

Planning and Environment Act 1987

Panel Report

Stonnington Planning Scheme Amendment C197 Proposed Public Acquisition Overlay

14 July 2015

Received by Council 15 July 2015

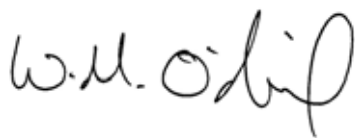
Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Stonnington Planning Scheme Amendment C197

Proposed Public Acquisition Overlay

14 July 2015

A handwritten signature in black ink, appearing to read 'W.M. O'Neil'.

William O'Neil, Chair

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Andrew Natoli, Member

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List of Abbreviations

DELWP	Department of Environment, Land, Water and Planning
DTPLI	Department of Transport, Planning and Local Infrastructure (former)
LACA	<i>Land Acquisition and Compensation Act 1986</i>
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
NRZ	Neighbourhood Residential Zone
SPPF	State Planning Policy Framework
VPP	Victoria Planning Provisions

Overview

Amendment Summary

The Amendment	Stonnington Planning Scheme Amendment C197
Common Name	Proposed Public Acquisition Overlay
Subject Site	<ul style="list-style-type: none"> • 1A Fulton Street, Armadale • 10 Aubrey Street, Armadale • 14 Aubrey Street, Armadale
Planning Authority	Stonnington City Council
Authorisation	22 August 2014
Exhibition	13 November to 15 December 2014
Submissions	130 submissions and two petitions received.

Panel Process

The Panel	William O’Neil (Chair) and Andrew Natoli
Directions Hearing	Malvern Town Hall, 8 May 2015
Panel Hearing	Malvern Town Hall, 26 May 2015
Site Inspections	Unaccompanied, 8 May and 26 May 2015
Appearances	<ul style="list-style-type: none"> • City of Stonnington represented by Maria Marshall of Maddocks Lawyers, called open space master planning evidence from Kirsten Bauer from Aspect Studios • Judi Carr • Jacqui Ralph • Prahran Cricket Club represented by Phil Williamson & David Jones • Prahran Football Club represented by Jamie Gray
Date of this Report	14 July 2015

Executive Summary

Amendment C197 to the Stonnington Planning Scheme proposes to apply a Public Acquisition Overlay (PAO) (Schedule 3) to three residential properties in Armadale *'to identify land for possible future public open space'*. The exhibition of the Amendment attracted significant community interest and at the close of the extended formal exhibition period, 107 opposing submissions had been received (101 of which utilised the same submission template) in addition to 18 supporting submissions. A number of petitions were also received.

The matters raised in submissions both for and against the Amendment have been very difficult for the Panel to reconcile.

The Panel has found that while in general terms the Local Planning Policy Framework within the Stonnington Planning Scheme provides in principle strategic support for initiatives which seek to enhance and improve open space and recreational facilities, the proposed application of the Public Acquisition Overlay to the subject sites lacks a sound strategic base. In reaching this finding the Panel has placed significant weight on the fact that neither the adopted Stonnington Public Realm Strategy (Oct 2010) nor the adopted 2009 Master Plan for Toorak Park entertains expansion of Toorak Park nor do they entertain the need to acquire the subject properties.

The Panel has concluded that the public benefits of the Amendment have not been sufficiently demonstrated to a point where it can support the Amendment.

Whilst it appears likely that the subject properties could be incorporated into the long term planning of the Toorak Park and Victory Square Precinct, the nature of these benefits are presently unclear and the Panel cannot come to any firm conclusions on this. It may be that following the Master Plan review process Council will identify that additional land is needed adjacent to other parts of the Precinct or that there are other initiatives which would better deliver on the vision for the Precinct as the municipality's premier sports ground.

For these above reasons the Panel is unable to conclude that these likely public benefits would on balance outweigh the clear impacts such that the Amendment would deliver a net community benefit.

The Panel concludes that the Amendment should not be progressed at this time and not revisited until a comprehensive Master Plan process for the Precinct has been completed. This process should seek to clearly identify the need for any additional land and any public benefits that would ultimately arise from the reservation and acquisition of this land.

(i) Recommendation

Based on the reasons set out in this Report, the Panel recommends:

- 1. That Stonnington Planning Scheme Amendment C197 be abandoned.**

1 Introduction

Stonnington Planning Scheme Amendment C197 (the Amendment) was prepared by the City of Stonnington Council as Planning Authority. As exhibited, the Amendment proposes to apply a Public Acquisition Overlay (PAO) (Schedule 3) to three residential properties in Armadale *'to identify land for possible future public open space'*¹. Specifically the Amendment:

- Inserts Stonnington City Council Planning Scheme Map No 5PAO (Public Acquisition Overlay), and
- Amends the Schedule to Clause 61.03 to include Map 5PAO.

The Amendment was authorised by the Department of Environment, Land, Water and Planning (DELWP, then DTPLI) on 22 August 2014 and placed on public exhibition for an extended period between 13 November 2014 and 2 February 2015. 107 opposing submissions were received (101 of which utilised the same submission template). In addition 18 submissions were received that supported the Amendment and two petitions which also indicated support for the Amendment with a total of 79 signatories were also received. Council noted that four submissions were also received that objected to the Toorak Park and Victory Square Precinct Plan and made no comment on the Amendment. One further submission advised of no objection to the Amendment.

At its meeting of 30 March 2015, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 16 April 2015 and comprised William O'Neil (Chair) and Andrew Natoli.

A Directions Hearing was held in relation to the Amendment on 8 May 2015. Following the Directions Hearing, the Panel undertook an unaccompanied inspection of the subject sites and their surrounds. Further site inspections were undertaken on 26 May 2015 both prior to and post the Hearing.

Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
City of Stonnington	Maria Marshall of Maddocks Lawyers, who called the following expert witness: - Kirsten Bauer, Open space master planning, Aspect Studios
Judi Carr	
Jacqui Ralph	
Prahran Cricket Club	Phil Williamson (Vice President) and David Jones (President)
Prahran Junior Football Club	Jamie Grey (President)

¹ C197 Explanatory Report – *'What the amendment does'*

1.1 The subject sites and surrounds

The three properties which Council seek to apply the PAO (Schedule 3) via Amendment C197 include:

- 1A Fulton Street, Armadale
- 10 Aubrey Street, Armadale
- 14 Aubrey Street, Armadale
(Refer Figure 1)

Toorak Park is located on the western side of Aubrey Street and Victory Square is located on the north side of Potter Street, opposite the subject properties. Residential properties are located to the south of the subject sites.



Figure 1 Subject Sites and Surrounds
(Image Source: Google Earth)

1.2 Background to the proposal

The explanatory report states that in 2013 the City of Stonnington adopted a '*Strategy for Creating Open Space*' which was informed by the Council's 2010 '*Public Realm Strategy*'. The explanatory reports notes that the 2010 Public Realm Strategy analysed the quantity and quality of open space across the municipality and identified that in areas where there is an open space shortfall, acquiring land for public open space now and in the future is one potential option for addressing the issue.

In relation to the subject sites proposed for acquisition via Amendment C197, the explanatory report states:

Council's Public Realm Strategy (2010) identifies the quantity of public open space within Armadale comprises only 2% of land as available public open

space, and...further identifies that Armadale has the 7th lowest area of open space per person with around 5.8 sqm of open space per person in 2006.

...

Toorak Park is the largest park in the area, and Victory Square is not well used. The proposed identification and reservation of the land will allow Council to plan ahead for future upgrades to improve the function of Toorak Park and Victory Square.

For this amendment, the proposed identification and reservation of the three (3) lots adjacent to Toorak Park as future 'open space' will allow Council to prepare a revised Master Plan for the precinct and improve the quality of active and passive open space in the locality. Council has an existing Master Plan for the Toorak Park / Victory Square precinct which is proposed to be reviewed.

Possible benefits include:

- *Investigation into expansion of the oval and uniformity of boundary.*
- *Off field cricket practice facilities.*
- *Structured formalised access through the park and increased connectivity to surrounding residential areas.*
- *Improved recreational pathways and connectivity through the park.*
- *Upgrade of sportfield lighting to comply with Australian Standards.*
- *Improved passive surveillance, enhanced view lines and perception of public safety.*
- *Other upgrades as identified through community consultation with residents and users of facilities.*

Further, the explanatory report notes:

Application of a PAO to this land and its subsequent purchase will enable the land to be used for an increase in the quantity and improvements to the quality of public open space in Armadale and improved sporting facilities for residents.

Pursuant to the provisions of the Land Acquisition and Compensation Act 1986, Council must appropriately reserve the land for public acquisition before commencing to acquire any interest in the land. The proposed Amendment is required to facilitate this process.

2 Identification of Issues

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites.

2.1 Summary of issues raised in submissions

The key issues raised in the submissions of the various parties are briefly summarised as follows:

(i) Planning Authority

Council submits that the Amendment is based on extensive strategic work completed by Council over the preceding years and elements of which now currently form part of the Planning Scheme.

It was submitted that this body of work has examined open space provision and gaps in the municipality, in particular through the Stonnington Public Realm Strategy (2010), Strategies for Creating Open Space (2013) policy and the draft Recreation Strategy (2014 – 2024). It was highlighted that these strategies identify Armadale as having the second lowest amount of open space per person in the municipality, an amount that is anticipated to decrease further with expected increases in population.

In particular it was submitted that the Amendment is directly linked to Council's long term strategy to address open space shortfalls in the Armadale area through the identification and reservation of land.

Specifically in relation to the Toorak Park and Victory Park precinct it was submitted that the reservation and acquisition of the three residential properties across the road from these areas of existing open space will enable Council to address many of the issues identified in the current (2009) masterplan for the Precinct. It was submitted that these benefits include improvements to the alignment of paths and circulation through and around the Precinct, and improvements to sporting facilities, including the location for storage sheds and practice nets.

(ii) Judi Carr and Jacqui Ralph

As the owners and occupiers of two of the three properties that are the subject of the Amendment Ms Carr and Ms Ralph (together with submitter 128 – Owner of 14 Aubrey Street) stand to be the most affected. It was clear through the oral submissions of Ms Carr and Ms Ralph that the Amendment process and the prospect of having their homes compulsorily acquired was a cause of considerable concern and distress.

In submissions Ms Carr and Ms Ralph both disputed the premise of the Amendment ie. *that there was a lack of or inadequate open space in the local area.*

Their written and oral submissions focussed on what they saw as a lack of justification and the need for further strategic planning work to identify exactly how their land would be used if it were ultimately acquired by Council.

It was submitted that the lack of specific justification of the need for their properties was not only a fundamental weakness in the merits of the Amendment, but also highly unfair and prevented them from being able properly analyse and critique any benefits which were alleged to flow. The Panel notes that considerable discussion was devoted to this issue at the hearing.

Their submissions also sought to highlight the opportunity missed by Council to supplement Toorak Park and Victory Reserve through the approval of the development on a large site immediately abutting this open space to the north at 590 Orrong Road, Armadale.

These submissions also urged Council to look at other measures to improve the quality and provision of open space prior to taking the significant step of compulsorily acquiring residential properties.

(iii) Prahran Cricket Club and Prahran Football Club

These clubs are primary users of the sporting facilities provided in Toorak Park, which stands to directly benefit from the additional land should the Amendment be approved and the properties ultimately acquired by Council.

The written and oral submissions of the clubs sought to highlight the significant increase in memberships and participation in both competitions, including from groups younger and female members. Their submissions emphasised how these changes have resulted in significant increases in demand and intensity of use of the existing sporting facilities at Toorak Park and nearby facilities and the need for additional facilities.

The cricket club in particular submitted that the additional land would enable facilities such as the cricket nets, which are currently housed on the oval, to be relocated and free up the use of the oval and assist with accommodating greater demand levels.

(iv) Other supporting submissions

Key themes and issues raised by the other 16 supporting submissions included:

- The acquisition of the additional houses will help the development of cricket which will benefit the health of the community.
- Public open space is an essential element of living an active, health life and the acquisition of the three houses will provide more open space for people to enjoy.
- Promoting group sporting activities is important and enhancing the facilities at Toorak Park will generate increased use and enjoyment for the community.
- Toorak Park is the only cricket ground in the City of Stonnington that hosts Premier Cricket, therefore it is imperative that the facilities continue to be of a first class standard so that the top grade players within Stonnington can access the improved facilities.
- *'If the proposal goes ahead, and indeed it should, this will prove to be a lifetime opportunity to change Toorak Park for the better for many generations to come'.*

(v) Other opposing submissions

Key themes raised by other 104 opposing submissions included:

- The stated justification for the Amendment is unclear. No adopted strategic planning documents exist that recommend or justify the acquisition of additional land. There are a number of potential impacts and issues that should be addressed and finalised via consultation and strategic planning prior to the Amendment proceeding, not left until after.
- The existing adopted Master Plan for Toorak Park / Victory Square does not identify the need for extra car parking or new cricket nets. Therefore the Amendment does not have the necessary adopted strategic justification.
- There is significant opportunity to 'improve' the existing 'unused portions' of open space within the reserves. Greater emphasis should be placed on improving the landscaping to open up and provide new solutions within the reserves rather than acquiring new land.
- Claims that there is limited open space does not justify reservation of private properties for new open space.
- Claims that the Amendment will advance '*... greater informal recreation opportunities for female and junior participation*' are overstated and unsubstantiated. The 'draft' and yet determined 'use' of the acquired house sites is for the erection of a number of cricket practice nets. Such a use is not in the broad public interest and it does not represent 'public' open space.
- The claim that the Amendment does not have adverse social impact is not accurate. The residents whose houses will be blighted with an overlay will be socially impacted and there is a lost opportunity to use the funds required for future acquisition for greater social benefit or for the strategy of open space provision that can be used for all residents, rather than cricket players.
- There is an oversupply, not undersupply of open space in the local area. Funds required to acquire the private properties could be better spent on improvements to the existing reserves, within the reserves existing boundaries.
- The Amendment is unnecessary and the expansion and improvements to Toorak Park and Victory square can be undertaken easily and at less cost by better landscaping in the park and surrounds.
- Additional open space requirements arising from the future increase in population arising from the development of Orrong Road Towers should be accommodated on that land, or adjacent to that land.
- The amendment is premature and further strategic planning work is needed to demonstrate how the functionality of Toorak Park and Victory Square would improve with the incorporation of the subject properties.
- Concern that the acquisition of the three properties, and resultant redevelopment of the parks and reserves will result in the loss of the existing children's playground and equipment.
- The allocation of scarce financial resources to acquire properties in this part of Armadale for new open space is illogical and defies common sense ... *'its like offering more food to those leaving the newly opened Fat Duck at Crown Casino, they have already had enough*

and it makes more sense to offer it to those in need' and 'the logical thing to do is to create in areas of need – that is close to those who have little or no open spaces'.

- Submissions also queried whether the kindergarten will be affected and what portions of Webster and Potter Street will be affected.

2.2 Issues dealt with in this Report

The Amendment, whilst limited in its geographic scope and proposed statutory changes, has raised a number of complex issues for the Panel to consider. These issues arise principally due to the nature of the Amendment and the profound effects it will have on the affected landowners, if approved.

The Amendment seeks to reserve three privately owned and occupied residential properties for '*possible future public open space provision*'². The effect of the Amendment would be to allow Council to compulsorily acquire the properties at any time in accordance with procedures provided for in the *Land Acquisition and Compensation Act 1986*. Prior to acquisition the PAO would also provide Council (as the acquiring authority) with additional permit triggers and discretion to determine whether any permit applications for use or development would prejudice the 'open space' purpose for the land that 'may' ultimately be acquired.

As acknowledged by Ms Marshall on behalf of Council, the application of the PAO and the power to reserve and acquire land is perhaps the most serious power Council has at its disposal and it must be used responsibly.

In seeking to impose the PAO Council is seeking to plan for future open space needs in its capacity as a municipal council and pursuant to its power under section 187 of the *Local Government Act 1989*. Planning schemes recognise that planning has a clear role in responding to existing and future community recreational needs and through the provision of zoned and serviced land.³

It is incumbent on all planning authorities to demonstrate that any proposed planning scheme amendments are founded on a proper strategic planning basis. In assessing the merits of planning proposals and any submissions planning authorities must also endeavour integrate the range of policies and balancing conflicting objectives in favour of net community benefit.⁴

In the present circumstances the proposition being put to the Panel is quite simple, but nonetheless stark, ie. that the need for the land and the benefits which would flow from its acquisition for open space provision to the community outweigh the significant consequences for the individual landowners and result in a net community benefit.

This question was put in very similar terms by Council in its written submission, with which the Panel agrees:

² Explanatory Report, page 1.

³ Clause 11.

⁴ Clause 10.04.

.....The key determination for this Panel is whether the public benefit that will be derived from the future acquisition of these properties for the purposes of open space justifies the impact on the individual properties.⁵

Fairness and orderly planning are concepts that are central to objectives of the Act and, given the severity of the impacts to individual landowners, are perhaps of particular importance to the Amendment and others which seek to apply the PAO. In addition to the considerations identified above, these concepts emphasise the importance of planning and acquiring authorities demonstrating the need for the land proposed to be reserved and the public benefits that will flow to the community from their acquisition.

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of the specific sites proposed for acquisition and the surrounding residential, community and open space land uses.

This report deals with the issues under the following headings:

- The strategic basis of the Amendment
- The benefits of the Amendment
- Conclusions and Recommendations.

⁵ Council's Written Submission Part B, page 13.

3 The strategic basis of the Amendment

Council addressed the strategic basis of the Amendment in some considerable detail at the hearing in both oral and written submissions.

These submissions focussed principally on the Local Planning Policy Framework (LPPF) and the various adopted and draft strategies by Council including the Public Realm Strategy, Strategies for Creating Open Space, and Recreation Strategy documents.

3.1 Policy framework

(i) State Planning Policy Framework

In its strategic assessment of the Amendment Council submitted that it is consistent with the objectives of the SPPF, in particular Clause 11.03 (Open Space) which seeks:

To assist creation of a diverse and integrated network of public open space commensurate with the needs of the community.

Strategies listed by Council as relevant to the Amendment include:

Ensure that land is set aside and developed in residential areas for local recreational use and to create pedestrian and bicycle links to commercial and community facilities.

Improve the quality and distribution of open space and ensure long-term protection.

.....

Ensure that urban open space provides for nature conservation, recreation and play, formal and informal sport, social interaction and peace and solitude. Community sports facilities should be accommodated in a way that is not detrimental to other park activities.

Ensure open space is designed to accommodate people of all abilities, ages and cultures.

.....

Council submitted that the application of the PAO to the properties is supported by these policies as they will provide enhanced public open space quality and availability.

(ii) Local Planning Policy Framework

Council submitted that the Amendment finds strategic support at the following clauses of the MSS:

- Clause 21.02 (Overview), which identifies that Stonnington has the second lowest amount of open space per person:

Stonnington has the second lowest amount of open space at 6.7% (20m² per person) of any Victorian municipality. The lowest is the neighbouring

Glen Eira with only 4.7%. In comparison the average area set aside for open space across Metropolitan Melbourne is 17.9% ...

- Clause 21.02-3 (Key influences and challenges) highlights the challenges for Stonnington in addressing the low ratio of open space provision:

Environment and open space

The City's low ratio of open space provision, the cost and availability of land for new open space in an already densely developed City, and how to capitalise on opportunities to improve the public realm, maximise the use of existing open space and add new open space.

- Clause 21.03-2 sets out a vision for open space provision in the municipality which seeks to increase open space in areas of identified shortage:

Environment and open space

The City's valued open space is protected and enhanced through no net loss in public open space and increases in areas of identified shortage; it is safe and accessible for public use and meets the diverse and changing needs of the community.

- Clause 21.07 (Open space and Environment) sets out key objectives and strategies which are of particular relevance to the Amendment. This clause identifies the following key issues:

- *Acknowledging the City's low ratio of public open space compared to the metropolitan average and adjacent municipalities.*
- *Addressing the gaps and variations in distribution and quality of open space across the City.*
- *Addressing the additional demand on the public realm arising from increases in population, higher housing densities and the consequent reduction in public and private open space.*
- *Acknowledging the increased cost of property acquisition and the reduced affordability of providing additional green open space.*
- *Considering more creative and lateral means to supply quality open space experiences in the community.*
- *Managing the impact of private development in and beside public open space on the perceived and actual accessibility, usability and safety of the public space.*

- The first objective of this clause states:

1. *To provide an equality of public open space quality and quantity across the municipality, sufficient to meet future needs and which improves the accessibility, safety and environmental sustainability of the open space system*

- Relevant strategies listed to achieve this objective include the following:

- 1.1 *Seek opportunities to improve and extend the open space system, particularly in areas currently under-provisioned and with projected*

population increases, including having regard to the City of Stonnington Public Realm Strategy 2010 and adopted Structure Plans.

- 1.2 *Integrate the findings and recommendations of the Public Realm Strategy 2010 into the preparation of structure plans, master plans, urban design frameworks and development contribution plans, as appropriate.*
- 1.3 *Provide for improved quality and diversity of open spaces in each suburb, including formal and informal, natural and urban spaces and places for contemplation.*
- 1.4 *Seek opportunities to increase regional open space links across the municipality and with adjoining municipalities, in particular along railway lines and waterways.*
- 1.5 *Seek opportunities to provide local links between public and private open space and through large private developments.*

In relation to the above references to the Stonnington Public Realm Strategy (SPRS) and its findings and recommendations the Panel notes the following extracts from the adopted version of the document:

Figure 14: The Stonnington Blocks

- The block of land within Armadale which the subject land and Toorak Park is located is **not** identified as an area where public open space is lacking;

Summary of Green Spaces Quality and Main Recommendations

- The key recommendations for Armadale focus on ‘*increasing green amenity by improving the quality of the multiple small road reserves and railway links*’; ‘*improving the quality of residential and commercial streetscapes*’; and ‘*pursuing the development of local spaces as part of major redevelopment sites*’.
- The Acquisition recommendations note ‘*potential for POS acquisition north of Wattletree Road and Orrong Road*’; that the area is ‘*difficult for acquisition as properties are on large lots*’ and ‘*Seek to acquire pedestrian linkages in any subdivisions.*’
- No reference to acquiring the subject sites is included in the recommendation, nor is reference to acquiring additional land adjacent to Toorak Park or Victory Square.

Availability and Affordability of Open Space

- In addition to acquisition of new public spaces, the Public Realm Strategy encourages Alternative solutions to increase public space and also highlights the imperative to strike a balance between quality space and more public space.

Analysis of Armadale

- The south-eastern and north-western sides of the suburb have limited public open space. The area east of the railway line and west of Tooronga Road has no public open space.
- Toorak Park is the largest open space in the area.
- Toorak Park Master Plan (Sept 2009) is identified as existing and in progress of implementation.

- The subject land is not identified as an 'Area where residents lack public open space within 500m.
- The 'Main Opportunity' identified for the vicinity of the subject land is '*Implement the adopted Master Plan for Toorak Park and Victory Square*'. This recommendation refers to the 2009 Master Plan which contains no reference to the need to acquire the subject land or expand the perimeter of Toorak Park or Victory Square.

Implementation Plan

- The corresponding action contained in the Implementation Plan reads: '*Implement the adopted Master Plan for Toorak Park and Victory Square*'. This action is listed as a 'short term' priority and refers to the 2009 Master Plan.
- To implement these strategies this clause identifies a mixture of policy guidance, statutory provisions and strategic work. Relevantly these implementation tools identify the provision of open space in major new developments, the application of the PAO and preparing a strategy for the acquisition of properties (emphasis added):

Policy guidelines

- *When deciding on an application to develop or subdivide land, considering, as appropriate:*
 - *the requirements of the Schedule to Clause 52.01 (Public Open Space Contribution and Subdivision) and (as part of this consideration) whether to seek a contribution of land for public open space as part of a major new development where the responsible authority has identified a need for additional open space in the locality, by reference to the findings and recommendations of the Public Realm Strategy 2010, or any adopted structure plan, master plan or urban design framework.*

.....

Application of zones, overlays and particular provisions

- *Applying the Public Park and Recreation Zone to open space reserves and land used for public open space.*
- *Applying the Public Acquisition Overlay to land identified for addition to the open space system.*
- *Using the Schedule to Clause 52.01 to specify the amount of contribution for public open space for specified subdivisions.*

Future strategic work

- *Preparing a policy and strategy to guide the identification and acquisition of properties.*
- *Preparing a strategy for public open space contributions.*

(iii) City of Stonnington Public Realm Strategy 2010

As noted in the overview of the LPPF the SPRS addresses a wide range of spaces that form part of or contribute to Stonnington's public realm, defined in perhaps the broadest sense to include natural and open space areas such as parks, creeks and reserves, but also incorporates shared areas within the built environment such as squares, forecourts and streets – plus features located within these areas. The SPRS was prepared by Council with Aspect Studios and was adopted by Council in 2010.

The SPRS establishes and identifies a number of municipal wide and precinct based strategies for effecting positive change to Stonnington's public realm and is intended to provide a strategic basis for decision-making in giving effect to these changes. The SPRS identifies five key directions or opportunities for action which relevantly include:

- targeted public realm upgrades, to achieve a more equitable distribution of the quality and quantity of public open space
- an acquisitions strategy, to guide the identification and acquisition of properties in areas under-provided with green space.

As noted above the SPRS is referenced and is embedded within planning policies and strategies of the MSS which seek to improve the open space network and to integrate the SPRS with other future planning strategies as they are developed.

In addition to those already identified the following aspects of the SPRS are also of relevance to the Amendment:

- The SPRS recognises Armadale as having the second lowest amount of open space per person in Stonnington in 2006 at 5.80 square metres per person.⁶
- Toorak Park is identified as a "City wide" space and Victoria Square as having a "local catchment"⁷.
- Key recommendations for Armadale are:

Focus on increasing the green amenity of the area through improving the quality of the multiple small road reserves and railway links throughout this area.

Concentrate on the development of public realm through higher quality residential and commercial streetscapes, i.e. High Street and Glenferrie Road.

Pursue the development of local spaces as part of major redevelopment sites.⁸

As noted previously, no recommendations are made for acquisition that specifically relate to the improvement of Toorak Park or Victory Square but the following is noted:

Potential for POS acquisition north of Wattletree Road and Orrong Road

⁶ Page 53

⁷ Page 62

⁸ Table at pages 72-73.

*Difficult area for acquisition as properties are on large lots. Seek to acquire pedestrian linkages in any subdivisions.*⁹

- Relevantly, Part B of the SPRS sets out precinct based findings and recommendations for Armadale and Toorak Park and Victoria Square, these include:
 - In terms of the quality of the open space in the area Victory Park is identified as being “not well used”¹⁰.
 - Toorak Park is identified as the largest open space in the area¹¹.
 - In terms of the future demand for public open space the following is noted:

Future demand on the public realm

- *There will be an increase in pressure on the public realm as the population increases*
- *Armadale’s demographics are not likely to change extensively*

.....

3. Toorak Park and Victory Square

- *Implement the adopted Master Plan for Toorak Park and Victory Square*

....

9. Toorak Park and Victory Square links

- *There is potential for a bridge connection over the railway line between Beatty Avenue and Victory Square Reserve. However, this may be redundant if a pathway can be established along the SKM site adjacent to Toorak Park/Victory Square that links to the station*
- *Seek a pedestrian link through land to the north in the event of that land’s redevelopment*
- *Improve links between Toorak and Orrong Parks*¹²

Council placed considerable reliance on the SPRS and submitted that is a “*key document underpinning the strategic need and justification for the Amendment and the proposed implementation of the PAO*”¹³. Opposing submissions argue that the document provides little if any strategic basis for the Amendment noting that it recommends the implementation of the Adopted 2009 Master Plan which does not contain any references to the need to expand Toorak Park or Victory Square. (Refer following for more detail on the content of the Masterplan).

⁹ Table at pages 72-73.

¹⁰ Page 120.

¹¹ Page 121

¹² Page 126.

¹³ Stonnington City Council, Part A - Written Submission, paragraph 27.

(iv) Toorak Park and Victory Square Masterplan (2009)

Council commenced a process of preparing a masterplan for Toorak Park and Victory Square in 2006 in order to establish priorities and directions for these open space areas.

A masterplan was prepared by Tract for Council in September 2009 which followed a consultation process, including surveys of surrounding residents. The Panel was advised that this masterplan has been adopted by Council and is the current approved plan referred to in the SPRS.

The Panel was provided with copies of this masterplan, which sets out a number of key actions to be pursued, including:

- Open Orrong Park boundary and Moreton Bay Fig entry.
- Storage shed, new scoreboard and synthetic practice nets.
- Implement circuit walk.
- Improve outer mounds.
- Victory Square Reserve.
- War Widows Memorial Garden
- Redevelop Charles Lux Pavilion
- North-west corner
- West park entry

The master plan does not identify the need to acquire any surrounding land.

The Panel notes that many of the recommendations have been implemented.

(v) Strategies for Creating Open Space

Council's Part A submission notes that following Council's adoption of the SPRS, Council Officers prepared a policy and plan to provide for additional open in the Municipality. The submission states that over 450 strategic opportunities were identified across the municipality for detailed investigation through this process. Council reported that some of these properties were also then identified internally for reservation through a Public Acquisition Overlay, however due to confidential nature of the valuation and acquisition data which was compiled to support the investigations, the information has not been publically released. Rather, a document titled '*Strategies for Creating Open Space*' was prepared and adopted by Council for public release which includes municipal wide objectives and actions as well as '*Opportunities*' and '*Impact*' statements on a suburb by suburb basis.

Having reviewed the '*Strategies for Creating Open Space*' document and having noted Council's submissions in relation to it, the Panel considers the document does not provide tangible support for the application of the PAO of the subject properties nor the purchase of any additional land to expand Toorak Park. While the Panel accepts that for confidentiality reasons the subject properties would not have been identified in the document, it would have expected the expansion of Toorak Park boundaries to create new facilities and improve linkages would have been listed as an opportunity within the Armadale section of the report if it was an identified priority of Council. Rather what is listed with specific reference to Toorak Park is '*potential to expand open space by demolishing existing Fulton Street pavilion*

and relocating to expanded Toorak Park pavilion'. This identified opportunity can occur fully within the existing boundaries of Toorak Park.

3.2 Planning scheme provisions

(i) Zones

The properties subject of the Amendment are currently zoned General Residential (Schedule 10) (GRZ10).

The land abutting the Amendment land to the east at 3 Fulton Street, containing the Armadale Early Learning Centre, is zoned Public Use (Local Government) (PUZ6).

The Precinct land, situated to the west and north across Aubrey Street and Potter Street, is zoned Public Park and Recreation (PPRZ).

(ii) Overlays

The Amendment land is not affected by any overlays.

The Amendment proposes to apply the Public Acquisition Overlay, the purposes of which are:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify land which is proposed to be acquired by a Minister, public authority or municipal council.*
- *To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.*
- *To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.*

Relevantly, once applied the PAO would trigger the need for a planning permit (with some limited exceptions) for most use and development, including uses that would otherwise be section 1 or 'as of right'.

Applications triggered under this overlay must be referred to the acquiring authority and a key decision guideline under the PAO is:

- *The effect of the proposed use or development on the purpose for which the land is to be acquired as specified in the schedule to this overlay.*

The acquiring authority (which in this case would be Council) would have discretion to direct refusal or to impose conditions (subject to normal planning considerations) on any permit issued to address the matters set out in the PAO at clause 45.01-4, which include:

- *The extent of alterations and extensions to an existing building and works, and the materials that may be used.*
- *The location, dimensions, design and material of a new building or works.*
- *The demolition, removal or alteration of any buildings or works.*

- *The demolition or removal of buildings or works constructed or carried out in accordance with a permit under this clause.*
- *No compensation being payable for the demolition or removal of any buildings or works constructed under the permit.*

In relation to the Amendment land this could include conditions that seek to exempt future dwelling improvements or renovations from any compensation calculations in the event that the properties are acquired.

(iii) Particular provisions

None of the particular provisions are of any particular relevance to the Amendment.

(iv) General provisions

There are no General Provisions of the planning scheme which are of specific relevance to the Amendment.

However the Panel notes that any existing residential uses on the Amendment land would be able to continue without the need for further planning permission by virtue of Clause 63 (Existing uses).

3.3 Ministerial Directions and Practice Notes

Other than Ministerial Direction No. 11 (Strategic Assessment of Amendments), there are no Ministerial Directions which are of particular relevance to the assessment of the merits of the Amendment.

3.4 Discussion

The Planning Scheme clearly expresses Council's desire to increase the quantity and quality of open space for its growing population within the municipality. The Planning Scheme anticipates that this may be achieved through a number of means, but significantly, it expressly identifies that it may occur through the application of the PAO to private land.

The Panel accepts Council's submissions that, insofar as the Amendment seeks to identify and reserve land for public open space, it responds generically to a number of strategies within the MSS.

However the Panel is careful to distinguish the Amendment's '*strategic support*' from a clear articulation of the need and benefits, which is addressed in the following chapter. If the Panel were to only rely on the strategic level documentation then the only conclusion which could be reached is that the Amendment will provide a statistical benefit as opposed to a practical one. In noting this the Panel agrees with opposing submissions that indicated the SPRS does not provide any specific strategic support for expansion of Toorak Park or Victory Square, let alone the application of the PAO to the subject land. As noted the SPRS:

- Does not identify the block of land within Armadale which the subject land and Toorak Park are located as an area where public open space is lacking.
- No reference to acquiring the subject sites is included in the recommendation, and no reference is included to acquiring additional land adjacent to Toorak Park or Victory Square.

- The ‘Main Opportunity’ identified for Armadale in the vicinity of the subject land is ‘*Implement the adopted Master Plan for Toorak Park and Victory Square*’. This recommendation refers to the 2009 Master Plan which contains no reference to the need to acquire the subject land or to expand the perimeter of Toorak Park or Victory Square.

At the directions hearing the Panel queried whether the strategic rationale for Amendment C184 was similar or different to that of the current Amendment. Amendment C184 applied the PAO to five properties in Prahran primarily for the creation of pedestrian link.

Council submitted that, whilst the strategic background was closely aligned, in particular the SPRS, this Amendment responded specifically to the *Draft Chapel reVision Structure Plan 2013-2031* and the need to create more open space and better linkages in Prahran.

In response to questions from the Panel Ms Bauer in presenting her Expert Evidence stated:

The proposed acquisitions in C184 benefit from a higher level of Strategic Research and the sites are identified in adopted structure plans.

They have been through more strategic processes.

Council acknowledged that C184 sites also benefited by being identified in the *Chapel reVision Structure Plan 2013-2031*.

Ms Carr submitted that none of these strategic documents identify a lack or shortfall of open space in the immediate vicinity of Toorak Park or Victory Square. It was submitted that there was already adequate open space to meet the needs of the local catchment¹⁴. In support of this submission Mr Carr referred to following paragraphs of the Tribunal’s decision in *Lend Lease Apartments (Armadale) Pty Ltd v Stonnington CC* [2012] VCAT 906 which concerned an apartment development on a large site immediately abutting Toorak Park to the north and considered the open space implications arising from such a large development in Armadale (at [21] and [179]):

21. The following factors give rise to the main opportunities for development—

-
- *It is in an area relatively rich in public open space for Stonnington and Armadale, in particular. It abuts Toorak Park and Victory Square on its south boundary. On the west side of Orrong Road is the Orrong Romanis reserve.*
- ...

...

179. Local policy recognises that Stonnington and Armadale are relatively undersupplied with public open space. However, the subject has the particular benefit of adjoining one of the best served areas for public open space in Toorak Park, Victory Square and Orrong Romanis Park, totalling about 8 ha.

¹⁴ Pages 2-3 of their submissions to the Amendment.

....

3.5 Conclusions

For the reasons outlined, the Panel concludes that while in general terms the LPPF provides in principle strategic support for initiatives which seek to enhance and improve open space and recreational facilities, including through their augmentation using the PAO, the proposed application of the PAO to the subject sites lacks a sound strategic base. Neither the SPRS nor the adopted 2009 Master Plan for Toorak Park entertains expansion of Toorak Park nor do they entertain the need to acquire the subject properties.

An important consideration of the Panel is the status of the Master Plan for Toorak Park. Council confirmed that the current adopted version of the Master Plan is the 2009 version and Council also confirmed in its submission the comment contained in the Explanatory Report that the existing Master Plan for Toorak Park and Victory Square is proposed to be reviewed.

As the current Master Plan does not entertain expansion of the Toorak Park nor the need to acquire the subject properties, the Panel concludes that the Amendment suffers from a lack of specific strategic support at this time.

The four pages that comprise the DRAFT 2014 Toorak Park Precinct Plan issues, opportunities and vision document has not been Adopted by Council, nor has it been subject of consultation with the community. The content and ambitions articulated in the document, by admission of Council, are subject of further review and testing. Without such review, testing and ground truthing, the Panel finds it difficult to reasonably conclude that they represent realistic and achievable outcomes, to a degree that merit the significant step of placing a PAO over the three subject properties.

These issues are further discussed in the next Chapter of this report.

4 The benefits of the Amendment

4.1 The issue

As noted in Chapter 2, the need for the Amendment and its benefits are a key issue for the Panel in determining whether, on balance, the Amendment would result in a net community benefit despite any negative impacts on the landowners. This chapter addresses these issues.

4.2 Evidence and submissions

(i) Planning Authority

Council's primary submission was that the reservation and acquisition of this land will enable it to address many of the issues identified in the current masterplan prepared for the Precinct in 2009. It was submitted that these benefits include improvements to the alignment of paths and circulation through and around the Precinct, and improvements to sporting facilities, including the location for storage sheds and practice nets.

It was submitted that the acquisition of these properties would significantly enhance opportunities for unstructured physical activity, in particular through the realignment of paths around the Precinct, which are seen as being fundamental to stimulating unstructured use.

Should these properties be included within the Reserve, they along with the closure of Potter Street will provide valuable land and opportunities for open space improvements to the Reserve for residents to enjoy. The site were selected on the basis that they can deliver the open space improvements supported by the relevant policy framework (including the SPRS and Recreation Strategy) and as visualised in the current precinct planning being undertaken for the Reserve.¹⁵

Specifically with reference to the Recreation Strategy the following benefits were identified by Council:

- *it is a review of the function and operation of an existing sporting and recreational facility and would improve the quality of this space;*
- *it would increase the use of the existing park and sporting precinct for casual and unstructured recreation opportunities;*
- *it would assist in the development of a walking trail around the Reserve and improve points of access to the sporting ground to encourage informal recreation participation and the better utilisation of the open space; and*
- *it would enable precinct planning of the Reserve to continue in the knowledge that there is the ability to provide greater informal recreation opportunities for female and junior participation.¹⁶*

¹⁵ Council's Written Submission Part B, page 5.

¹⁶ Ibid, page 6.

With regard to the latter benefit, Council also addressed the process that what would follow the approval of the Amendment in relation to review of the current 2009 masterplan. The Panel was advised that Council intends to follow a similar consultation process to that adopted for the 2009 Masterplan, with surveys to be conducted of the surrounding area to gain an understanding of how residents use the site and what improvements would encourage greater utilisation. The Panel was advised that this review would not be limited to the issues associated with the southern corner in the vicinity of the Amendment land but would address a range of issues, including the interface with the development at 590 Orrong Road. However Council submitted that without the reservation of the Amendment land addressing the issues would be highly constrained.

Perhaps in anticipation of this process Council has prepared “Issues and Opportunities” plans for the Precinct which were provided to the Panel and appear to anticipate the acquisition of the Amendment land and the opportunities arising from this. The Panel queried the status of these documents and was advised that these plans were prepared in January 2014 following background work being undertaken for the Recreation Strategy and are only high level concept plans which have not been endorsed by Council. Council nevertheless submitted that they are relevant as they provide a visualisation of the issues and possible opportunities for the Precinct.

It was also the evidence of Ms Bauer that, whilst improvements could occur within the existing footprint of the Precinct, this would result in the loss of informal recreation space. It was also Ms Bauer’s evidence that the Amendment would allow Council to move forward with this process more confidently that the current issues could be resolved.

Council anticipates that the masterplan review process would take 6 to 12 months to complete. Council submitted that there is no prejudice to the strategic merit of the Amendment just because the review of the 2009 masterplan is not complete.

(ii) Judi Carr and Jacqui Ralph

In submissions Ms Carr and Ms Ralph both disputed the need for the Amendment and its premise ie. that there was a lack of or inadequate open space in the local area.

Their written and oral submissions focussed on what they saw as a lack of justification and the need for further strategic planning work to identify exactly how their land would be used if it were ultimately acquired by Council.

It was submitted that the lack of specific justification of the need for their properties was not only a fundamental weakness in the merits of the Amendment, but also highly unfair and prevented them from being able properly analyse and critique any benefits which were alleged to flow. The Panel notes that considerable discussion was devoted to this issue at the hearing.

Their submissions also sought to highlight the opportunity missed by Council to supplement open space through the approval of the development on a large site immediately abutting the Precinct at 590 Orrong Road, Armadale.

These submissions also urged Council to look at other measures to improve the quality and provision of open space prior to taking the significant step of compulsorily acquiring residential properties.

(iii) Prahran Cricket Club and Prahran Football Club

As noted in previous chapters the written and oral submissions of the clubs sought to highlight the significant increase in memberships and participation in both competitions, including from groups younger and female members. Their submissions emphasised how these changes have resulted in significant increases in demand and intensity of use of the existing sporting facilities at Toorak Park and the need for additional facilities. It was noted by the Cricket Club that Toorak Park is now being used by sporting clubs seven days per week in winter and six days per week in summer, placing significant stress on the playing field and its ability to be maintained and to recover.

The Cricket Club submitted that the additional land would enable facilities such as the cricket nets, which are currently housed on the oval, to be relocated and free up the use of the oval and assist with coping with the greater demand levels. This would also allow the oval to be used by the general public for less formal activities eg. kicking a footy or throwing a Frisbee, activities which are currently constrained by the use of the oval for cricket practice five days per week. It was also identified that the removal of the practice nets from the oval would also improve its surface for football.

The Cricket Club also identifies the importance of establishing an uninterrupted walking track around the Precinct that does not just finish at the cricket nets. This would enable the Precinct to be used for active recreation by other members of the public even when the playing field is in use.

In its written submission the Football Club echoed many of the concerns of the Cricket Club and also identified the location of the practice nets on the oval as a key issue affecting both the quality of the playing surface and limiting the use and maintenance of the playing field. The Football Club also identified the irregular shape of the playing field as an issue affecting the use of Toorak Park and the quality of the sport being played.

Generally, both clubs expressed a number of concerns regarding the quality of the facilities and the future ability of the Precinct to cope with increasing demand, particularly in the context of higher intensity developments such as that at 590 Orrong Road. The Panel notes that not all of these concerns related to the space available, but simply to upgrading and investing in new facilities and equipment.

4.3 Discussion

At face value the properties forming part of the Amendment land would appear to be logically located and offer the collateral benefit of facilitating the closure of Potter Street, providing more valuable land to supplement the Precinct in the event of their acquisition.

There are no doubt many reserves and sporting facilities in constrained, inner urban areas of Melbourne, similarly underprovided in open space (in both a statistical and practical sense), that could benefit from additional land to supplement their amenity and function.

The real question for the Panel is whether the Amendment and the acquisition of the Amendment land would address open space needs particular to the Precinct such that there clear public benefits would be achieved by reserving them for this purpose at this point in time.

It is relevant to note that Council has not sought to place any timeframe on when the Amendment land might be needed and ultimately acquired, and has been careful to stress that it is not seeking to compulsorily acquire the properties. In submissions and in documentation (including FAQs) circulated in support of the Amendment Council has advised the community that it is not seeking to compulsorily acquire properties rather it seeks to *'flag its interest at potentially purchasing the site at some time in the future'*¹⁷.

The words of the PAO itself suggest that it is to be applied where land is or is proposed to be acquired, not where there is only a potential for Council to purchase or a "possibility" (emphasis added):

To identify land which is proposed to be acquired by a Minister, public authority or municipal council.

To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.

*To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.*¹⁸

In particular, the Panel notes that Council advised the Panel that it is likely to never compulsorily acquire the land and the purpose of the PAO is simply to reserve it in the event that Council determines that the land is ultimately required.

4.4 Conclusions

Whilst the Panel regards it as highly probable that the PAO could deliver public benefits, without the benefit of a resolved and adopted Precinct Master Plan illustrating these benefits, it is difficult to reconcile that the PAO is justifiable at this time where the issues at stake for affected landowners are so significant. That there is a public interest and potential benefit are not sufficient considerations for the Panel.

It may be that, following a more detailed Master Planning process, with the benefit of input from all of the relevant sporting clubs and other stakeholders, Council will require more land and possibly in different locations. However until this work is done the public benefits of acquiring the land appear to the Panel to be speculative.

¹⁷ For example, see the correspondence and FAQs sent providing notice of the Amendment to land owners on 10 November 2014 (document 1.3.8).

¹⁸ Clause 45.01 – Purpose.

5 Conclusions and Recommendations

5.1 Would the Amendment deliver a net community benefit?

The Planning and Environment Act 1987 and the VPPs establish a framework within which planning and responsible authorities are to endeavour to balance and integrate competing policy objectives in favour of 'net community benefit' (at clause 10.04 of the Planning Scheme) (emphasis added):

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

In the present circumstances it was put to the Panel by Council that the key issue for it consider is whether the public benefit that will be derived from the future acquisition of these properties for open space purposes justifies the impact on the individual properties. Perhaps put another way in the terms of Clause 10.04 – whether the community needs and benefits provided for by the Amendment outweigh the negative impacts on the individual landowners and ultimately result in a net community benefit?

A number of possible or likely benefits have been identified by the parties, including the provision of better circulation paths around the Precinct, however there is no specific commitment to any proposals from Council, which will only be clarified following a formal Master Plan review process which is to be completed.

The Council has already commenced this process with the preparation of Issues and Opportunities plans, which have identified tentative opportunities, however these proposals currently have no status and have not been subject to any formal consultation process.

The Panel commends Council for actively pursuing these opportunities, particularly where, as in the present circumstances, difficult decisions are required to be made in pursuit of longer term planning goals. The Panel agrees with Council's submission that '*it is in the interests of good and proper planning that such proposals be identified as early as possible...*'

However in circumstances such as this Amendment, where the consequences are not just the partial acquisition of a property but the dislocation of residents from their homes, any alleged public benefits will inevitably be brought into much sharper focus, as they perhaps should be. In these circumstances it is incumbent upon a planning authority to clearly articulate these public benefits and submit them to public scrutiny.

On the other side of the equation the consequences for the landowners are perhaps much clearer and more stark. Irrespective of the final outcome of the Master Plan review, the landowners will live with the prospect that their homes may at any time be acquired. Even if

compulsory acquisition does not occur immediately, as was suggested by Council, the PAO will still potentially affect their ability to improve (ie. develop)¹⁹ and fully enjoy their residences as other people are able to do. The Panel notes that it is not the wish of Council or the sporting clubs for the properties to be compulsorily acquired and Council has acknowledged that it may be some time before a property is actually acquired.

The Panel does not necessarily consider it to be in the public interest, nor consistent with the purpose of the PAO, to impose reservations on private land where the need for the land is uncertain and where its acquisition may not ultimately occur for a long period of time.

5.2 Overall Conclusions

The Panel has concluded that the public benefits of the Amendment have not been sufficiently demonstrated to a point where it can support the Amendment.

Whilst it appears likely that the subject properties could be incorporated into the long term planning of the Toorak Park and Victory Square Precinct, the nature of these benefits are presently unclear and the Panel cannot come to any firm conclusions on this. It may be that following the Master Plan review process Council will identify that additional land is needed adjacent to other parts of the Precinct or that there are other initiatives which would better deliver on the vision for the Precinct as the municipality's premier sports ground.

For these above reasons the Panel is unable to conclude that these likely public benefits would on balance outweigh the clear impacts such that the Amendment would deliver a net community benefit.

The Panel concludes that the Amendment should not be progressed at this time and not revisited until a comprehensive Master Plan process for the Precinct has been completed. This process should seek to clearly identify the need for any additional land and any public benefits that would ultimately arise from the reservation and acquisition of this land.

5.3 Recommendation

The Panel recommends:

- 1. That the Amendment be abandoned.**

¹⁹ As acknowledge by Council in its Part B written submission, the PAO enables Council as the acquiring authority to prevent changes to the use and development of land where it would prejudice their future acquisition for public open space.

Appendix A List of Submitters

No.	Submitter
1	Department of Environment and Primary Industries
2	Judy Clues
3	Bronwyn Woodgate
4a & 4b	Prahran Cricket Club
5	Malvern Cricket Club
6	Lisa Hasker
7	Jeff Davies
8	David Parnham
9	Dieter E Blainch
10	Alistair, Athea, Hamish and Lachlan
11	MCC Petition
12	Fraser Wilkinson
13	Victorian Blind Cricket Association Inc
14	Prahran Football Club
15	Stonnington Gift Organising Committee
16	East Malvern Community Bank
17	Peter Norman
18	Michael & Anne Arbon
19	Elizabeth Kelly
20, 21, 23-37, 39-51, 53-69, 71-110, 114- 118, 121-124, 126, 127, 129, 130	Various – Same template letter
22	Judi Carr
38	Linda Driscoll
39	Jordan Green
41	Joaquin Carrasco-McDonald
49 and 49a	Nick Neary
52	Brian Newnham
56	Jan Rice
70	Linda Paterson
109	Pamela Carrasco

110	Marilla Guss
111 & 111a	Guy Middleton
112	Jim Hayman
113	Elizabeth Foster
119	Bronte Neyland
120	Norikuni Saito
125	Allen Brent
128	Julie Kemelfield, on behalf of Patricia Tolson

Appendix B Hearing Document List

No.	Document	Date	Party
1	Part A Written Submission	26/5/15	Council
2	Evidence of K Bauer	26/5/15	Council
3	Toorak Park & Victory Square Concept Plan 2009	26/5/15	Council
4	Part B Written Submission	26/5/15	Council
5	Written Submission of J Carr	26/5/15	J Carr
6	Council Report 18 May 2015	26/5/15	Council
7	Written Submission of Prahran Cricket Club	26/5/15	Prahran Cricket Club
