

Planning Panels Victoria

Hume Planning Scheme Amendment C272hume Merrifield Land Uses

Panel Report

Planning and Environment Act 1987

12 August 2026

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the Planning Scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Hume Planning Scheme Amendment C272hume

Merrifield Land Uses

DD August 2026



Sarah Carlisle, Chair



Jessica Tulloch, Member

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Glossary and abbreviations

BAO	Buffer Area Overlay
CDZ2	Schedule 2 to the Comprehensive Development Zone
Council	Hume City Council
DTP	Department of Transport and Planning
EPA	Environment Protection Authority
INZ1	Industrial 1 Zone
MICLUP	Melbourne Industrial and Commercial Land Use Plan (2020, updated 2024)
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Hume Planning Scheme
Precinct	Merrifield Employment Precinct, also known as the Merrifield Business Park
Proponent	Merrifield Corporation Pty Ltd
VRIP	Victorian Recycling Infrastructure Plan 2024

Overview

Amendment summary

The Amendment	Hume Planning Scheme Amendment C272hume
Common name	Merrifield Land Uses
Brief description	Amends Schedule 2 to the Comprehensive Development Zone to allow planning permit applications for Materials Recycling in the Merrifield Employment Precinct, aligns conditions on three Section 1 uses with the Industrial 1 Zone, makes Yarra Valley Water a recommending referral authority, and deletes Heritage Overlay HO259.
Subject land	Land in Schedule 2 to the Comprehensive Development Zone at the north-west corner of Donnybrook Road and the Hume Freeway, Mickleham, being about 280 hectares known as the Merrifield Employment Precinct.
The Proponent	Merrifield Corporation Pty Ltd
Planning Authority	Hume City Council
Authorisation	10 October 2025, with three conditions
Exhibition	23 January 2026 – 6 March 2026
Submissions	Number of Submissions: 72. Opposed: 64 Six submissions supported the Amendment, and two were neutral. Submission 53 was later withdrawn.

Panel process

The Panel	Sarah Carlisle (Chair) and Jess Tulloch
Directions Hearing	By video, 25 May 2026
Panel Hearing	On the papers
Parties	Hume City Council represented by Kate Wall, Senior Strategic Planner, and Sean Greer, Acting Manager City Strategy Merrifield Corporation Pty Ltd represented by Jordan Wright of Counsel, instructed by Rigby Cooke Lawyers
Citation	Hume PSA C272hume [2026] PPV
Date of this report	12 August 2026

Executive summary

Hume Planning Scheme Amendment C272hume (the Amendment) proposes to allow a planning permit to be applied for to use land in the Merrifield Employment Precinct (the Precinct) for Materials recycling. That use is currently prohibited under Schedule 2 to the Comprehensive Development Zone (CDZ2). The Amendment also proposes to:

- update conditions on three Section 1 uses so they match the Industrial 1 Zone (which applies to the nearby land on the south side of Donnybrook Road)
- make Yarra Valley Water a recommending referral authority
- delete Heritage Overlay HO259 over the former Kalkallo Park homestead (now demolished).

The Amendment was prepared by Hume City Council at the request of Merrifield Corporation Pty Ltd.

Hume City Council received 72 submissions during exhibition. Six supported the Amendment, 64 opposed it or sought changes and two were neutral. One submission was later withdrawn. No submitter asked to be heard, so the Panel proceeded on the papers.

Key issues raised in submissions included:

- amenity impacts, including noise, dust, odour, vibration, visual appearance and general cleanliness
- health effects from emissions and airborne particulates, particularly for children, older people and those with respiratory conditions
- traffic generation, particularly heavy vehicle movements on Donnybrook Road and at the Hume Freeway interchange
- compatibility of Materials recycling with existing uses in the Precinct and with the surrounding and growing residential areas
- a change in the conditions under which residents purchased property in the Merrifield estate
- fire risk from stockpiled materials, with reference to incidents at recycling facilities in Campbellfield and Somerton
- offsite environmental risks, including contamination of air and water
- the adequacy of separation distances under Clause 53.10 and of permit conditions as safeguards
- effects on property values
- a registered restrictive covenant said to prohibit the use of land for a recycling plant
- deletion of Heritage Overlay HO259.

The Precinct is State significant industrial land identified in the *Melbourne Industrial and Commercial Land Use Plan*. State policy, supported by the *Victorian Recycling Infrastructure Plan 2024*, directs resource recovery infrastructure to land of exactly this kind.

Materials recycling is nested under Industry in the land use diagrams in the Hume Planning Scheme, and is already a Section 2 use in the Industrial 1 Zone immediately

south of Donnybrook Road, which sits closer to housing than most of the land in the Precinct. The prohibition of Materials recycling in the current CDZ2 reflects the policy position in 2008 rather than the framework that applies today.

Materials recycling is an industrial use that fits the established and intended function of the Merrifield Employment Precinct. The continued prohibition of a use that is permissible in the Industrial 1 Zone on the opposite side of Donnybrook Road has no sound planning basis. Most of the Precinct can accommodate the threshold distances in Clause 53.10, and the referral of applications to the Environment Protection Authority deals with any undefined thresholds.

Heritage Overlay HO259 no longer has a statutory purpose and should be deleted.

The concerns raised by submitters about dust, odour, noise, fire and water quality are real, but they are concerns about a recycling facility. The planning system deals with these types of concern at the point a facility is proposed. The Amendment does not approve a Materials recycling facility. Rather, it enables the ability to apply for a permit for a facility. The acceptability of any particular proposal will be tested through a permit application assessed against Clauses 53.10 and 53.14, with the Environment Protection Authority acting as a determining referral authority wherever a threshold distance is not met or none is specified.

The Amendment is strategically justified. It is supported by and implements the Planning Policy Framework and the Municipal Planning Strategy and is consistent with the relevant Ministerial Directions and practice notes.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Hume City Council:

- 1. Adopt Hume Planning Scheme Amendment C272hume as exhibited.**

1 Introduction

1.1 The Amendment

(i) Amendment description

Hume Planning Scheme Amendment C272hume (the Amendment) proposes to:

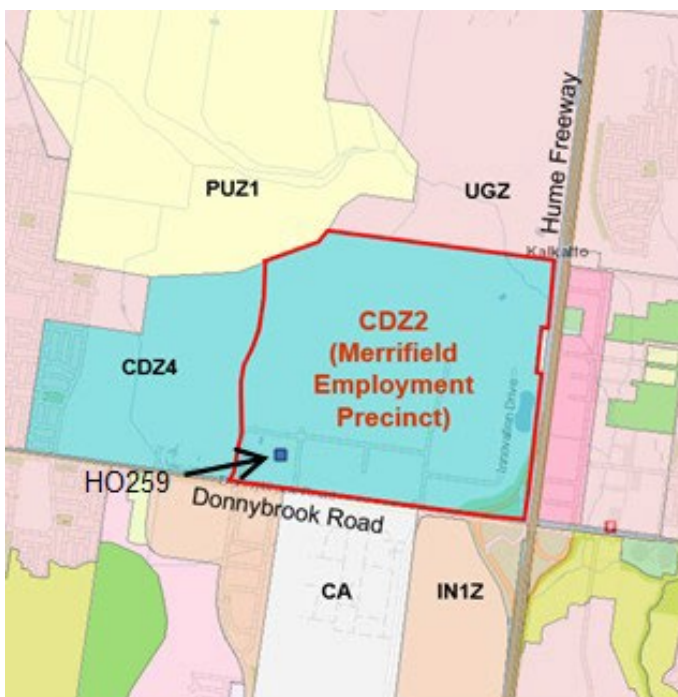
- amend Schedule 2 to the Comprehensive Development Zone (CDZ2) to allow planning permit applications for Materials Recycling, a use currently prohibited in the zone within the Merrifield Employment
- amend CDZ2 to reflect changes to Clause 53.10 (Uses and activities with potential adverse impacts) made by Amendment VC175
- amend the Schedule to Clause 66.04 to make Yarra Valley Water a recommending referral authority
- amend the Schedule to Clause 43.01 (Heritage Overlay) to remove HO259 (the former Kalkallo Park homestead at 200 Donnybrook Road, Mickleham).

Hume City Council (Council) prepared the Amendment at the request of Merrifield Corporation Pty Ltd (the Proponent).

(ii) The subject land

The Amendment applies to the Merrifield Employment Precinct (the Precinct), also known as the Merrifield Business Park. The Precinct covers about 280 hectares on the north-west corner of Donnybrook Road and the Hume Freeway at Mickleham (Figure 1). It is bounded by the Hume Freeway to the east, the Merrifield Major Town Centre to the west, the Kalkallo Retarding Basin to the north and Donnybrook Road to the south.

Figure 1 Subject land



Source: C272hume Explanatory Report

The Precinct is zoned CDZ2 and is identified as existing State significant industrial land in the *Melbourne Industrial and Commercial Land Use Plan* (MICLUP). Land in the Precinct is held by a number of owners. The uses established to date are a warehouse, distribution centre, industry and convenience restaurant. Parts of the Precinct remain vacant. The Proponent circulated maps on 26 June 2026 showing the pattern of development, permits and vacant land (Document 8).

A Rural Floodway Overlay and a Land Subject to Inundation Overlay apply to land in the north-east corner of the Precinct. Heritage Overlay HO259 applies to the land of former Kalkallo Park homestead in the south-west of the Precinct.

Land to the immediate north is in the Urban Growth Zone and the Public Use Zone and is rural in character. It is the subject of the Merrifield North Precinct Structure Plan. New Communities (formerly the Victorian Planning Authority) has prepared Draft Amendment GC295 to rezone and implement the structure and associated infrastructure contribution plans for the Merrifield North Precinct Structure Plan into the Mitchell and Hume Planning Schemes.

Residential land lies across the Hume Freeway to the east, further south beyond Donnybrook Road, and to the south-west. The Hume Freeway reservation is about 85 metres wide and the Donnybrook Road reservation adjacent to the Precinct is 55 to 60 metres wide.

1.2 Background

When the CDZ2 was applied to the land in 2008, Materials recycling was generally associated with particularly high impact or noxious activities such as junk yards or scrap metal yards. Consequently, the land use table to Schedule 2 was intended to prevent Materials recycling given its potential negative impact on the environment and amenity of the area.

The definition of Materials recycling has evolved to reflect modern approaches and focusing more on resource recovery through sustainable practices. The changes to the land use definition for Materials recycling is shown in Table 1.

Table 1 Materials recycling definitions

Previous definition	Current definition
Land used to collect, dismantle, store, recycle, or sell, used or scrap materials.	Land used to dismantle, treat, process, store, recycle, or sell refuse, used or surplus materials.

Since 2008, policy and statutory controls regarding Materials recycling have evolved in response to growing support for recycling and its environmental benefits.

On 2 August 2010, Amendment VC69 revised the definitions of Materials recycling and Refuse transfer station, introduced Clause 52.45 (Resource recovery) and inserted a group of contemporary resource recovery uses into the table to Clause 52.10.

On 31 July 2018, VC148 relocated Clause 52.10 to Clause 53.10, and Clause 52.45 to the newly introduced Clause 53.14 Resource Recovery.

On 26 May 2020, VC175 made updates to Clause 53.10 to reset the list of uses and activities and their threshold distances. It introduced the requirement to refer an application to the Environment Protection Authority (EPA) where a threshold distance is not met or where none is specified.

The *Circular Economy (Waste Reduction and Recycling) Act 2021*, *Recycling Victoria: a new economy* (2020) and the *Victorian Recycling Infrastructure Plan 2024* (VRIP) have since lifted the importance of resource recovery in State policy, including a target to divert 80 per cent of waste from landfill by 2030.

1.3 Procedural issues

A Directions Hearing was held by video on 25 May 2026. No submitter asked to be heard. The Panel directed that the matter proceed on the papers and set directions for Council and the Proponent to file written submissions addressing specified matters.

Council filed its written submission on 10 July 2026 (Document 9). The Proponent filed its written submission on 14 July 2026 (Document 10).

1.4 Key issues

Key issues raised in submissions were:

- **Amenity.** Concern about noise, dust, odour, vibration and cleanliness, and that a facility would present as a dumping site.
- **Air quality and health.** Concern about toxic emissions and airborne particulates, particularly for children, older people and those with respiratory conditions.
- **Traffic and road congestion.** Concern that the Donnybrook Road and Hume Freeway interchange is already dangerous and would be made worse by heavy vehicle movements.
- **Use incompatibility.** Concern that Materials recycling is more intensive than existing uses in the Precinct and not compatible with the residential character of the surrounding area.
- **Change in conditions.** Residents consider they purchased in the Merrifield estate under one set of conditions which are now changing.
- **Fire risk.** References to incidents at recycling facilities in Campbellfield and Somerton as cautionary examples.
- **Offsite environmental risks.** Concern about contamination of air and water, including stormwater and leachate.
- **Adequacy of planning safeguards.** Concern that permit conditions and the separation distances in Clause 53.10 are reactive and insufficient.
- **Property values.** Concern about the value of nearby property.
- **Restrictive covenant.** A registered covenant said to prohibit the use of land for a recycling plant.
- **Heritage Overlay removal.** Objection to deleting HO259.

1.5 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Strategic issues
- Compatibility of the use
- Amenity impacts
- Safety
- Other matters.

1.6 Limitations

The Panel proceeded on the papers and no expert evidence was called. The findings in this Report rest on the written material listed in Appendix A.

There is no proposal for a Materials recycling facility in the Precinct. The Panel has therefore assessed whether the use should be capable of being applied for, not whether any facility would be acceptable. Matters such as the scale of an operation, the materials handled, hours, vehicle movements and stockpile management can only be assessed at the permit application stage.

Some of the matters raised in submissions are not relevant to, or are beyond the scope of, the Amendment. The reasons why are briefly addressed in Chapter 6.4.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment and considered by the Panel.

Table 2 Planning context

	Relevant references
Victorian planning objectives	Section 4 of the <i>Planning and Environment Act 1987</i> (PE Act)
Municipal Planning Strategy	Clauses 02.03-5 (Built environment and heritage), 02.03-7 (Economic development)
Planning Policy Framework	Clause 11.01-1S (Settlement) Clauses 13.05-1S (Noise management), 13.06-1S (Air quality management), 13.07-1S (Land use compatibility) Clause 14 (Natural resource management) Clause 15.03-1S (Heritage conservation) Clauses 17.03-1S (Industrial land supply), 17.03-2S (Sustainable industry), 17.03-3S (State significant industrial land) Clauses 19.03-3S (Integrated water management), 19.03-3L (Industrial stormwater management), 19.03-5S (Waste and resource recovery)
Other planning strategies and policies	Plan for Victoria 2025, Pillar 4 (Sustainable environments) Melbourne Industrial and Commercial Land Use Plan, 2020, updated April 2024 Recycling Victoria: a new economy, 2020 Victorian Recycling Infrastructure Plan, 2024 Hume Growth Area Framework Plan
Planning scheme provisions	Clause 37.02 (Comprehensive Development Zone - Schedule 2) Clause 72.04 (Incorporated documents - Merrifield Comprehensive Development Plan, January 2017) Clause 43 (Heritage Overlay) Clauses 53.10 (Uses and Activities with Potential Adverse Impacts), 53.14 (Resource Recovery) and 53.18 (Stormwater management in urban development) Clauses 66.02-7 (Industry, utility installation or warehouse) and 66.04 (Referral of permit applications under local provisions). Clause 73.03 (Land use terms)
Planning scheme amendments	C92hume (Merrifield Employment Precinct) C167hume (Merrifield Town Centre)

	C215hume (200 Donnybrook Road, Mickleham) VC69 (Changes to land use terms for Materials recycling and Refuse transfer station) VC148 (Smart Planning program) VC175 (Improvements to Clause 53.10)
Ministerial directions	The Form and Content of Planning Schemes Ministerial Direction 11 (Strategic Assessment of Amendments) Ministerial Direction 15 (The Planning Scheme Amendment Process) Ministerial Direction 19 (Amendments that may Significantly Impact the Environment, Amenity and Human Health)
Planning practice notes	Planning Practice Note 1 (Applying the Heritage Overlay) Planning Practice Note 46 (Strategic Assessment Guidelines) Planning Practice Note 54 (Referral and Notice Provisions) Planning Practice Note 92 (Managing buffers for land use compatibility) Advisory Note 73 (New requirements for a planning authority to consult EPA)

2.2 Strategic justification

(i) The issue

The issue is whether the Amendment is supported by State and local policy.

(ii) Submissions

Council submitted that the Amendment implements the objectives of planning in Victoria in section 4(1) of the PE Act by enabling appropriate Materials recycling, supporting sustainable development and ensuring heritage controls protect extant heritage fabric. It relied on Clauses 11.01-1S, 14, 15.03-1S, 17.03-2S, 17.03-3S and 19.03-5S, the VRIP and *Plan for Victoria 2025*. Council submitted the Amendment is consistent with Ministerial Directions 11, 15 and 19, and that the EPA was consulted before exhibition.

The Proponent adopted Council's position and highlighted how policy has shifted since CDZ2 was applied in 2008. It pointed to Amendment VC69, the *Circular Economy (Waste Reduction and Recycling) Act 2021*, *Recycling Victoria: a new economy* and the VRIP. The Proponent submitted that these changes have lifted the importance of securing land in suitable locations for recycling infrastructure, and that the Precinct meets the six attributes the VRIP identifies as indicators of a suitable area, being strategic alignment, potential for co-location, zoning and planning, amenity and buffers, transport and site size.

The Proponent explained that the request to Council was prompted by enquiries from potential occupants of the Merrifield Business Park seeking locations for plastic and aluminium recycling.

Submitters did not engage directly with the policy framework; their opposition focused on the effects of a future facility.

(iii) Discussion

State policy on resource recovery has changed significantly since 2008. Current policy seeks to:

- reduce waste and maximise resource recovery (Clause 19.03-5S)
- facilitate the sustainable operation of industry (Clause 17.03-2S)
- protect State significant industrial precincts from incompatible uses and to keep enough strategically located land available for industries that need significant threshold distances from sensitive uses (Clauses 17.03-1S and 17.03-3S).

The VRIP is a reference document at Clause 19.03-5S. It confirms the need for more resource recovery capacity and identifies State significant industrial precincts as suitable locations for it. The Precinct sits within the Northern industrial precinct identified in the MICLUP. It is large, it has direct freeway access, and most of it is well separated from sensitive residential uses.

In the Hume Planning Scheme:

- Clause 02.03-7 seeks economic development and employment in Hume.
- Clause 02.03-5 supports a heritage framework that reflects places of actual significance.

The Amendment is seeking to allow recycling infrastructure on land identified by State policy for that exact purpose. The Heritage Overlay is no longer needed given the demolition of the former Kalkallo Homestead. The issues raised by submitters that Materials recycling may generate offsite impacts are valid. However, these will be assessed through a planning permit process, managed by threshold distances and/or referral to the EPA.

(iv) Conclusions

The Panel concludes the Amendment:

- is supported by and implements the Planning Policy Framework and the Municipal Planning Strategy
- is consistent with the relevant Ministerial Directions and practice notes
- is well founded and strategically justified
- should proceed.

The Panel recommends Council:

- 1. Adopt Hume Planning Scheme Amendment C272 as exhibited.**

3 Compatibility of the use

3.1 Industrial uses in the Comprehensive Development Zone

(i) The issues

The issues are whether:

- Materials recycling is compatible with the established and intended function of the Precinct
- CDZ2 should continue to prohibit a use that is permissible in the nearby Industrial 1 Zone (IN1Z).

(ii) Background

Amendment C92hume applied CDZ2 to the land in 2008 and incorporated the Merrifield Comprehensive Development Plan into the Planning Scheme. Its purpose was to facilitate subdivision and development of the land for employment and industrial purposes in line with the Hume Growth Area Framework Plan. The C92hume Panel was satisfied the zone and schedule would result in acceptable outcomes.

In 2013 Amendment C167hume split CDZ2 into two precincts; the eastern section remained in the CDZ2, and the western section was rezoned to CDZ4 for the Merrifield Town Centre. In 2017 Amendment C215hume refined the boundary and updated the plan approved under the CDZ2.

(iii) Submissions

Four submitters said Materials recycling is a more intensive use than those already in the Precinct or than was intended for the area. One submitter said the use belongs somewhere more remote.

Council submitted that the Precinct is an established industrial and commercial area, that Materials recycling is nested under Industry in the land use diagram, and that it is already a Section 2 use on nearby land in the IN1Z and in Schedule 8 to the Urban Growth Zone.

The Proponent submitted that the uses established in the Precinct since 2008 are warehouse, distribution centre, industry and convenience restaurant, which are the uses one would expect on land in the IN1Z. It made the point that a permit could presently be granted for Materials recycling on IN1Z land on the south side of Donnybrook Road, immediately abutting the General Residential Zone, while the same use is prohibited within the Precinct, which is further away from sensitive uses. The Proponent submitted there is no good planning reason for that distinction.

(iv) Discussion

The Proponent's comparison with the IN1Z is a significant argument in favour of the Amendment. A use that can be applied for on land abutting housing should not be prohibited on land several hundred metres further away that has been set aside for

industry and prioritised at a State level. That outcome is result of the zoning tool chosen in 2008, not a deliberate planning judgement about Materials recycling in this location.

The character of land use and development to date in the Precinct supports the same conclusion. Warehousing, distribution and industry are the types of uses the Precinct was intended to attract, and Materials recycling sits in the same nesting group of uses. Modern resource recovery has changed since 2008, from land used to collect, dismantle, store, recycle or sell used or scrap materials, to land used to dismantle, treat, process, store, recycle or sell refuse, used or surplus materials. The emphasis has moved to treatment and processing.

Not every Materials recycling proposal would suit, or be appropriate in, the Precinct. However, that assessment belongs at the planning permit stage, where the specific proposal can be tested, rather than being settled in advance by a blanket prohibition.

(v) Conclusions

The Panel concludes:

- Materials recycling is an industrial use that is compatible with the established and intended function of the Merrifield Employment Precinct.
- The prohibition of Materials recycling in Schedule 2 to the Comprehensive Development Zone, when the same use is permissible in the Industrial 1 Zone on the opposite side of Donnybrook Road and closer to sensitive uses, has no sound planning basis.
- Including Materials recycling as a Section 2 use in Schedule 2 to the Comprehensive Development Zone, subject to conditions, is appropriate.

3.2 Neighbouring residential zones

(i) The issues

The issues are:

- whether Materials recycling in the Precinct is compatible with surrounding residential areas
- how future growth around the Precinct should be managed.

(ii) Background

The residential land closest to the Precinct lies across the Hume Freeway to the east, in the Township Zone and the Urban Growth Zone. The Proponent measured about 354 metres from the Precinct boundary to the nearest dwellings to the north-east, with about 845 metres to the east, about 792 metres to the south-west and about 1,065 metres to the west. The Hume Freeway reservation is about 85 metres wide. The Donnybrook Road reservation is 55-60 metres wide.

Land to the north is proposed to be planned through the Merrifield North Precinct Structure Plan as an employment precinct rather than for sensitive uses.

(iii) Submissions

Six submitters said Materials recycling is not suited to the surrounding residential area, and several described the area as a growing residential community rather than an industrial one. Some submitters said they bought into the Merrifield estate on one set of conditions which are now being changed.

Council submitted that interface and compatibility issues are properly assessed on a permit application, and that the Hume Planning Scheme contains controls directed specifically to those matters. The Proponent relied on the significant separation distances to nearby residential land, and on the buffering effect of the Hume Freeway and Donnybrook Road reservations.

(iv) Discussion

The concern raised by the community living in proximity to a potential Materials recycling facility is understandable, but it overstates the proximity. The Amendment does not propose to allow a facility closer to housing than the IN1Z land already does. The physical separation is substantial; a minimum distance of 354 metres that includes an 85-metre freeway reservation.

On the issue of changed conditions, the planning scheme is not fixed - to? the date a person buys land. Amendments respond to changes in policy and circumstance, and the process for testing them is the one that has been followed here.

(v) Conclusions

The Panel concludes:

- The separation between the Precinct and nearby residential land is substantial and the Amendment does not bring Materials recycling closer to housing than the existing Industrial 1 Zone controls already allow.
- Compatibility of a particular proposed use with surrounding residential areas is properly resolved at the permit application stage.

4 Amenities impacts

4.1 Separation distances

Clause 53.10 sets out threshold separation distances that apply to land uses with potential off-site impacts. These distances are based on the potential adverse impacts of each use or activity. Uses are not prohibited if the thresholds are not met. Rather, proposals within the threshold distances are subject to further detailed assessment (including referral to the EPA as a determining referral authority) to determine whether the proposed use or activity is appropriate. The same applies where no threshold distance is specified.

(i) The issues

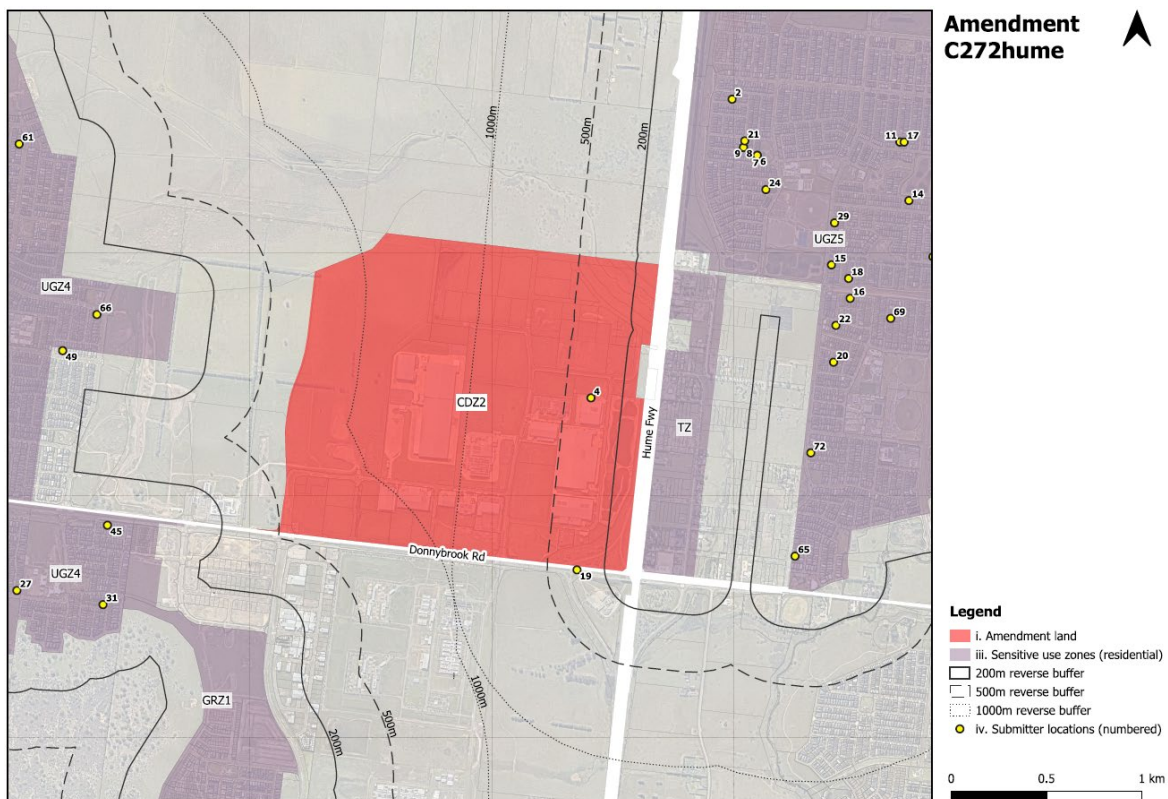
The issues are:

- which uses and activities in Clause 53.10 fall within Materials recycling, and what their threshold separation distances are
- whether the Precinct can accommodate those threshold distances.

(ii) Background

Council provided a map showing indicative 200, 500 and 1,000 metre buffers measured from nearby residential zones (Figure 2).

Figure 2 Reverse buffer distances from residential zones



Source: Council in response to Panel direction 4.a (Document 9m)

(iii) Submissions

Council identified six uses or activities in Clause 53.10 that would constitute Materials recycling. The Proponent agreed with that list and added Chemical or oil recycling, for which a threshold distance of 1,000 metres is specified. The combined list is set out in Table 3, along with the associated threshold separation distances.

Table 3 Uses and activities in Clause 53.10 that constitute Materials recycling

Use or activity in Clause 53.10	Threshold distance (metres)
Chemical or oil recycling	1,000
Composting and other organic materials recycling	None specified
Container deposit scheme centre exceeding 1,000 square metres gross floor area, if the facility is processing the recyclables on site	200
Other resource recovery or recycling operations	None specified
Used plastics treatment or processing	500
Waste tyre recycling and re-treading	1,000
Vehicle recycling or disposal	500

Source: Council submission paragraph 57 (Document 9) and Proponent submission paragraph 26 (Document 10)

Council submitted that substantial parts of the Precinct, particularly in the west, are more than 500 metres from residential zoned land and can accommodate most of the specified thresholds for the uses of activities that constitute Materials recycling. The Proponent submitted that the great majority of the Precinct is more than 500 metres from a residential zone, with only a strip along the eastern edge falling inside that distance, and that about one third of the Precinct sits outside a 1,000-metre buffer.

Several submitters said the separation distances in Clause 53.10 are reactive and insufficient.

(iv) Discussion

The Panel agrees with the Proponent's addition of Chemical or oil recycling. That activity falls within the definition of Materials recycling and should be treated as part of the relevant list of potential land uses or activities that would be permitted in the Precinct if the Amendment is approved.

The reverse buffer mapping prepared by Council (Figure 2) shows the Precinct can physically accommodate the specified thresholds. Each listed use with a numerical threshold could be sited somewhere in the Precinct to meet the threshold distance, and the two activities with no specified distance would be referred to the EPA. Where a threshold is not met, the consequence is not that the use is necessarily unacceptable. Rather, further detailed assessment is required, and the EPA must be satisfied before a permit can be issued.

Clause 53.10 is supported by *EPA Publication 1949, Separation distance guideline (August 2024)*, which the EPA applies where no distance is specified in the table. The Publication is guidance rather than a binding control, but it is a reference document in the Hume

Planning Scheme, and it gives applicants and the community a reasonably clear picture of what can be expected.

The Panel is satisfied that land within the Precinct can accommodate Material recycling without unacceptable planning outcomes. It notes land in the western and central parts of the Precinct has a greater separation to nearby sensitive uses than land in the eastern strip along the Hume Freeway. The Panel also notes that the Amendment does not direct a facility to one part of the Precinct over another, but it does not consider this is necessary.

(v) Conclusions

The Panel concludes:

- The uses and activities in Clause 53.10 that constitute Materials recycling are those set out in Table 3 of this report, including Chemical or oil recycling.
- Most of the Precinct can accommodate the specified threshold distances in Clause 53.10, and about one third lies beyond 1,000 metres from residential zoned land.
- Where a threshold distance is not met or none is specified, referral to the Environment Protection Authority provides an appropriate safeguard.

4.2 Noise, odour, dust and emissions

(i) The issue

The issue is whether offsite amenity effects can be adequately managed by a planning permit application.

(ii) Submissions

Thirty-one submitters raised amenity concerns, including noise, dust, vibration and general cleanliness. One submitter said a recycling use would look like a dumping site.

Council submitted that Clause 53.14 requires an applicant to provide visual assessments and view plans from nearby sensitive locations, detailed assessment of noise, odour, dust and emissions, and consideration of traffic effects. Council must be satisfied that amenity effects can be avoided or mitigated and may refuse an application if that cannot be demonstrated or impose appropriate conditions to manage any off-site amenity impacts.

The Proponent listed the conditions typically applied to a facility of this kind, covering emissions to air, land and water, hours of operation and vehicle movements. It also pointed to Clauses 13.05-1S, 13.06-1S and 13.07-1S, the general environmental duty in section 25 of the *Environment Protection Act 2017*, the *Environment Protection Regulations 2021* and the *Environment Reference Standard*.

(iii) Discussion

Clause 53.14 is a detailed provision and requires a permit applicant to characterise the amenity effects of the proposal before a permit can be considered. The decision

guidelines require Council to weigh those effects against the contribution the proposal makes to resource recovery targets.

The concern about visual appearance is understandable, but it describes what might be the impacts of a poorly designed facility rather than the use itself. Visual assessment is an express application requirement under Clause 53.14, and screening, built form and stockpile management are typical conditions on permits of this kind.

Beyond the planning system, the general environmental duty applies to the operation of a facility for as long as it runs. That duty, and the Environment Protection Regulations, deal with the ongoing performance of a use, providing additional comfort that any such use will not have adverse impacts on the environment or human health.

(iv) Conclusions

The Panel concludes:

- Clauses 53.10 and 53.14, together with the decision guidelines in Schedule 2 to the Comprehensive Development Zone, provide an adequate basis for assessing noise, odour, dust and emissions on a permit application.
- Visual effects are an express application requirement under Clause 53.14 and can be managed through design, screening and permit conditions.
- Beyond the planning system, the general environmental duty applies to the operation of a facility for as long as it runs.

4.3 Traffic

(i) The issue

The issue is whether the traffic effects of a future Materials recycling facility can be adequately managed.

(ii) Submissions

Twenty-three submitters raised concerns about traffic in Mickleham and Kalkallo, including heavy vehicle movements. Seven submitters raised concerns about Donnybrook Road and the Hume Freeway interchange, which several described as already dangerous.

Council submitted that Clause 53.14 requires an application to be accompanied by a written report assessing likely traffic generation, including heavy vehicle movements, and that this would inform assessment of access, safety and road capacity. Council also noted the Precinct is well placed in relation to the arterial road network.

The Proponent noted that Donnybrook Road adjacent to the Precinct is a four-lane separated carriageway, and that the section between Mickleham Road and Epping Road is planned for upgrade under the Big Build program, including a potential interchange upgrade.

(iii) Discussion

In the absence of a specific proposal for a facility before the Panel, there is no trip generation to assess, no vehicle type to model and no access arrangements to review. However, the Panel is satisfied that there is no in principle reason why traffic movements associated with a future Materials recycling proposal could not be adequately managed.

The Precinct is already zoned and developed for uses that generate heavy vehicle movements, including a distribution centre. The Precinct is served by an arterial road, grade separated at the freeway.

The concern about the Donnybrook Road and Hume Freeway interchange is valid, but it is a concern about existing conditions and cumulative growth across a growth area. It is an issue being addressed through the planned Donnybrook Road upgrades. The Amendment does not make these conditions worse in any way that can be measured or addressed at this time.

(iv) Conclusions

The Panel concludes:

- The Panel is satisfied that there is no in principle reason why traffic movements associated with a future Materials recycling proposal could not be adequately managed.
- The Precinct has direct access to the arterial and freeway network, and planned upgrades to Donnybrook Road will address existing conditions at the interchange.
- Traffic effects of a specific proposal will be assessed on future permit applications under Clause 53.14.

4.4 Buffer Area Overlay

(i) The issue

The issue is whether a Buffer Area Overlay should be applied to the Precinct or its surrounds as part of the Amendment.

(ii) Submissions

The Panel asked Council to explain whether or not a Buffer Area Overlay (BAO) had been considered. Council submitted that an BAO was not considered because there is no permit application for a Materials recycling facility, and no site-specific assessment of amenity or environmental effects could be undertaken. Council submitted that in any event a BAO is not warranted, because Clauses 53.10 and 53.14 already provide targeted controls that apply to any future applications, and because CDZ2 is intended to accommodate industrial uses. The Proponent agreed.

(iii) Discussion

The Panel agrees with Council. The BAO is designed to protect an identified buffer around a specific use or activity. It works by fixing the extent of a buffer and controlling

what may occur within it. Applying one here would require the location of the activity and use to be known. The threshold distances in Clause 53.10 (which may provide an indication of what an appropriate buffer distance should be) range from 200 metres to 1,000 metres depending on the activity.

Clause 53.10 already performs a protective function on an application-by-application basis, with the EPA as a determining referral authority where thresholds are not met. That is a better fit for the present circumstances.

The position may change. If a facility is approved and a buffer can be defined by reference to it, an overlay may become the appropriate way to protect that buffer from encroachment. Planning Practice Note 92 gives guidance on when that step is warranted.

(iv) Conclusions

The Panel concludes:

- A Buffer Area Overlay is not warranted as part of the Amendment, because there is no facility proposed.
- Clause 53.10, together with referral to the Environment Protection Authority, is the appropriate mechanism at this stage.
- A Buffer Area Overlay may warrant consideration if a Materials recycling facility is approved and a buffer can be defined by reference to it.

5 Safety

5.1 Fire risk

(i) The issue

The issue is whether fire risk from stockpiled materials can be adequately managed.

(ii) Submissions

Seventeen submitters raised fire risk, several referring to fires at recycling facilities in Campbellfield and Somerton as cautionary examples.

Council submitted that Clause 53.14 requires it to consider the *Guide to Best Practice at Resource Recovery Centres* (Sustainability Victoria, 2009), which covers fire prevention, on site firefighting infrastructure, water supply for fire control and the management of certain materials. Council also pointed to the *National Construction Code* and *Victorian building regulations*.

Council set out examples of conditions imposed on earlier permits in Hume, including:

- a requirement to implement the recommendations of a fire engineering report
- a limit on combustible stockpiles to four metres or four bales in height consistent with *Waste Management Policy (Resource Recovery Facilities) No. S289*
- a requirement that combustible recyclable and waste material be stored only for transfer, sale, sorting, reuse, recycling, reprocessing or energy recovery in accordance with EPA Publication 1667 *Management and storage of combustible recyclable and waste materials guidance*.

The Country Fire Authority was given notice of the Amendment and did not object.

(iii) Discussion

EPA Publication 1667 and *Waste Management Policy (Resource Recovery Facilities) No. S289* are intended to mitigate the risk of future fire events like the ones raised by submitters. The policies govern how combustible recyclable material are stored and the risk mitigated. The conditions Council has imposed on recent permits demonstrate how these risks can be mitigated.

Fire risk is also strongly dependent on types of materials. A container deposit scheme centre and a used plastics processing operation carry very different risk profiles. This is another reason the assessment belongs at the permit stage, where the material stream, stockpile management, water supply and site layout can all be assessed together.

(iv) Conclusion

The Panel concludes:

- Fire risk from stockpiled materials is capable of being managed through Clause 53.14 and permit conditions of the kind Council has previously imposed.

5.2 Environmental risks

(i) The issue

The issue is whether offsite environmental risks, including air quality, stormwater runoff and leachate, can be adequately managed.

(ii) Submissions

Ten submitters were concerned that a facility would contaminate air or water.

Council submitted that offsite effects are managed through the separation distances and referral requirements in Clause 53.10 and the assessment required by Clause 53.14. It set out example conditions imposed by the EPA (as a referral authority) on earlier permits, covering nuisance dust and airborne particles, offensive odour, noise and vibration, compliance with air quality policy, contamination of surface water discharge, and secondary containment for liquids.

On stormwater and leachate, Council relied on Clauses 19.03-3S, 19.03-3L and 53.18, and on the addition of Yarra Valley Water as a recommending referral authority, which Yarra Valley Water requested during early consultation on the Amendment. Melbourne Water expressed in principle support for the Amendment. The EPA raised no concerns about stormwater or leachate and did not object to the Amendment or seek changes to it.

The Proponent noted that the general environmental duty under the *Environment Protection Act 2017* would require any future operator to manage stormwater and leachate appropriately to protect the environment and human health.

(iii) Discussion

The EPA, the State regulator for these issues, was consulted before exhibition, made a submission and did not oppose the Amendment. The EPA is a determining referral authority for any application where a threshold distance is not met, or none is specified. A permit cannot issue without its consent.

Making Yarra Valley Water a recommending referral authority is appropriate. Planning Practice Note 54 supports the use of recommending referral authority status where an authority has a genuine interest in the outcome, but the decision should remain with the responsible authority. This is consistent with Yarra Valley Water's interest in drainage, trade waste and leachate on a Materials recycling application. It gives Yarra Valley Water a direct role in assessing drainage, trade waste and leachate management on each application, which is a sensible addition that also responds to the concerns submitters raised.

The general environmental duty and the *Environment Protection Regulations 2021* apply to the conduct of the use throughout its life, and they are enforceable independently of the planning system.

(iv) Conclusions

The Panel concludes:

- Offsite environmental risks are capable of being managed through Clauses 53.10 and 53.14, permit conditions, and the *Environment Protection Act 2017* and its regulations.
- The addition of Yarra Valley Water as a recommending referral authority is appropriate and improves the assessment of stormwater and leachate.

6 Other matters

6.1 Heritage

(i) The issue

The issue is whether HO259 should be removed from the former Kalkallo Park homestead at 200 Donnybrook Road, Mickleham.

(ii) Submissions

One submitter said no heritage report was made available to the public. Two submitters said removing the overlay reduces planning safeguards without clear community benefit.

Council explained that planning permit P23620 was granted in 2021 for demolition of the building, supported by a heritage impact statement which concluded the former dwelling was at best of modest local historical interest, lacked architectural merit and had compromised integrity. The permit required:

- an annotated photographic study of archival quality before demolition
- a management plan for reuse of bluestone from the building in open space.

Council submitted both conditions were met. Landscape plans addressing the bluestone were endorsed in 2021, and the building was demolished in late 2021. No heritage fabric remains.

The Proponent provided aerial photographs from August 2021 and April 2026 showing the curtilage of HO259 before and after removal of the building and a copy of permit P23620, which authorised the demolition of the heritage fabric (refer Figure 3).

Figure 3 Aerial photographs showing the curtilage of HO259 in August 2021 (left) and April 2026 (right)



Source: Proponent Written Submission (Document 10)

(iii) Discussion

The Heritage Overlay no longer has any fabric to protect. Planning Practice Note 1 (since replaced by the Local Heritage Guidelines) supports regular review so that heritage places are accurately identified and mapped. Retaining an overlay over a place that has been lawfully demolished is inconsistent with the purposes of the Heritage Overlay, to protect extant heritage fabric.

The submission that no heritage report was made public through the Amendment is understandable but does not change the outcome. The heritage impact statement was assessed as part of the permit application in 2021, and the archival photographic record required by that permit was completed. The heritage value of the place was considered at the time the decision to permit demolition was made, which was the appropriate point for any such assessment.

Council's submission describes HO259 as applying to a former farmstead at 400 Donnybrook Road, Mickleham in one place and at 200 Donnybrook Road, Mickleham in another, and elsewhere refers to land at 200V Donnybrook Road, proposed Synergy Road. Council explained that the address has changed through subdivision. The Amendment documentation should identify the property correctly and consistently.

(iv) Conclusion

The Panel concludes:

- Heritage Overlay HO259 no longer serves a statutory purpose and its deletion is appropriate.
- Council should confirm the correct property address and mapped extent of HO259 before the Amendment is adopted.

6.2 Restrictive covenant

(i) The issue

The issue is whether a registered restrictive covenant prohibiting the use of land for a recycling plant is relevant to the Panel's consideration of the Amendment.

(ii) Submissions

One submitter said they acquired land in the Precinct in reliance on the statutory planning framework in place at the time, together with a registered restrictive covenant expressly prohibiting the use of land for a 'recycling plant'. The submitter said the Amendment materially alters the planning assumptions that underpinned their decision to buy land in the Precinct.

Council submitted that the PE Act neither requires nor provides for consideration of restrictive covenants in relation to amendments, except where an amendment seeks to remove or vary one under section 6(2)(g). Council relied on Brimbank C225brim (PSA) [2022] PPV 48, in which the panel observed that covenants should not determine the strategic planning process and that where appropriate they should be removed to facilitate strategically justified development. The Proponent adopted Council's position.

(iii) Discussion

The Amendment does not seek to remove or vary any covenant, so section 6(2)(g) is not triggered, and the covenant is not a matter the Panel can consider.

A covenant is a private agreement registered on title. Changing a planning control does not remove it, vary it or make it unenforceable, and it continues to run with the land. Section 61(4) of the PE Act prevents a responsible authority from granting a permit that would result in a breach of a registered restrictive covenant. If the covenant applies to land within the Precinct in the terms described by the submitter, a permit for Materials recycling could not be granted over that land unless the covenant were first removed or varied through a separate process in which the beneficiaries would have a right to be heard.

The Amendment therefore does not affect the covenant, and the covenant does not affect the merits of the Amendment.

(iv) Conclusions

The Panel concludes:

- The restrictive covenant is not relevant to the Panel's consideration of the Amendment, because the Amendment does not seek to remove or vary it.
- The covenant continues to run with the land, and section 61(4) of the PE Act would prevent the grant of a permit that would result in its breach.

6.3 Form of the controls

Council submitted that the changes to the conditions on the Section 1 uses of Industry, Shipping container storage and Warehouse align the wording of CDZ2 with the IN1Z and reflect the changes made to Clause 53.10 by Amendment VC175. Council described the changes as administrative.

The Panel agrees these changes are appropriate. Aligning the CDZ2 conditions with the IN1Z removes an inconsistency that has no policy basis, and updating the references to Clause 53.10 corrects wording that has been out of date since 2020. Neither change alters what may be applied for.

6.4 Matters outside the scope of the Amendment

(i) The issue

The issue is whether the remaining matters raised in submissions fall within the scope of the Amendment.

(ii) Submissions

Ten submitters were concerned that the Amendment would reduce the value of their property. Council responded that property values are generally not a relevant planning consideration in the assessment of an amendment, which is evaluated against strategic planning objectives, land use outcomes and the broader public interest. The Proponent adopted Council's position.

One submitter sought information about the materials that would be recycled and questioned the intent behind the Amendment. Council responded that no permit application for a facility accompanies the Amendment and none is currently proposed in the Precinct.

One submitter said businesses were being displaced by a COVID centre and that the Precinct has empty buildings not being used. Council understood this referred to the Mickleham Post Entry Quarantine Facility on Commonwealth land at 135 Donnybrook Road, Mickleham, which sits outside the Amendment area. Council contacted the submitter for clarification and had not received a response at the time it filed its submission.

(iii) Discussion

None of these issues are relevant to the Amendment.

The consistent position of panels is that effects on the value of individual properties are not a relevant planning consideration. The task is to assess land use outcomes and the public interest, not private financial interests. Property values respond to many factors and cannot be attributed to a planning control alone. That said, the underlying concern, which is about the amenity of the area, is a planning matter and it is dealt with in Chapters 3, 4 and 5 of this report.

The Amendment does not approve a particular facility and does not identify what materials might be recycled. The materials to be handled, the scale of any operation and how it would be managed are matters for a future permit application, which would be assessed under Clauses 53.10 and 53.14 and would give the community a further opportunity to comment.

The Mickleham Post Entry Quarantine Facility is on Commonwealth land at 135 Donnybrook Road and is not affected by the Amendment.

Appendix A Document list

No.	Date	Description	Provided by
Referred documents			
1	14 Apr 25	Council report and minutes seeking authorisation of the Amendment	Council
2	10 Oct 25	Letter of authorisation from DTP, with conditions	Council
3	23 Jan 26	Exhibited Amendment documents: Explanatory Report, proposed provisions (clean) and proposed provisions (track changes)	Council
4	23 Jan 26	Notices in The Age and the Victorian Government Gazette, and notice letter to owners and occupiers	Council
5	6 Mar 26	Submissions to the Amendment (72), redacted	Council
6	10 Apr 26	Response letter to submitters	Council
Tabled documents			
7	25 May 26	Panel Directions and Timetable (version 1)	Planning Panels Victoria
8	26 Jun 26	Three maps of the Precinct: vacant lots, lots with use and development permits, and lots with subdivision permits	Proponent
9	10 Jul 26	Council written submission with attachments 1 to 15:	Council
9a	10 Jul 26	Map of area affected by C272hume	Council
9b	10 Jul 26	Early Consultation with the EPA 2023	Council
9c	10 Jul 26	Council Meeting Agenda – 14 April 2025	Council
9d	10 Jul 26	Council Meeting Minutes – 14 April 2025	Council
9e	10 Jul 26	Letter of Authorisation	Council
9f	10 Jul 26	Exhibited Explanatory Report	Council
9g	10 Jul 26	Exhibited Proposed Provisions – Clean Version	Council
9h	10 Jul 26	Exhibited Proposed Provisions – Track-change Version	Council
9i	10 Jul 26	Notice in the Age Newspaper on 23 January 2026 and 13 February 2026	Council
9j	10 Jul 26	Notice in Victorian Government Gazette on 29 January 2026	Council
9k	10 Jul 26	Notice letter to land owners and occupiers	Council

No.	Date	Description	Provided by
9l	10 Jul 26	Response letter to submitters	Council
9m	10 Jul 26	Map of buffers as per Panel's direction number 4a).	Council
9m	10 Jul 26	Chronology of Planning Scheme Amendment Events	Council
9o	10 Jul 26	Planning Permit Applications History – Merrifield Employment Precinct	Council
10	14 Jul 26	Submissions for the Proponent, enclosing planning permit P23620	Proponent