street Reserve'<sup>2</sup> and is shown as parkland in many map images<sup>3</sup>. It is also known as:

- **341-349 Bayview Road;**
- **15, 41, 53-59 Herman Street;** and
- **1-11 Leura Crescent<sup>4</sup>.**

The land abuts Bayview Road to the west, Herman Street to the north (which is a no-through road for a short section opposite 41 Herman Street and vegetation extends along the length of the interface with the site) and Rosebud Avenue to the east (which contains vegetation at the interface to 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 site contains a pumping station, shed and scattered vegetation. 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<sup>5</sup>.

## **The Surrounds**

The subject site is located within a predominantly residential area, which is characterised by low scale, single and double storey detached dwellings, set within an established 'semi-bush' landscape.

Some land nearby is zoned Public Park and Recreation Zone (PPRZ) and is used for linear reserves and pocket parks. A linear reserve is located to the north of Herman Street.

Mornington Peninsula Freeway is within a Road Zone – Category 1 (RDZ1). Jetty Road and Bayview Road are within a Road Zone - Category 2 (RDZ2). The western side of Bayview Road reserve contains a wide strip of land with vegetation.

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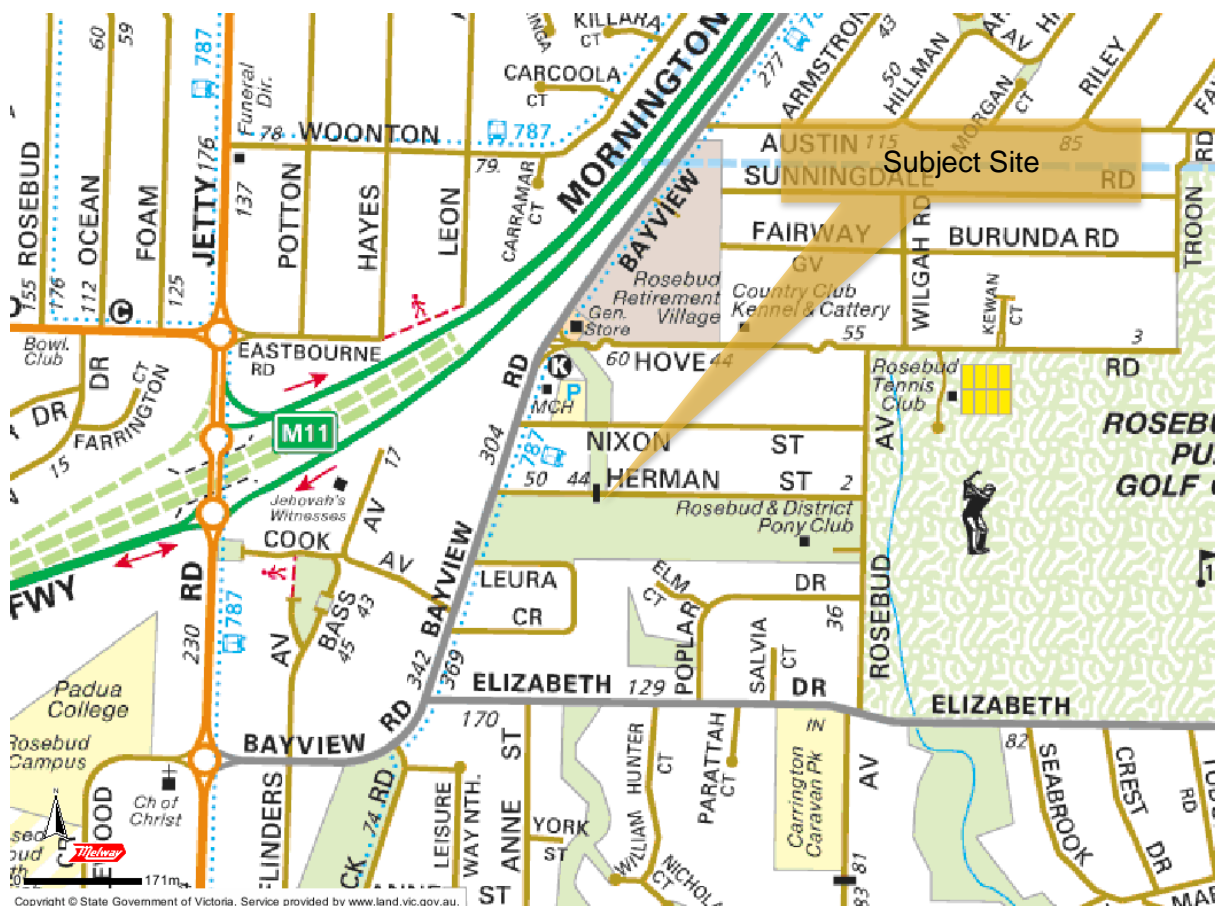
<sup>2</sup> As referred to in Google Maps.

<sup>3</sup> Including Land.vic.gov.au street directory, Street-directory.com.au, Nearmap roadmap image and Google Maps.

<sup>4</sup> The aerial photograph shows a lot numbered 13, however the Land channel information includes this as part of 1-11 Leura Crescent. Lot 13 does not have any road access. The zone and overlay maps show an additional triangular lot adjacent to 15 Leura Crescent. This information would need to be clarified by Title.

<sup>5</sup> Including Land.vic.gov.au street directory and Street-directory.com.au.





Locality Plan (Source: [www.land.vic.gov.au](http://www.land.vic.gov.au))

The subject site is in proximity to a range of community services and facilities, including:

- Bus Route No. 787 which operates along Bayview Road, which intersects the site in a north-south direction;
- Rosebud Retirement Village, approximately 225 metres to the north;
- Waterfall Gully Pre-School Centre, approximately 130 metres to the north;
- Padua College – Rosebud Campus, approximately 300 metres to the south west;
- Carrington Caravan Park, approximately 215 metres to the south;
- Bayview Church, approximately 315 metres to the south west;
- The Rosebud Public Golf Course and Tennis Club are located directly to the east of the site, on the opposite side of Rosebud Avenue; and



- Rosebud RSL Club, approximately 390 metres to the north west.



### 3. Current Planning Controls

#### Zone

The subject site is currently zoned Public Use Zone 1 (PUZ1) under the Mornington Peninsular Planning Scheme.

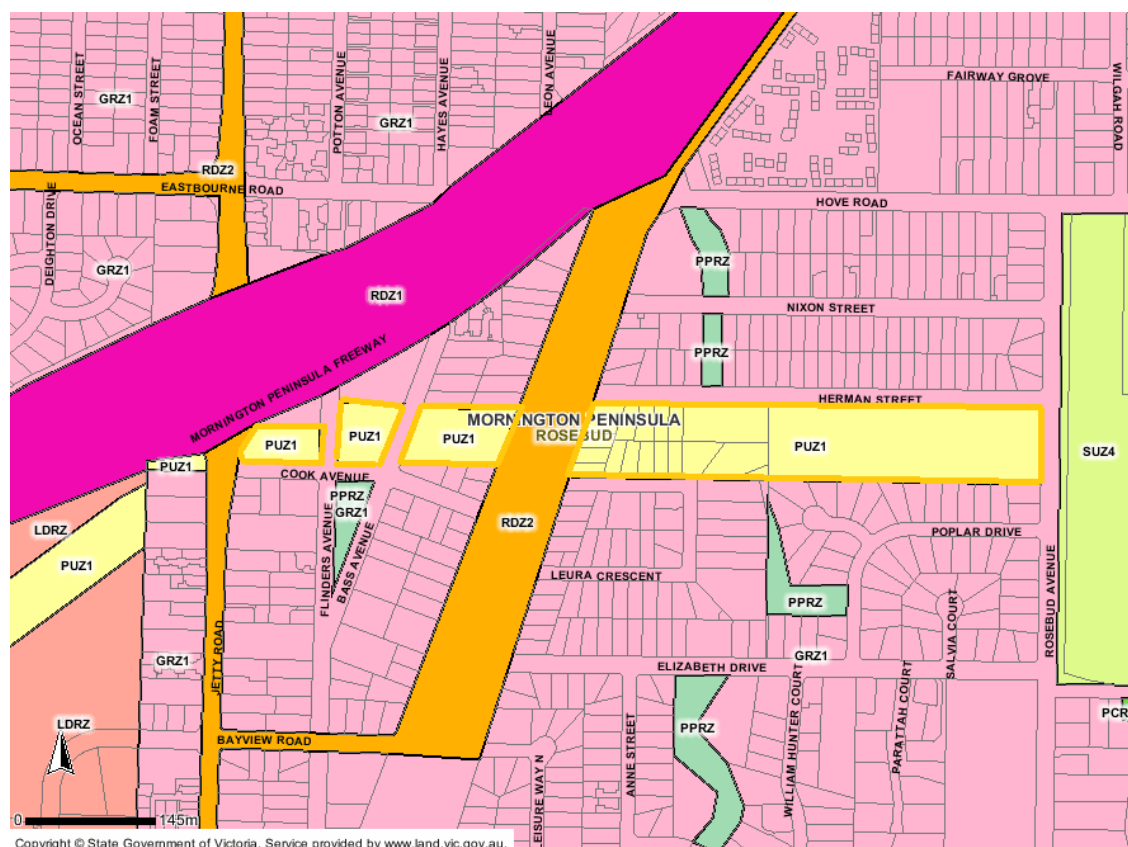
The Purpose of the Public Use Zone is:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

*To recognise public land use for public utility and community services and facilities.*

*To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*

More specifically, PUZ1 identifies land for service and utility.



Zoning Map (Source: [www.land.vic.gov.au](http://www.land.vic.gov.au))



Land surrounding the subject site comprises:

- General Residential (GRZ1) zoned land to the north and south;
- Public Park and Recreation (PPRZ) zoned land to the north and south;
- Special Use (SUZ) zoned land to the east;
- A Road Zone Category 1 (RDZ1) zoned road to the north west; and
- A Road Zone Category 2 (RDZ2) zoned road bisecting the subject site.

## Overlays

The land is affected (either wholly or in part) by the following overlays:

- The Environmental Significance Overlay – Schedule 17 (Streamlines);
- The Vegetation Protection Overlay – Schedule 1 (Township Vegetation);
- The Design and Development Overlay – Schedule 1 (Township Design); and
- The Bushfire Management Overlay.

### Clause 42.01 Environmental Significance Overlay

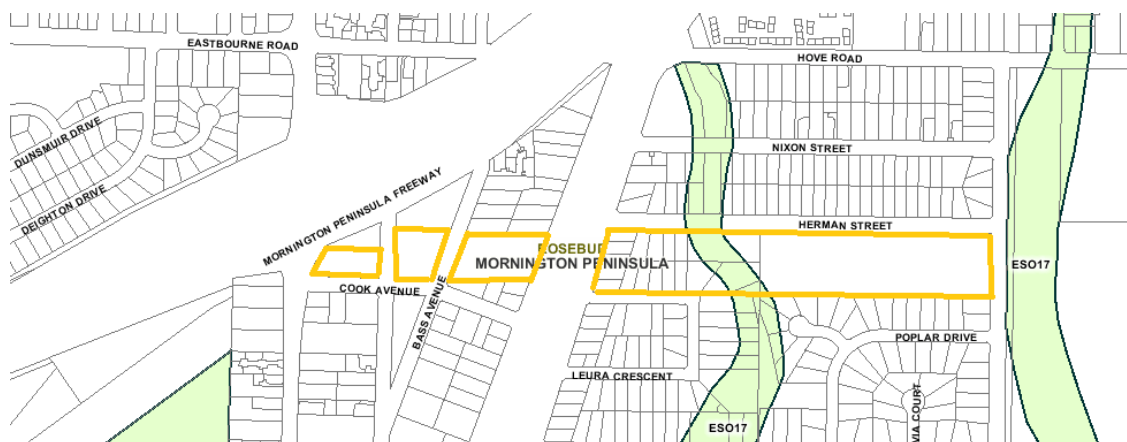
The subject site is partially affected by the Environmental Significance Overlay – Schedule 17 (ESO17). The area affected is located centrally to the Herman Street Reserve parcel (including the eastern part of 1-11 Leura Crescent and part of 41 Herman Street).

The Purpose of the Environmental Significance Overlay is:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

*To identify areas where the development of land may be affected by environmental constraints.*

*To ensure that development is compatible with identified environmental values.*



#### Environmental Significance Overlay Map (Source: [www.land.vic.gov.au](http://www.land.vic.gov.au))

The ESO sets out a number of requirements for use, development and subdivision of land. Relevantly, a planning permit is required to:

- Construct a building or construct or carry out works;
- Subdivide land; and
- To remove, destroy or lop any vegetation, including dead vegetation<sup>6</sup>.

ESO17 relates to 'Streamlines' and includes the following statement of environmental significance:

*The streamlines of the Mornington Peninsular are an integral element of the environmental systems that support biodiversity, and directly impact on the coastal and marine environments. Streamlines also often provide relatively undisturbed habitat corridors between larger areas of remnant vegetation. The catchment areas of streams and watercourses on the Peninsular are relatively small, increasing sensitivity to inappropriate development.*

#### Clause 42.02 Vegetation Protection Overlay

The entire site is affected by the Vegetation Protection Overlay – Schedule 1 (VPO1). Schedule 1 of the VPO relates to 'Township Vegetation'.

The Purpose of the Vegetation Protection Overlay is:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

<sup>6</sup> Exemptions apply.





*To protect areas of significant vegetation.*

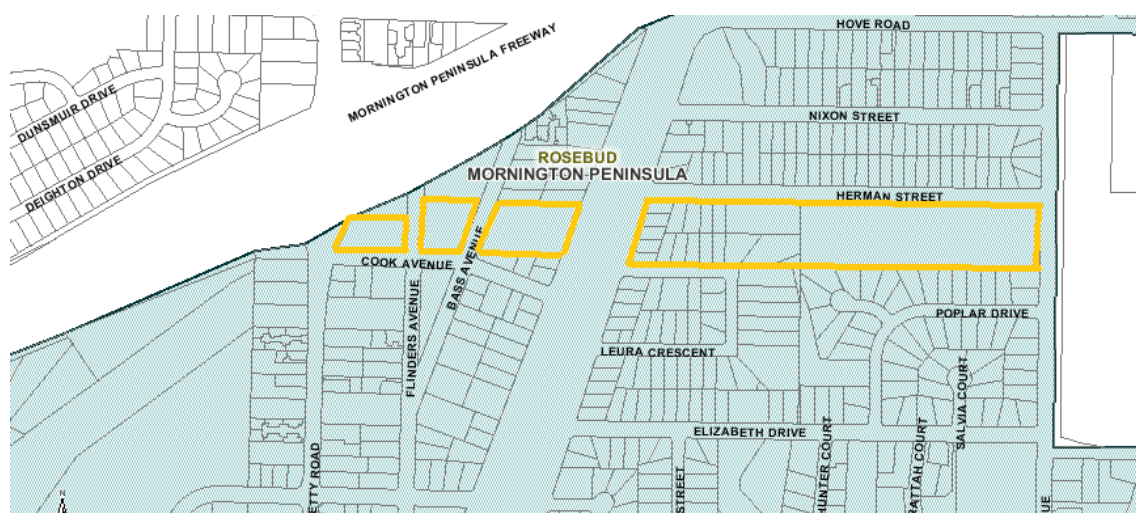
*To ensure that development minimises loss of vegetation.*

*To preserve existing trees and other vegetation.*

*To recognise vegetation protection areas as location of special significance, natural beauty, interest and importance.*

*To maintain and enhance habitat and habitat corridors for indigenous fauna.*

*To encourage the regeneration of native vegetation.*



**Vegetation Protection Overlay Map (Source: [www.land.vic.gov.au](http://www.land.vic.gov.au))**

A permit is required to remove, destroy or lop any vegetation specified in a schedule to the overlay<sup>7</sup>.

The Schedule states a permit is required to remove, destroy or lop any vegetation<sup>8</sup>. An application must be accompanied by a vegetation management plan.

#### Clause 43.02 Design and Development Overlay

The subject site is affected by the Design and Development Overlay – Schedule 1 (DDO1).

The Purpose of the Design and Development Overlay is:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

<sup>7</sup> Exemptions apply.

<sup>8</sup> Exemptions apply.

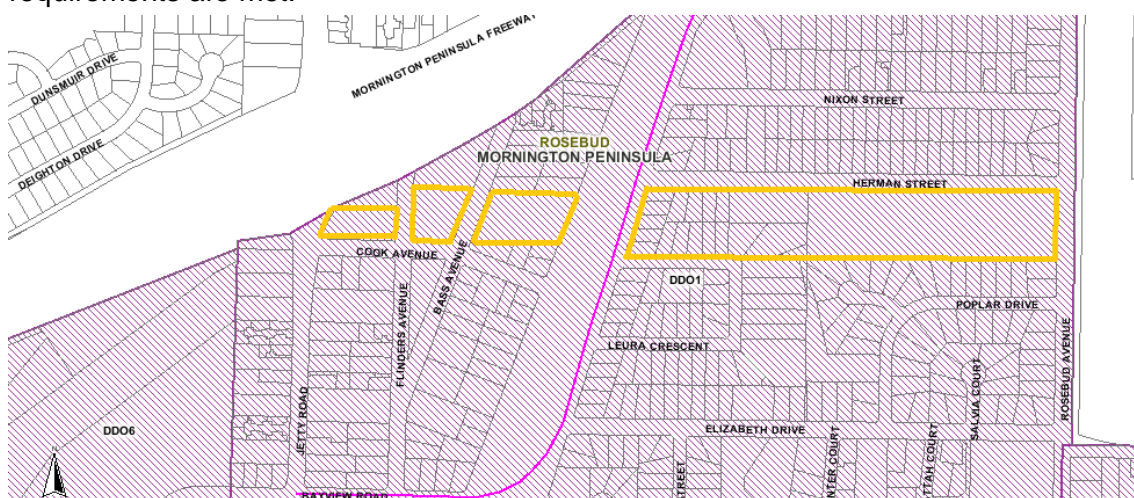


*To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Schedule 1 of the DDO relates to 'Township Design'. In general, it seeks to ensure new development has regard to the area's established building height, scale and siting.

A planning permit is required to construct a building or construct or carry out works<sup>9</sup>.

A permit is not required to construct a building or carry out works for a single dwelling (that does not adjoin Point Nepean Road) or a dependent person's unit if the General requirements are met.



#### **Design and Development Overlay Map (Source: [www.land.vic.gov.au](http://www.land.vic.gov.au))**

The Schedule states that an application to construct a building or construct or carry out works associated with one dwelling on a lot in the General Residential Zone must comply with Clause 54.01 and meet all the objectives and standards of the listed sections of Clause 54.

The Schedule states an application to construct a building or carry out works should meet the general requirements of the schedule and that the mandatory requirements also apply. A permit can be granted to vary the general requirements, while a permit cannot be granted to vary the mandatory requirements.

<sup>9</sup> Exemptions apply.



### General requirements

- *Buildings must be set back at least 10 metres from a Public Park and Recreation Zone, Public Conservation and Resource Zone or the Nepean Highway and the first 5 metres must be landscaped to the satisfaction of the responsible authority.*
- *No building may exceed a wall height of 5.5 metres or a building height of 6 metres.*
- *The difference between finished ground level and natural ground level as a result of excavation and filling must not exceed one metre, except for the purpose of constructing an in ground swimming pool, and all works must be properly battered or stabilised.*

### Mandatory requirements

*A building must have a maximum building height of no more than 10 metres and must contain no more than 2 storeys above natural ground level<sup>10</sup>.*

*These requirements cannot be varied with a permit.*

### Clause 44.06 Bushfire Management Overlay

The subject site is affected in part by the Bushfire Management Overlay (BMO). Areas affected by the BMO include the entire parcels at 181-183 Jetty Road, 14 Cook Avenue and 318 Bayview Road. It also affects the eastern portion of the Herman Street Reserve.

The Purpose of the Bushfire Management Overlay is:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

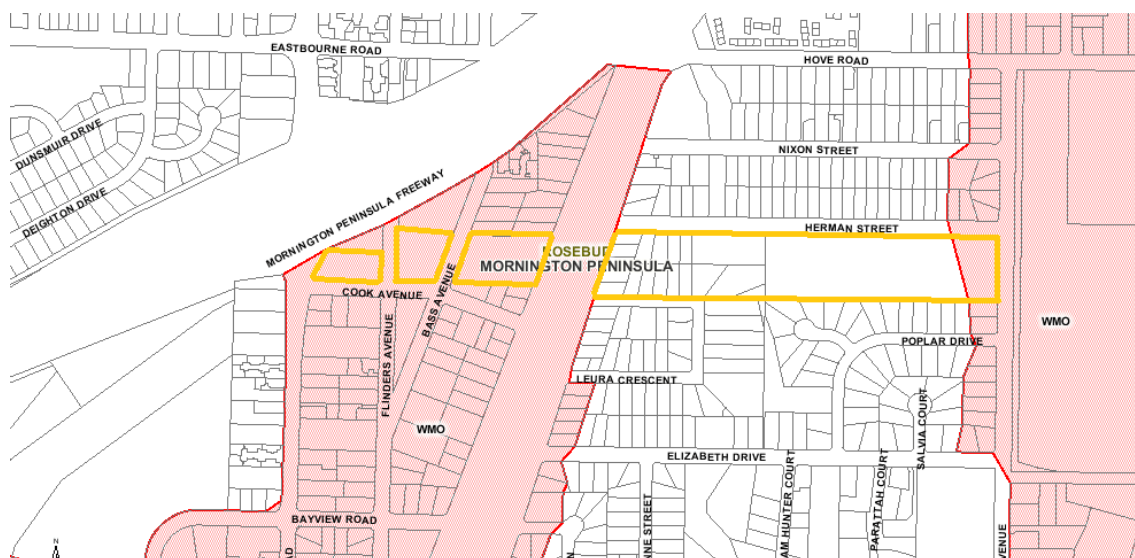
*To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*

*To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*

*To ensure development is only permitted where the risk of life and property from bushfire can be reduced to an acceptable level.*

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<sup>10</sup> It goes on to list some exemptions.



**Bushfire Management Overlay Map (Source: [www.land.vic.gov.au](http://www.land.vic.gov.au))**

A permit is required:

- To subdivide land.
- To construct a building or construct or carry out works associated with accommodation (among other listed uses).

An application to construct a building, construct or carry out works or to subdivide land must meet the requirements of Clause 52.47 (Planning for Bushfire).

A permit granted for certain activities must include mandatory conditions set out in the overlay or schedule.

An application must be referred to the Relevant Fire Authority (the Country Fire Authority), acting as a 'recommending referral authority'.

## Particular Provisions

### Clause 52.17 'Native Vegetation'

- A permit is required to remove, destroy or lop native vegetation, including dead vegetation<sup>11</sup>.

<sup>11</sup> Exemptions apply. Such as if the site area is less than 0.4 hectares.



- An application must be classified as a low, moderate or high risk-based pathway, as defined in the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013).
- The biodiversity impacts of the removal of native vegetation are required to be offset in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013). The conditions on the permit for the removal of native vegetation must specify this offset requirement.

#### Clause 52.47 'Planning for Bushfire'

Clause 52.47-1 applies to an application to construct a single dwelling or construct or carry out works associated with a single dwelling where the following applies:

- The land is zoned General Residential Zone (among other listed zones); and
  - There is only one dwelling on the lot.
- An application under Clause 52.47-1 must meet all the approved measures.
  - Clause 52.47-2 applies to all other applications, including an application that does not meet all the approved measures in Clause 52.47-1.
  - An application under this Clause must be accompanied by the following<sup>12</sup>:
    - A Bushfire Hazard Site Assessment;
    - A Bushfire Hazard Landscape Assessment; and
    - A Bushfire Management Statement.
  - This clause also specifies bushfire design and construction measures for a single dwelling.

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<sup>12</sup> Exemptions apply.





## 4. The Proposed Amendment

The application proposes to amend the Mornington Peninsula Planning Scheme by rezoning the subject site from a Public Use Zone 1 (PUZ1) to a General Residential Zone (GRZ).



Cadastral Map Land subject to amendment outlined

### Why is the Amendment required?

Melbourne Water has determined that the subject site is surplus to its requirements. On this basis, Melbourne Water is required to dispose of the land pursuant to its obligations under government policy.

It is policy within the *Victorian Government Land Transactions Policy and Guidelines* (Department of Environment, Land, Water and Planning, 2016) that Government agencies:

- *Must not sell (grant a lease or an interest in) any land at a price which is less than the current market (or rental) value of the land as determined by the Valuer-General Victoria (VGV);*
- *Must not sell land without a public process (except through the first right of refusal process outlined in the Victorian Government Landholding Policy and Guidelines);*



- *Prior to offering land for sale by a public process, must have in place the most appropriate zoning (and other relevant planning provisions) so that the land can be sold on the basis of its highest and best use.*

A 'first right of refusal' for the purchase of the land was offered to Government agencies and the local council in accordance with the Department of Treasury and Finance's requirements. Despite initial positive responses from Mornington Peninsula Shire Council to utilise the land for a range of open space or recreational requirements, the Council identified that it ultimately did not have an interest in acquiring the land for these purposes. No other Government agencies or authorities expressed interest in acquiring the land.

Accordingly, the authority must now put the site to the market for disposal to fulfil obligations under State policy.

## **Proposed Planning Scheme Changes**

### Zoning

In accordance with the Land Transactions Policy, the land must be rezoned to facilitate the future sale of the asset, so that Melbourne Water can fulfil its disposal obligations.

The appropriate zone for the subject site is General Residential (GRZ), which facilitates residential land uses. This use is consistent with the existing zoning pattern that surrounds the site and supports the strategic directions for the area.

### Overlays

It is proposed to retain all overlays currently affecting the land.

It is not proposed to apply any new overlays to the land. The current overlay regime that applies to the site, and particularly the Design and Development Overlay and Vegetation Protection Overlay (that affect the whole site), provide a suitable level of control and guidance to ensure that future subdivision, development and vegetation removal is consistent with the orderly and proper planning and neighbourhood character of the area.

Relevantly, the Design and Development Overlay:

- Requires a planning permit to construct a building or construct or carry out works.<sup>13</sup>
- Requires a planning permit for subdivision.

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<sup>13</sup> Single dwellings do not require a permit if the 'general requirements' of the Schedule are met.



- Requires development to meet mandatory requirements, including that a building must not have a maximum building height of more than 10 metres or be more than 2 storeys above natural ground level;
- Sets out general requirements that can only be varied with a permit, such as that no building may exceed a wall height of 5.5 metres or a building height of 6 metres; and
- Requires the construction of one dwelling on a lot to meet the requirements of Clause 54, regardless of lot size.

The Vegetation Protection Overlay requires a permit to remove, lop or destroy most vegetation<sup>14</sup>.

### **Consultation with Council**

There has been extensive consultation with the Mornington Peninsula Shire Council regarding the potential rezoning of the land, as well as whether Council requires any of the land to meet its operational, service or open space requirements.

Melbourne Water and Glossop Town Planning met with Council's Strategic Planning Department and Property Department on 28 June 2016 to seek Council's views on the rezoning of the land for residential purposes.

At this meeting, Council provided in principle support for the rezoning of the land to the General Residential Zone – Schedule 1.

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<sup>14</sup> With some exemptions.



## 5. Is the Proposed Amendment Appropriate?

Government Landholding and Land Transaction policies and guidelines require that the appropriate zoning of the site is established and put in place before the sale of the land.

The current Public Use Zone (PUZ1) reserves the land for public uses and more specifically for service and utility purposes. Melbourne Water has declared that the land is surplus to its requirements and therefore the existing PUZ1 is no longer an appropriate zone. The land must be rezoned to achieve the highest and best use for the land to facilitate its disposal.

The subject land is largely vacant and located within a predominantly residential area. The prominent zoning surrounding the subject site is General Residential. The surrounding area is also serviced by a wide range of community facilities, including schools, public open space and public transport. The site is also located approximately 1 kilometre from the Rosebud Major Activity Centre. The proposal to rezone the land to a General Residential Zone will complement these existing conditions.

Importantly, the proposed zone will facilitate an orderly infill development opportunity on land suitable for housing development and support the planned population growth within the area.

### Policy Context

Plan Melbourne, the metropolitan planning strategy, estimates that an additional 165,000 to 205,000 dwellings will be required in the southern subregion to help meet housing requirements for an additional 400,000-480,000 residents by 2031.

The proposed rezoning facilitates the use and development of the land for residential purposes and makes a modest contribution to meeting anticipated housing needs within the region.

The State and Local Planning Policy Frameworks within the Mornington Peninsula Planning Scheme seek to ensure there is an adequate supply of residential land available to meet future population growth within well designed built form that respects the area's character. Particular direction is provided by **Clause 21.07 'Guiding Future Township Development'**.

Clause 21.07-1 'Housing and integrated local area planning' acknowledges the anticipated population growth of the Shire and the intention to contain this growth within defined areas of the Peninsula's major townships, including Rosebud. This is to be achieved with the following objective:

- *To provide for land use and development within township areas which meets the needs and respects the values of local communities.*



Clause 21.07-2 'Local area character' identifies that there is a continuing strong demand for housing on the Peninsula, with changing demographic and housing demand profiles in some areas, as well as a demand for greater housing diversity. The policy responds to this with the following objective:

- *To ensure that the design and intensity of new residential subdivision and development is site and area responsive, having regard to:*
  - *Environmental capacity and principles of best practice environmental management.*
  - *The availability of infrastructure.*
  - *The neighbourhood character and heritage of the area.*
  - *The accessibility of the area to facilities, services and employment centres.*

Clause 21.07-2, under Policy and the exercise of discretion, states:

*Requiring all proposals for major site development or redevelopment, including those involved in the disposal of public land, to be based on a comprehensive site analysis conducted in conjunction with extensive community consultation.*

## **Proposed Zoning**

The subject site is located within an established residential area. From a 'first principles' analysis of the site's locational context, it is anticipated that the future use and development of this site should be for residential purposes.

*Planning Practice Note No. 78 – Applying the Residential Zones* sets out the principles and criteria for applying each of the different residential zones.

The site generally has qualities that make it a suitable candidate for the application of the General Residential Zone. These attributes include:

- Its infill location within an existing township and established residential context;
- A relative diversity in housing style, size and layout; and
- A relatively intact neighbourhood character in terms of subdivision layout, but varied development style and patterns.

The Purposes of **Clause 32.08 (General Residential Zone)** also require that new development respect an area's character (in addition to providing a diversity of housing types and moderate housing growth in locations offering good access to services and transport).





These purposes include:

- *To encourage development that respects the neighbourhood character of the area.*
- *To implement neighbourhood character policy and adopted neighbourhood character guidelines.*

Equally, the site has attributes that would make it a candidate for the application of the Neighbourhood Residential Zone, including:

- A relatively consistent subdivision pattern;
- A high proportion of detached dwellings; and
- A relatively intact neighbourhood character.

Notwithstanding these attributes, it is relevant that the Neighbourhood Residential Zone (and Residential Growth Zone) is not applied to any land within the municipality and there are no appreciable strategic differences to this land (as distinct from surrounding land) that would justify the application of the Neighbourhood Residential Zone.

The subject site's large area, its established residential setting and its access to facilities and services make it a suitable candidate for the use and development of the land for residential purposes.

The General Residential Zone seeks to facilitate residential land use and development. The use of land for a dwelling is a Section 1 (Permit not required) use. Educational, recreational, religious, community and other non-residential uses that serve local community needs can also be established, subject to a permit, in some circumstances. This includes land uses such as leisure and recreation and a car park associated with another permissible use.

The application of the General Residential Zone – Schedule 1 to the site will ensure future development on the site is compatible with the area's residential context. The application of the zone will facilitate residential development that allows the site to make a modest contribution to new housing within an established urban area.

The orientation and layout of the site will also allow future subdivision and residential development to reflect the general pattern and character of development, consistent with Council expectations. The retention of the Design and Development Overlay will also ensure that development respects the area's character.



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The application of the General Residential Zone – Schedule 1 to the subject site reflects the zoning of the broader area and will ensure that the level of change on the site is appropriate to the surrounding area.

## **Environment**

Canopy and low-lying vegetation is spread throughout the site – with a dense cover found in the western half of the site, while the eastern section of the land is sparsely vegetated, save for the property boundaries.

Melbourne Water has undertaken arboricultural and flora and fauna assessments of the site's environmental features, as well as undertaking detailed soil investigations.

The arboricultural assessment, prepared by Treemap Arboriculture, identified that the site contains 450 trees, with almost 75% of the trees assessed being locally indigenous species. None of the the trees on the site were assessed as having a high retention value. 301 of the site's trees were assessed as having a low retention value. The report recommends that the 33 moderate retention value trees be retained and that 87 of the low retention value trees could be retained. The remaining trees were considered to be of poor structure or dead vegetation.

The flora and fauna assessment, prepared by ABZECO, concludes that the site contains only a limited amount of remnant vegetation, which is largely within the environs of the Murray Anderson Creek and along property boundaries. The native vegetation on the site is attributed to four main habitat zones that consist of Gully Woodland and Damp Sands Herb-rich Woodland. The report recommends that a 30 metre buffer area be applied to the creek environs, that future vegetation losses be quantified and the weeds controlled by the *Catchment and Land Protection Act* be eradicated.

Relevantly, the existing Vegetation Protection Overlay (VPO1), Environmental Significance Overlay (ESO17) and Clause 52.17 'Native Vegetation' will require that some future development or vegetation removal on the land will require a planning permit. The appropriateness of vegetation removal can be assessed at the planning permit stage.

The soil investigations, undertaken by Environmental Earth Sciences, provided a detailed soil sample and laboratory analysis at 90 locations throughout the site for potential contaminants of concern. The investigations generally found that soils were not contaminated and did not pose an unacceptable risk to human health or ecology. Some areas of inert rubbish from illegal dumping were found on site, while some surface building demolition rubble from the former Pony Club shed were found to contain traces of asbestos. The asbestos material was not found within the soil itself.

The Environmental Earth Sciences report considers that the site is suitable for residential use, subject to the safe removal of the surface rubble by an asbestos hygienist and



removal of the inert rubbish prior to development. The report does not recommend the application of an Environmental Audit Overlay.



## 6. Strategic Considerations

*Minister's Direction No. 11 Strategic Assessment Guidelines* require a planning authority to evaluate and discuss how an amendment addresses a number of strategic considerations. Under *Planning Practice Note No. 46 (DTPLI, July 2014)*, the proposed amendment requires a full assessment against the Strategic Assessment Guidelines.

The full assessment is provided in this Section of the report.

### **Why is an Amendment required?**

Melbourne Water currently owns the subject site. It has determined that the subject site is surplus to its future needs and intends to dispose of the land, as required by Government policy. It has offered the first right of refusal to purchase the land to various State and local government agencies. No public organisation has expressed an interest in acquiring the land. Melbourne Water must now dispose of the land via a public process.

As required by Government policy, the most appropriate zoning of the land must be established and put in place before the sale of the land. The land cannot be sold with a public land zoning. To comply with this requirement, an amendment to the Mornington Peninsula Planning Scheme is required.

The proposed rezoning from Public Use Zone 1 to General Residential Zone reflects the most appropriate zoning of the land. To ensure appropriate use and development outcomes, all current overlays are proposed to be retained on the site.

Overall, the proposed planning scheme amendment will result in an appropriate and orderly planning outcome that facilitates the development of a vacant parcel of land that is surplus to Melbourne Water's requirements.

### **Does the Amendment implement the objectives of planning and address any environmental, social and economic effects?**

#### **Environmental Effects**

The proposal is not considered to have significant environmental impacts. Aboricultural and ecological assessments have determined that the site contains limited vegetation worthy of retention. The flora and fauna assessment undertaken as part of this application identifies that the site has limited areas of faunal and floral significance. It recommends that the vegetation within the creek environs be protected through the application of a 30 metre buffer and that the loss of any native vegetation will need to be quantified. Future removal



of vegetation will require a permit either under the provisions of Clause 52.17 'Native Vegetation' or the Vegetation Protection Overlay.<sup>15</sup>

The amendment does not propose to remove any vegetation or change habitat environments. It is therefore unlikely that any adverse environmental impacts will be generated as a result of the proposed rezoning.

Investigations by Environmental Earth Services have identified that the land is not known to be affected by any contamination.

### **Social Effects**

The amendment will facilitate the development of vacant land that has become surplus to Melbourne Water's requirements. The amendment will have positive social effects by allowing an underutilised site to contribute to future housing needs, identified by policy and Plan Melbourne. No adverse social impacts are anticipated to be generated as a result of the proposed rezoning.

### **Economic Effects**

The amendment is expected to generate positive economic effects for the following reasons:

- The proposed rezoning will facilitate the sale of disused and surplus land by Melbourne Water.
- It will facilitate the redevelopment of a currently vacant and underutilised site for residential purposes.
- The residential use of the land will complement the surrounding area.
- It is anticipated that future residents are likely to shop locally and contribute to the local economy.

### **Does the Amendment address relevant bushfire risk?**

Part of the site is affected by the Bushfire Management Overlay. The Bushfire Management Overlay and other provisions within the planning scheme provide appropriate measures for managing bushfire risk on this land. Preliminary investigations into the development potential of this land have identified that it is unlikely that the land affected by the Bushfire Management Overlay will be suitable for future residential land use.

The views of the Country Fire Authority can be sought as part of the amendment process.

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<sup>15</sup> Subject to some exemptions





## **Does the Amendment comply with the requirements of any Minister's Direction applicable to the Amendment?**

This amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

Ministerial Direction No. 1 – Potentially Contaminated Land seeks to ensure that land is only rezoned to facilitate sensitive uses, agriculture or public open space where a planning authority can be satisfied that the environmental conditions of the land are or will be suitable for that use. 'Potentially contaminated land' is defined as land used or known to have been used for industry, mining or storage of chemicals, gas, wastes or liquid fuel (if not ancillary to another use of the land). It also includes land that may have been contaminated by other means, such as by ancillary activities, contamination from surrounding land, fill using contaminated soil or agricultural activities.

The report prepared by Environmental Earth Sciences demonstrates that the land is not contaminated. On this basis, the land does not warrant the application of the Environmental Audit Overlay. The requirements of the Ministerial Direction have been satisfied.

Ministerial Directions No. 9 – Metropolitan Planning Strategy seeks to ensure that planning scheme amendments have regard to Plan Melbourne: Metropolitan Planning Strategy (Department of Transport, Planning and Local Infrastructure, 2014).

Plan Melbourne includes Rosebud within the Southern Subregion. The population within this Subregion is expected to grow by between 400,000 to 480,000 people by 2031. To accommodate the expected population growth, it is expected that an additional 165,000 to 205,000 dwellings will be required by 2031. The subject site is located in an Urban Area within the Metropolitan Urban Growth Boundary and is in close proximity to the Rosebud Activity Centre, which is a Place of Local Significance.

The proposed rezoning is consistent with the vision of Plan Melbourne. It will create a modest opportunity to accommodate some of the expected population growth and support the 20 minute neighbourhood concept.

The proposed amendment complies with the Ministerial Direction. No. 9.

Ministerial Direction No. 11 – Strategic Assessment of Amendments seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces.

A strategic assessment of the proposed amendment has been undertaken in accordance with this Ministerial Direction in this section of this report.



## Does the Amendment support or implement the State Planning Policy Framework (SPPF)?

The elements of the SPPF that are most relevant to the Planning Scheme Amendment include:

- Clause 9 Plan Melbourne;
- Clause 10 Operation of the State Planning Policy Framework;
- Clause 11 Settlement;
- Clause 12 Environmental and Landscape Values;
- Clause 13 Environmental Risks;
- Clause 15 Built Environment and Heritage;
- Clause 16 Housing;
- Clause 17 Economic Development;
- Clause 18 Transport; and
- Clause 19 Infrastructure.

**Clause 9 'Plan Melbourne'** requires that planning and responsible authorities must consider Plan Melbourne: Metropolitan Planning Strategy (Department of Transport, Planning and Local Infrastructure, 2014). This is the same requirement as Ministerial Directions No. 9.

The proposed Amendment complies with Ministerial Direction No. 9. For this reason, the proposed amendment is considered to also comply with the requirements of Clause 9.

**Clause 10 'Operation of the State Planning Policy Framework'** seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

The proposal supports this goal by applying the most appropriate zone control to the subject site and will deliver a net community benefit by delivering new housing to meet community need in terms of population growth and housing diversity in an area with good access to services and transport.

**Clause 11 'Settlement'** provides that planning is to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to facilitate sustainable development that takes full



advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.

The subject site is located within an established residential area and the proposed amendment facilitates an orderly infill development opportunity on land suitable for housing development. It will provide a meaningful and logical contribution to the urban consolidation objectives at Clause 11.

**Clause 12 'Environmental and Landscape Values'** seeks to ensure that planning protects sites that have environmental and landscape values.

The site has significant environmental and landscape values. The subject site is affected by an Environmental Significance Overlay and a Vegetation Protection Overlay. Any future development proposal will be required to consider these controls.

**Clause 13 'Environmental Risks'** seeks to ensure planning identifies and manages the potential for the environment and environmental changes to impact upon the economic, social and environmental well-being of society. Relevantly, it seeks to assist to strengthen community resilience to bushfire by prioritising the protection of human life over other policy considerations. It also seeks to ensure that potentially contaminated land is suitable for its intended future use and development,

**Clause 15.01 'Urban environment'** seeks to create safe, functional and good quality urban environments. **Clause 15.02 'Sustainable development'** seeks to promote consolidation of urban development and integration of land use and transport.

The proposed rezoning will facilitate residential development at a location close to the Rosebud Major Activity Centre and serviced by an established bus route. This is consistent with the relevant strategies at Clause 15.02.

**Clause 15.03-2 'Aboriginal cultural heritage'** seeks to provide for the protection and conservation of sites of Aboriginal cultural heritage significance.

The subject site is located within an area of Aboriginal cultural heritage sensitivity. A cultural heritage assessment has been undertaken by Ecology and Heritage Partners, which demonstrates how cultural heritage will be conserved.

**Clause 16 'Housing'** states that new housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, school and open space.

The subject site is located in an area that has good access to a wide range of existing commercial, community and transport infrastructure. The proposed amendment supports the objectives of this Clause.

**Clause 18 'Transport'** states that planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates



economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe.

The proposed amendment will facilitate redevelopment of the land for residential purposes close to the Rosebud Major Activity Centre, community facilities and public transport. The proximity to existing public transport facilities promotes the use of more sustainable modes of transport.

**Clause 19 'Infrastructure'** states that planning for development of social and physical infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely.

The proposed residential zoning will address the housing shortage in the area and providing housing for population growth and the need for housing diversity. The proposed zoning will also complement the existing social and physical infrastructure. Importantly, the existing subterranean pipeline asset operated by Melbourne Water will be protected in future development.

### **Does the Amendment support or implement the Local Planning Policy Framework (LPPF)?**

The following Clauses of the Municipal Strategic Statement (MSS) and the local planning policies are relevant to the proposed amendment:

- Clause 21.04 Mornington Peninsula Strategic Framework Plan;
- Clause 21.06 Strategic Framework and the Peninsula's Settlement Pattern;
- Clause 21.07 Guiding Future Township Development;
- Clause 22.05 Aboriginal Cultural Heritage;
- Clause 22.11 Mornington Peninsula Fire Protection Policy; and
- Clause 22.13 Township Environment.

**Clause 21.04 'Mornington Peninsula Strategic Framework Plan'** identifies locations where specific land use outcomes will be supported and promoted as well as areas where some forms of use and development will be excluded, by recognising each area's strengths and respecting limits. Key strategic directions of relevance include:

- *Supporting and strengthening the hierarchy of towns and villages on the Peninsula, having regard to their individual character and functions, their relationships to each other and to adjacent rural, coastal and port development areas.*
- *Defining township growth boundaries as a method of focusing future development in the major towns. This strategy of distributing future population growth also depends on containing other townships and villages within existing established boundaries.*



### **Clause 21.06 'Strategic Framework and the Peninsula's Settlement Pattern'**

recognises that the continuing need for housing on the Peninsula needs to be managed and integrated with other major planning objectives. This is to be achieved with the following objective:

- *To establish an integrated land use pattern that recognises the regional role and character of the Peninsula, and ensures that urban development does not prejudice the environmental, recreational and agricultural values of the Peninsula nor the potential for appropriate port related development.*

**Clause 21.07 'Guiding Future Township Development'** addresses the planning of townships by considering 'Housing and integrated local area planning', 'Local area character', 'Activity centres' and 'Industrial areas'.

Clause 21.07-1 'Housing and integrated local area planning' acknowledges the anticipated population growth of the Shire and the intention to contain this growth within defined areas of the Peninsula's major townships, including Rosebud. This is to be achieved with the following objective:

- *To provide for land use and development within township areas which meets the needs and respects the values of local communities.*

Clause 21.07-2 'Local area character' identifies that there is a continuing strong demand for housing on the Peninsula, with changing demographic and housing demand profiles in some areas, as well as a demand for greater housing diversity. The policy responds to this with the following objective:

- *To ensure that the design and intensity of new residential subdivision and development is site and area responsive, having regard to:*
  - *Environmental capacity and principles of best practice environmental management.*
  - *The availability of infrastructure.*
  - *The neighbourhood character and heritage of the area.*
  - *The accessibility of the area to facilities, services and employment centres.*

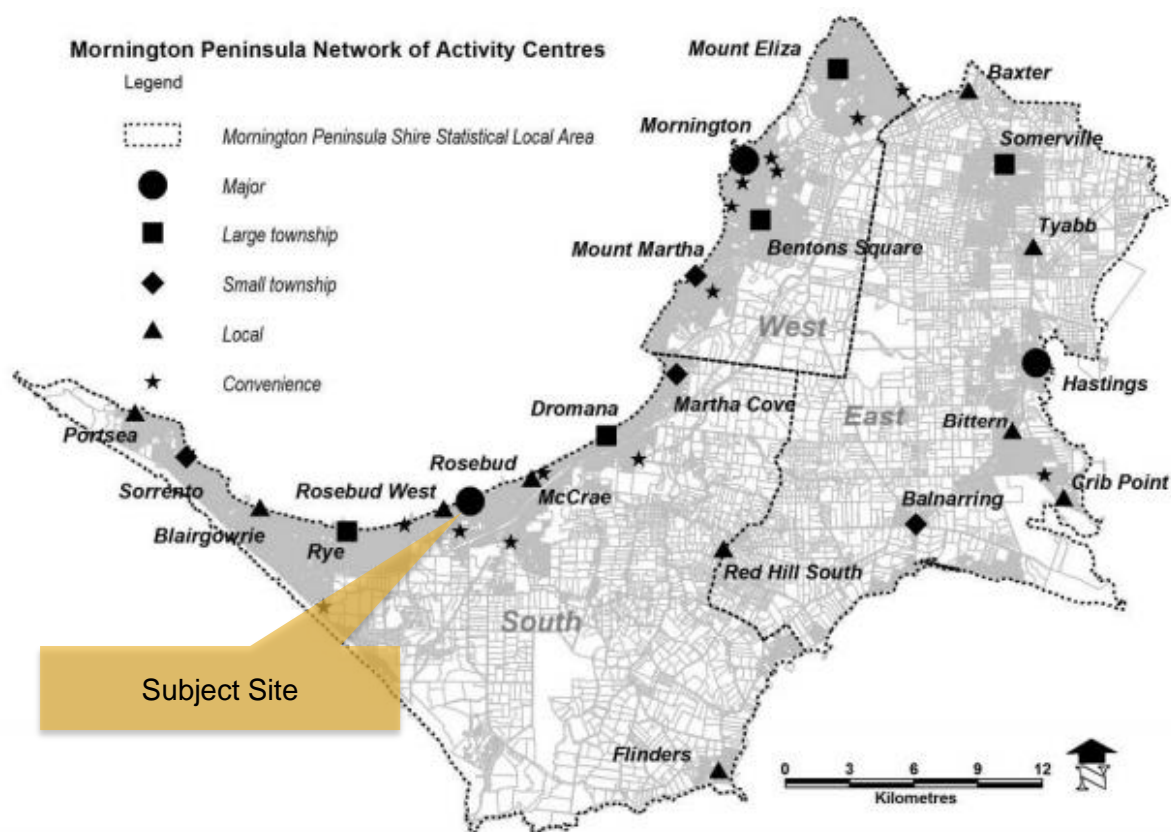
Clause 21.07-2, under Policy and the exercise of discretion, states:

*Requiring all proposals for major site development or redevelopment, including those involved in the disposal of public land, to be based on a comprehensive site analysis conducted in conjunction with extensive community consultation.*



Clause 21.07-3 'Activity centres' explains that the hierarchy of activity centres on the Mornington Peninsula plays an important role in the reinforcement of the settlement pattern established at Clause 21.04.

- *To strengthen the hierarchy of activity centres on the Mornington Peninsula shown on the map to this Clause.*



**Map to Clause 21.07-3 – Hierarchy of activity centres on the Mornington Peninsula Mornington Peninsula Planning Scheme**

A relevant strategy at Clause 21.07-3 includes:

- *Encourage activity centres to provide a broad range of retail, commercial, community, recreational and tourism facilities, as well as a variety of housing opportunities, commensurate with their role and function in the hierarchy.*

**Clause 22.05 'Aboriginal Cultural Heritage'** applies to all land and contains the following objectives:

- *To provide for the identification of sites of Aboriginal cultural significance and the appropriate level of management in consultation with the local Aboriginal community.*



- *To protect sites and features of aboriginal cultural heritage and archaeological significance.*

**Clause 22.11 'Mornington Peninsula Fire Protection Policy'** applies to all land within the Shire. Due to the size and diversity of the Mornington Peninsula, it faces a number of complex fire risks including those in residential areas. It is important that development include fire protection measures that relate to the level of risk in all areas. This is to be achieved with the following objectives:

- *To assist efforts to mitigate the risk to life, property and the environment for uncontrolled fire.*
- *To ensure that land use and development does not increase the level of fire risk.*
- *To ensure that land use and development includes adequate fire protection.*

**Clause 22.13 'Township Environment'** highlights a number of areas where attention is necessary to support the major strategic directions of the MSS. Objectives include:

- *To ensure that infill development proposals, which will result in new or increased waste water discharge, will meet State environmental standards and will not add to the pollution of groundwater or surface waters.*
- *To ensure that proposals for new development provide appropriate stormwater treatment measures in accordance with relevant best practice environmental management guidelines, including Draft Best Practice Guidelines for Stormwater Management (Melbourne Water, 1999).*
- *To ensure that construction activities do not adversely impact on the regional drainage function of waterways, drains, retarding basins and floodplains.*
- *To ensure that all development, including drainage, roads and sewerage systems are designed to protect the air environment, land, waterways and ground water resources from polluting discharges and activities in accordance with State environment protection policies and relevant best practice environmental management guidelines.*
- *To ensure that development does not reduce the extent or integrity of areas of remnant indigenous vegetation within township areas and provides for the reinstatement of native vegetation and the protection and enhancement of habitat corridors.*
- *To promote energy efficiency in the design of new development.*





- *To ensure that where land that has been previously used for non residential purposes, including orcharding or other forms of intensive agriculture, is proposed to be developed for residential or community purposes, proper consideration is given to assessing potential contamination and necessary remedial measures in accordance with the Minister's Direction No 1.*

The proposed amendment supports the relevant objectives and goals of the MSS for the following reasons:

- The proposed amendment facilitates development of a currently vacant and disused parcel of land within an established urban area. It will achieve an orderly planning outcome;
- The subject site is located within close proximity to a wide range of existing facilities and services. It is well suited to accommodate residential development at a scale consistent with surrounding development;
- The General Residential Zoning will address the need for more housing to facilitate the projected population growth within the area;
- The General Residential zoning of the land will contribute to the housing opportunities within the area and support the role and function of the Rosebud Activity Centre;
- Remnant vegetation on the site can be protected by the application of buffer areas around the Murray Anderson Creek, as recommended by Melbourne Water's ecologists;
- The test in Ministerial Direction No 1 'Potentially Contaminated Land' can be satisfied. Site investigations have revealed that there are no potential contaminants on the land and it is suitable to be rezoned for residential purposes; and
- The majority of the site is not constrained by bushfire risk. Any future planning permit process can ensure that bushfire risk is appropriately considered for land use and development applications.

### **Does the Amendment make proper use of the Victoria Planning Provisions?**

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 the 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.*

The General Residential Zone – Schedule 1 is applied to the established residential area surrounding the subject site and to the municipality’s residential areas more broadly. The use of the General Residential Zone – Schedule 1 on this land is the appropriate tool to encourage the most appropriate underlying use and development of the site (in conjunction with the existing overlay provisions that affect the land) and is consistent with the Shire’s residential zoning regime.

The application of this control makes proper use of the VPPs and will not make any existing provisions in the Mornington Peninsula Planning Scheme redundant.

#### **How does the Amendment address the views of relevant agencies?**

The views of relevant agencies can be considered during the exhibition process.

#### **Does the Amendment address the requirements of the Transport Integration Act 2010?**

The amendment complies with the principles set out in Part 2 of the *Transport Integration Act 2010*. The proposed rezoning will make efficient use of the existing road network.

#### **What impact will the new Amendment have on the resource administrative costs of the responsible authority?**

The proposed amendment is not considered to have any significant impact on the resource and administrative costs of the responsible authority. The amendment is not anticipated to result in an unreasonable increase in the number of applications to be considered by Council.



## 7. Conclusion

The proposed planning scheme amendment is appropriate for the following reasons:

- The subject site is surplus to Melbourne Water's requirements. As a government authority, Melbourne Water has obligations under Government policy to dispose of the landholding.
- Melbourne Water has followed the requirements of the State Government's Landholding and Land Transactions Policies and Guidelines. The first right of refusal to purchase the land has been offered to a wide range of State government organisations and the local council. There has been no interest to acquire the land from any of these organisations and Melbourne Water must now dispose of the site via a public sales process.
- In accordance with the requirements of the Government Land Transactions Policy, the most appropriate zoning for the land must be put in place before the sale of the land. This proposal meets this requirement.
- The subject site is located within an established residential area that is close to the Rosebud Activity Centre. It is ideally located to support increased housing in an infill location.
- The General Residential Zone is the most appropriate zone for the land and supports the relevant objectives of the State and Local Planning Policy Frameworks.
- The proposal will achieve a net community benefit by facilitating use and development outcomes that will deliver additional housing to meet population growth, consistent with policy expectations and the direction of Plan Melbourne.
- The amendment provides a fair, orderly and transparent process for the rezoning of the site.

On the basis of these reasons, the Amendment should be supported.

**GLOSSOP TOWN PLANNING PTY LTD**

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