

3 PLANNING SCHEME AMENDMENT C222 REZONING OF 85 MCNAMARA ROAD, BUNYIP REQUEST FOR PLANNING PANEL

FILE REFERENCE INT1992176

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RECOMMENDATION

That Council:

1. Receive and consider all submissions received during the exhibition of Planning Scheme Amendment C222.
2. In accordance with Section 23 of the *Planning and Environment Act 1987*, refer all submissions for consideration to an independent planning panel to be appointed by the Minister for Planning.

Attachments

- 1 Submission Summary and Responses to Proposed Amendment C222 9 Pages

EXECUTIVE SUMMARY

The *Bunyip Township Strategy (September 2009)* identifies the land located at 85 McNamara Road, Bunyip for future potential low density residential development. The proposed Amendment implements the development requirements for the site identified in the Strategy through a proposed Development Plan Overlay (DPO).

A request has been made by the landowner to rezone the land from Farming Zone (FZ) to Low Density Residential Zone Schedule 3 (LDRZ3), apply the Development Plan Overlay Schedule 21 (DPO21), apply the Design and Development Overlay Schedule 1 (DDO1), and delete the Environmental Significance Overlay Schedule 1 (ES01).

The proposed Amendment facilitates the implementation of the above mentioned new planning controls with the future development of the site, being subject to a future planning permit application. The proposal will assist with the facilitation of a future development that will provide the following:

- Approximately 30 residential lots
- Open space of approximately 5,000 square metres adjacent to significant vegetation
- Protection of the Southern Brown Bandicoot corridors and Tree Protection Reserves
- Retarding basins and constructed wetlands
- Shared pathways connecting open space to the town centre
- Upgrade and widen McNamara Road between Wattletree Road to Petty Road Reserve
- Upgrade and widen the unsealed portion of Wattletree Road that connects to McNamara Road.

The Amendment was placed on public exhibition from Thursday 8 August 2019 to Friday 6 September 2019 and during this time, eleven (11) submissions were received, four (4) from individuals and seven (7) from the Public Authorities. One individual submission was provided on

behalf of the proponent. One (1) submission objects to the Amendment. Five (5) submissions requested changes and remain unresolved. Four (4) submissions generally support the amendment. As there are some complex matters requiring resolution all submissions should be referred to an independent planning panel to be appointed by the Minister for Planning.

BACKGROUND

The subject land 85 McNamara Road, is located on the west side of McNamara at the western end of Wattletree Road. The land is 11.09ha and has a frontage of approximately 596 metres to McNamara Road. There is an existing dwelling on the southern part of the lot, the land mainly comprises of cleared paddocks and remnant woodland area.

The subject site is currently zoned Farming Zone and is affected by ESO1. The site also has an identified Aboriginal Cultural Heritage Sensitivity area.

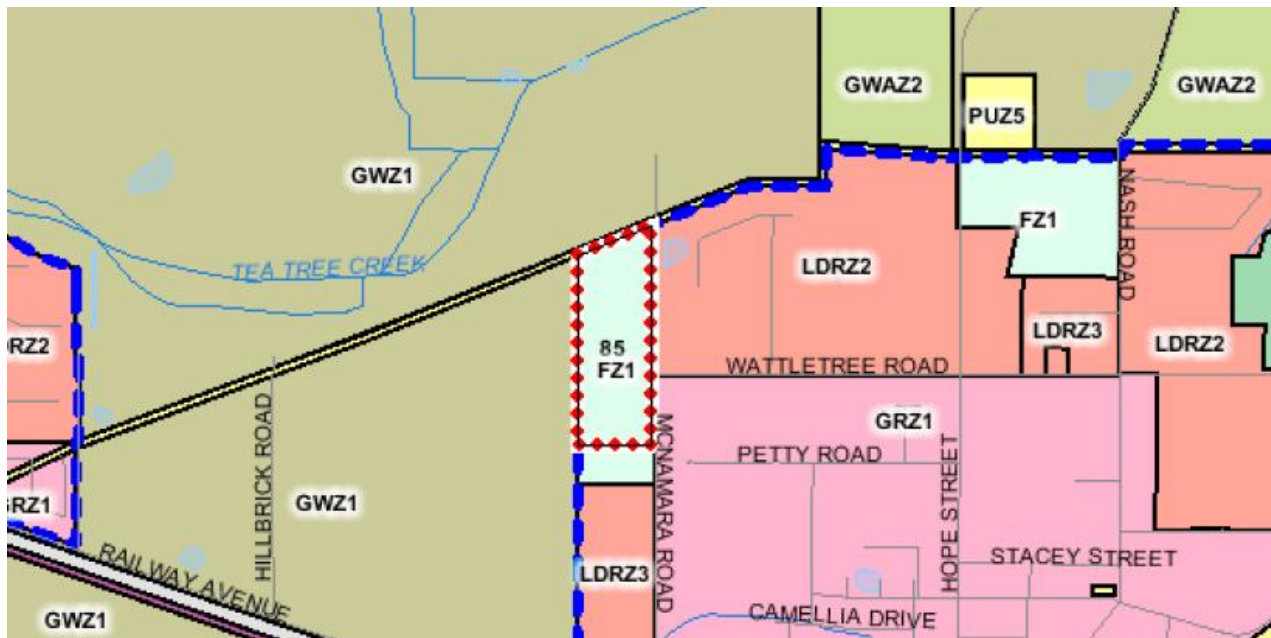


Figure 1. 85 McNamara Road, Bunyip

The Proposed Amendment

The proposed Amendment rezones the land from Farming Zone to Low Density Residential Schedule 3 (LDRZ3). LDRZ3 facilitates low density style of residential development that is consistent with the style of development currently occurring on the edges of the Bunyip. It is also considered an acceptable zone that appropriately transitions to the adjoining Green Wedge Zone to the west and transition to the urban centre of Bunyip to the east.

The proposed application of the DDO1 to the site, in-conjunction with the LDRZ3, ensures the low density design of residential buildings, incorporates the environmental features and constraints of the land.

An ecological assessment of the site has also been undertaken and recommends the protection of the remnant woodland area in the south-west corner of the site, protection of the Aboriginal Cultural Heritage site, provision of open space and tree protection zones within lots abutting McNamara Road and the western property boundary, the protection of the Southern Brown Bandicoot habitat. This has resulted in no direct access to residential lots from McNamara Road and a considerable protective corridor on the northern boundary of the site.

As the proposal seeks to remove the ESO1, the application of DPO21 ensures the significant landscape and environmental values are adequately protected and preserved.

The subject site located within a Bushfire Prone Area. An initial Bushfire Risk Assessment has been undertaken for the site. Defendable space and setbacks have been illustrated on the concept map in DPO21.

DPO21 provides guidance for internal road networks, subdivision layout, open space, environment and landscaping, traffic and transport, infrastructure and drainage, and urban design and character.

The proposed Amendment will facilitate the following:

- Approximately 30 residential lots
- Open space of approximately 5,000 square metres adjacent to significant vegetation
- Protection of the Southern Brown Bandicoot corridors and Tree Protection Reserves
- Retarding basins and constructed wetlands
- Shared pathways connecting open space to the town centre
- Upgrade and widen McNamara Road between Wattletree Road to Petty Road Reserve
- Upgrade and widen the unsealed portion of Wattletree Road that connects to McNamara Road.

Responses to Submissions

A summary of submissions and Council Officer responses are provided in Attachment 1.

No changes to the Amendment have been proposed by Council Officer's at this stage.

POLICY IMPLICATIONS

Plan Melbourne 2017-2050 - Melbourne Metropolitan Planning Strategy

The relevant directions and policies of Plan Melbourne are as follows:

- *Direction 2.2. Deliver more housing closer to jobs and public transport*
- *Policy 2.2.5. Require development in growth areas to be sequences and stages to better link infrastructure delivery to land release.*
- *Direction 2.5. Provide greater choice and diversity of housing*
- *Policy 2.5.1. Facilitate housing that offers choice and meets changing household needs*

Cardinia Planning Scheme – Planning Policy Framework

- *Clause 11 Settlement*
- *Clause 12 Environmental and landscape values*
- *Clause 13 Environment risks and amenity*
- *Clause 14 Natural resource management*
- *Clause 15 Built environment and heritage*
- *Clause 16 Housing*

Local Planning Policy

- *Clause 21.01-5* - identifies the locations of the rural townships and the urban growth area.
- *Clause 21.02-7* - provide for the protection and management of significant Aboriginal heritage sites, material culture, and places of historical and spiritual significance to relevant contemporary Aboriginal people.

- *Clause 21.03-3* - classifies Bunyip as a Large Rural Township which needs to provide a diversity of housing types and densities while ensuring the consistency of the character of the township.
- *Clause 21.03-4* - recognising rural residential and rural living development impacts on the environmental characteristics and constraints of the area, encroachment on agricultural land and integration with the urban area or township.
- *Clause 21.06-1* - recognising design issues in the rural townships including the need to protect and enhance the character and appearance of the town centres and associated sites of cultural and heritage significance.
- *Clause 21.07-6* provides local area implementation for Bunyip. Ensure that any proposed use or development within or around the Bunyip Township is generally consistent with the *Bunyip Township Strategy (September 2009)*.
- *Clause 72.04 - Bunyip Township Strategy (September 2009)* is an incorporated document in the Cardinia Planning Scheme which guides the development in Bunyip Township. The Strategy specifically mentions the development potential of 85 McNamara Road, Bunyip.

RELEVANCE TO COUNCIL PLAN

3. Our Environment

3.5. *Balanced needs of development, the community and the environment*

3.5.2. Plan for the development of the urban growth area with a mix of residential, commercial, employment, recreational and community activities to meet the needs of our growing community in a sustainable way.

CONSULTATION/COMMUNICATION

The intention to rezone 85 McNamara Road was identified by the *Bunyip Township Strategy (September 2009)* which was exhibited to the community via Planning Scheme Amendment process C124 in June 2012.

Amendment C222 was placed on public exhibition from Thursday 8 August 2019 to Friday 6 September 2019. All owner/occupiers, community groups and the relevant public authorities were notified of the exhibition of the Amendment and a total of 91 letters and 42 emails were sent.

In addition to the above, the Amendment was promoted using the following methods:

- Notice in the Pakenham Gazette - 7 August 2019
- Notice in the Government Gazette - 8 August 2019
- Relevant Council departments notified
- Cardinia Shire Council website
- Media release
- DELWP website
- C222 Amendment documents were made available at the Cardinia Shire Council Civic Centre customer service desk.

Next Steps

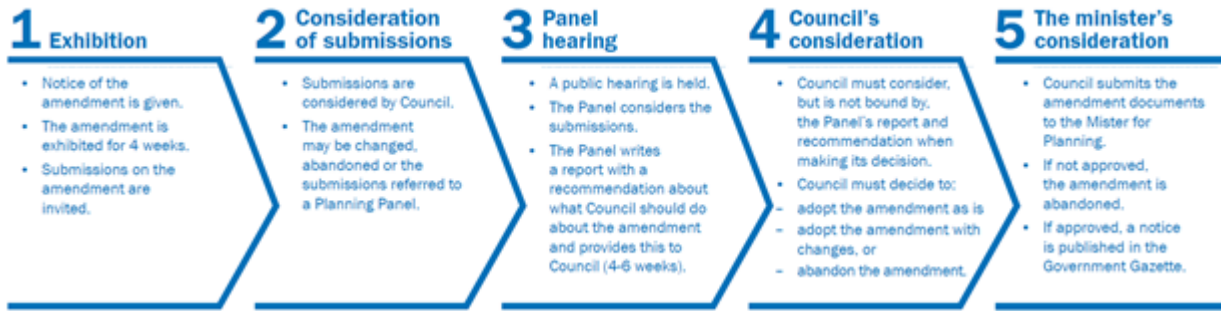


Figure 2. Steps in the Planning Scheme Amendment process

We are at **Stage 3** of the Planning Scheme Amendment process as detailed above in Figure 1. Once the Planning Panel has been appointed, a panel hearing is scheduled to occur in the week of 18 November 2019. Following the panel hearing, the panel will prepare a report that will be put forward to Council at a future Council meeting outlining a recommendation as to how to proceed with the Amendment.

FINANCIAL AND RESOURCE IMPLICATIONS

There are no additional resource implications associated with undertaking the Planning Scheme Amendment and costs associated with this process are paid for by the proponent of the amendment. The rezoning and application of DPO21 Overlay provides a clear framework to assist Council planners when assessing and making decisions for the subject site.

CONCLUSION

The Amendment was placed on exhibition from Thursday 8 August 2019 to Friday 6 September 2019. Eleven (11) submissions in response to the Amendment were received.

It is recommended that Council in accordance with Section 23 of the *Planning and Environment Act 1987*, refer all submissions that could not be resolved for consideration to an independent planning panel to be appointed by the Minister for Planning.

Attachment 1: Submission summary and responses to proposed Amendment C222**Acronyms/Definitions**

DPO – Development Plan Overlay

Panel – Victorian Planning Panel

Individual Submissions

Sub #	Position	Submission Summary	Council officer Response	Recommendation for Panel Hearing
1	Support with changes	<ol style="list-style-type: none"> 1. Submitter will be impacted by a considerable increase in traffic along Wattletree Road arising from the development. 2. Requests upgrading and widening unsealed portion of Wattletree Road prior to the subdivision, buildings or works commencing. 3. Further clarification on staging of road works and requests the road works be completed prior to development construction. 4. Dust concerns for unsealed portions of road and impacts on residents. 5. Reticulated sewerage system and strategy should be implemented across Bunyip Township. 	<ol style="list-style-type: none"> 1. Wattletree Road intersection to be sealed for access as part of the first stage of development as per the exhibited DPO. 2. The DPO currently states all internal road networks and unsealed roads and intersections should be undertaken during the first stage of development. 3. First stage of development is the initial subdivision. 4. As per point 2. 5. An integrated sewerage system for Bunyip Township is managed and implemented via the Water Authority and the Planning Permit Application process. 	Refer to Panel.
2	Support with changes	<p>Requests further clarity of requirements due to repetition and too prescriptive/onerous and changes:</p> <ol style="list-style-type: none"> 1 Internal road network to be staged 2 Petty Road intersection removed from requirements and reworded. 3 Construction and Widening of McNamara Road should be 	<ol style="list-style-type: none"> 1 Section 3 Conditions and requirements for permits, do not support requested change to dot point 2 Internal road network requirement. 2 Petty Road and McNamara Road intersection to be removed from requirement (Section 3 Conditions and requirements for permits, Dot point 3) 3 Do not support requested change. The widening and construction of McNamara Road to be provided from McNamara Road and Wattletree Road intersection up to the Petty Road and McNamara intersection. 	Refer to Panel.

Attachment 1: Submission summary and responses to proposed Amendment C222

Sub #	Position	Submission Summary	Council officer Response	Recommendation for Panel Hearing
		<p>shortened from south boundary to Wattletree Road intersection.</p> <p>4 Vegetation and Bandicoot corridors should be revised</p> <p>5 Deletion of Subdivision layout</p> <p>6 Deletion of staging requirements.</p> <p>7 Deletion of Environment and landscaping requirements</p> <p>8 Deletion of a Transport Impact and Design Assessment requirement and other requirements.</p> <p>9 Deletion of Infrastructure and Drainage Requirements.</p> <p>10 Deletion of Urban Design and Character requirement (dot point 6).</p> <p>11 Requests changes to Diagram 1 to the Schedule 21:</p> <ul style="list-style-type: none"> - Title change to 'Indicative site concept plan' - Re-naming of vegetation protection and bandicoot corridor - Public open space – more flexibility - Removal of Defendable space 	<p>4 Do not support requested change to Section 4 Subdivision Layout, dot point 4 and 5. Provision of Bandicoot corridors within the McNamara Road reserve and within the site is required to protect the habitat.</p> <p>5 Supports the separation of dot point within Subdivision layout requirements: 'A design that avoids battle-axe blocks' from 'An indicative building envelope for each lot providing'.</p> <p>6 Supports deletion of 'and anticipated timing of development'. Staging requirements Section 4 dot point 2 to remain unchanged as it supports the permit condition requirements. Supports deletion of Section 4 dot point 4 as the details are provided as part of dot point 2.</p> <p>7 Section Environment and Landscaping update wording to refer to only the Department of Environment, Land, Water and Planning. All assessments required for the Planning Scheme Amendment to be as part of the Development Plan.</p> <p>8 All traffic assessments as identified in the DPO are required. Do not support request for change.</p> <p>9 Formatting error 'Infrastructure and Drainage' Section. Dot point 2 should be structured under Dot point 1. Do not support requested changes to Infrastructure and Drainage</p> <p>10 The removal of the word 'easements' to provide clarity for dot point 6 in Urban Design and Character requirement.</p> <p>11 Supports change to title as suggested by submitter. Do not support change to the name 'Vegetation Protection and Bandicoot Corridor' The identified square meters of public open space in Diagram 1 to be replaced with an approximate to provide flexibility to the indicative concept plan. Public open space is considered to be unencumbered, and will be provided in addition to the protected reserve and aboriginal cultural heritage sites. Awaiting response from CFA.</p>	
3	Object and suggests changes.	<ul style="list-style-type: none"> ▪ Amenity impacts: additional dust, lights, increase in traffic adjoining the property. 	<ul style="list-style-type: none"> ▪ A wetland, native vegetation reserve and sealed road way will be provided within the development as a separation between 55 and 85 McNamara Road. At the detailed planning permit stage, a construction management plan will need to be provided. 	Refer to Panel.

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Attachment 1 – Submissions to Planning Scheme Amendment C235

Attachment 1: Submission summary and responses to proposed Amendment C222

Sub #	Position	Submission Summary	Council officer Response	Recommendation for Panel Hearing
		<ul style="list-style-type: none"> ▪ Requests fencing and landscaping requirements. ▪ Provides two alternative options for road access from McNamara Road. 	<ul style="list-style-type: none"> ▪ Fencing to be provided includes a standard rural type fencing with landscaping which supports the movement of Southern Brown Bandicoot Corridors. ▪ An Integrated Transport and Impact Assessment Report and a Traffic Impact and Design Assessment is required as part of the DPO to determine the final ingress and egress from 85 McNamara Road. 	
4	Support with changes	<p>The submitter discussed concerns for:</p> <ol style="list-style-type: none"> 1 No of lots not identified on Diagram 1 2 Drainage System 3 Parking issues, grading, and access to-McNamara Road 4 Access to properties in Green Wedge from McNamara Road. 5 Control of animals: kangaroos, cats, dogs, foxes, etc. 6 Provision of services such as electricity, gas, telephone, water 7 Propensity for development concentration on the northern site of property: trespassing, kangaroos, golf balls and drainage. 8 Fencing and screening of the northern boundary. 	<ol style="list-style-type: none"> 1 Diagram 1 is an indicative plan. It is not a planning permit application for subdivision. All detail including number of lots and subdivision layout will be required as part of the future Development Plan at the detailed planning permit stage. 2 A Stormwater Management Plan is required as part of the Development Plan. An initial Stormwater Management Plan has been prepared as part of the planning scheme amendment by Afflux Consulting. It identifies to need for a retarding basin in the north-west corner and southern boundary of the land to control flows from the development. Outfall from the development will be provided in accordance with Melbourne Water's McNamara Road Drainage Scheme. 3 No ingress or egress in the northern section of McNamara Road has been identified in this amendment. A construction management plan will need to be provided as part of the Development Plan which will determine the access of construction vehicles. 4 Due to environmental constraints, the northern section of McNamara Road with access to the Green Wedge properties will not be sealed as part of this amendment. 5 The control of dogs is not addressed during a Planning Scheme Amendment, rather it is identified during the planning application process as an environmental consideration, especially when protecting the Southern Brown Bandicoot. 6 This matter is outside the scope of the Amendment. The submitter could discuss the provision of future infrastructure services with the developer during the preparation of the Development Plan. 7 Regarding drainage, see dot point 2 above. Council is unable to control the amount of kangaroos accessing the submitter's property. Trespassing is a civil matter and not considered to be within the scope of the amendment. 	Refer to Panel.

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			8 Fencing to be provided includes a standard rural type fencing with landscaping which supports the movement of Southern Brown Bandicoot Corridors.	

Attachment 1: Submission summary and responses to proposed Amendment C222**External Referral Authorities**

External Referral Authority	Position	Submission Summary	Council Officer Response	Amendment Document Changes	Recommendation for Panel Hearing
South East Water	Support	<ul style="list-style-type: none"> No objection. 	Noted.	None.	Not required. Requests no further correspondence.
Melbourne Water	Support.	<ul style="list-style-type: none"> Preliminary reports reflect the requirements with respect to stormwater drainage and flood management in accordance with our functions as Regional Drainage, Floodplain Management and Waterway Management Authority under the Water Act 1989. Functional designs will need to be approved by Melbourne Water prior to the approval of a Development Plan. 	Noted. To be provided as part of the Development Plan.	None.	Refer to Panel.
CFA	Requests changes	<ol style="list-style-type: none"> Limited landscape bushfire consideration at the (wider) regional level, proximity to the Bunyip State Park. Agrees the site is not located in a high risk bushfire landscape but needs to consider the wider landscape scale fires. Main concerns with the strip vegetation along the east and west boundaries is a bushfire hazard and risk. DPO to consider the vegetation via the mitigation response. Provide an explanation as to why this site should be developed/rezoned within the context of bushfire. Provide information on whether alternative locations were considered relative to this proposal. 	<ol style="list-style-type: none"> The subject site is located approximately 6 kilometres from the Bunyip State Park as the crow flies. The subject site is located in a Bushfire Prone Area, not a Bushfire Management Overlay. However the rezoning must meet the requirements of State Policy Clause 13.02 Bushfire. DPO21 can be updated to ensure the policy responds to the vegetation corridors on the east and west of the site. Can require bushfire mitigation response to the satisfaction of the responsible authority. Explanatory report and Bushfire Risk Assessment and Statement to be 	<p>Explanatory report to be updated.</p> <p>DPO21 to be updated.</p>	Refer to Panel

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External Referral Authority	Position	Submission Summary	Council Officer Response	Amendment Document Changes	Recommendation for Panel Hearing
		<p>5. Explanatory Report and Bushfire Assessment should be updated to make reference to access to safer urban areas, access/egress routes available, distances required to be travelled to outrun the risk, modes of transport and fire behaviour in and round the site.</p> <p>6. DPO21 to be amended to include the following policy:</p> <ul style="list-style-type: none"> • Vegetation management on private and future public land for defendable space, in accordance with Table 6 of Clause 53.02. • Demonstrate a 10 metre front setback. • Ensure balance between minimising bushfire risk and the provision of the Southern Brown Bandicoot corridors. • Expand the requirements of the Bushfire Assessment to ensure defendable space, vegetation management requirements, and management of bushfire risk on site are demonstrated. <p>7. DPO21 to consider a perimeter road around the boundary of the site adjacent to the developable lots.</p>	<p>updated. The <i>Bunyip Township Strategy</i> identifies this land as possible future residential land within UGB for Bunyip.</p> <p>5. Noted. Explanatory Report and Bushfire Assessment to be updated to the satisfaction of the responsible authority.</p> <p>6. Noted. DPO21 to be updated to include these policy points.</p> <p>7. Noted. Alterations to the road network to be considered to assist with the provision of defendable space and create more separation between the vegetated corridor and the new development.</p>		
Department of Transport	Support	<ul style="list-style-type: none"> • Council should ensure that key pedestrian and cycling routes are developed, connecting the proposed rezoning to the station and tow centre in order to encourage active and public transport use. 	Noted. Provided via linear open space with pedestrian linkages.	None.	Refer to Panel.

Attachment 1: Submission summary and responses to proposed Amendment C222

External Referral Authority	Position	Submission Summary	Council Officer Response	Amendment Document Changes	Recommendation for Panel Hearing
		<ul style="list-style-type: none"> Council should ensure that bicycle parking and other end of trip facilities are conveniently and safely located in areas of interest such as Bunyip town centre to encourage sustainable modes of transport for local trips. 			
Victorian Planning Authority	N/A	<ul style="list-style-type: none"> VPA did not provide any comments on Amendment C222 as no current or future designated projects in their Business Plan are affected by the Amendment. 	Noted.	None	Does not require referral. Requests no further correspondence.
Environmental Protection Authority	Support with changes	<p>Requests changes to the Amendment:</p> <ol style="list-style-type: none"> EPA recommends that Council undertake a Preliminary Site Investigation (PSI) to understand the site's potential contamination prior to rezoning in order to assist and inform in understanding firstly whether an audit is required and secondly, developing appropriate controls for the future subdivision and development of the land including the application of the Environmental Audit Overlay. Amendment needs to meet the requirements of Ministerial Direction 1 and 19. Industry buffers and separation distances. 	<ol style="list-style-type: none"> The requirement for a Preliminary Site Investigation (assessment) is a requirement for the Development Plan as identified in the Environment and Landscaping section (4.0) in the Development Plan Overlay Schedule 22. <i>As per Planning Practice Note 23 Applying the Incorporated Plan and Development Plan Overlays (page 2):</i> The IPO and DPO do not set up a permit requirement, but prevent the granting of a permit until the relevant plan is prepared. However, a schedule to both overlays can allow permits to be granted before a plan is approved so long as it is in accordance with the development plan and includes any conditions or requirements specified in a schedule to the overlay. The zone or other provision still controls the 	To be discussed at Panel.	Refer to Panel

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Attachment 1 – Submissions to Planning Scheme Amendment C235

Attachment 1: Submission summary and responses to proposed Amendment C222

External Referral Authority	Position	Submission Summary	Council Officer Response	Amendment Document Changes	Recommendation for Panel Hearing
			<p>need for a permit, while the overlay can constrain what a permit may be granted for.'</p> <p>2 Amendment and current land use was considered to be low risk and the Practice Note <i>Potentially Contaminated Land General Practice Note (DSE, June 2005)</i> does not specifically identify Farming land as contaminated land, as per EPA submission. Requirements of Ministerial Direction 1 and 19 will be met once the Development Plan Overlay requirements are met.</p> <p>3 There are no identified nearby uses which would have industry buffers or separation distances impacting the site.</p>		
Department of Environment, Land, Water and Planning	Support with changes	<p>Requests changes to the Amendment:</p> <ol style="list-style-type: none"> 1 Environmental Significance Overlay (ES01) should remain on the site. 2 Diagram 1 amended to provide habitat connections via corridors in the site (Southern Brown Bandicoot and flora and fauna). 3 A Bandicoot survey is required for the widening of McNamara Road with a possible referral under the EPBC Act. 4 Development Plan and Lot Layout to be designed in response to bushfire management policy and minimisation of vegetation to reach a BAL12.5. 5 A larger vegetation buffer for the northern wetland. 	<ol style="list-style-type: none"> 1 Elements from the Environmental Significance Overlay have been integrated into the Development Plan Overlay. 2 Bandicoot corridors have been provided along the eastern and western boundaries. 3 A targeted Brown Bandicoot survey is required as part of the Development Plan. 4 Awaiting response from CFA regarding BAL and appropriate defensible space. 5 A wetland and landscaping along the northern boundary is identified as per the Diagram 1 in the DPO. 	To be discussed at Panel.	Refer to Panel.

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External Referral Authority	Position	Submission Summary	Council Officer Response	Amendment Document Changes	Recommendation for Panel Hearing
		6 The requirements outlined in 4.0 should be provided prior to the removal of the ES01.	6 As per dot point 1. These detailed requirements are provided when preparing the Development Plan and a Planning Application is submitted.		