

**Frankston Planning Scheme Amendment C148fran
Industrial Strategy and Design Guidelines**

Correction to the Panel Report

Planning and Environment Act 1987

11 June 2025

Planning and Environment Act 1987

Correction to the Panel Report pursuant to section 25 of the PE Act

Frankston Planning Scheme Amendment C148fran

Industrial Strategy and Design Guidelines

Industrial Strategy and Design Guidelines

11 June 2025

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Gabby McMillan, Chair

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Amendment summary

The Amendment	Frankston Planning Scheme Amendment C148fran
Common name	Frankston City Industrial Strategy and Design Guidelines
Brief description	To implement the land use and development directions and recommendations of the <i>Frankston City Industrial Strategy</i> (Charter Keck Cramer and Tract, 2024) (Industrial Strategy) and <i>Frankston City Industrial Design Guidelines</i> (Tract, 2024) (Design Guidelines)
Subject land	All land in the municipality zoned Industrial 1 Zone and Commercial 2 Zone in Precincts 3 and 6
Planning Authority	Frankston City Council
Authorisation	6 June 2024, with conditions
Exhibition	25 July – 9 September 2024
Submissions	Number of Submissions: 8 Opposed or sought changes: 6 - Department of Energy, Environment and Climate Action (Submitter 1) - South East Water (Submitter 2) - Country Fire Authority (Submitter 8) - Christina Zigouras (Submitter 3) - Michael Everett (Submitter 4) - Middendorp Electric Company (Properties) Pty Ltd (Submitter 5) - Committee for Frankston and Mornington Peninsula (Submitter 6) - Frankston Business Park (Submitter 7)

Panel process

The Panel	Gabby McMillan
Directions Hearing	17 March 2025 by video conference
Panel Hearing	14 April 2025 at Planning Panels Victoria, 1 Spring Street, Melbourne
Citation	Frankston PSA C148fran [2025] PPV
Date of Panel Report	7 May 2025
Date of Panel Report – Addendum	11 June 2025

1 Correction

This report is to be read in conjunction with the Frankston Planning Scheme Amendment C148fran Panel Report dated 7 May 2025.

1.1 Issue raised

Planning Panels Victoria received an email from Frankston City Council on 5 June 2025, raising the following issue:

the Panel has inadvertently switched the Clause numbers for both Clause 74.02 (Further Strategic Work) and Clause 72.08 (Background Documents) throughout the Panel Report.

1.2 Panel response

The Panel appointed to consider Frankston Planning Scheme Amendment C148fran has reviewed the issue and agrees with Council.

1.3 Revisions

Having considered the above, the Panel recommends that the Panel Report dated 7 May 2025 be changed to reflect the correct Clauses numbering on pages 6, 7, 23 and 24.

The Panel has prepared the Frankston Planning Scheme Amendment C148fran (Corrected) Panel Report dated 11 June 2025 that incorporates these changes. A copy of the corrected Panel Report is attached as Appendix A to this report.

1.4 Notice to Submitters

As Council has made the Frankston Planning Scheme Amendment C148fran Panel Report dated 7 May 2025 available to the Public, they are to write to all submitters and advise them of the Frankston Planning Scheme Amendment C148fran (Corrected) Panel Report dated 11 June 2025.

Appendix A Corrected Panel Report

**Frankston Planning Scheme Amendment C148fran
Industrial Strategy and Design Guidelines**

Panel Report

Planning and Environment Act 1987

7 May 2025

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

Frankston Planning Scheme Amendment C148fran

Industrial Strategy and Design Guidelines

7 May 2025

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Gabby McMillan, Chair

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Glossary and abbreviations

C2Z	Commercial 2 Zone
CFA	Country Fire Authority
Council	Frankston City Council
DDO	Design and Development Overlay
Design Guidelines	<i>Frankston City Industrial Design Guidelines</i> (Tract, 2024)
DTP	Department of Transport and Planning
IN1Z	Industrial 1 Zone
Industrial precincts	Land in the municipality zoned Industrial 1 Zone and Commercial 2 Zone in Precincts 3 and 6
Industrial Strategy	<i>Frankston City Industrial Strategy</i> (Charter Keck Cramer and Tract, 2024)
MICLUP	<i>Melbourne Industrial and Commercial Land Use Plan</i> (2020)
PE Act	<i>Planning and Environment Act 1987</i>
Practitioner's Guide	<i>A Practitioner's Guide to Victorian Planning Schemes Version 6</i> (June 2024)
UGB	Urban Growth Boundary

Overview

Amendment summary

The Amendment	Frankston Planning Scheme Amendment C148fran
Common name	Frankston City Industrial Strategy and Design Guidelines
Brief description	To implement the land use and development directions and recommendations of the <i>Frankston City Industrial Strategy</i> (Charter Keck Cramer and Tract, 2024) (Industrial Strategy) and <i>Frankston City Industrial Design Guidelines</i> (Tract, 2024) (Design Guidelines)
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Panel process

The Panel	Gabby McMillan
Directions Hearing	17 March 2025 by video conference
Panel Hearing	14 April 2025 at Planning Panels Victoria, 1 Spring Street, Melbourne
Site inspections	Unaccompanied, 28 March 2025
Parties to the Hearing	Frankston City Council, represented by Mr Robert Lean Frankston Business Park Pty Ltd (Submitter 7), represented by Ms Tamara Brezzi of Norton Rose Fulbright
Citation	Frankston PSA C148fran [2025] PPV
Date of this report	7 May 2025

Executive summary

Frankston Planning Scheme Amendment C148fran (the Amendment) seeks to implement the land use and development directions and recommendations of the *Frankston City Industrial Strategy* (Charter Keck Cramer and Tract, 2024) (Industrial Strategy) and *Frankston City Industrial Design Guidelines* (Tract, 2024) (Design Guidelines) into the Frankston Planning Scheme (Planning Scheme).

It is proposed to introduce a new Design and Development Overlay Schedule 15 (DDO15), increase the cost thresholds for some VicSmart applications and change local policy directions to give effect to the Industrial Strategy and Design Guidelines. Further strategic work is proposed to be identified at Clause ~~72.08~~[74.02](#) and the Industrial Strategy and Design Guidelines are proposed to be referenced as Background documents at Clause ~~74.02~~[72.08](#).

Key issues raised in submissions included:

- concern about the detailed and restrictive nature of DDO15 on development potential
- concern that the controls prioritise aesthetics over operational considerations
- that it was necessary to investigate new greenfield land for industrial purposes (particularly land to the north of Boundary Road, Carrum Downs)
- bushfire mitigation measures should be integrated into the design controls.

The main purpose of the Amendment is to introduce controls that will support the revitalisation of existing industrial precincts within the municipality. These precincts have been identified as being regionally and locally significant in the *Melbourne Industrial and Commercial Land Use Plan* (2020).

Council acknowledged the supply of industrially zoned land is limited. Council submitted that this constraint increases the importance of optimising the use of existing industrial land and establishing a clear framework for its revitalisation. Council submitted that the implementation of the Industrial Strategy and Design Guidelines would provide greater certainty and clarity on development expectations in the Industrial Precincts.

Frankston Business Group submitted that the Industrial Strategy should include more specific direction about the investigation of land north of Boundary Road for industrial purposes. This land is located outside the Urban Growth Boundary and within the green wedge. Frankston Business Group did not seek any other changes to proposed controls.

The Panel concludes:

- the Amendment will not meet its objectives based on the current drafting of DDO15.
- DDO15 needs to be thoroughly review and redrafted to clarify its provisions and to delete provisions that duplicate similar controls elsewhere in the Planning Scheme.
- DDO15 should be reviewed more carefully against the *Ministerial Direction on Form and Content of Planning Schemes* and the *Practitioner's Guide to Planning Schemes*.
- most of the planning related actions in the Industrial Strategy are already reflected in the Amendment
- all planning related actions identified in the Industrial Strategy (actions 3, 21, 31, 33 and 34) should be included at Clause ~~72.08~~[74.02](#) (Further strategic work).
- once those planning related actions are reflected in the Planning Scheme, it is not necessary or appropriate to list the Industrial Strategy as a background document at Clause ~~74.02~~[72.08](#).

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Frankston Planning Scheme Amendment C148fran be adopted as exhibited subject to the following:

1. **Amend Design and Development Overlay Schedule 15 after reviewing its provisions against the Ministerial Direction on Form and Content of Planning Schemes and the Practitioner's Guide to Planning Schemes to:**
 - a) delete provisions that duplicate similar provisions within the schedule and in other parts of the Planning Scheme
 - b) ensure provisions are clear and use plain English.
2. **Amend Clause ~~72.08~~[74.02](#) (Further strategic work) to reflect Actions 3, 21, 31, 33 and 34 in the Frankston City Industrial Strategy.**
3. **Amend Clause ~~74.02~~[72.08](#) (Background documents) to delete reference to the Frankston City Industrial Strategy as a Background document.**

Further commentary

A key focus at the Hearing was the drafting of the Industrial Strategy. The Amendment seeks to make the Industrial Strategy a Background document. Background documents do not form part of the Planning Scheme and must not be relied on for decision making. As such, it is not appropriate for the Panel to interrogate or make specific recommendations about the Industrial Strategy.

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to implement the land use and development directions and recommendations of the *Frankston City Industrial Strategy* (Charter Keck Cramer and Tract, 2024) (Industrial Strategy) and *Frankston City Industrial Design Guidelines* (Tract, 2024) (Design Guidelines) into the Frankston Planning Scheme (Planning Scheme).

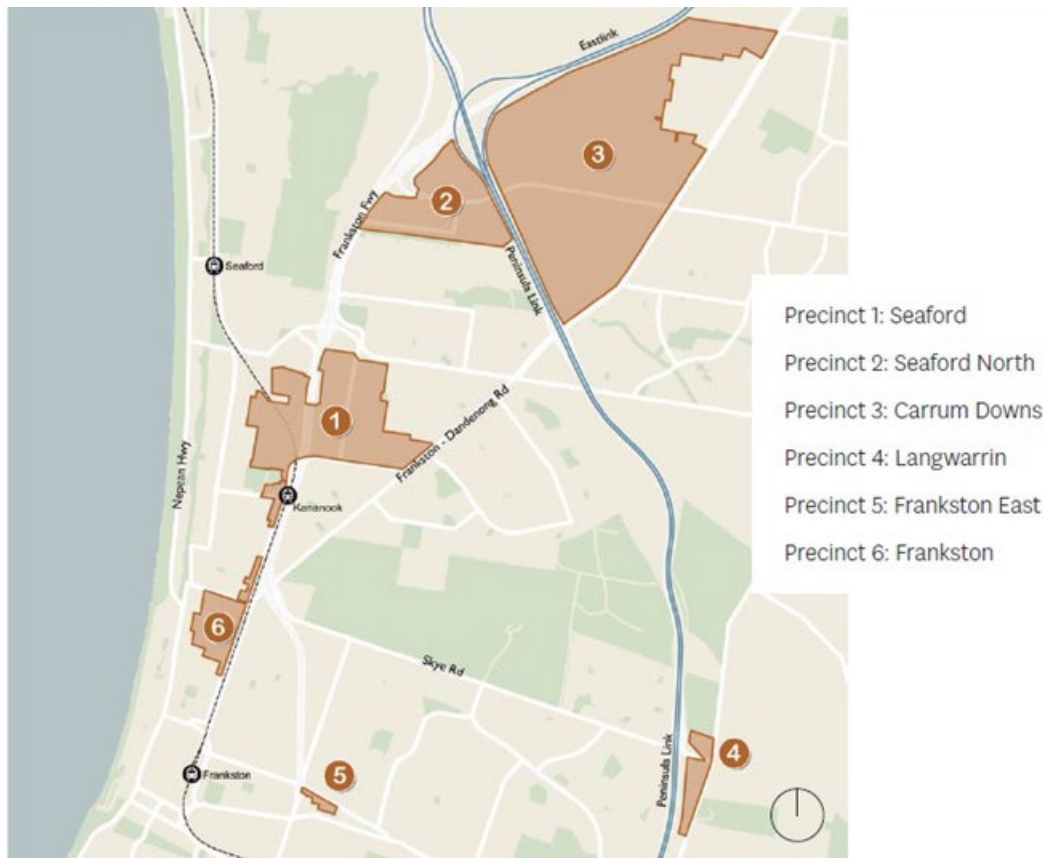
Specifically, the Amendment proposes to:

- amend Clause 02.01 (Context), Clause 02.02 (Vision), Clause 02.03 (Strategic Directions) and Clause 02.04 (Strategic Framework Plans) in the Municipal Planning Strategy to ensure consistency with the Industrial Strategy
- insert a new Clause 17.03-1L (Industrial Land Supply – Frankston City to Planning Policy Framework) to give effect to and ensure consistency with the Industrial Strategy and Design Guidelines
- apply a new Design and Development Overlay Schedule 15 (DDO15) to implement the built form requirements of the Design Guidelines to ensure the developments are consistent with the requirements being introduced
- insert a new Schedule to Clause 59.15 (Local VicSmart Applications) to help renew Precinct 1: Seaford and Precinct 2: Seaford North by increasing the building cost threshold to \$3 million and adding the Design and Development Overlay – Schedule 15 (DDO15) built form requirements
- insert a new Schedule to Clause 59.16 (Information Requirements and Decision Guidelines for Local VicSmart Applications) to list for updated information requirements
- amend Clause 72.08 (Background Documents) to reference to the Industrial Strategy and Design Guidelines
- amend Clause 74.02 (Further Strategic Work) to remove reference to completing a new Industrial Strategy and include further strategic work relating to a potential future municipal wide Development Contributions Plan (DCP).

(ii) The subject land

The Amendment applies to land shown in Figure 1 which is all land in the municipality zoned Industrial 1 Zone and some land in the Commercial 2 Zone (Precincts 3 and 6).

The Amendment land is divided into six precincts (Industrial precincts) which reflect the categorisation in the Industrial Strategy.

Figure 1 **Amendment Plan**

1.2 Background

The Council commissioned an Industrial Land Strategy Review in 2019. This review identified the need to prepare an updated Industrial Strategy. Council has undertaken the following work:

- Preparation of background reports and discussion paper.
- Community consultation on a discussion paper.
- Preparation of a draft Industrial Strategy and draft Design Guidelines based on community feedback and the following background reports:
 - *Industrial Land Strategy Review Frankston City Industrial Precincts* (Charter Keck Cramer, November 2019)
 - *Urban Design and Planning Review* (Tract Consultants, June 2022).
- Community consultation on the draft Industrial Strategy and draft Design Guidelines in 2023.
- Adopted the Industrial Strategy and Design Guidelines in 2024 and requested authorisation for this Amendment to implement the strategy and guidelines.

The Industrial Strategy and Design Guidelines set out Council's vision for the municipality's Industrial precincts. The Amendment gives statutory effect in those documents. Council states that a key aim of the Amendment is to support the renewal of the City's established industrial precincts that exist in a changing economy that has been impacted by the COVID-19 pandemic.

1.3 Procedural issues

The Panel received a letter on 9 April 2025 from an organisation which supported the Amendment. The organisation did not make an original submission to the Amendment.

On 11 April 2025, the Panel advised that organisation:

The Panel only has the power to consider submissions referred to it by Frankston City Council (Council) under section 23 of the Planning and Environment Act 1987. Accordingly, you have the option of contacting the Council and ask whether the Council would like to accept and/or refer your submission to the Panel.

The Council decided to not refer the letter of support to the Panel. Two further letters of support from owners of land to the north of Boundary Road, Carrum Downs were also discussed by the Frankston Business Park at the Hearing. A copy of the letters was provided to the Panel after the Hearing (Document 15).

Frankston Business Park submitted that it did not expect the letters of support would be treated as submissions. It clarified they were for information purposes only.

The Panel has given no weight to the three letters of support. The authors did not make submissions to the Amendment and the letters were not referred to the Panel.

1.4 The Panel's approach

Key issues raised in submissions were:

- concern about the detailed and restrictive nature of DDO15 on development potential
- concern that the controls prioritise aesthetics over operational considerations that it was necessary to investigate new greenfield land for industrial purposes (particularly land to the north of Boundary Road, Carrum Downs)
- bushfire mitigation measures should be integrated into the design controls.

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, observations from site visits, submissions, evidence and other material presented to it during the Hearing. It has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Strategic issues
- Are the controls drafted to deliver on the objectives?
- Should the Industrial Strategy be amended?

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Municipal Planning Strategy	- Clause 2.01, 2.02, 2.03, 2.04.
Planning Policy Framework	- Clause 11.02-1S (Settlement), Clause 11.01-1R (Green wedges – Metropolitan Melbourne) - Clause 14.01-1S (Protection of agricultural land) - Clauses 15.01-1S (Urban design), 15.01-1L -01 (Signs), Clause 15.01-1L-02 (Urban design), Clause 15.01-2S (Building design), Clause 15.01-2L-01 (Environmentally Sustainable Design), Clause 15.01-3S (Subdivision design) - Clause 17.03-1S (Industrial Land Supply), Clause 17.03-3R (Regionally significant industrial land – Metropolitan Melbourne – Southern metro region).
Other planning strategies and policies	- Plan Melbourne Direction 8 (Policies 1.1 and 1.2) and Direction 8 and 12 (Policies 1.1 and 1.2) - Melbourne Industrial Commercial Land Use Plan (MICLUP)
Planning Scheme provisions	- Clause 33.01 (Industrial 1 Zone) - Clause 34.02 (Commercial 2 Zone) - Clause 43.02 (Design and Development Overlay) - Clause 51.02 (Metropolitan Green Wedge Land: Core Planning Provisions) - Clause 59.15 (VicSmart) - Clause 72.08 (Background documents) - Clause 74.02 (Further strategic work)
Ministerial directions	- Ministerial Direction 9 (Metropolitan Strategy) - Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning practice notes and other guidelines	- Planning Practice Note 46: Strategic Assessment Guidelines, September 2022 - Practitioner’s Guide to Victoria’s Planning Scheme (DTP, 2024) (Practitioner’s Guide)

During the Hearing, the expert and submitters referred to some recently published government policy documents, which are not yet referenced in the Planning Scheme, including:

- *Plan for Victoria* (2025)
- *Economic Growth Statement, Victoria Open for Business* (2024)

2.2 Other directions and guidance

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

Ministerial Direction 9 (Metropolitan Strategy) requires planning authorities to have regard to Plan Melbourne when preparing an amendment. The explanatory report provides a response which is not repeated here.

Planning authorities must comply with the *Ministerial Direction on the Form and Content of Planning Schemes (Ministerial Direction)* under section 7(5) of the Act (Ministerial Direction on Form and Content). The direction applies to planning scheme layout and mandatory information in a planning scheme. It applies also to amendments to planning schemes.

Planning practice notes

Planning Practice Note 46: Strategic Assessment Guidelines, August 2018 (PPN46) a consistent framework for preparing and evaluating a proposed planning scheme amendment.

Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes Version 6, June 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing Planning Scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

2.3 Strategic justification

(i) Evidence and submissions

Council

Council submitted that the Amendment was strategically justified. It added:

Council recognises that its supply of greenfield industrial zoned land is limited. This constraint increases the importance of optimising the use of existing industrial land and establishing a clear framework for its revitalisation.

Council submitted:

- the Amendment was consistent with the *Melbourne Industrial and Commercial Land Use Plan* (MICLUP)
- the Industrial precincts were identified as both locally and regionally significant in the metropolitan context
- implementation of an Industrial Strategy would provide greater certainty and clarity on development expectation in the Industrial Precincts

- most existing permit applications for industrial development¹ have estimated project costs ranging from \$1.2 million to \$2.8 million
- these applications demonstrate a clear willingness from the development sector to invest in Frankston City
- the introduction of a higher cost threshold for VicSmart applications would allow a more streamlined process
- the VicSmart pathway would only be available:
... this streamlined process would only apply where proposals also comply with the requirements of the proposed DDO15.

Evidence

Mr Fetterplace of A Different City Pty Ltd gave evidence on behalf of the Frankston Business Group. He gave evidence that State policy requires a sufficient supply of industrial land referencing specific policies:

Clause 11.02-1S states planning for supply of urban land should consider as relevant state government population projections and land supply estimates and, specifically, The Melbourne Industrial and Commercial Land Use Plan (2020).

He highlighted that Carrum Downs is identified at Clause 17.03-3R as significant industrial land within the Southern Metro Region:

The Carrum Downs industrial area is specifically identified in the Municipal Planning Strategy at Clause 02.03-7 of the Frankston Planning Scheme as 'an important employment node where hi-tech, sustainable industry is encouraged to locate'.

Mr Fetterplace referred to policies and actions in Plan Melbourne, highlighting action 8 that says:

[the State will] Work with local government to strengthen regionally significant industrial precincts in established urban areas for employment-generating activities by:

- ensuring that sufficient land is zoned for employment purposes and that sensitive land uses such as housing are not permitted to be established in them
- retaining larger industrial precincts for local manufacturing, service industries, warehousing and distribution
- promoting the renewal of older industrial areas that are no longer well suited to industrial activities for alternative employment activities such as offices, creative industries and other employment-generating activities

Mr Fetterplace referred to action 5 in MICLUP which says:

Councils should prepare and implement municipal-wide industrial land use strategies and activity centre strategies, or undertake similar strategic work for precincts, to guide future development of industrial and commercial land.

Mr Fetterplace acknowledged that:

- the Municipal Planning Strategy at Clause 02.03-1:
 - identifies that the availability of greenfield land is limited due to the designation of the Urban Growth Boundary (UGB) and the green wedge
 - is a strategic direction to manage pressure for development in the green wedge
- Clause 14.01-1S (Agriculture) seeks to protect productive agricultural land
- there is no proposal or process to change to the UGB or green wedge land.

¹ As referenced at pages 10 – 11 of Councils Part A submission (Document 6)

Mr Fetterplace focussed on the Industrial Strategy, rather than the overall strategic justification for the Amendment. He concluded that no change was required to the proposed ordinance to address the relevant Planning Policy Framework or other policy direction.

Frankston Business Group

Frankston Business Group adopted the evidence of Mr Fetterplace. It did not make submissions in relation to the overall strategic justification for the Amendment. It focussed on how the Industrial Strategy should be drafted to encompass the investigation of new industrial land outside the UGB.

(ii) Discussion

Industrial land supply

State planning policy makes it clear that industrial land supply needs to be provided, however industrial precincts have already been prioritised according to State, regional and local significance in the MICLUP. According to MICLUP Frankston City does not contain state significant industrial land, but the existing Industrial precincts have been identified regionally and locally significant. The Panel agrees that the revitalisation of existing industrial precincts is consistent with the relevant planning policies. This approach takes account of the local and regional significance of these precincts, as identified in Plan Melbourne and MICLUP.

The Panel notes that Mr Fetterplace placed a large emphasis on Council's role in identifying new industrial land. The Panel considers that it is more appropriate for new industrial land to be identified by a State or regional planning process (e.g. such as MICLUP). This is because within metropolitan Melbourne, industrial precincts form part of the wider metropolis where there are many competing policy objectives. Council cannot increase industrial land supply without appropriately considering all other policy objectives. Council needs to manage industrial land in line with State and regional policy direction.

Does the Amendment serve its purpose?

The Panel agrees with the general objective of the Amendment. However, the Panel is concerned that the operational effect of DDO15 will create greater complexity and uncertainty for developers looking to invest and undertake works in the Industrial precincts. The drafting needs to be improved to ensure the objectives of the Amendment can be realised. The operational effect of the controls and drafting is discussed in Chapter 3 of this report.

Subject to changes recommended in Chapter 3, the Amendment will deliver a net community benefit and sustainable development as required by Clause 71.02-3 of the Planning Scheme.

(iii) Conclusions

For the reasons set out in this report, the Panel concludes that subject to the drafting changes recommended in Chapter 3 the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 Are the controls drafted to deliver on the objectives?

(i) The issues

The issues are whether:

- DDO15 can meet its stated objectives as currently drafted?
- the increased costs threshold for VicSmart applications will facilitate a more streamlined process for eligible applications?
- any changes are required to the drafting of the controls?

(ii) Background

The objectives of DDO15 are:

- To facilitate the development of functional, well serviced, amenable, and attractive industrial areas that have regard to the environment, local conditions and amenity.
- To facilitate development that responds to the local characteristics of the site and its context.
- To encourage the renewal of existing industrial areas.
- To ensure that development respects sensitive interfaces such as with residential areas or public open space.

The Amendment proposes to create a more streamlined application process for development applications costing up to \$3 million by amending the Schedule to Clause 59.15 (VicSmart Applications). Eligibility for the streamlined process is contingent on meeting the requirements in DDO15.

The Department of Transport and Planning (DTP) letter of authorisation dated 6 June 2024 included the following condition:

Revise the proposed DDO15 to remove repetition and ensure requirements are clear.

Similarly, the Panel directed Council to address the following question in its submission:

How the proposed Design and Development Overlay Schedule 15 meets the *Ministerial Direction - The Form and Content of Planning Schemes* and the *Practitioners Guide to Planning Scheme* (particularly section 4.1).

Section 4.1 of the Practitioner's Guide sets out 'The Planning Scheme rules' which include:

- A provision must not conflict with or duplicate other legislation, instruments or Planning Scheme provisions.
- The application of a provision must be clear.
- The requirements of a provision must be clear and unambiguous.
- A provision must be structures to be clear and unambiguous.
- A provision must be written to be clear and unambiguous.

(iii) Submissions

CFA

CFA submitted that DDO15 should be revised to reflect the requirements in State planning policy at Clause 13.02-1S (Bushfire) relating to bushfire risk and radiant heat exposure.

Other submitters

Submitters 3 and 5 raised concerns about the drafting of DDO15 in their written submissions.

Submitter 3 said that the DDO15 would have an adverse impact on development potential and business operations. Submitter 3 noted that restrictions on signage, fencing and parking could reduce visibility, security and land use efficiency. The submitter was concerned about the practical effect of the DDO15 and objected to the Amendment, urging a greater focus on job creation over aesthetics.

Submitter 5 considered:

- several changes should be made to the DDO15 to improve clarity, practicality and alignment with existing planning provisions
- requirements for internal loading areas, landscaping, and service infrastructure may be impractical or overly prescriptive and should be more flexible, especially for smaller lots or constrained sites
- many design and subdivision requirements should be relocated from DDO15 to policy at Clause 15.01 (Built Environment), which currently lacks local content
- Clauses 15.01-1S, 1R, 1L-02, 2S, and 3S should be reviewed in parallel with a review of DDO15.

Council

Council submitted that DDO15 was drafted to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.

Council explained that the first draft of the DDO15 was reviewed on a without prejudice basis by DTP officers as part of the authorisation process. It submitted that the length of the DDO15 and the requirements was reduced at that time.

Council submitted that it completed a further review of the DDO15 against the Practitioner's Guide to Planning Scheme and issued raised in submissions. Further changes were made in the Day 1 version of the DDO15 (Document 6c). In this version, Council did not fully accept the changes recommended by submitters. For example, in relation to the signage controls, Council submitted:

DDO15 aligns with Clause 52.05 and Council's *Outdoor Advertising Signage Design Guidelines* (2014). Final signage locations are assessed at permit stage.

Council resisted the suggestion from submitter 5 that design controls could be transferred to local policy at Clause 15.01 (Built environment) of the Planning Scheme. Council submitted that the DDO15 was the appropriate mechanism to revitalise the Industrial precincts.

Council opposed the changes suggested by the CFA, although it did update the Explanatory report to address bushfire risk. Council submitted that applications in the Bushfire Management Overlay or the designated Bushfire Prone Area are already assessed against State policy and it was not necessary to duplicate the requirements.

(iv) Discussion

Delivering on the intent of the DDO

DDO15 does not align with guidance in the Practitioner's Guide because it includes a significant amount of ambiguity and repetition. The Panel agrees with concerns raised by submitters 3 and 5 in relation to the drafting of the DDO15.

DDO15 should be revised to improve clarity, practicality and to avoid duplication with existing planning provisions. The Council's Day 1 version of DDO15 does not go far enough. As currently drafted, DDO15 will unlikely meet its objective of revitalising the existing Industrial precincts. The control needs a thorough review and rewrite to remove ambiguity and duplication. As part of this review, the Council should consider whether some of the detail would sit more appropriately in local policy (as suggested by submitter 5).

Furthermore, the ambiguous drafting of DDO15 could limited the effectiveness of the expanded streamlined VicSmart pathways. This is because to be eligible for the VicSmart, the application needs to meet the requirements of DDO15. If the DDO15 is not clear it will be difficult and time consuming to ascertain whether a permit applications is eligible for VicSmart.

Examples of drafting issues

The Panel has not attempted to redraft the control given the extent of change likely required. However, some examples of problematic drafting in the Day 1 version of DDO15 are outlined below. These are just some of the examples, a thorough review is required to improve the operation of the control and ultimately meet the objective of this Amendment.

Building siting and orientation

The preferred setbacks for precinct 3 (Carrum Downs) and all other precincts are nominated in Table 1 and 2. There are several references in the table and qualifiers under each table to the preferred setback from 'major roads' and 'predominant street setbacks', for example:

Where there is a predominant street setback to roads, excluding major roads buildings should be setback consistent with the setbacks of adjoining buildings.

Firstly, it is not clear what is a major road in this context. Secondly, even though the control is drafted to be 'non-mandatory' the level of specificity is likely to result in a more literal interpretation of setbacks.

Building design and detail + subdivision

Most of the requirements in DDO15 repeat design and subdivision objectives that already exist at Clauses 15.01-1S (Urban Design), Clause 15.01-1R (Urban Design – Metropolitan Melbourne), Clause 15.01-1L-02 (Urban Design), Clause 15.01-2S (Building) and Clause 15.01-3S (Subdivision Design) of the Planning Scheme. There is also a significant duplication with the guidance in the *Urban Design Guidelines for Victoria* (Department of Environment, Land, Water and Planning, 2017).² For example, the local urban design policy at Clause 15.01-1L-02 includes the following strategies:

Encourage the provision of sufficient areas to accommodate the planting of new canopy trees.

² A relevant policy document at Clause 15.01 (Built environment)

DDO15 almost exactly duplicates existing local policy:

Provide adequate space for the planting of new canopy trees.

Reference to signage

There is reference to signage under the header 'building design and detail' in DDO15.

Avoid the placement of signage on front fences or footpaths; or free standing signage within front setbacks.

This is problematic as it deals with free standing signs that are not subject to planning. The provision also duplicates Clause 15.01-1L-01 (Signs) of the Planning Scheme where it is already a strategy to:

Avoid advertising signs near exit and entry ramps to major road corridors.

Encourage signs to be located on the main building or canopy.

Support signs that are designed to integrate with new buildings.

Access and car parking

There are requirements relating to access and cycling in the DDO15:

Provide clearly defined pedestrian and cyclist entry points from the footpath or shared path to the main building entrance.

Separate pedestrian and bicycle circulation from vehicle movements, particularly loading and servicing vehicles, where possible.

There are existing car parking design and access requirements at Clause 52.06, bicycle requirements at Clause 52.34 and other design considerations in Clause 15.01 (Urban Design) of the Planning Scheme. It is not necessary to duplicate this.

Integration of bushfire controls

The Panel agrees with Council. It is not the role of DDO15 to specifically address or repeat bushfire risk. There is an existing framework in place, including State policy at Clause 13.01-1S (Bushfire). DDO15 would need to be interpreted as part of the integrated decision-making framework; this framework already requires a consideration of bushfire risk.

(v) Conclusions and recommendations

The Panel concludes:

- the Amendment will not meet its objectives based on the current drafting of DDO15.
- DDO15 needs to be thoroughly review and redrafted to clarify its provisions and to delete provisions that duplicate similar controls elsewhere in the Planning Scheme.
- DDO15 should be reviewed more carefully against the *Ministerial Direction on Form and Content of Planning Schemes* and the *Practitioner's Guide to Planning Schemes*.

The Panel recommends:

- 1. Amend Design and Development Overlay Schedule 15 after reviewing its provisions against the Ministerial Direction on Form and Content of Planning Schemes and the Practitioner's Guide to Planning Schemes to:**
 - a) delete provisions that duplicate similar provisions within the schedule and in other parts of the Planning Scheme**
 - b) ensure provisions are clear and use plain English.**

4 Should the Industrial Strategy be amended?

(i) The issues

The issues are whether:

- the Industrial Strategy should be amended
- the Industrial Strategy should be a Background document.

(ii) Background

The Industrial Strategy and the Design Guidelines, as adopted by Council, are proposed to be referenced as Background documents at Clause 72.08 of the Planning Scheme. The Industrial Strategy supersedes Council's 2009 Industrial Strategy. It deals with both planning considerations and matters beyond the planning system.

Section 6.2.2 of the Practitioner's Guide explains the role of a Background document:

What is a background document?

A background document provides information that helps to understand why a particular policy or control has been included in the Planning Scheme. Background documents were previously referred to as 'reference documents'. A background document is not part of the Planning Scheme and must not be directly relied on for decision making. If a background document contains content that is necessary for decision making (such as strategies or decision guidelines) then these must be extracted and placed in the relevant policy or control.

When should a document be mentioned as a background document?

If a document gives useful information that will help a user understand the Planning Scheme, it may be suitable for mention as a background document. These documents are however most relevant at the Planning Scheme amendment stage and are generally not needed at the decision making stage. As with incorporated documents, avoid referencing background documents wherever possible to keep the scheme user-friendly and self-contained.

...

A background document must relate directly to a specific policy or provision. A document that includes a lot of information that is not directly relevant to the specific provision of the scheme will not generally be suitable for mention as a background document.

Do not make a document a background document if the substantive elements of the document have been included in the scheme and require no further explanation.

(iii) Evidence and submissions

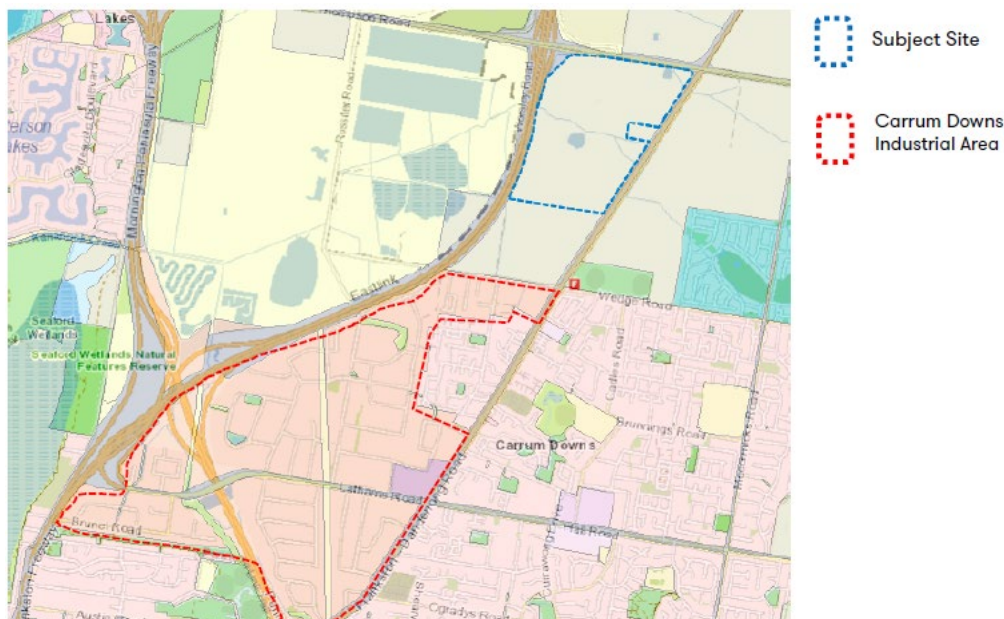
The Industrial Strategy was the key focus of submissions at the Hearing.

Evidence

Mr Fetterplace provided detailed evidence at the Hearing in relation to suggested changes to the Industrial Strategy. These changes effectively bolstered support for the investigation of future industrial land to the north of Boundary Road. That land is located outside the UGB and within the green wedge and partly owned by Frankston Business Group.

The land referred to in Figure 4 of Mr Fetterplace's evidence is described as 'subject land'.³

Figure 2 Frankston Business Group land



Mr Fetterplace stated that section 2.4.5 of the Industrial Strategy should include the following additional text:

Consideration of the suitability of this land for potential future industrial land supply should be investigated ahead of time (noting the land remains Green Wedge zone and there is no proposal for change at present) as part of this Industrial Strategy in order to support ongoing economic investment and employment growth in the Frankston LGA and to protect the potential opportunity for expansion, if appropriate.

He recommended that a new specific short term (2 – 5 years) action be included at page 79 of the Industrial Strategy to provide certainty on how that future investigation should occur:

Action ## - Investigate suitability of potential future expansion of industrial land to the north of Boundary Road in the event of a proposal to move the UGB by the Victorian State Government.

Undertake economic, environmental, cultural, service and transport infrastructure investigations (and others, as required) to determine whether the land generally bounded by Thompsons Road, Frankston-Dandenong Road and Boundary Road may be suitable for potential future industrial land supply in the event that a proposal or process to move the UGB was advanced by the Victorian State Government.

Mr Fetterplace relied on actions and principles in MICLUP to support his view. He referred to Action 5 in MICLUP which states:

Councils should prepare and implement municipal-wide industrial land use strategies and activity centre strategies, or undertake similar strategic work for precincts, to guide future development of industrial and commercial land.

He referred to guiding principles in MICLUP, including:

- principle 1 which identifies that long-term commercial and industrial land supply be identified and set aside to support future industry and business growth

³ Page 4 of Mr Fetterplace's evidence statement

- principle 3 which seeks to ensure that planning will provide clarity and certainty about how and where industry and business can grow over time to support and guide long term investment and locational decisions.

Mr Fetterplace identified a gap at page 31 of the Industrial Strategy (which refers to the investigation of land to the north of precinct 3 for future industrial purposes), stating that:

... in my view this statement is made in isolation and provides limited clarity to support or guide long term investment and how business may grow in the location. I consider there is a gap in the Industrial Strategy addressing longer term consideration of supply in the event that the approach to green wedge planning was initiated by the State Government.

Mr Fetterplace considered it was not appropriate for the proposed ordinance to be amended to reflect the future investigation of land to the north of Boundary Road.

In response to questions from the Panel regarding the status of the Industrial Strategy as a Background document, Mr Fetterplace said:

- the Industrial Strategy contained statutory and non-statutory measures
- the strategy had an ongoing role, but not for the purpose of informing decisions on permit applications
- other actions in the strategy could be transferred to Clause 74.02 (Further strategic work); but that this would not kill off the role of the strategy
- the 2009 Industrial Strategy was not listed as a Background document in the Planning Scheme, but that it still had a role in direction Council's allocation of resources.

Frankston Business Group

Frankston Business Group adopted the evidence of Mr Fetterplace, supporting changes to the Industrial Strategy. It submitted:

- it would be missed opportunity if short, medium and longer term opportunities were not flagged in a 20 year strategy
- it is not a significant change to properly accommodate further investigation of the land to the north of Boundary Road
- it was good planning to take a long-term view and that without specific actions the strategy would be ineffective
- it was not contrary to policy to investigate land.

Frankston Business Group considered the additional words it requested for the Industrial Strategy did not constitute a transformation of the Amendment, as the words do not:

- result in a fundamentally different proposal to amend the Planning Scheme;
- propose to amend the zoning of any land or impose a levy of any type over the future development of land as a consequence of Amendment C148;
- amount to any substantial change in policy or the Planning Scheme; or
- affect any landowners other than those who have expressed support.

The reference to 'those who have expressed support' relates to the letters of support discussed in section 1.3 of this report. These letters were given no weight.

Council

Council did not support the changes to the Industrial Strategy proposed by Frankston Business Group. Council submitted:

These changes are inconsistent with both State and Local Planning Policy and the principles of natural justice and would result in a transformational change to the Amendment that has not been subject to public exhibition or consultation.

The existing wording in Section 2.4.5⁴, was included in the response to Submission #7's submission during the consultation on the draft Industrial Strategy in April 2023. This text was considered at the 18 March 2024 Council Meeting and became part of the final Industrial Strategy and the exhibited Amendment.

At the 17 February 2025 Council Meeting, Council resolved to (inter alia) endorse the officer's response to the submissions and approved recommended changes to support Council's advocacy position before the Planning Panel. Had the proposed new wording or action been included in the exhibited documents, additional submissions and requests to be heard by the Panel could have been generated.

Council acknowledged that MICLUP was due for a review in 2025. It submitted that it was unlikely that there would be a significant shift in strategic direction.

The Panel asked Council if, in lieu of making the Industrial Strategy a Background document, it would support the transfer of planning related actions in the Industrial Strategy in Clause 74.02, including:

- Action 3 – Investigation a funding mechanism (already proposed to be reference at Clause 74.02)
- Action 21 – Investigate the application of a PAO over land at 6-7 Apsley Place, Seaford
- Action 31 – Review the PAOs along McClelland Drive
- Action 33 – Prepare precinct plans for Precinct 5 (Frankston East)
- Action 34 – Prepare policy to guide the use and development of all commercial zone land in the municipality.

Council submitted:

- it would further consider whether the Industrial Strategy should be a Background document
- the 2009 Industrial Strategy was not currently a Background document
- some alterations should be made to the Industrial Strategy, reflecting the released of Plan for Victoria and timing considerations
- Action 3 (relating to a DCP funding mechanism) should be before a medium-long term goal (rather than a short-term goal).

(iv) Discussion

Should the Industrial Strategy be a background document?

The Practitioner's Guide makes it clear that:

- a Background document must not be relied upon for decision making
- if the substantive elements of a document (in this case the Industrial Strategy) have been included in the scheme, it should not be included as a Background document.

The Industrial Strategy contains planning and non-planning actions. If the planning related actions are integrated into the Planning Scheme, there is no need for the Industrial Strategy to become a Background document.

⁴ Frankston City Industrial Strategy (March 2024), Page 31.

The Panel considers that it would be appropriate to transfer the outstanding planning related actions into Clause 74.02. If this is done, it would not be necessary or appropriate to reference the Industrial Strategy as a Background document.

If a document does not form part of the Planning Scheme there is no need for the Panel to address the issue of transformation. The Industrial Strategy has already been adopted by Council, and as such can still be used to inform its approach to the revitalisation of existing Industrial precincts. The Panel expects it could be used in the same way that the 2009 Industrial Strategy has been used.

Merits of amending the Background document

It is not the role of the Panel to interrogate or make recommendations about documents that do not form part of the Amendment (nor inform planning decisions). However, given the focus of submissions, the Panel makes the following high-level comments in relation to Frankston Business Group's suggested changes:

- There is no indication in the current Planning Policy Framework that a change to the UGB or green wedge would be supported. In fact, there is clear and recent policy direction that these boundaries should not be altered.
- This position has recently been reinforced in the State government's *Plan for Victoria* (2025) and the *Economic Growth Statement* (2024). For example, in relation to the UGB page 64 of Plan for Victoria states:
The boundary set by Parliament to mark the long-term limit of Melbourne's urban development. There is no proposal to change the boundary.
- The Planning Policy Framework does not flag Frankston's industrial precincts as being of State or regional significance.
- It would not be good practice to flag the investigation of greenfield land outside the UGB for industrial land use. This would likely lead to further speculation, uncertainty and allocation of resources to a matter that is entirely inconsistent with current planning policy.
- The changes proposed by Frankston Business Group to the Industrial Strategy are inappropriate and inconsistent with planning policy.

The Panel notes that even the current reference to future investigations in section 2.4.5 of the adopted Industrial Strategy is questionable given the current policy settings. However, this is a matter outside the remit of this Panel.

The Panel does not oppose other edits suggested by Council to the Industrial Strategy, however it has the option of reviewing and updating the strategy as needed.

(v) Conclusions and recommendations

The Panel concludes:

- most of the planning related actions in the Industrial Strategy are already reflected in the Amendment
- all planning related actions identified in the Industrial Strategy (actions 3, 21, 31, 33 and 34) should be included at Clause ~~72.08~~[74.02](#) (Further strategic work)

- once those planning related actions are reflected in the Planning Scheme, it is not necessary or appropriate to list the Industrial Strategy as a background document at Clause~~74.02~~72.08.

The Panel recommends:

2. Amend Clause ~~72.08~~74.02. (Further strategic work) to reflect Actions 3, 21, 31, 33 and 34 in the Frankston City Industrial Strategy.
3. Amend Clause ~~74.02~~72.08 (Background documents) to delete reference to the Frankston City Industrial Strategy as a Background document.

Appendix A Document list

No	Date	Description	Presented by
1	27 Feb 2025	Directions Hearing notice letter	Planning Panels Victoria (PPV)
2	19 March 2025	Panel directions and Hearing timetable version 1	PPV
3	21 March 2025	Background documents (as required by Direction 5): a) Council report dated 17 February 2025 b) Council minutes dated 17 February 2025 c) Redacted version of submissions	Frankston City Council (Council)
4	21 March 2023	Email to Panel confirming expert witness (as required by Direction 9)	Frankston Business Park Pty Ltd
5	25 March 2024	Summary of submissions and officer response (Attachment A to Council report dated 17 February 2025)	Council
6	31 March 2025	Council Part A submission including: a) Day 1 version – Explanatory report b) Day 1 version – Clause 02.03 strategic directions c) Day 1 version – schedule 15 to Clause 43.02 (DDO)	Council
7	7 April 2025	Letter requesting extension of time to provide expert evidence	Frankston Business Park
8	9 April 2025	Copy of authorisation letter and without prejudice comments on schedule to the DDO (referenced in the Council Part A submission)	Council
9	9 April 2025	Consent to extension of time to provide expert evidence	Council
10	10 April 2025	Expert evidence statement of Mr Jonathon Fetterplace	Frankston Business Park
11	11 April 2025	Outline submissions	Frankston Business Park
12	11 April 2025	Council Part B submission including: a) Council's Economic Development Strategy 2016 – 2022 b) Council's Frankston Industrial Land Strategy Review 2019 c) Council's Frankston Industrial Land Strategy 2009 d) Council's Economic Development Strategy 2016-2022 e) Day 1 version - Industrial Strategy (March 2024)	Council
13	11 April 2025	Email from Panel to MA Centre (Aust) Pty Ltd regarding submission process – copied to Council	PPV
14	14 April 2025	Council Part C submission (as presented orally at Hearing)	Council

No	Date	Description	Presented by
15	17 April 2025	Submissions (as presented orally at Hearing) including three 'letters of support'	Frankston Business Park
