

Planning and Environment Act 1987

Panel Report

Maribyrnong Planning Scheme Amendment C143 Gordon and Mephan Employment Precinct

3 May 2018

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Panel Report pursuant to section 25 of the Act

Maribyrnong Planning Scheme Amendment C143

Gordon and Mephan Employment Precinct

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A handwritten signature in black ink, appearing to read 'Chris Harty', with a stylized flourish at the end.

Chris Harty, Chair

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List of Abbreviations

CEA	Core Employment Area
DCPO	Development Contributions Plan Overlay
EDS	Economic Development Strategy
EIA	Employment Intensification Area
GMP	Gordon and Mephan Street Precinct
GMPFP	Gordon and Mephan Precinct Framework Plan
ILS	Industrial Land Strategy
IN1Z	Industrial 1 Zone
IN3Z	Industrial 3 Zone
IREL	Industrially Related Employment Land
MEIDS	Maribyrnong Economic and Industrial Development Strategy
MUZ	Mixed Use Zone
SEIA	Strategic Employment Investigation Area
SRA	Strategic Redevelopment Area

Overview

Amendment summary

The Amendment	Maribyrnong Planning Scheme Amendment C143
Common name	Gordon and Mephan Employment Precinct
Brief description	Amendment C143 implements the recommendations of the Gordon and Mephan Precinct Framework Plan (February 2015) by amending the Municipal Strategic Statement and introducing local planning policy in the Maribyrnong Planning Scheme to protect and strengthen the economic and employment role of this industrial precinct, improve amenity and access, and support the development of key sites.
Subject land	The Gordon and Mephan Street Precinct , Maribyrnong
Planning Authority	Maribyrnong City Council
Authorisation	12 September 2017
Exhibition	16 November to 18 December 2017
Submissions	Number of Submissions: 21 including nine (9) late submissions (refer to Appendix A). Two (2) submissions in support, five (5) submissions seek changes and 14 submissions opposed.

Panel process

The Panel	Chris Harty, Chair
Directions Hearing	Footscray, 8 March 2018
Panel Hearing	Footscray, 5 and 6 April 2018
Site inspections	Unaccompanied, 8 March 2018
Appearances	Refer to Appendix B
Citation	Maribyrnong PSA C143 [2018] PPV
Date of this Report	3 May 2018

Executive summary

Maribyrnong Planning Scheme Amendment C143 (the Amendment) seeks to implement the recommendations of the Gordon and Mephan Precinct Framework Plan (February 2015) by amending the Municipal Strategic Statement and introducing local planning policy in the Maribyrnong Planning Scheme. The purpose of the Amendment is to protect and strengthen the economic and employment role of the Gordon and Mephan Street Precinct, improve amenity and access, and support the development of key sites within the precinct.

The Amendment attracted submissions concerned with the designation of the Gordon and Mephan Street Precinct from a Strategic Employment Investigation Area to a Core Employment Area and its retention for employment purposes and that of the Industrial 3 Zoning. The concerns fundamentally related to the perceived conflict between retaining a small pocket of industrial land that is now surrounded by residential development, a primary school, child care centre and aged care facility due to potential adverse impacts on local amenity.

Concerns were also expressed with regards to the basis of the strategic planning work undertaken to support the Amendment. This included how well Council had followed the planning and assessment process outlined under the Maribyrnong Economic and Industrial Development Strategy, including the Part 2 – Industrial Land Strategy.

These strategic concerns were focussed on what the appropriate future of land at 2-4 Mephan Street (located on the north side of the street) should be having regards to the physical and policy contexts of the site and surrounding area.

The Panel considers designation and retention of the Gordon and Mephan Street Precinct, including the land at 2-4 Mephan Street, as an employment area is strategically justified and appropriate. Its use for employment purposes and industrial zoning exists and should remain in place supported by the new local policy proposed under the Amendment. The new local policy should provide certainty and support for the future of the Precinct for employment purposes.

The Panel concludes:

- The Amendment is strategically justified and appropriate.
- Retaining the Gordon and Mephan Street Precinct for employment purposes is consistent with the intent of the Maribyrnong Planning Scheme.
- Impacts on local amenity from retaining the Gordon and Mephan Street Precinct for employment purposes are expected to be appropriately managed under the provisions of the current Industrial 3 Zone and the proposed Clause 21.11-9.

(i) Recommendation

Based on the reasons set out in this Report, the Panel recommends:

- 1. Maribyrnong Planning Scheme Amendment C143 be adopted as exhibited.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes to implement the recommendations of the Gordon and Mephan Precinct Framework Plan (February 2015) by amending the Municipal Strategic Statement and introducing local planning policy in the Maribyrnong Planning Scheme. The purpose of the Amendment is to protect and strengthen the economic and employment role of the Gordon and Mephan Street Precinct, improve amenity and access, and support the development of key sites within the precinct.

The Amendment does not involve rezoning of land and focuses on changes to policy only.

Specifically, Amendment C143 proposes to:

- Amend Clause 21.01 (Municipal Strategic Statement), to reference Gordon and Mephan Street Precinct as a Local Area
- Amend Clause 21.02 (Municipal Profile), to reference Gordon and Mephan Street Precinct as a Core Employment Area
- Amend Clause 21.03 (Council Vision), to show the Gordon and Mephan Street Precinct as a Core Employment Area on the *Land Use Framework Plan*
- Amend Clause 21.04 (Settlement), to delete reference to Gordon and Mephan Street Precinct as a Strategic Employment Investigation Area
- Amend Clause 21.05 (Environment and Landscape Values), to show the Gordon and Mephan Street Precinct as a Core Employment Area on the *Environmentally Sustainable Development Framework Plan*
- Amend Clause 21.07 (Housing), to show the Gordon and Mephan Street Precinct as a Core Employment Area on the *Housing Framework Plan*
- Amend Clause 21.08 (Economic Development), to reference Gordon and Mephan Street Precinct as a Core Employment Area, and show the Gordon and Mephan Precinct as a Core Employment Area on the *Industrial Related Employment Land Framework Plan*
- Amend Clause 21.11 (Local Areas), to include Gordon and Mephan Street Precinct as a Local Area and provide precinct specific planning policy
- Amend Clause 21.12 (Reference Documents) to incorporate the Gordon and Mephan Precinct Framework Plan (February 2015) as a reference document under *Economic Development*.

The most significant change associated with the Amendment is the introduction of a new local policy at Clause 21.11-9 (Gordon and Mephan Street Precinct). The overarching directions for the Gordon and Mephan Street Precinct (GMP) are explained in the following objectives of the new local policy:

- *To protect and strengthen the economic role of the precinct as a Core Employment Area.*
- *To provide and maintain safe, convenient and efficient access to and within the precinct.*

- To improve the overall amenity of the precinct.
- To support the redevelopment of Key Sites to provide sustainable, integrated and adaptable development.

(ii) The Gordon and Mephan Street Precinct and surrounds

The Amendment applies to the GMP, which is located on the border between the suburbs of Maribyrnong and Footscray and in close proximity to the Footscray Metropolitan Activity Centre and the Maribyrnong-Highpoint Major Activity Centre. The Amendment affects the following properties; 84 Gordon Street, 86 Gordon Street, 88 Gordon Street, 90 Gordon Street, 92 Gordon Street, 84-90 Gordon Street, 1-5 Mephan Street, 7-9 Mephan Street, 11 Mephan Street, 13 Mephan Street, 15 Mephan Street, 17 Mephan Street, 19 Mephan Street, 21 Mephan Street, and 23 Mephan Street, Footscray and 2-4 Mephan Street, Maribyrnong. The area is shown in Figure 1.

Figure 1 Gordon and Mephan Street Precinct

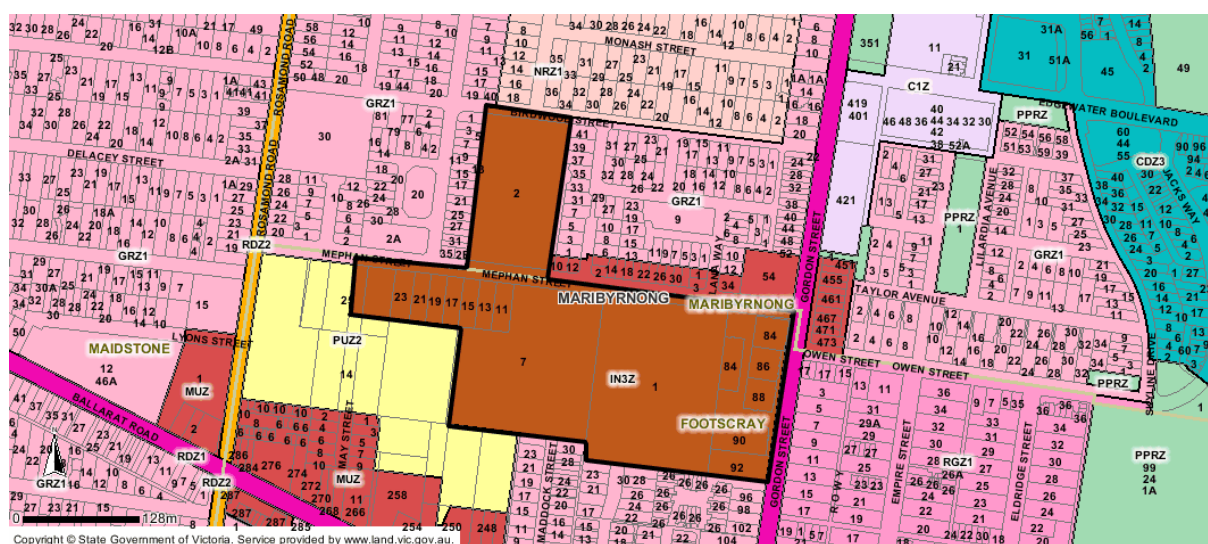


The GMP is predominantly located on the south side of Mephan Street with one parcel of land located to the north. The GMP is in the Industrial 3 Zone (IN3Z) and is currently used for three types of business activities, manufacturing, warehousing and services. Development mostly comprises two storey warehouse-style buildings with associated offices and car parking.

Mephan Street links Rosamond Road to the west and Gordon Street to the east. Public transport services include the Route 82 Tram along Gordon Street and buses along Gordon Street and Rosamond Road. Birdwood Street and Mephan Street are subject to truck bans associated with through truck traffic movement. Truck movements associated with deliveries servicing businesses within the GMP are permitted. Existing premises within the GMP have vehicular access from either Gordon Street or Mephan Street.

The surrounding area is predominately residential, with apartments, townhouses and some detached dwellings. The North Footscray Primary School and Footscray Aged Care facility are located directly west of the GMP and an existing child care centre is located to the north-west. The surrounding area is predominantly in the General Residential Zone with some areas in the Neighbourhood Residential Zone, Mixed Use Zone (MUZ) or the Public Use Zone. The zoning configuration of the GMP and surrounding area is shown in Figure 2.

Figure 2 Zoning of the Gordon and Mephan Street Precinct and surrounds



1.2 Issues dealt with in this Report

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

Significant attention in submissions and evidence focussed on the strategic justification for the Amendment. This attention revolved around the fundamental issue of whether it is appropriate to retain the GMP for its employment role and as an industrially zoned area, given its close abuttal with residential development, an existing child care centre, the North Footscray Primary School and the Footscray Aged Care facility and the potential for adverse impacts on amenity.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Land use conflict
- The future for 2-4 Mephan Street.

2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed Council's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

(i) State Planning Policy Framework

Council submitted that the Amendment is supported by the following Clauses in the State Planning Policy Framework:

- Clause 10 (Operation of the State Planning Policy Framework)
- Clause 11 (Settlement)
- Clause 15 (Built Environment and Heritage)
- Clause 17 (Economic Development)
- Clause 18 (Transport)
- Clause 19 (Infrastructure).

Council considered the Amendment achieves:

- *The orderly development of an urban area by ensuring that a sufficient supply of land is available for industrial and employment uses.*
- *The promotion of a future urban environment that is safe, functional and of good quality.*
- *The protection of existing residential areas by minimising the potential for adverse amenity impacts.*
- *The support of the local and regional economy by ensuring existing employment generating uses have the ability to grow in a managed and coordinated manner.*
- *The creation of a safe and sustainable transport system that integrates land-use and transport and utilises existing infrastructure.*

The Amendment also seeks to ensure the availability of land for industry and the provision of adequate supply of industrial land near Transport Gateways. While also protecting industry activities in an industrial zone from the encroachment of unplanned commercial, residential and other sensitive uses, which would adversely affect industry viability (Clause 17.02-1).

(ii) Local Planning Policy Framework

The Local Planning Policy Framework of the Maribyrnong Planning Scheme through the Municipal Strategic Statement recognises that the municipality has undergone and is continuing to undergo significant transition from its predominantly industrial and defence origins to an area of urban renewal. Clause 21.02 (Municipal Profile) recognises in the policy preamble that:

The City of Maribyrnong is changing, as Melbourne's inner western suburbs become more popular and significant new residential developments occur. In the past, the defence industries and other manufacturing industries dominated the municipality, which was once Melbourne's industrial heartland. With the closure and redevelopment of many of these industrial sites and changing economic circumstances, the municipality has experienced considerable changes to its economy, pattern of land uses and population.

Council submitted that the Amendment supports the following local planning objectives:

- Clause 21.03 (Land Use Vision) by managing the growth of an existing industrial area which contributes to the local and regional economy.
- Clause 21.06-1 (Urban Design) by providing policy guidance on the preferred design outcomes for an industrial and employment precinct and improving and protecting amenity at sensitive interfaces.
- Clause 21.08-3 (Industrial Related Employment Land) by providing policy guidance to ensure high quality industrial development is delivered across the precinct, including site specific guidance on landscaping, amenity, waste management, access and vehicle parking.
- Clause 21.09 (Transport) by identifying potential improvements to sustainable transport options within the precinct (walking paths and bicycle paths), as well as supporting employment use close to existing tram/bus routes.

The Panel notes that Clause 21.04-5 (Strategic Employment Investigation Areas) identifies the GMP as one of three precincts as a Strategic Employment Investigation Area (SEIA) ... *for investigation due to having significant limitations or issues. Further investigation is required to determine if these uncertainties can be addressed in order for these areas to retain or increase their employment role. Strategic Employment Investigation Areas are considered to be employment areas until such time as further investigation clearly demonstrated that this is not a viable option.*

Specifically, in relation to the GMP, the policy states:

The area is located east of Gordon Street and predominantly south of Mephan Street, but also includes one large parcel north of Mephan Street, between Mephan and Birdwood Streets. The close proximity of new residential development to existing industrial uses potentially gives rise to amenity issues at the interface, including heavy vehicle usage of partially residential streets, industry noise and visual impact.

The policy seeks to ensure that redevelopment of SEIAs are managed in an integrated manner and appropriately planned and developed.

Clause 21.08-3 (Industrial Related Employment Land) is also considered relevant as it recognises the importance of striking a balance between residential and employment outcomes to avoid the municipality becoming a predominantly residential city and ensuring adequate employment land is provided in the longer term. The policy reiterates the concepts of SEIAs and includes reference to Core Employment Areas (CEAs).

The Amendment, as it has been drafted, appropriately responds to the relevant State and local planning policies through the retention and protection of Industrial Related Employment Land (IREL) in the municipality through the introduction of new local policy designating the GMP as a CEA.

There are, of course, the concerns expressed by the owners of land at 2-4 Mephan Street and other submitters who live around the GMP regarding impacts on amenity. These are considered further with regards to strategic justification of the Amendment.

2.2 Other planning strategies used in formulating the Amendment

The Amendment is the culmination of a series of strategic planning strategies for industrial lands across the Maribyrnong City Council municipality. The formulation of Council's vision and new local policy for the GMP evolved from the broader strategic work of the Maribyrnong Economic and Industrial Development Strategy, 2011 (MEIDS), which comprised Part 1 – Economic Development Strategy, 2011 (EDS) and Part 2 – Industrial Land Strategy, 2011 (ILS). The MEIDS formed the basis for further review of the future role of the GMP with the preparation of the Gordon and Mephan Precinct Framework Plan, 2015 (GMPFP).

2.2.1 Maribyrnong Economic and Industrial Development Strategy

The MEIDS sought to guide the overall future sustainable economic development and role of the municipality's key industrial precincts. In November 2016, MEIDS was implemented into the Maribyrnong Planning Scheme and listed as reference document through Amendment C108.

MEIDS included an assessment of the municipality's industrial and employment land use supply, socio-demographic characteristics, business and industry structure, existing planning and policy context, labour market characteristics, property market trends and population change and how they affected economic development in the municipality. Through the ILS, a precinct based approach to IREL was undertaken. It introduced performance criteria to classify IREL for a range of purposes. Relevant to the Amendment are the following designations defined in MEIDS as:

- **Core Employment Area (CEA):** *Areas which are highly suitable for employment, are functioning relatively efficiently and where the employment role is to be protected and enhanced.*
- **Strategic Employment Investigation Area (SEIA):** *Areas which have more significant limitations or issues which require investigation to determine if they can be addressed in order for them to retain or increase their employment role. If these limitations cannot be addressed, these areas are determined to be inherently/intrinsically unsuitable for an employment role. SEIAs are considered to be employment areas until such time as further investigation clearly demonstrates that this is not a viable option.*
- **Employment Intensification Areas (EIA):** *SEIAs that have limitations and issues that need to be addressed through the EIA framework plan for them to retain or increase their employment role.*

- **Strategic Redevelopment Areas (SRA):** SEIAs that have limitations or issues that cannot be addressed to retain or increase their employment role and are more suited to mixed use or an alternative role, e.g. entirely residential.

The process of categorisation of precincts is outlined in Figure 3 and the performance criteria established under the ILS and used in assessment for precinct categorisation is outlined in Figure 4.

Figure 3 Industrial Related Employment Land Categorisation Process from Maribyrnong Economic and Industrial Development Strategy Part 2 – Industrial Land Strategy, 2011

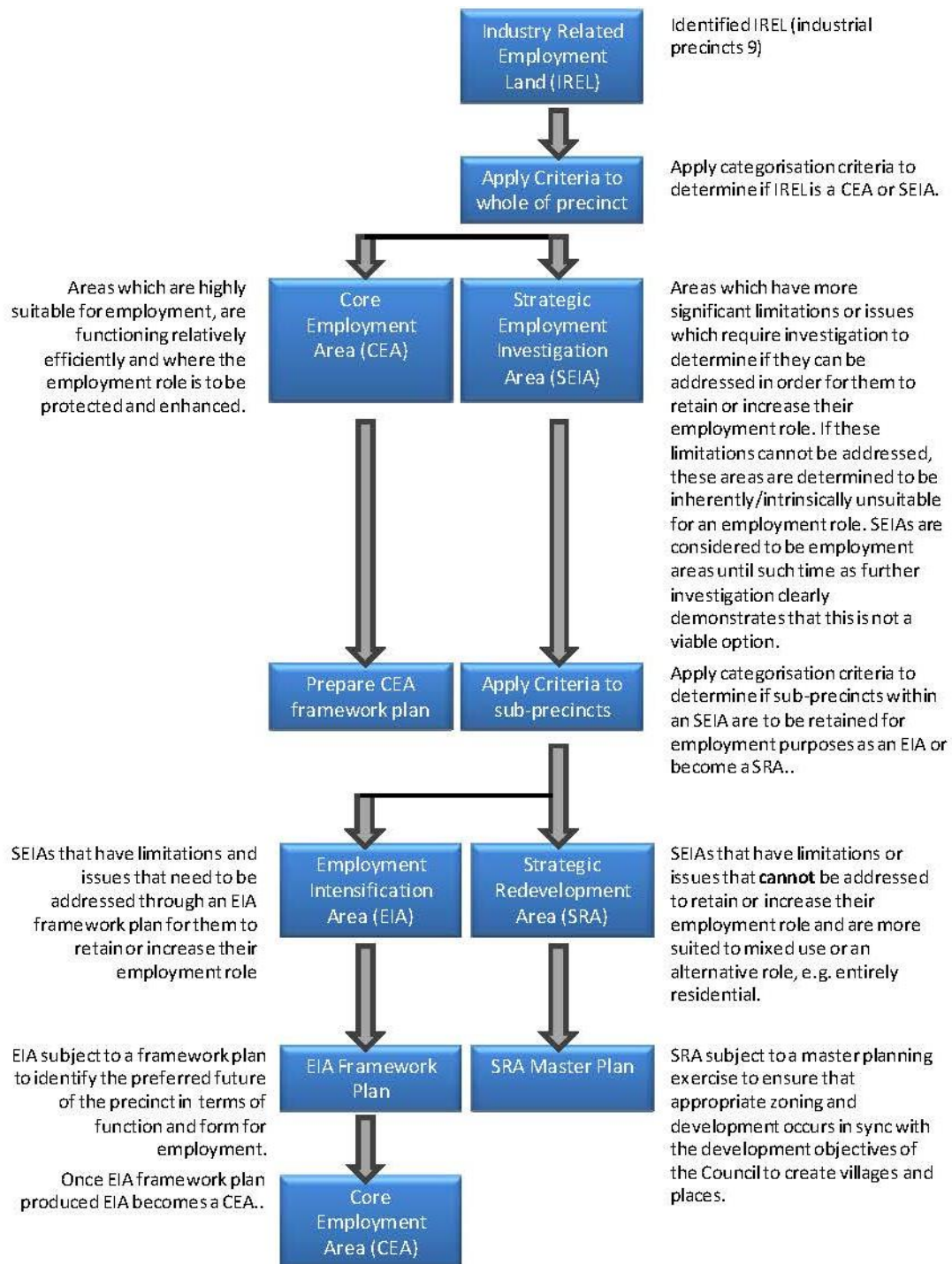


Figure 4 Industrial Related Employment Land Precinct and Sub-Precinct Performance Criteria from Maribyrnong Economic and Industrial Development Strategy Part 2 – Industrial Land Strategy, 2011

	Criterion	Description	Measures/Indicators
1	Use/Purpose	Current use is predominantly employment based, including industrial and/or commercial	Proportion of land devoted to uses which may provide employment e.g. factory, warehouse, retail, office, service industry is significantly greater than proportion of land which is vacant, residential or other non-employment generating land use.
2	Transition Buffer Role	Currently forms a transition buffer between heavier industrial and sensitive uses or high amenity areas.	Provides a separation between Industrial 1 zoned land, special purpose facilities such as oil and chemical storage and sensitive uses and/or provides for a higher amenity edge to prominent roads or activity centre precincts.
3	Statutory Buffer	Land is located within a statutory, legislated or recommended buffer of a nearby use.	EPA recommended threshold buffers as contained in Clause 52.10 and/or Worksafe Major Hazard Facility buffers.
4	Co-Location	Within an area of similar, related or dependent industrial/commercial activities.	Example: <ul style="list-style-type: none"> Businesses relying on the Port of Melbourne or other freight handling facilities which are located together for this reason.
5	Capital Investment	There is significant sunk capital in the precinct, or recent levels of reinvestment.	Examples: <ul style="list-style-type: none"> presence of one or more large scale manufacturing plants in the precinct. recent refurbishment/investment in businesses in the precinct.
6	Employment	Precinct has a significant number of employees.	More than 200 employees or in line with State employment density benchmarks.
7	Access	Existing or planned direct (i.e. not through residential areas) access to key transport networks.	Direct connection to the Principal Freight Network (PFN) or connected to PFN road or rail by a sealed local road providing direct access of sufficient quality for heavy freight vehicle use and HPFV accessibility in some instances
8	Legislative/Policy Framework	The precinct is recognised for its economic and/or employment role in the planning scheme or other policy/legislative /strategic frameworks.	National or State Planning Policy National or State Economic Policies Regional Economic Policies/Strategies Local Planning Policy Port Environs Boundary

The performance criteria were applied to identify IREL as either CEAs or SEIAs and on a sub-precinct level, as either SEIAs or EIAs and whether further detailed assessment was required through framework planning. The ILS describes the process as follows:

If an IREL precinct is categorised as a SEIA the same criteria are applied to sub-precincts of the SEIA to determine if sub-precincts could be retained for employment purposes thereby categorised as an Employment Intensification Area (EIA). EIAs are subject to an EIA framework plan and are then re-categorised as a CEA. If a sub-precinct is not determined to have a future for employment purposes it is categorised as a Strategic Redevelopment Area (SRA) and is subject to a master planning process as an alternative use.

A precinct was judged to be a CEA if it complies with the clear majority of the performance criteria and achieved a score rating of over 60 per cent. The GMP was one of the nine industrial precincts considered by MEIDS. The GMP was designated as a SEIA as it achieved a

performance criteria score rating of 50 per cent. The Panel notes that, at the time of the ILS, the GMP was identified as a SEIA which included the former Pelaco site¹. In addition, the ILS undertook a further sub-precinct assessment of the GMP, excluding the Pelaco site, which concluded with a performance criteria score rating of 35 per cent. This score rating would otherwise have led to a SRA designation.

Nevertheless, the initial SEIA designation meant that the GMP needed to be assessed at a greater level of detail (e.g. sub-precinct level) to determine if its limitations could be addressed in order for it to retain or intensify its employment role, or if it was more suited to transition into a SRA. Council undertook this additional assessment using the framework planning process.

2.2.2 Gordon and Mephan Precinct Framework Plan

The GMPFP was prepared in 2014 and finalised in 2015 as a result of the recommendation in MEIDs to conduct further investigation into precincts designated as SEIA to determine their future role through a framework plan process.

In preparing the GMPFP, the following were considered:

- An examination of local and regional policy frameworks so that the relevance and contributions made by existing (and possible alternative uses) in the GMP were viewed in light of existing policies
- Analysis of local and regional employment data including economic conditions and drivers impacting on the subject site's use. Importantly, how employment patterns in relevant industries and geographies have changed over time and how they are expected to evolve
- A survey of businesses in the precinct to ascertain the value and sustainability of their operations to the local and regional economy. In conjunction with landowner surveys, site operating issues, preferences and future business outlook
- A workshop process with Council staff from Strategic Planning, Economic Development, Urban Planning, Transport, Infrastructure and Community Wellbeing.

The analysis concluded that the GMP was well-functioning and suited for further employment growth and intensification. In particular, the GMPFP found that:

- The GMP supports a healthy and diverse economy
- Businesses in the GMP employ approximately 180 staff
- Total direct economic contribution of the GMP is \$22.6 million
- Employment within the GMP has increased over the past several years
- The GMP is a reasonable location for manufacturing and warehousing
- There is adequate public transport coverage through existing bus and tram routes
- Retention of the existing zoning and land use mix is not likely to exacerbate road congestion.

¹ The Pelaco site was a separate area of industrially zoned land located on the south-east corner of Rosamond Road and Birdwood Street that was, at the time, in the process of rezoning for residential purposes.

As a result of the analysis, the GMPFP recommended changing the designation of the precinct from SEIA to CEA and that the GMP was highly suitable for employment. The GMPFP produced a framework plan for the GMP, which formed the basis for the new local policy forming part of the Amendment (refer to Figure 5).

Figure 5 Proposed Gordon and Mephan Precinct Framework Plan



2.3 Planning scheme provisions

The Amendment does not involve rezoning of land in the GMP. The GMP is currently in the Industrial 3 Zone (IN3Z) and affected by the Development Contributions Plan Overlay (DCPO).

(i) Zone

The IN3Z is the more sensitive of the industrial land use zonings with regards to adjoining land uses, particularly those that support sensitive activities such as residential use. This is

relevant given the GMP is bordered directly by residential, aged care and primary school land uses.

The purposes of the IN3Z are:

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

To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.

To provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community.

To allow limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations.

To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.

The IN3Z provides for industrial activity, which is tempered by amenity protections to adjoining sensitive land uses. For example, industry requires a permit outright while the use of land for warehousing would not require a permit subject to satisfying relevant threshold separation distances or a default 30 metre buffer from residential zones and not adversely affecting the amenity of the neighbourhood through emissions, transport activity or storage of goods.

(ii) Overlays

The GMP is affected by the single overlay; the DCPO Schedule 2 (Maribyrnong, North Maidstone and North Footscray Community Infrastructure Development Contributions Plan). The overlay has no relevance to either the GMP, as an industrial area or to the purposes of the Amendment.

(iii) Other provisions

Clause 52.10 (Uses with Adverse Amenity Potential) is a Particular Provision in the planning scheme that is relevant given it plays a role in determining the extent of discretion for land uses that may involve industrial, manufacturing, warehousing or other employment based activity or goods which may have potential for generating off-site impacts on amenity.

The Clause defines those types of industries and warehouses which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood.

It provides threshold distances for various types of industrial activity which, if not met, determine whether or not a permit is required and can be used to guide the assessment of those activities that do require a permit.

2.4 Ministerial Directions and Practice Notes

Ministerial Directions

Council submitted that the Amendment meets the relevant requirements of:

- Ministerial Direction 9 (Metropolitan Planning Strategy). Ministerial Direction 9 requires that all planning scheme amendments have regard to Plan Melbourne 2017-2050. Key directions and policies of Plan Melbourne relevant to this Amendment include:
 - *Direction 1.1 Create a city structure that strengthens Melbourne's competitiveness for jobs and investment*
 - *Policy 1.1.6 Plan for industrial land in the right locations to support employment and investment opportunities*
 - *Direction 1.2 Improve access to jobs across Melbourne and closer to where people live*
 - *Direction 4.3 Achieve and promote design excellence*
 - *Policy 4.3.1 Promote urban design excellence in every aspect of the built environment*
- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

Planning Practice Notes

Council submitted that the Amendment is consistent with:

- Planning Practice Note 4 (PPN04) Writing a Municipal Strategic Statement, June 2015. This is relevant with respect to the drafting of the proposed new local policy under the Local Area policy proposed in the Amendment.
- Planning Practice Note 46 (PPN46) Strategic Assessment Guidelines, June 2015.

2.5 Conclusion

The Panel concludes that the Amendment is generally consistent with, and implements, the relevant sections of the State and Local Planning Policy Framework. It is also consistent with the relevant Ministerial Directions and Practice Notes.

Further consideration of the strategic justification of the Amendment is provided in the next chapter where submissions and evidence that directly address this issue are considered regarding how well founded Council's strategic planning work supports the basis for the Amendment.

3 Strategic justification

3.1 The issues

The issues raised regarding the strategic justification for the Amendment relate to inter-related matters concerning:

- The future role of the GMP for employment purposes and as an industrially zoned area
- The relevance and soundness of the strategic planning work undertaken by Council through the MEIDS and GMPFP that identifies the GMP as a CEA
- The appropriateness of the changes to the planning scheme regarding whether employment opportunities are adequately protected.

3.2 Evidence and submissions

The main thrust of submissions regarding strategic justification came from the major landowners in the GMP. Two submitters, Ballook Pty Ltd, Maraka Pty Ltd, and Gordon Street Property Pty Ltd (Submitter 9) and Intrapac Property Group Pty Ltd (Submitter 11) represented the largest and majority of sites within the GMP and questioned the desirability for designating the GMP as a CEA when a combination of physical and planning contexts highlight opportunities for an alternative mix of land uses.

Maribyrnong City Council has undertaken a layered approach to strategic planning for its employment and industrial lands across the municipality. This includes the MEIDS EDS and ILS and the GMPFP specifically for the GMP.

The MEIDS and its approach towards establishing planning directions for employment lands was accepted by the Panel in Amendment C108 and which, now, is a reference document in the Maribyrnong Planning Scheme.

3.2.1 Inappropriate employment designation and out-dated information

Key concerns expressed by submissions from Ms Joanne Lardner, Barrister and in the evidence of Ms Sarah Horsfield, Town Planner from Urbis Pty Ltd and Mr Chris McNeill, Economist from Essential Economics on behalf of Intrapac Property Group Pty Ltd related to:

- The failure to apply the approach for categorising IRELS in accordance with that described under the ILS (refer to Figure 3), with regards to the GMP. Council failed to apply the fourth step (arrow) in Figure 3 that assessed SEIAs at a sub-precinct level to determine retention for employment purposes as an Employment Intensification Area (EIA) or to become a SRA. It was argued that Council by-passed this step and went straight to preparation of a framework plan process without first applying the categorisation criteria to determine whether the GMP should be an EIA or SRA. In other words, Council assumed the GMP to be an employment area to which the GMPFP undertook an assessment as to the appropriateness for designation as a CEA.
- The references and reliance on employment figures and economic information considered to be out of date for the basis of the GMPFP and final designation of the GMP as a CEA. Much of the information in the GMPFP relied upon information and

analysis contained in the MEIDS, which is now almost 10 years old. Mr McNeill considered this well out of date with regards to analysis of industrial supply and demand given the transitioning economy of metropolitan Melbourne.

- The failure of the GMPFP to consider, in detail, the appropriateness of the GMP as a CEA given its interface issues with adjoining surrounding residential land. Ms Horsfield considered this was a fatal flaw in the strategic work of the GMPFP.

The submission from Mr Jamie Govenlock, Town Planner from Urbis Pty Ltd on behalf of Ballook Pty Ltd, Maraka Pty Ltd, and Gordon Street Property Pty Ltd expressed similar misgivings about the relevancy of data used to assess the future role of the GMP for employment purposes. Unlike the submissions on behalf of Submitter 11, his view was more accepting of the concept of the GMPFP and the Amendment. However, he also recognised that the background strategic work that informed the Amendment was prepared several years ago and needed to be revisited to update and review their findings due to:

- Difficulties in attracting tenants with existing development in the GMP risking sites becoming vacant and derelict over time
- The GMP is isolated with surrounding sensitive interfaces with abutting residential areas which restrict options for land uses, although it is well located with respect to access to transport and services which suit transition to a greater mix of land uses
- Employment forecasts based on old work
- The GMP is a small employment precinct relative to other industrial precincts in the municipality.

He submitted that his client's land (Nos 1-5 and 7-9 Mephan Street located on the south side of Mephan Street and 92 Gordon Street) exhibits attributes suited to accommodating a mix of land uses including future residential uses. He considered the GMPFP should reflect the need for review in the next 5-10 years and requested recommendations from the Panel accordingly.

In contrast, Mr Mark Bartley, Lawyer from HWL Ebsworth Lawyers and the evidence of Mr Andrew Spencer, Urban Planner from SGS Economics and Planning Pty Ltd and Mr Matt Ainsaar, Economist from Urban Enterprise Pty Ltd all on behalf of Council, collectively considered the Amendment was strategically justified through the consequential work of MEIDS (collectively, the EDS and ILS) and the GMPFP.

Mr Bartley submitted the Amendment supports the retention of an existing industrial area that has employment opportunities which can support an increasing residential population within the Maribyrnong and Footscray areas and the municipality more generally. Council has formed the view, through the MEIDS and the GMPFP that the GMP can be identified and secured for current and future local employment. Accordingly, Council has adopted a position that it is appropriate for the GMP to be a CEA and that the Amendment has been prepared to provide the policy support for that designation in the Maribyrnong Planning Scheme.

Mr Ainsaar expressed the view that the work undertaken in the GMPFP and the methods engaged leading to designation of the GMP as a CEA was sound and evidence based. He notes employment within the GMP is viable and agrees with the GMPFP that it is not appropriate for land in the GMP to be converted to residential use stating *"that allowing*

residential use to encroach into the precinct will effectively undermine the employment uses. The reason for this is that medium density residential use in this location would command a higher underlying land value than the existing employment uses and hence the attraction to redevelop for residential use would be strong. This is evidenced by observing what has happened in the Mixed Use Zones surrounding the precinct. Most of this land has been redeveloped for medium density residential use.”

Recent evidence of such change is found with the nearby former Pelaco site, which was defined in the ILS as sub-precinct 9a and distinct from the GMP and which was rezoned from industrial to residential purposes in 2013 under Amendment C95. Council’s Part A submission found that this site, together with another site that now forms residential development directly abutting part of the GMP (the Allara Estate to the west of Nos 2-4 Mephan Street) were difficult for Council to defend from rezoning to residential due a lack of policy support for the retention of remnant industrial land.

The Panel observed from its inspection that, land on the north side of Mephan Street east of 2-4 Mephan Street, which is MUZ, appears to have been developed for residential purposes with little evidence of non-residential use.

Mr Bartley reiterated that Council has adopted a precautionary approach to secure local employment opportunities within the municipality. He stated that:

Once land is converted to a 'higher value' (eg mixed use or residential zone) it is almost impossible to reintroduce employment land.

He recognised that the GMP has been functioning as a viable employment precinct for many years and has transitioned in terms of the types of employment over time. The Panel heard evidence from Mr Ainsaar and Mr McNeill about how the nature of industrial activity within the City of Maribyrnong has changed over time from a predominantly heavy industrial region to one trending towards a more service industry role.

Although there was much argument over the relevance of economic data relied upon in the MEIDS and GMPFP for designating the GMP as a CEA, the evidence of Mr Ainsaar and Mr McNeill did not significantly vary. This was due to both experts conducting updated economic analysis of industrial land and employment trends within the municipality and in the statistical area that included the GMP. Both experts identified that employment within the GMP remained steady with a small increase. Both experts generally agreed on employment numbers, with Mr Ainsaar identifying an employment growth rate around 4 per cent from 2011 to 2016. Differences were apparent with Mr McNeill believing that a broader regional view of industrial land supply should be taken into account.

Council accepted this perspective with respect to larger scale forms of industrial activity but not for smaller scale, locally focussed employment areas. Mr Bartley emphasised that the GMP provides the opportunity to provide for local employment associated with smaller scale manufacturing, warehousing, logistics/distribution and service industries focussed on the local area and that the Amendment also focuses on this aspect. He considered provision of large areas of industrial land supply within the broader industrial areas west of Melbourne, such as in Laverton or Derrimut, is of little use to someone wishing to set up a business to provide services or goods to the local Maribyrnong community.

Mr Bartley submitted the Amendment is not about IN3Z land purely as industry, but about the mix of employment opportunities and the provision of local services. The change in transition from large scale manufacturing industry to service type industry is reflected by the growth in activities such as plumbing and hardware supplies, landscaping and paving, furniture and household appliances and fittings, sports centres and other recreation activity, factory sales, office uses and a range of small industries. These activities need to locate close to the communities that they serve and within Maribyrnong, there are now no greenfield areas where these activities can go to, and hence areas like the GMP become valuable for such activities.

3.3 Discussion

Acknowledging the submissions and evidence of the parties, the Panel observes the comment of Council about the difficulty in retaining industrial zoned land when under pressure for conversion to residential development and that once employment lands are gone, there is little prospect for their return. These perspectives resonate with the Panel.

It is noted that these perspectives resonated with the Panel in Amendment C108 where it stated in the Executive Summary that:

The Panel forms the view that the supply of industrial and employment land is an important economic resource and agreed with the Council proposition that once it is gone, it does not come back. Maintaining an overall supply of employment land will allow for fluctuations over time.

Primarily, the Panel agrees with the assessment criteria, and felt that no parties effectively provided a more robust alternative. This is not to say that the Panel was convinced with every assessment.

What resonated with the Panel was the proposition that the longevity and adequacy of the employment land cannot be left to random rezoning or current desires of individual landowners based on their own economic plans. It agreed with Council that there should be neither entitlement nor any reasonable expectation that employment land can easily be redeveloped for some non-employment purpose, namely residential.

The Panel agrees with the above sentiments and considers the Amendment is appropriate and strategically justified as it provides the policy direction to support the retention of the GMP for employment purposes, protecting the area from the speculative pressure for rezoning to residential purposes.

3.3.1 The appropriateness of employment designation

The Panel agrees with the position of Council where it seeks to retain the GMP as a CEA. The combination of its location and zoning supports the continuance of employment activity in the GMP. However, the Panel also recognises that employment land use must also be sensitive to surrounding land uses and associated amenity, whilst providing scope for maintaining and attracting employment activity that can serve the local and broader community.

The concerns over the omission in the process of designation of the GMP as a CEA and its consequences for the land use future of the GMP do not appear to be significant. The Panel considers the actions of Council in preparing the GMPFP is generally in accordance with the outcomes from the MEIDS and the planning scheme. MEIDS is a reference document in the planning scheme. It is not an incorporated document. Hence, it is a guide that Council can use to assist in informing itself with the administration of the planning scheme. The Panel sees no compulsion on Council to strictly adhere to the procedural processes outlined in the MEIDS (the EDS or ILS). It is a reference document that Council can consistently apply as appropriate to its considerations.

Clause 21.08-3 (Industrial Related Employment Land) includes in the reference to CEAs, the option for these areas to be identified either through the sub-precinct level or through a framework planning process:

CEAs are identified from the stock of Industrial Related Employment Land (IREL) at the precinct level, or are identified in a framework/structure planning process following interim designation as a SEIA.

The policy also clearly provides for areas designated as SEIAs as:

Areas which are considered to be suitable for employment until such time as further investigation clearly demonstrates that this is not a viable option.

Despite Mr Bartley conceding there were some shortcomings with the extent of interface assessment and consultation in the GMPFP, there was, nevertheless, both analysis and a framework plan for incorporation into the planning scheme. The Panel does not see any strategic disadvantage or dis-benefit from Council's assessment of the GMP through the GMPFP framework plan process.

It is clear to the Panel that the GMP is currently used for industry and that its continuance is supported through the planning scheme until an investigation identifies otherwise. The GMPFP has considered the future of the precinct and found that it is appropriate to continue to provide employment opportunities.

Questions over the relevancy of data used in economic analysis of the employment role of the GMP and supporting the MEIDS, GMPFP and the Amendment are not considered sufficiently significant to warrant not supporting the Amendment. The Panel considers the economic evidence did not identify or highlight areas of concern that undermine the basis of the Amendment. The GMP currently exists and has done so for many years. Industrial activity in Maribyrnong has, and is changing however the level of employment in the GMP appears to have not declined since the preparation of the MEIDS.

Ms Lardner submitted the current tenant of No 2-4 Mephan Street is expected to leave at the end of the year, noting that this will result in the loss of 21 jobs from this site and the precinct. She argued that that the effect of this extent of job losses has not been factored into any analysis of the employment role of the GMP and if it was, the results would not be as supportive for retention of the GMP as an employment area or CEA. Despite these claims, and those of the site at 2-4 Mephan Street, becoming vacant and under-utilised, the fact remains that the land and buildings will remain as part of the GMP and remains an

opportunity for appropriate re-use for employment purposes. The Panel notes and agrees with the sentiment of Mr Bartley when he states:

The mere fact that a current tenant indicates an intention to vacate, assuming that is the case, is not a strategic basis for rezoning in the short term.

The loss of jobs and reduction in employment in the area is evident from sections of what were obviously a much larger industrial precinct having been converted to residential and mixed use purposes. However, the Panel considers the employment role of the remaining precinct will continue to function effectively. The Panel considers the Amendment should provide the strategic planning direction to support the continuing employment role of the GMP and in conjunction with the IN3Z, provide an appropriate regime to manage new use and development within the precinct. Such policy certainty over the future role of the GMP should overcome temporal losses of jobs that may occur from time to time with encouragement for future opportunities for employment in the area.

The Panel notes that the suggestion from Mr Govenlock concerning a review of the MEIDS and GMPFP was generally supported by Council. The Panel finds that it would be unusual if Council did not contemplate a regular review of such strategic work, particularly given the changing nature of the municipality including population change, industrial transitioning and residential growth. The Panel finds it is unnecessary to change the Amendment to include reference to conducting a regular review of the MEIDS, GMPFP or the proposed new local policy. Although, the Panel stops short of making a recommendation in this regard, it does consider it advisable for Council to undertake a five yearly review of these strategies in order to ensure they remain responsive and to monitor the effectiveness of the new local policy with regards to the GMP.

Submissions made little comment on the drafting of the Amendment and on whether the proposed changes to the planning scheme would adequately protect employment opportunities. For completeness, the Panel considers it appropriate to address this issue.

Proposed Clause 21.11-9 (Gordon and Mephan Street Precinct) includes recognition that the GMP, as a CEA is an industrial precinct located within a largely residential neighbourhood. The policy identifies that the GMP currently functions well and supports a range of employment uses. It has a variety of lot sizes, good accessibility to customers through several transport modes, and with a projected increase in the municipality's population, offers opportunities for further employment growth and intensification.

The policy also recognises that, as a CEA, any change in land use or development should result in increased job density, or otherwise support the precinct's employment growth, attract new businesses or adapt the precinct to changing employment trends. The policy does not encourage the establishment of sensitive uses and requires development to make a positive contribution to the amenity of the precinct. Building design, orientation and signage should contribute to the public realm and overall precinct character, and not adversely impact adjoining sensitive land uses. These directions are supported in the new policy by a series of objectives and strategies that guide the type of outcomes sought for the GMP. These directions are further supported by the CEA framework plan.

The Panel considers these directions and outcomes are well articulated within the proposed policy and will support the intentions for the GMP and its employment role.

3.4 Conclusions

The Panel concludes:

- The Amendment is strategically justified.
- The process of designation of the GMP as a CEA through the MEIDS and GMPFP is considered appropriate
- The retention of the GMP as a CEA supports the intent of the planning scheme and offers the opportunity to service the local community
- The proposed changes to local policy adequately support the employment role of the GMP
- It would be beneficial for Council to undertake regular five yearly reviews of the MEIDS and GMPFP in order to ensure they remain responsive and to monitor the effectiveness of the new local policy with regards to the GMP.

4 Land use conflict

4.1 The issues

The issues regarding land use conflict associated with the purpose of the Amendment relate to:

- The potential for amenity impacts to nearby residential areas with continuing the employment role and industrial zoning of the GMP
- The appropriateness of the changes to the planning scheme regarding whether potential amenity impacts to nearby residential areas can be appropriately managed.

4.2 Evidence and submissions

The relationship between the GMP and its interfaces with adjoining areas that include a mix of residential development, primary school, child care and aged care facilities raised concerns over land use compatibility. The majority of individual submissions were concerned over impacts on amenity to adjoining residential areas from the current land use activity occurring within the GMP and what the future may hold under the auspices of the Amendment.

4.2.1 Land use conflict between employment land and residential development

The submission from Mr Riccardo Caputo (Submitter 2) associated with a small property within the precinct related to potential conflict between industrial based traffic movements and the primary school, child care centre and aged care facility. The presence and encouragement of truck movement within the GMP (primarily along Mephan Street) arising from the Amendment would reduce traffic safety, particularly with young children. The basis of the submission was the focus of the Amendment on encouraging employment related to large scale industrial activity, which would create danger from an increase in the number of truck movements and due to larger sized trucks. The submitter considered the GMP would be better suited to smaller scale activity such as business, showrooms or housing.

The submission from Ms Joanna Graham (Submitter 5), who is located to the south in Maddock Street, supported the Amendment but requested issues with noise, light pollution, overlooking, overshadowing, streetscape aesthetics and traffic safety be addressed by Council.

Mr Robert Heslop (Submitter 4), Mr Andrew and Ms Sofia Filippone (Submitter 6), Mr Christopher Dorgan (Submitter 10) and Mr Michael Sampson (Submitter 17) all presented to the Panel and highlighted a range of concerns regarding the Amendment including:

- Increased traffic congestion, particularly at the intersection of Mephan Street and Gordon Street, which is not a signalised intersection and in Birdwood Street.
- Emissions of noise and odours from industrial premises. Mr Heslop provided a recording of noise emissions from high pressure valve releases from premises at 2-4 Mephan Street to demonstrate the noise problems experienced living beside the GMP.

- Visual amenity impacts associated with inactive frontages of industrial premises where rubbish dumping and poor landscape maintenance leads to unsightly streetscape appearance.

In contrast, the GMPFP, in relation to interface issues found the following:

Although the precinct is adjacent to residential development, the current land uses and built form appear to present no obvious issues with regard to land use conflicts at the interfaces of the industrial and residential zoned land. The typical interface treatments are relatively modest scale, blank walls, setback from property boundaries and, as such – with the exception of aesthetic considerations – these configurations do not present any issues to the residential development and school immediately adjacent the precinct.

Mr Bartley submitted that with regards to land use conflict and the interface between the GMP and residential areas, the GMP is well established as an existing employment area. The adjoining residential areas are also well established with some newer areas arising from past rezoning of previous industrial sites that once formed part of the wider GMP. He noted, for example, that the Allara Estate was approved with requirements such as a section 173 Agreement that recognised the need for interface treatments including an acoustic wall on the common boundary with part of the GMP at 2-4 Mephan Street.

Council advised that it had received only a small number of complaints with a single recorded complaint about noise and others concerning nature strip maintenance and rubbish dumping over the past 11 years.

Regarding traffic issues, Mr Bartley submitted that the nature of the Amendment (with no proposal for rezoning) creates no issues regarding traffic related impacts. Mr Bartley noted the submission from VicRoads (Submitter 21) who sought to change the Amendment to include the opportunity for development contributions to be required to improve transport infrastructure. The Panel believes this is in relation to how the un-signalised intersection of Gordon Street and Mephan Street should be managed (e.g. whether traffic signals may be required to reduce traffic congestion at this intersection).

Mr Bartley submitted that Council does not consider it is appropriate or necessary to refer to contributions for infrastructure without a proper consideration of predicted demand. He submitted that Council believes any intensification of the GMP and any flow on effects on the traffic and transport network could be appropriately dealt with through any planning permit process. Hence, no change is required to the Amendment.

4.3 Discussion

Land use planning seeks to avoid conflict between different uses of land by preventing environmental problems created by siting incompatible land uses close together². This aim is further embellished under State policies that seek to protect and carefully plan existing industrial areas to, where possible, facilitate further industrial development³ and to keep

² Clause 11 (Settlement).

³ Clause 17.01-2 (Industrial land development).

those industrial activities that require substantial separation distances to locate within the core of an industrial area and those with minimal separation requirements to locate towards the edge areas with emphasis on the need to separate industrial activity that have potential for adverse amenity impacts or hazards from sensitive land uses⁴. In considering these planning purposes, it would seem incongruent that Council would be supporting the continuance of an industrially zoned area that exists directly abutting residential development, school and aged care facilities. There would appear, on face value, real concerns over impacts between such land uses. It is this concern that appears to have driven many of the submissions on the Amendment.

4.3.1 Land use conflict

Having regard to orderly planning, the Amendment is policy based and does not seek to change that which exists. In essence, the IN3Z is designed to attract low impact industries being industries which do not normally create off site amenity impacts for neighbouring residential areas. The IN3Z allows greater cognisance of sensitive land uses compared to that offered under other industrial zones, such as the Industrial 1 Zone (IN1Z).

Recognising that the GMP is surrounded by sensitive residential development, the IN3Z provides for relatively low amenity impacts closest to residential development. It is noted that many of the industrial uses which may seek to locate in this zone including warehousing and manufacturing will require a planning permit thus enabling control over the nature of the industry and assessment of operational effects on the environment and amenity of the area.

The Panel considers the continued application of the IN3Z to the GMP means that this is not an area intended to accommodate heavy industry or large scale manufacturing type activities where adverse impacts on local amenity are more likely. The Panel's views are reinforced by the policy under Clause 21.11-9 proposed under the Amendment including requirements to address sensitive interfaces and ensure that building design, orientation and signage respects the neighbourhood context in which the GMP sits.

The Panel's attention was not drawn to significant concerns over the operation of that part of the GMP located on the south side of Mephan Street. The Panel is aware that the Amendment attracted two submissions (Submitters 2 and 5) from the south side of Mephan Street.

The Panel considers matters around traffic congestion and safety from trucking activity are currently managed through restrictions on truck movement. Businesses operating in the GMP have current access from Mephan Street only. Truck access to existing businesses is permitted for deliveries and pick-ups. The Amendment does not intend to change these arrangements. Any proposals in the future to intensify land uses within the GMP will be assessed through the permit process including consideration of traffic impacts. The Panel considers this is appropriate.

⁴ Clause 17.02-2 (Design of industrial development).

Accordingly, it is not considered necessary or appropriate to change the Amendment to include reference to the request from VicRoads concerning development contributions towards transport infrastructure. The Amendment affects local policy which is focussed on land use and development. It is noted that a DCPO affects the GMP however it is primarily related to residential rather than industrial development. If, in the future, Council considers it necessary to address traffic management issues within the GMP in a more integrated manner, there are options available to it, through any future review of either the GMPFP or the planning scheme to re-consider this issue.

The issues of Ms Graham are matters that are able to be addressed through the planning scheme provisions, proposed new local policy and the permit process under the IN3Z.

The majority of individual submissions were associated with the land at 2-4 Mephan Street and the nature of the manufacturing activity that occurs on that site regarding impacts on amenity. These issues will be considered in more detail in the next chapter.

4.4 Conclusions

The Panel concludes:

- The relationship between the employment role of the GMP and adjacent sensitive land uses are not expected to create significant impacts on local amenity.
- The current IN3Z over the GMP and the proposed new local policy under the Amendment appropriately establishes a planning regime that can ensure any new uses are assessed to manage any potential impacts on amenity and to ensure they are not significant.

5 The future for 2-4 Mephan Street

5.1 The issue

The land at 2-4 Mephan Street is a 14,720 square metre single rectangular shaped parcel located on the north side of Mephan Street (site). It has a 92 metre frontage to Mephan Street and a secondary frontage to Birdwood Street to the north. The east and west boundaries are approximately 160 metres in length. The eastern boundary adjoins a laneway (unnamed) and to the east of the laneway are a number of double storey dwellings. The western boundary directly adjoins residential dwellings fronting Allara Avenue, all of which are double storey. The private open spaces of these dwellings are located immediately abutting the western boundary of the site.

The site is currently occupied by a manufacturing business involved with insulation products associated with the building and construction industry. Vehicle access is from Mephan Street with entry on the eastern side and exiting on the western side of the site.

The issue relates to what the future for this site is within the context of the GMP and its interfaces with residential development.

The site is dealt with individually in this report due to the significant focus from submissions and evidence with respect to the future of the site and its relationship with the Amendment.

5.2 Evidence and submissions

The primary basis of submissions against the Amendment and the retention of the site for employment purposes, revolve around the concept, that the site forms an isolated industrial use in an otherwise residential area north of Mephan Street.

The evidence of Ms Horsfield was that the boundaries of the site are typified by high fencing, blank industrial scale walls, loading and truck access areas, and generally sparse landscaping, except along the frontage of the site to Mephan Street. The bulk and scale of the industrial buildings on the site present a visually dominating element in the skyline when viewed from the surrounding residential streets with its back turned to residential development to the north in Birdwood Street.

She considered the site is more constrained compared to those industrial properties on the south side of Mephan Street because of the extent of adjoining and surrounding residential development. The ability of the site to accommodate land uses under the IN3Z would be quite limited given the lack of space to accommodate appropriate buffer separation distances for uses or goods listed under Clause 52.10. She believed only those uses that were passive or involved low risk/low amenity impact type goods most likely associated with warehousing, would be able to establish on the site. Such uses may not achieve the intensification of employment sought by the Amendment.

The appropriateness of the site remaining designated for employment purposes and industrially zoned was questioned by Ms Horsfield who considered the site reflects many of the constraints that the nearby former Pelaco site experienced, noting this site has now been rezoned for residential purposes. To demonstrate this, Ms Horsfield included in her

evidence an assessment of the site, as a sub-precinct in its own right, against the performance criteria of the ILS. The findings were that the site achieved a performance criteria score rating of 30 per cent, which meant the site would achieve a designation as a SRA.

Accordingly, Ms Horsfield concluded that the site was not appropriate for employment purposes and was better designated as a SRA suitable for a mixed use/residential redevelopment.

She concluded that the Amendment should be split into two parts with Part 1 dealing with the existing Amendment insofar as it applies to employment land to the south of Mephan Street, and Part 2 of the Amendment facilitating the exhibition of a rezoning proposal for the site to MUZ with a Development Plan Overlay to support and guide any future development.

Ms Lardner's submission reiterated and supported the views and conclusions of Ms Horsfield's evidence.

The majority of submissions to the Amendment were from residents living around the site⁵. Apart from amenity concerns more generally described earlier, the other concerns related generally to the perceived inappropriateness of retaining industrial land within such close proximity to residential areas. The other main concern was the limited value that such land offers regarding potential for employment generating purposes.

Mr Bartley submitted that, with respect to the site, Council has an open mind with regards to its future use. He noted the site is currently occupied and could continue to be used for employment purposes. He reiterated that the Amendment is not about industry, but about employment. As mentioned earlier, he emphasised that the future of the tenancy and its uncertainty should not factor in the Panel's considerations.

Council has formed the view that the site is not generating significant amenity concerns. This is evidenced from the lack of significant complaints over the past 11 years. Much of the residential development that now borders the site has occurred with knowledge of the site's existence. Residential development has encroached onto the site and there is evidence suggesting that planning has taken place to safeguard residential amenity through the acoustic fencing along the common western boundary of the site and housing.

Mr Bartley submitted Council does not consider the site is isolated. It forms part of the GMP, albeit on the north side of Mephan Street. Council considers the site is a large single parcel of land, which despite the evidence of Ms Horsfield, offers opportunities for employment uses that can have regard to off-site amenity effects through re-use or redevelopment. Mr Bartley indicated that the IN3Z includes provisions to require amenity impact issues to be addressed in any planning permit application process.

⁵ Thirteen submissions from individual residents living around the north side of Mephan Street (Submitters 3, 4, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18).

5.3 Discussion

The Panel takes a purposive approach towards the Amendment. In doing so, it recognises that the GMP exists, and has done so for some time. It is obvious that the combination of physical and policy contexts of the site and that of the IN3Z contribute to limit the type of employment or industrial activity that may establish within the GMP.

The Amendment is not about rezoning and the Panel does not intend to entertain such prospects. It will assess what is before it as a policy based Amendment only.

The site forms part of the GMP. Any question of isolation merely derives from the fact that this industrial area has been whittled away over time through rezoning to residential purposes. The Panel believes, and accepts that the MEIDS and the strategic planning work of Council provides clear directions for outcomes regarding its IRELS within the context of pressure for conversion to other higher value land uses such as residential in the face of growing population growth and increased demand for housing. The Panel supports the intent of the new local policy to provide a clear future intent for the GMP in this regard.

The Panel accepts that the current situation creates some issues with the site, notably the lack of active interface with, and surveillance of Birdwood Street, which attracts poor streetscape outcomes arising from inadequate landscape maintenance, rubbish dumping and other graffiti issues. These appear to be regular matters of concern for residents in this street.

The noise impact drawn from Mr Heslop's submission was, as far as the Panel understands, associated with an upset in operating conditions combined with, perhaps, poor operator control. The Panel noted Council acknowledgement of the effects the current tenant of the site has on local amenity and the problematic arrangements with existing use rights with the site. Irrespective, it was clear from the sentiments of community members at the Hearing that there was some rejoicing about the fact that the current tenant was intending to depart the site.

Council's concerns about the loss of employment land are also acknowledged. The Panel considers that the site continues to offer opportunity for employment activity that can serve the local community and the growing population of the local area. Benefits include not only opportunities for employment but also for services to the local community. These are benefits that should not be discounted.

With respect to land use conflict, the Panel is aware that the Allara Estate was the subject of rezoning in 2002 under Amendment C9 and which was approved in the knowledge of industrial activity on the site and in the area. The Panel can only assume that issues relating to amenity effects were not considered sufficiently significant, at that time, to warrant not pursuing the rezoning.

Although Ms Lardner, Ms Horsfield and Mr McNeill asserted that the nature of the buildings and works and the locational aspects of the site make it difficult for re-use/redevelopment, the Panel was not provided with evidence to demonstrate these concerns. Accordingly, it is not in a position to affirm or dismiss such conjecture. However, it is in a position to form the view that the site offers a sufficiently large area that make it possible to be used by one or

multiple occupants, that could include office use, warehousing, distributional activities and other small scale occupations that can have a local flavour with respect to employment.

5.4 Conclusions

The Panel concludes:

- The site at 2-4 Mephan Street forms part of the GMP and should remain as part of the GMP.
- The site offers opportunities for employment generating land uses that are appropriate to the IN3Z and responsive to the physical and policy contexts for the area.
- Interface issues can be appropriately addressed through any planning permit application process in accordance with the IN3Z, which remains unchanged and guided by the new local policy outlined under the Amendment.
- The Amendment is considered appropriate and satisfactory.

5.5 Recommendation

The Panel recommends:

- 1. Maribyrnong Planning Scheme Amendment C143 be adopted as exhibited.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Minh Tran
2	Riccardo Caputo
3	Maya Linden, Simon and Lyn Morris
4	Robert Heslop
5	Joanna Graham
6	Andrew & Sofie Filippone
7	Andre, Cheryl, Brandon and Danielle Cheah
8	Elvira Feher
9	Ballook Pty Ltd, Maraka Pty Ltd, and Gordon Street Property Pty Ltd
10	Christopher Dorgan & Catherine Scanlan
11	Intrapac Property Group Pty Ltd
12	Vishwas Kare Nagesh
13	Anna & Evangelos Skaftouros
14	Angelo & Catherine Demasi
15	Ivan Tudor
16	Phuoc Tran & Thu Nguyen
17	Michael Sampson
18	Borislav & Vasiliya Jovanovski
19	City West Water
20	Transport for Victoria
21	VicRoads

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Maribyrnong City Council	Mr Mark Bartley and Ms Disha Kamal, Lawyers from HWL Ebsworth Lawyers who called the following expert witnesses: <ul style="list-style-type: none"> - Mr Andrew Spencer, from SGS Economics & Planning Pty Ltd in planning. - Mr Matt Ainsaar, from Urban Enterprise Pty Ltd in economics.
Ballook Pty, Maraka Pty Ltd & Gordon Street Property Pty Ltd	Mr Jamie Govenlock, Town Planner from Urbis Pty Ltd
Intrapac Property Group Pty Ltd	Ms Joanne Lardner, Barrister and Ms Victoria Vilagosh, Lawyer briefed by Norton Rose Fulbright who called the following expert witnesses: <ul style="list-style-type: none"> - Ms Sarah Horsfield, from Urbis Pty Ltd in planning. - Mr Chris McNeill, from Essential Economics Pty Ltd in economics.
Mr Christopher Dorgan	
Mr Michael Sampson	
Mr Robert Heslop	
Mr Andrew and Mrs Sofia Filippone	

Appendix C Document list

No.	Date	Description	Provided by
1	5/4/2018	Maps x 2 showing substantial changes policy areas and multi-dwelling developments since 2008.	Mr Bartley
2	“	Submission on behalf of Ballook Pty Ltd, Maraka Pty Ltd and Gordon Street Property Pty Ltd.	Mr Govenlock
3	“	Council Part B submission.	Mr Bartley
4	“	Section 173 Agreement & Development Plan for Rosamond Road, Birdwood Street and Mephan Street, Maribyrnong.	“
5	6/4/2018	Photographs supporting planning evidence of 2-4 Mephan Street	Mr Horsfield
6	“	Submission on behalf of Intrapac Property Group Pty Lt.	Ms Lardner
7	“	Urban Development Program Melbourne Metropolitan Industrial 2017 report.	“
8	“	Panel Report for Casey C219 - Changes to Cranbourne West PSP.	“
9	“	Submission of Mr Dorgan	Mr Dorgan
10	“	Photograph of truck in Mephan Street.	Mr Sampson
11	“	Photograph of waste dumped in Birdwood Street behind 2-4 Mephan Street.	“
12	“	Submission of Mr & Mrs Filippone	Mr Filippone
13	“	Council right of reply submission	Mr Bartley