

WYNDHAM PLANNING SCHEME

AMENDMENT C260WYND

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Wyndham City Council, who is the planning authority for this amendment.

Land affected by the amendment

The amendment applies to the following land:

- 560 Davis Road Tarneit
- 1283 Dohertys Road, Tarneit
- 1273 Dohertys Road, Tarneit

What the amendment does

The amendment updates the content of the Tarneit North Precinct Structure Plan incorporated document as summarised below:

Section 2.1 - Vision: Insert an additional vision statement "Key arterial and sub - arterial roads will be planned and created as boulevards with specific spatial and landscape requirements."

Section 3.5.1 - Street Network:

- Insert a new Requirement R36A: "Road cross-sections must be in accordance with the road cross-sections identified in Plan 6."
- Amend Condition C6 to include reference to "land required for infrastructure."

"Section 3.6.2 - Utilities:

- Amend Requirement R60 to refer to "underground and above-ground services"
- Insert a new Requirement R62B in relation to land to be set aside as reserve for "existing and proposed electricity cables;"

Section 3.7.1 Subdivision works by developers: Append at the end of Requirement R67 reference to land required for infrastructure that will service the relevant precinct.

Section 3.7.3 - Precinct Infrastructure Plan: Insert an additional mechanism through which infrastructure items and services are to be provided: "setting aside of land upon subdivision as a reserve for a public purpose or for a utility service."

Table 8 Precinct Infrastructure Plan: Insert an item not funded by DCP - "Additional road reserve widened by additional 11m to form a 45m wide reserve for high voltage powerline"

Plan 10 - Land Use Budget / Table 9 Summary Land Budget / Table 10 - Property Specific Land Budget: amend numerical data and graphically to account for changes to Dohertys Road Reserve in the Land Use Budget plan, affecting properties, 89-SW-02, 89-SW-05, and 89-SW-06.

Appendix C Cross sections: Create a new Cross Section 4a for the proposed 66kv Overhead Powerlines.

Appendix C Cross sections 4a and 4b: Delete 'on road' from bike lanes

Consequential changes to the following sections of the PSP: Table of Amendments, Plan 6, Sections 3.5.1, 3.7.1, Plan 10, Table 9, Cross Section 4, and Appendix D (Cross sections).

The amendment also updates the content of the Wyndham North Development Contributions Plan incorporated document as summarised below:

Section 2.1 – add “Above ground’ power – Tarneit North PSP area only and add “The widened road reserve from 34m wide to 45m wide for Dohertys Road to accommodate high voltage overhead powerlines consistent with the Tarneit North PSP”.

The amendment also updates the references to the PSP and DCP in the schedule to clause 53.01 and the schedule to clause 72.04.

Strategic assessment of the amendment

Why is the amendment required?

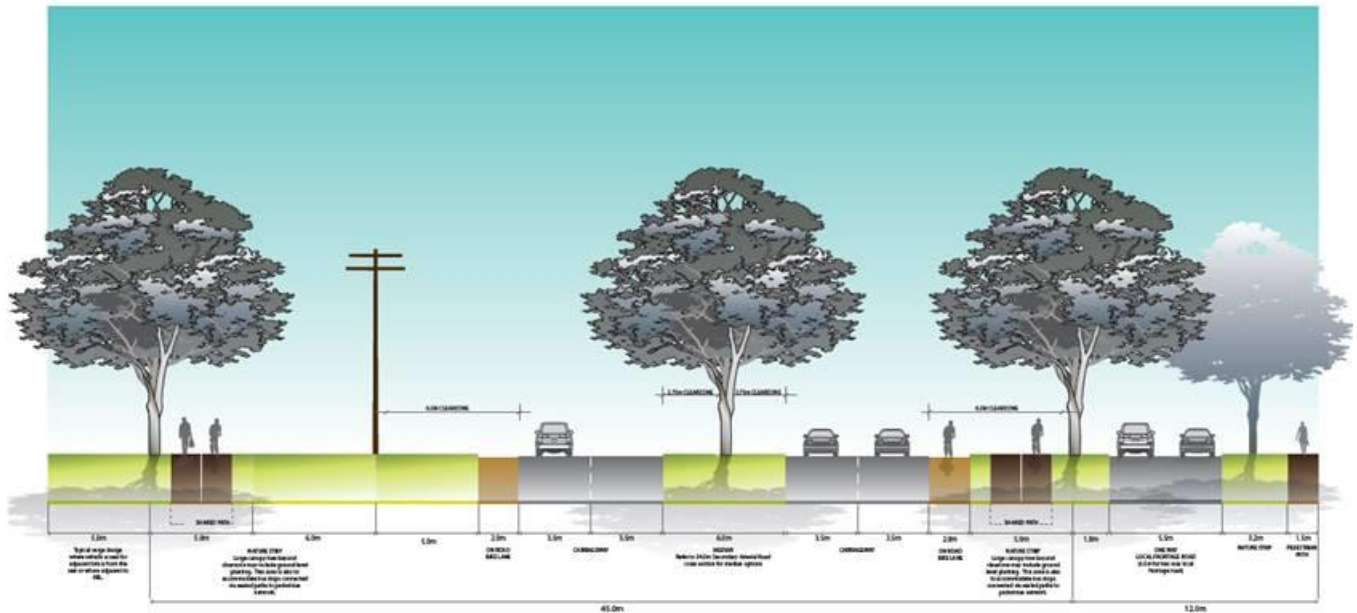
The purpose of the amendment is to address an anomaly in the Tarneit North PSP incorporated document to ensure sufficient land is allocated on the three properties identified above to make provision for the 66kV overhead powerlines (and associated landscaping).

In the VCAT decision *Tarneit Consolidated Pty Ltd and Peet No 1895 Pty Ltd v Wyndham CC* [2019] VCAT 1537, which involved 1030 Tarneit Road, Tarneit and 1121 Dohertys Road, Tarneit, the Tribunal held that a planning permit condition requiring the road reserve of 34 metres be increased to a 45 metre road reserve was invalid. The tribunal considered that the PSP did not prescribe the requirement for the additional 11m width of land for the powerlines, as it was not specifically identified in the Precinct Infrastructure Plan (which sits within the PSP document). As a consequence, the only way the powerlines can be provided in the absence of the acquisition of the additional 11m of land would result in the loss of proposed tree planting and shared path to the south of the powerlines as shown in the cross section (noting also that, the location of 66kv power poles and adjacent street trees in outer separator may be swapped, as per the notes for Cross Section 4 of the Tarneit North PSP).

Dohertys Road in Tarneit is currently a road reserve with a single lane in each direction. Dohertys Road (between Derrimut Road and Davis Road), as shown in Figure 1 below, is designated in the Tarneit North PSP to be widened to 45m. The additional width is required to accommodate two infrastructure items: 1) two additional traffic lanes, and 2) the provision of 66kV overhead powerlines (and associated landscaping).

The acquisition of the land and the construction of the two additional traffic lanes in item 1) are funded by the Wyndham North Development Contribution Plan (DCP) and identified in the PSP accordingly.

Cross Section 4 in the PSP (below) is illustrative of the cross-section that is envisaged for this section of Dohertys Road.



Secondary Arterial 4 lane (45m) Existing 66kV Overhead Powerlines
 Cross Section 4 - Tameit North Precinct Structure Plan



NOTES:

- Includes typical residential interface both sides
- Minimum street tree mature height 15 metres
- Kerbs for arterial carriageways are to be SM2 Semi-Mountable Kerb, and local frontage roads are to be B2 Barrier Kerb as per Figure 008 in Engineering Design and Construction Manual for Subdivision in Growth Areas (April 2011)
- 6.5m Clearzone assumes 80km/hr speed limit - where required clearzones are to be consistent with VicRoads guidelines
- The location of 66kV power poles and adjacent street trees in outer separator may be swapped, to the satisfaction of the responsible authority.

Figure 1: Cross Section 4 in the PSP

Should the additional 11 metres road reserve not be provided, there will be insufficient land to provide for the tree reserve and shared path on the southern side of the road (Note: Red line in Figure 2 below). This was not included in the DCP as a project funded by development contributions and there is some ambiguity in the PSP as to how the land is to be transferred to Council.

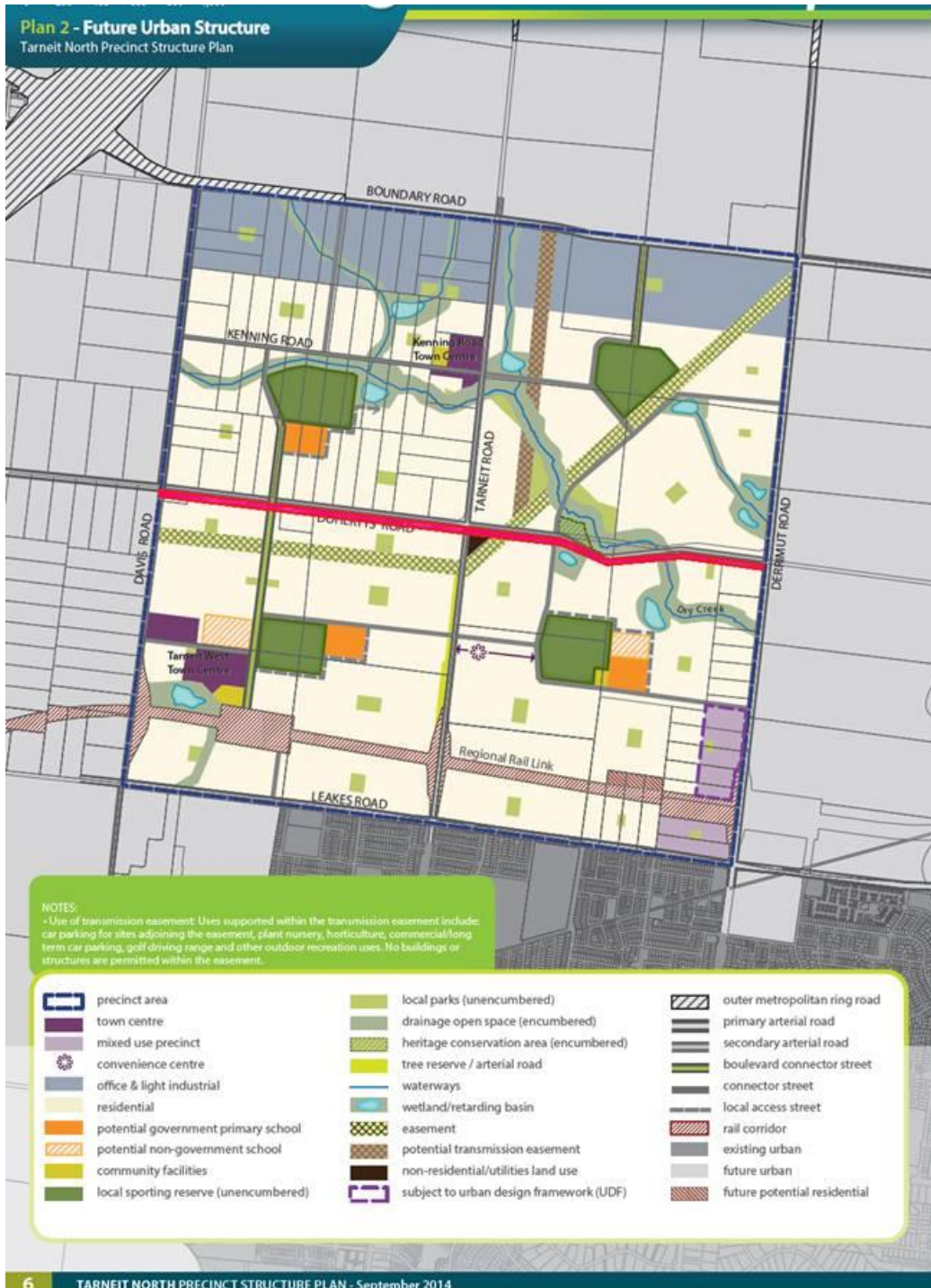


Figure 2: Precinct Structure Plan area (Red line indicating Doherty Road)

The amendment will change the text and plans within the PSP document to clarify that the extent of land that the PSP required to be set aside for the widening of Dohertys Road (Derrimut Road to Davis Road) includes an additional 11 metres of land for the provision of the proposed 66Kv powerlines.

The amendment will facilitate the future transfer of land of the three parcels listed above, where land has not already been transferred.

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives of planning in Victoria, specifically the following sections of the Act:

Section 4(1)(a) to provide for the fair, orderly, economic and sustainable use, and development of land, by ensuring an equitable provision of transfer of land for public purpose and to facilitate orderly development of the affected area through provision of essential services; and

Section 4(1)(e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community, by ensuring utilities such as high voltage powerlines are provided for existing and future residents.

How does the amendment address any environmental, social and economic effects?

The amendment ensures adequate space is provided for the 66Kv powerlines without affecting both the tree reserve and shared path along the affected section of Dohertys Road.

Council's Urban Forest Strategy recognises that increasing canopy cover in the public realm is vital given the decreasing space for trees in the private realm. Further, street trees are important for:

- City presentation and amenity
- Promotion of walkability by increasing shade
- Addressing urban heat island effect
- Habitat corridors.

Council's Active Transport Strategy 2020 includes a vision that walking and cycling are now preferred and viable transport choices resulting in a healthier mix of transport modes.

Does the amendment address relevant bushfire risk?

Although the affected area along Dohertys Road is within a designated bushfire prone area, it is surrounded by urban area as designated in the PSP. Bushfire planning in relation to settlement planning and directing population growth into the area and access issue during any grass fire scenarios was considered and addressed, where relevant, in the PSP process.

Any landscaping along Dohertys Road will be managed by the road authority in accordance with the relevant management guidelines to minimise fire risk.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment complies with the requirements of the Ministerial Direction -The Form and Content of Planning Schemes (section 7(5) of the Act).

The amendment is also affected by, and complies with: Ministerial Direction 11 – Strategic Assessment, Ministerial Direction 15 - the Planning Scheme Amendment Process, and Ministerial Direction 18 - Victorian Planning Authority Advice on Planning Scheme Amendments:

- Strategic assessment of the amendment was undertaken;
- The timeframe of the amendment is being adhered to (subject to the approval of exemptions);
- VPA's input has been received in support of this amendment.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The amendment supports and give effect to the following objectives in the Melbourne Metropolitan Strategy:

Policy 3.3.1 Create pedestrian friendly neighbourhoods

Policy 3.3.2 Create a network of cycling links for local trips

Policy 3.3.3 Improve local transport choices

Policy 6.4.1 Support a cooler Melbourne by greening urban areas, buildings, transport corridors and open spaces to create an urban forest.:

How does the amendment support or implement the Planning Policy Framework, and specifically the Municipal Planning Strategy?

The amendment is consistent with the strategic directions of the MPS.

Specifically, the amendment seeks to implement the following clauses in the MPS:

02.03 -1 Settlement -Urban growth.

- Align residential growth with key infrastructure and delivery of economic and employment growth
- .
- Strategy 2.4: Support new development in areas where sufficient infrastructure can be provided.

02.03-Development infrastructure

- Provide adequate physical infrastructure to accommodate future growth.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment will need to modify the schedule to Clause 72.04 (Incorporated Documents) by making reference to the amended Tarneit North PSP and Wyndham North DCP. This is to be done by reference to the date the PSP and DCP were updated.

How does the amendment address the views of any relevant agency?

Council has engaged with the VPA as the author of the original PSP document. The VPA have provided a letter of in-principle support for the Amendment and confirmed that Council's interpretation and method of managing the land transfer to secure the 11m is in line with their original intentions in drafting the PSP.

In their letter to Council dated 21 August 2020, the VPA confirmed their support to improve clarity regarding development requirements to deliver Dohertys Road in the Tarneit North PSP.

The VPA:

- concurs with Council that the intent of the Tarneit North PSP was for developers to deliver Dohertys Road consistent with Cross section 4 inclusive of land to accommodate both existing and proposed 66Kv powerlines.
- supports Council's proposal that amendments be made to the planning scheme in order to give the required clarity around the intended effect of the PSP.
- is keen to prevent a recurrence of the situation that has arisen in this case.

Does the amendment address relevant requirements of the *Transport Integration Act 2010*?

The *Transport Integration Act 2010* requires that a planning authority have regard to transport system objectives and decision-making principles where a planning scheme amendment is likely to have a 'significant impact on the transport system'. The effect of this amendment is consistent with the transport system objectives outlined in the Act. A planning authority must also have regard to any statement of policy principles which have been issued under section 22 of the Transport Integration Act. There are no statements of policy principles relevant to the amendment.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment is not expected to result in an increase of planning permit applications and hence demand for planning staff resources. The amendment will reduce uncertainties and legal cost associated with the implementation of the PSP. The amendment is important in providing the certainty that land required for 66kw powerline and landscaping within a PSP will continue to be transferred to the Responsible Authority, consistent with the current planning practice in this and other PSPs.

If unaddressed, the current uncertainty as a result of VCAT's findings in the case referred to above and its interpretation of the PSP, will jeopardise the ability of the Responsible Authority to secure the land to deliver both the powerlines and tree planting. This may also have budgetary implications to the Responsible Authority if it chooses to pursue acquisition of the land to deliver on the vision of the PSP as expressed in the cross-section.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Wyndham City Council website at www.wyndham.vic.gov.au

The amendment is available for public inspection, free of charge, during office hours at the following places:

Wyndham City Council

45 Princes Highway, Werribee, VIC 3030

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection.or.by.contacting.the.office.on.1800.789.386.to.arrange.a.time.to.view.the.amendment.documentation.

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by 27 November 2023.

A submission must be sent to (with reference to Amendment C260):

Wyndham City Council

Civic Centre

45 Princes Highway

Werribee VIC 3030

OR

mail@wyndham.vic.gov.au

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

directions hearing: week commencing 25 February 2024

panel hearing: week commencing 24 March 2024