

Government Land Standing Advisory Committee

Tranche 4 Report

181-183 Jetty Road, 14 Cook Avenue, 318 Bayview
Road and Herman Street Reserve, Rosebud

17 March 2017

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List of Abbreviations

BMO	Bushfire Management Overlay
CHMP	Cultural Heritage Management Plan
DDO	Design and Development Overlay
DPO	Development Plan Overlay
EAO	Environmental Audit Overlay
EHP	Ecology and Heritage Partners
EVC	Ecological Vegetation Classes
FTGL Service	Fast Track Government Land Service
GRZ	General Residential Zone
NRZ	Neighbourhood Residential Zone
PUZ	Public Use Zone
VPO	Vegetation Protection Overlay
VPP	Victoria Planning Provisions

About this report

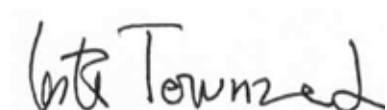
On 21 August 2016, the Minister for Planning referred the following sites to the Government Land Standing Advisory Committee as part of Tranche 4 Report:

- 145 Studley Road, Heidelberg (Austin Hospital)
- Part 48 Rona Street, Reservoir
- 1 Hopetoun Avenue, Brunswick West
- Part 95 Williamsons Road, South Morang.

On 27 September 2016, the Minister for Planning referred the following additional site to the Committee:

- 181-183 Jetty Road, 14 Cook Avenue, 318 Bayview Road and Herman Street Reserve, Rosebud.

This is a report under Section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for **181-183 Jetty Road, 14 Cook Avenue, 318 Bayview Road and Herman Street Reserve, Rosebud.**



Lester Townsend, Chair



Mandy Elliott

17 March 2017



Alan Chuck

The Government Land Standing Advisory Committee

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

The purpose of the Committee is:

... to advise the Minister for Planning on the suitability of changes to planning provisions for land owned by the Victorian Government.

The Committee consists of:

- Chair: Lester Townsend
- Deputy Chairs: Brett Davis and Cathie McRobert
- Members: Gordon Anderson, Alan Chuck, John Collins, Mandy Elliott, Jenny Fraser, John Ostroff, Cazz Redding and Lynn Sweeney.

The Committee was assisted by Ms Emily To, Project Officer with Planning Panels Victoria.

The Committee's Terms of Reference state:

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

- *An assessment of the appropriateness of any changes to planning provisions, in light of the relevant planning scheme and State and Local Planning Policy Frameworks.*
- *An assessment of whether planning scheme amendments could be prepared and adopted in relation to each of the proposals.*
- *An assessment of submissions to the Standing Advisory Committee.*
- *Any other relevant matters raised in the course of the Standing Advisory Committee Hearing.*
- *A list of persons who made submissions considered by the Standing Advisory Committee.*
- *A list of persons consulted or heard.*

Details of the site and process

Figure 1: Amendment summary

Amendment summary	
Tranche and site reference	Tranche 4: Site reference FT91
Previous use	Jetty Road, Cook Avenue and Bayview Road sites – Vacant Herman Street Reserve – Pumping Station
Site owner	Melbourne Water
Council	Mornington Peninsula Shire Council
Exhibition	31 October to 9 December 2016
Submissions	<ul style="list-style-type: none"> - Angie Hudd - Michael Graham Botten - Cindy Sandars - Australian Wildlife Protection Council - Dean Anderson - Rosebud Park and Recreation Committee of Management Incorporated - Melbourne Congregation of Jehovah’s Witnesses Trust - Sustainable Population Australia Vic/Tas Branch - Mr and Mrs Peacock - Paul and Jillian Finley - Peter Victor Jones - Southern Peninsula Indigenous Flora and Fauna Association Inc. - Robert White - Mornington Peninsula Shire Council - Rupert Steiner - Karen and Markus Goray

Figure 2: Proposed planning scheme changes

Existing controls	Proposed changes
Public Use Zone – Schedule 1	General Residential Zone – Schedule 1
Bushfire Management Overlay	Retain
Design and Development Overlay – Schedule 1	Retain
Environmental Significance Overlay – Schedule 17	Retain
Vegetation Protection Overlay – Schedule 1	Retain

Figure 3: Committee process

Committee process	
Members	Mandy Elliott (Chair) and Alan Chuck
Information session	16 November 2016 at the Dromana Community Hall
Hearing	10 February 2017 partly at the Dromana Community Hall (9 to 10am) with majority of Hearing at Mornington Peninsula Shire Offices, Mornington
Site inspections	8 February 2017 (unaccompanied)
Appearances	<p>Melbourne Water, represented by Peter O'Farrell of Counsel instructed by Alexandra Guild of Norton Rose Fulbright who called the following expert witness:</p> <ul style="list-style-type: none"> - John Glossop in planning <p>Mornington Peninsula Shire represented by David Bergin, Executive Manager Planning Services</p> <p>Melbourne Congregation of Jehovah's Witnesses Trust represented by Grant Kennedy</p> <p>Rosebud Park and Recreation Committee of Management Incorporated represented by Neil Hallam and Elaine Bertotto</p> <p>Australian Wildlife Protection Council represented by Craig Thomson</p> <p>Mornington Peninsula Ratepayers and Residents Association Inc. represented by Doris Campbell</p> <p>Peter Jones</p>
Date of this Report	17 March 2017

1 Summary and recommendations

1.1 The site

The subject site is located in Rosebud, approximately 1.8 kilometres from the Rosebud Activity Centre within Mornington Peninsula Shire and approximately 90 kilometres south of Melbourne. The subject land is comprised of four parcels of land:

- 181-183 Jetty Road
- 14 Cook Avenue
- 318 Bayview Road
- Herman Street Reserve.

The information sheet published by the FTGL Service describes the site as follows:

The site is located in the centre of the Rosebud township, a major centre of the Mornington Peninsula Shire Council. The township is predominantly low-density residential, consisting of single and two storey housing stock.

The site has an area of approximately 5.6 hectares inclusive of the easement and is located in an existing residential area with road access.

Figure 4: Site location



1.2 Summary

The Site owner proposes to change the current Public Use Zone – Schedule 1 to the General Residential Zone – Schedule 1 (GRZ1) whilst retaining all existing overlays.

The Site owner submitted at the Hearing that it proposes to retain a 60 metre wide reserve that will be bisected by Murray Anderson Creek.

Irrespective of the zoning applied, the Committee understands that there will be limited opportunity for much housing development to occur on the subject land due to:

- the existing pipeline easement (approximately 40 metres width) running through the middle of the subject land
- the PUZ1 is to be retained along the creek and pump station
- the planning controls covering the land.

The Committee considered all written submissions as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations from inspections of site.

Figure 5: Existing and proposed controls

Current planning scheme controls	Proposed planning scheme controls	Recommendation
181-183 Jetty Road, 14 Cook Avenue, 318 Bayview Road and Herman Street Reserve, Rosebud		
Public Use Zone 1– Service and Utility	General Residential Zone – Schedule 1	General Residential Zone – Schedule 1 except for land to be retained by Melbourne Water as reserves
Bushfire Management Overlay	Retain	Retain
Design and Development Overlay – Schedule	Retain	Retain
Environmental Significance Overlay – Schedule 17	Retain	Retain
Vegetation Protection Overlay Schedule 1	Retain	Retain

1.3 Recommendations

The Committee recommends for 181-183 Jetty Road, 14 Cook Avenue, 318 Bayview Road and Herman Street Reserve, Rosebud:

A planning scheme amendment be prepared and approved to rezone the subject site to the General Residential Zone Schedule 1 excluding the land to be retained as reserves as shown in Figure 8.

2 Process issues for this site

(i) Title

There are a number of existing titles over the four sites. At the Hearing, the Site owner tabled a proposed Plan of Subdivision, prepared by a licensed surveyor, showing easements over the subject land in favour of Melbourne Water. The main easement, over the existing south eastern effluent outfall, would be approximately 40 metres wide, and, in some cases, would leave very little unencumbered land on either side.

(ii) Open space use

Residents in written submissions sought to include more public open space, such as quality parks, in development of the site particularly associated with the Murray Anderson Creek environs. The Committee notes Council did not express an interest in buying the site from the Site owner for public open space or other uses and accepts the development must satisfy the planning scheme provisions. As outlined in its Terms of Reference, the Committee cannot recommend that the land become public open space.

The Site owner submitted during the Hearing that it would be retaining land associated with the Murray Anderson Creek and Pumping Station as Public Use Zone 1 (PUZ1) and did not seek to rezone these parcels. This is shown in Figure 8.

(iii) Interrupted Hearing

The Hearing was scheduled for Friday 10 February 2017, commencing at 9.00 am at the Dromana Community Hall (359 Point Nepean Road, Dromana). The Hearing commenced as scheduled, however unbeknown to the Committee, the Dromana Community Hall was double booked by Council. A disability services group and its clients who had used the hall for the past two years for Friday activities arrived during the first session. The Chair, in consultation with those present, determined that it was appropriate to move to an alternative venue to enable the group to continue with their activities.

Consequently, representatives from the Council arranged for the Hearing to reconvene at Council Chambers, Mornington Peninsula Shire Council (2 Queen Street, Mornington). The Hearing recommenced at 11 am with no change to the timetable.

Planning Panels Victoria emailed all submitters who had requested to be heard and followed up with phone calls to those presenting that day. All parties who requested to be heard were heard at the Hearing.

(iv) Additional material

Following the Hearing, the Advisory Committee directed the following:

- The Site owner provide a revised rezoning map that presents the intended rezoning of the land as submitted at the Hearing (document 1 paragraph 15) and reflected in John Glossop's expert witness statement report (page 19) to assist the Committee in its understanding of the Site owner's intention as submitted that "*Murray*

Anderson Creek and the adjoining pumping station in Parcel 4 will be retained by Melbourne Water and will not be rezoned.”

3 Site constraints and opportunities

3.1 Zoning context

Figure 6: Current zoning

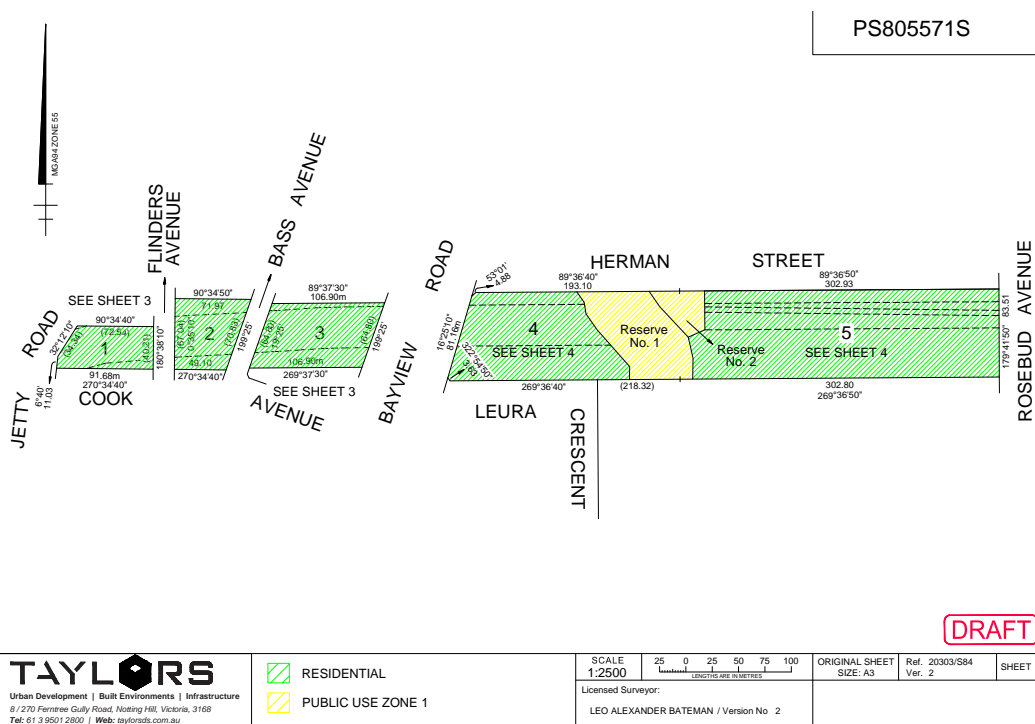


Figure 7: Proposed zoning



The Site owner submitted that it would be retaining land associated with the Murray Anderson Creek and Pumping Station as Public Use Zone 1 (PUZ1) and did not seek to rezone these parcels. This is shown in Figure 8.

Figure 8: Proposed zoning – Post Hearing



TAYLORS
 Urban Development | Built Environments | Infrastructure
 8/270 Fernside Gully Road, Notting Hill, Victoria, 3168
 Tel: 01 9501 2800 | Web: taylorsoffice.com.au

- RESIDENTIAL
- PUBLIC USE ZONE 1

SCALE 1:2500	25 0 25 50 75 100 LENGTHS ARE IN METRES	ORIGINAL SHEET SIZE: A3	Ref. 20303/S84 Ver. 2	SHEET 2
Licensed Surveyor: LEO ALEXANDER BATEMAN / Version No. 2				

3.2 Physical constraints

(i) History of the site

The site was acquired by the Site owners' predecessor body, the Melbourne and Metropolitan Board of Works, in the early 1970s. This was to enable the construction of the 65 kilometre South Eastern Effluent Outfall, from the new South Eastern Purification Plant at Bangholme to the ocean outfall at Boags Rocks. The land acquired was necessarily wider than the actual pipeline, and some parcels had already been subdivided into residential allotments. The Site owner now proposes to consolidate those small allotments into super lots prior to re-zoning and sale.

(ii) Asset easements

A 2.5 metre diameter subterranean pipeline adjoins the northern boundary. The pipeline forms part of the 56 kilometre 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.

The pipeline originally carried secondary treated effluent, and has been upgraded over the years to tertiary treated Class A wastewater, some of which is extracted for garden and golf course watering purposes. The current average daily flow is 330ML/d, and the continued safe operation of the pipeline is essential for the functioning of the south eastern suburbs of Melbourne.

The Committee understands that following future sale of the site, the Site owner will retain an easement (of approximately 40 metres in width) over the northern section of the land to protect future access to the pipeline.

(iii) Current site conditions

Mr Glossop, in his expert witness statement, describes each parcel 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 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 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 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.*

The Committee asked if there were any significance to the use of the term ‘Herman Street Reserve’. All parties present agreed that it was simply a local convention, and that the land had never been gazetted as a reserve for public purposes. Council confirmed to the Committee that the Herman Street Reserve is not reflected in any of Council’s open space strategies.

(iv) Interface with surrounds

The site is in an existing residential area and is accessible from various roads. The Murray Anderson Creek runs through parcel 4 (Herman Street Reserve) of the site. The Rosebud Golf Course is located to the east of Herman Street Reserve, and its Committee of Management (Rosebud Park and Recreation Committee of Management) has an arrangement with South East Water to extract Class A wastewater from the effluent outfall in the Herman Street Reserve, and pump it to the golf course and other public facilities. The Site owner submitted at the Hearing that it did not intend to change this arrangement.

At the Hearing, the Committee of Management pointed out that the rising main does not follow the alignment of proposed easement E3 shown on Melbourne Water’s proposed plan of subdivision, but a more diagonal alignment towards the existing gate in Rosebud Avenue. If this is correct, the land encumbered by easements could be more than first thought.

The Site owner has been requested to clarify this point, but, at time of writing, no clarification has been received.

(v) Access

The Site owner submitted that the subject site enjoys good exposure to roads and the surrounding pedestrian network. While it is true, as the Council pointed out, that there is limited access to public transport, the access is no worse than that enjoyed by residents of existing allotments on either side of the subject site.

(vi) Jehovah's Witnesses Trust right of way

Mr Kennedy, on behalf of the Melbourne Congregation of Jehovah's Witnesses Trust, noted that the residence behind the Kingdom Hall enjoys right of way over parcel two of the site, under a licence with the current owner. The Committee notes that this is a civil matter, not a planning issue, and suggests that Jehovah's Witnesses negotiate a new licence with the new owner(s) at the appropriate time.

(vii) Environmental**Murray Anderson Creek**

An ESO17 is located within parcel 4 over the Murray Anderson Creek. The ESO17 relates to 'Streamlines' and includes the following statement of environmental significance:

The streamlines of the Mornington Peninsula 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 Peninsula are relatively small, increasing sensitivity to inappropriate development.

The Biodiversity assessment (undertaken by Abzeco) recommended that the creek and its environs be protected with a 30 metre minimum buffer consistent with Clause 22.13-3 (Township Environment) which requires that where reasonable and practicable, the subdivision of land reserve a 30 metre minimum width on both sides of a streamline to protect its environmental and open space values. The Site owner submitted at the Hearing that it proposes to retain a 60 metre wide reserve that will be bisected by Murray Anderson Creek.

Native Vegetation

As stated in Mr Glossop's report, the Arboriculture assessment (Tree map) and the Biodiversity Assessment concluded that the site contains some remnant vegetation, which is largely restricted to the Murray Anderson Creek and property boundaries.

In the Abzeco biodiversity assessment, native vegetation has been attributed to four main habitat zones consisting of Gully Woodland (EVC) and Damp Sands Herb-rich Woodland (EVC). Much of the vegetation has been highly modified with many patches characterised by canopy trees only.

The Arboriculture assessment, which assesses the health of trees rather than their ecological value, did not identify any trees of 'high' retention value and 33 trees of 'moderate' retention value. The remainder of trees on site were assessed as 'low' or 'no' retention value and the majority were exempt and recommended for removal.

The Biodiversity Assessment states that the study area is:

... dominated by large areas of regularly slashed primarily exotic grass species with patches of modified remnant vegetation dominated by Coast Tea-tree ... and Coast Wattle Acacia The primary species of indigenous canopy tree is

Coast Manna-gum ... , which is predominately restricted to the perimeter of the study area ...

Remnant vegetation is mostly associated with Murray Anderson Creek which runs through the study area in a north–south direction. Several small patches defined primarily by canopy trees occur around the study area boundaries and Site two also contains a high number of orchid species growing beneath Coast Tea-tree.

The site (four parcels) is either wholly or in part, affected by the VPO1 and the ESO17, which, in addition to clause 52.17 (Native Vegetation), require a permit for the removal of native vegetation.

Contamination

A site investigation was undertaken by Environmental Earth Sciences which did not identify any contamination other than a small amount of building demolition rubble located beneath the former pony club building that has asbestos containing material. This will require appropriate disposal.

Aboriginal Cultural Heritage

The Preliminary Cultural Heritage Study undertaken by Ecology and Heritage Partners (EHP) states that the entire subject land contains areas of cultural heritage sensitivity as defined under the *Aboriginal Heritage Act 2006*. EHP recommended that a Cultural Heritage Management Plan (CHMP) be prepared for any high impact activities prior to issue of a planning permit.

4 Issues with the proposed changes

4.1 What zone is suitable

Submissions

The Site owner submitted that the General Residential Zone – Schedule 1 (GRZ1) is appropriate, because it is consistent with the surrounding land and the statutory architecture of the Mornington Peninsula Planning Scheme. Mr Glossop, stated that the amendment will ‘provide a logical and meaningful contribution to infill development and urban consolidation’ and that ‘the site displays qualities which could make it a candidate for either the GRZ or the NRZ’. Mr Glossop considers that overall the GRZ is more appropriate for the following reasons:

The surrounding land, including all immediate abuttals, is zoned GRZ1 ...

The site comprises four non-contiguous parcels of land, some of which have already been subdivided into lots which are of a size, shape and layout consistent with the neighbourhood character. This demonstrates the site’s development potential.

The Murray Anderson Creek can be easily incorporated into any future subdivision layout to protect the site’s landscape features and maintain the north-south wildlife corridors and linear reserves. Remnant vegetation is largely restricted to the Murray Anderson Creek and the property boundaries.

The existing DDO1 applies a set of detailed design objectives and height controls. Similarly, ESO17 protects Murray Anderson Creek, VPO1 manages native vegetation and the BMO ensures appropriate bushfire protection measures.

The Residential Zones Standing Advisory Committee Report dated 20 June 2014 did not support the proposed application of the NRZ and it still has not been applied to any land within the Shire.

Mr Glossop did not agree with the Council:

... the Council submit that the NRZ is the most appropriate zone on the basis that it is about to commence work on a housing strategy that would see the site and surrounds rezoned NRZ. I do not support this approach. To my knowledge, the housing strategy has not been prepared, nor has the strategic work to implement it. In this respect, it is not a seriously entertained proposal and I can give it no weight. It would be appropriate to rezone the land GRZ1 now and not prejudice the outcomes of a housing strategy that is yet to commence.

Council submitted that the subject land should be rezoned to the Neighbourhood Residential Zone (NRZ), with the application of a Development Plan Overlay (DPO) Schedule on the basis that the land is:

- *In an area outside of townships and areas designated for growth.*
- *In an area of consistent established residential character of predominantly single dwelling density and consistent lot sizes.*
- *Identified to have significant environmental constraints that should be protected and enhanced thereby limiting development opportunities.*
- *Physically constrained with restricted accessibility.*

Council also added that the breadth and width of the existing easements across the site was another reason that the NRZ is more appropriate.

Council stated in its submission that the NRZ is likely to be used in areas where single dwellings prevail and change is not identified, such as areas of recognised neighbourhood character, heritage, environmental or landscape significance and noted that Rosebud has approximately 85 per cent of lots that have detached dwellings.

The Mornington Peninsula Ratepayers and Residents Association Inc. submitted that the subject land *'should not be rezoned but rather identified as areas of Public Park and Recreation Zone'*. A number of submitters suggested that the subject land be open space.

Some submitters were concerned about the impacts to native vegetation and fauna that may use the site if habitats were removed due to the rezoning to a residential use.

The Site owner, submitted that it would be inappropriate to apply the NRZ to this land because it is not a zone that is used anywhere else in this municipality. It is a zone that was considered by the Residential Zone Standing Advisory Committee which did not support the use of the zone. The Site owner submitted that a further reason as to the inappropriateness of the NRZ is that the Council is yet to undertake a housing strategy.

Council provided the Committee with a number of State and Local Planning Policies that provided direction that residential growth in the Shire is to be around major activity centres such as Rosebud, Mornington and Hastings and that the Shire's natural attributes also be protected. The Rosebud Activity Centre is approximately 1.8 kilometres from the subject land. Council submitted:

... townships and villages on the Peninsula other than the defined areas in major townships are not designated as appropriate for accommodating significant housing and population growth.

In this context, Criterion 11 of the Guidelines (which considers whether any areas have been identified for growth and change) needs to be given adequate weight in favour of applying the NRZ to residential areas outside of identified townships and villages. Furthermore, it should be noted that in this instance, the Rosebud Activity Centre Structure Plan has been adopted by Council and an amendment has recently been authorised by the Minister for Planning to implement the recommendations of the Structure Plan. The subject land is importantly not within the Structure Plan area and is beyond residential areas that are identified as providing for the municipality's growth, adding further to the justification that this site be rezoned to the NRZ, beyond its environmental

limitations that further restrict its justification as a site for growth and increased densities.

Discussion and conclusion

The Committee considers that the site could be rezoned for either GRZ or NRZ based on the existing surrounding zoning and that the Council's Housing Strategy is yet to be prepared (although underway), the Committee sees merit in the rezoning to GRZ in line with the surrounding area.

Irrespective of the zoning applied, the Committee understands that there will be limited opportunity for much housing development to occur on the subject land due to:

- the existing pipeline easement (approximately 40 metres wide) running through the middle of the subject land
- the PUZ1 is to be retained along the creek and pump station
- the planning controls covering the land.

The most significant native vegetation is associated with the Murray Anderson Creek environs, which the Site owner submitted would have a 30 metre wide buffer on either side of the Creek. This would occur through retention of the PUZ1, which would remain in Melbourne Water's ownership to manage. The Committee is satisfied that this will provide some level of protection for flora and fauna values associated with the creek corridor.

4.2 What overlays are suitable

Submissions

The proposal is to retain all existing overlays which are the Bushfire Management Overlay (BMO), Design and Development Overlay – Schedule 1 (DDO1), Environmental Significance Overlay – Schedule 17 (ESO17) and Vegetation Protection Overlay – Schedule 1 (VPO1).

Council submitted that a Development Plan Overlay Schedule be implemented for the site to protect its significant environmental values and thereby limit development opportunities. Council submitted that although there is an existing suite of planning controls that apply to the site to protect environmental values such as the creek and native vegetation, there is a need for a more holistic control of the entire site that a DPO Schedule could provide.

Council stated that:

in this instance it is appropriate that a DPO specific for the site in its entirety is developed to ensure that all objectives to be achieved are considered in the design stages ensuring the wider site is managed in its entirety rather than a piecemeal approach.

Council, took the Committee to a draft DPO for consideration. In response to Council's submission of inclusion of a DPO Schedule, the Site owner submitted that:

... under the proposed suite of planning controls, all relevant matters will be able to be considered and assessed, including with the participation of third 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:

- 54 – one dwelling on a lot
- 55 – two or more dwellings on a lot
- 56 – residential subdivision
- 52.06 – car parking
- 52.17 – native vegetation
- 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.

The Australian Wildlife Protection Council, along with some submitters, raised concerns about impacts to the existing environmental values of the site, which includes native vegetation, a number of fauna and the Murray Anderson Creek and its environs. Submitters were particularly concerned with the removal of habitat.

In regard to submissions raising concerns about protecting the environmental values associated with the site, Mr Glossop stated:

I do not consider that there is any reason why properly managed urban development could not respond to the site's landscape and environmental values and, if required, secure an appropriate offset for the removal of native vegetation through the permit process.

The Site owner stated that the controls within the existing overlays negates the need for an additional DPO and that it would eliminate third party review. The Committee agrees with the Site owner that the existing suite of controls, as well as the constraints associated with the site, will provide an appropriate assessment and decision making framework for any future development proposals on the subject land.

The Site owner suggested that if one combines all the existing constraints of the subject land with the stringent overlay controls and existing easements, *'even a moderate form of development on this site will not be easy'*. The Site owner also suggested that the proposed draft DPO Schedule submitted by Council is a repetition of the existing zone and overlay controls whilst removing third party review.

Discussion and conclusion

The Committee agrees with the Site owner that the development potential of the site seems limited due to easements and environmental constraints. The existing overlays ensure environmental protection of the Murray Anderson Creek, remnant native vegetation, as well as development being considerate of existing neighbourhood character.

The Committee does not agree with Council that the introduction of a DPO Schedule over this site would be beneficial and agrees with the Site owner that third party review during the development permit process is important.

Appendix A: Document list

Documents Presented to Hearing (No.)	Description	Presented By
1	Melbourne Water submission	Peter O'Farrell
2	Easement plan – proposed (sheets 1 – 4)	Melbourne Water
3a	Memoranda of Common Provisions (2pp)	“
3b	Memoranda of Common Provisions (4pp)	“
4	Submissions	David Bergin, Mornington Peninsula Shire Council
5	Attachments to submissions	Mornington Peninsula Shire Council
6	E-mail from Department of Treasury and Finance to Council 28 July 2015	“
7	Vegetation analysis by section	“
8	Mr Murphy (Council Arborist) presentation slides	“
9	Proposed DPO	“
10	Purpose of DPOs	“
11	Submission	Australian Wildlife Protection Council
12	Submission	Mornington Peninsula Ratepayers and Residents Association Inc.