

8 November 2021

[REDACTED]
Strategic Planning Unit
Moreland City Council
Locked Bag 10
MORELAND VIC 3058



Our Ref: REQ001408

Dear [REDACTED]

RE: MORELAND EXHIBITED PLANNING SCHEME AMENDMENT C212

Thank you for your emails dated 21 and 22 October 2021 which follow on from EPA's submission to Moreland Planning Scheme Amendment C212.

We understand that in seeking to progress the Amendment, Council have taken steps to understand and resolve the matters raised in our submission (dated 18 October 2021, EPA Ref: REQ001319) relating to potentially contaminated land.

EPA Submission

EPA's submission sought to reiterate advice previously provided in our advice dated 27 July 2021 (EPA Ref: REQ001040) which brought Council's attention to the need to consider the updates to Planning Practice Note 30: Potentially Contaminated Land (DELWP, 2021) (PPN30) and Ministerial Direction 1 (MD1) in determining the suitability of the proposed Environmental Audit Overlay (EAO).

EPA's submission highlighted that further discussion is required in the Explanatory Report to support the application of the EAO to 260 Sydney Road, Brunswick, extension of the EAO on 1 West Street, Brunswick and the determination that the remainder of land to be rezoned is not potentially contaminated.

Council Response

EPA understands that Council has sought to provide further justification to the application of the EAO to 1 West Street, Brunswick and 260 Sydney Road, Brunswick and determination that the remainder of land within the Amendment to be rezoned to Public Park and Recreation Zone (PPRZ) are not potentially contaminated.

More specifically, Council has provided further information to EPA which was not a part of the Amendment documentation including a Preliminary Site Investigation and Preliminary Soil Contamination Investigation Report prepared for 1 West Street, Brunswick, prepared by Orangrove Consulting, 30 July 2019. An updated version of the Explanatory Report has also been provided.

1 West Street, Brunswick

The updated Explanatory Report states that 1 West Street, Brunswick is potentially contaminated from on-site and off-site sources. This appears to meet the requirements of MD1 which requires that the planning authority:

b) where it has determined that the land is not potentially contaminated, state the determination in the amendment Explanatory Report; and

c) where it has determined the land, or parts of the land, are potentially contaminated, must state the determination in the amendment Explanatory Report and satisfy itself that the environmental conditions of that land are or will be suitable for that use.

On the basis that the planning authority determines that it is difficult or inappropriate to meet the requirements of the environmental audit system at the Amendment stage, the application of the EAO appears appropriate.

260 Sydney Road Brunswick

Whilst not included in the Amendment documentation, Council's email dated 22 October 2021 advises that 260 Sydney Road, Brunswick was historically used as a motor vehicle sales centre and more recently as a car wash and food business (kebab van). Council also advises that manufacturing uses occurred on the adjoining site to the south (246-256 Sydney Road).

Council states that soil testing of the site is to be undertaken in this financial year and that if the site is found to not be contaminated prior to the Amendment being finalised, they will look to remove the EAO from the site.

Soil testing is not necessary in order to determine if land is potentially contaminated. "*Is land potentially contaminated*" on page 4 of PPN30 provides information which supports the planning authority in determining if land is potentially contaminated. This includes consulting council records, EPA/DELWP publicly available databases, and applicant information.

It is also important not to overlook the value of the Site History Review (SHR) process set out in PPN30 whereby this forms an important gateway as to the determination of whether land is 'potentially contaminated' and whether any further assessment is required as part of a rezoning or Amendment process.

The Site History Review (SHR) may (or may not) build on initial steps taken by a planning authority to determine whether land is potentially contaminated. The SHR should:

- be carried out by a suitably qualified environmental consultant or urban planner;
- should include completion of the steps set out in PPN30; and
- should include a recommendation on whether the land meets the definition of potentially contaminated land per MD1 and in Clause 73.01 General Terms of the Victoria Planning Provisions (VPP). (Refer Appendix 2, PPN30)

Land which does not meet the definition of potentially contaminated land does not require any further assessment and a statement should be included in the Explanatory Report to this effect.

The previous uses of 260 Sydney Road, Brunswick are not listed in PPN30 as land uses with potential to contaminate land however the list is not intended to be exhaustive.

In consideration of the process in PPN30, should Council determine that 260 Sydney Road, Brunswick is potentially contaminated, this should be stated in the Explanatory Report, including why the requirements of the audit system cannot be met prior to the Amendment stage to support the application of the EAO.

Other Sites

EPA understands that Council has updated the Explanatory Report to state that all other land within the amendment proposed to be rezoned to PPRZ has determined to be not potentially contaminated. This appears to satisfy the requirements of MD1.

Status of Submission

EPA considers our comments regarding 1 West Street, Brunswick and other sites of the Amendment resolved on the basis that the planning authority determines that it is difficult or inappropriate to meet the requirements of the environmental audit system at the Amendment stage.

EPA acknowledges that the decision to proceed with an EAO on 260 Sydney Road, Brunswick rests with the planning authority however considers that the Explanatory Report does not currently state that the land is potentially contaminated and therefore requires the application of the EAO.

The above advice is provided to further support the planning authority's consideration of the Amendment. EPA maintains that Council should be able to effectively resolve the outstanding matters in the Amendment and therefore do not wish to be heard in support of our submission.

Closing

Thank you for the opportunity to provide input into this planning process. If the proposal is amended, please contact [REDACTED] [REDACTED]
[REDACTED]

Yours sincerely [REDACTED]
[REDACTED]
[REDACTED]

Environment Protection Authority Victoria