

**City of Kingston
Special Council Meeting**

Minutes

7 July 2008

Notice is given that a Special Meeting of the Kingston City Council has been scheduled for 7.30pm at 1230 Nepean Highway Cheltenham on Monday 7 July 2008.

Business will be as follows:

- 1. Apologies**
- 2. Declaration by Councillors or Officers of any interest or conflict of interest in any items on the Notice Paper, pursuant to Section 79 Local Government Act 1989.**
- 3. Reports by Officers**

<i>K 98 TOWN Planning Report KP275/08 – 10 Tradewinds Lane, Patterson Lakes</i>	Page 3
<i>K 99 P.L.A.N – Moorabbin to Mordialloc Integrated Framework Plan.</i>	Page 9
<i>K100 Town Planning Report KP938/07 – 530 Main Street, Mordialloc</i>	Page 27
- 4. Urgent Business**
- 5. Confidential Items in Camera**

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Minutes of the Special Meeting of the Kingston City Council held at 1230 Nepean Highway Cheltenham, on Monday 7 July 2008 at 7.35pm.

Present: Cr Bill Nixon OAM (Mayor)
Cr Greg Alabaster
Cr Justin McKeegan
Cr Topsy Petchey
Cr Rosemary West OAM

In Attendance: John Nevins – Chief Executive Officer
Paul Franklin – General Manager Corporate Services
Jonathan Guttman – Acting General Manager Environmental Sustainability
Rob Crispin – Acting General Manager Community Sustainability
Sue Braddy – Acting Manager Communications and Promotions
Ian Nice – Manager Planning & Building
Michael Fry – Team Leader Council Business

Business will be as follows:

1. Apologies

Apologies were received from Crs Athanasopoulos and Ronke.

Crs McKeegan/alabaster

That the apologies from Crs Athanasopoulos and Ronke be received and leave of absence from this meeting be granted.

Carried

2. Declaration by Councillors or Officers of any interest or conflict of interest in any items on the Notice Paper, pursuant to Section 79 Local Government Act 1989.

Nil.

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K 98 TOWN Planning Report KP275/08 – 10 Tradewinds Lane, Patterson Lakes.

APPLICANT:	Barker Monahan Pty Ltd
ADDRESS OF LAND:	Reserve 1 on Plan of Subdivision 204794, 10 Tradewinds Lane, Patterson.
Melway Ref:	97F9
PROPOSAL	Remove reserve status, two (2) lot subdivision, removal of drainage easement and creation of restriction.
CONTACT OFFICER:	Anna Reddie
FILE NO:	KP275/08
ZONING:	Residential 3 Zone
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	Clause 12: Metropolitan Development. Clause 32.01: Residential 3 Zone & Schedule. Clause 65: Decision Guidelines. Clause 56: Residential Subdivision.
DECISION BY:	3 June 2008
NETT DAYS:	30 Days @ 3 June 2008

EXISTING CONDITIONS:

The reserve is located at the west end of Tradewinds Lane and contains a gravel path and approximately 7 small trees and shrubs on the site. A Pathway crosses through the reserve and links to Eel Race Road to the west and to Patterson River Secondary College and beyond. The site is a municipal and Drainage Reserve set out on LP204794M at 10 Tradewinds Lane Patterson Lakes. The City Of Kingston is the registered proprietor of the land contained in Certificate of Title Vol 11024 Fol 763. The site has an overall area of approximately 1182m² and is basically level except for the last approximate 2 metres on the west side where it commences to grade into Melbourne Waters drain.

PROPOSAL IN DETAIL:

The proposal is to remove the Reserve status from the Reserve for Municipal and Drainage Purposes, subdivide the land into two (2) lots, (Lot one (1) will be 500m² and Lot two (2) will be 601m²) remove the Drainage Easement created on LP204794M over all of the land in the reserve and creation of restriction.

Lot 1 will have a front setback from the existing title alignment of Tradewinds Lane by 8.5 metres on the east and 10 metres on the west. Lot 1 will have a frontage of 12.43 metres which widens out to 20.52 at the rear and has a length of 38.32 on the east and 31.56 on the west.

Lot 2 has a frontage of 10.17 metres and widens out to 20.48 at the rear. It will be 41.91 metres on the east side and 47.17 metres on its west side.

The reserve path will be reallocated to the western property boundary and will be used as a Reserve for municipal purposes.

TITLE DETAILS

- The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the title.

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

No amendments were made.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site.

During the advertising period five (5) objections were received from the owners/occupiers of the adjoining properties.

The grounds of concern highlighted by the objector may be summarised as follows:

- Traffic Congestion.
- Over development of a Public Open Space.
- Loss of recreational area.
- Safety Issues in regards to traffic congestion and pick up points from the school.
- Loss of Parkland detracts from the current neighbourhood character.
- Potential of overdevelopment of the site.

PRELIMINARY CONFERENCE

A preliminary conference was held on the 29th May, 2008 where the above issues were discussed. Council's Town Planning Officer, the Ward Councillor, the objector(s) and the applicant were all in attendance at this meeting. The abovementioned concerns were discussed in depth at this meeting.

As a result of the Preliminary Conference and the submitted objections, the applicant agreed to amend the plans to address the applicants concerns. The changes are as follows;

- A restrictive covenant be placed on the title that only one dwelling would be allowed to be built on each lot.
- A fifty percent transparent fencing will be located along the western (front) property boundary.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

The following amendments have been made as followed:

- Two seats have been placed at the front of the site;
- Native planting which will reach a maximum height of 1 metre will be located on the western front boundary;
- The lot two (2) will be reduced from 601m² to 581m²;
- A fifty percent transparent fencing will be located on the western front property boundary and
- A restrictive covenant will be placed on each lot allowing only one dwelling to be developed on each lot.

PLANNING SCHEME PROVISIONS

A planning permit is required to subdivide land, pursuant to Clause 32.06-2 of the Kingston Planning Scheme (the Scheme). In addition, Council must consider the relevant State Planning Policy Framework and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement of the Scheme.

REFERRAL

The application was referred to Melbourne Waters to confirm the property was not subject to flooding. This was confirmed by Melbourne Water on 14 November 2007.

Discussion

Kingston Planning Scheme Provisions:

Clause 12: Metropolitan Development

This section of the scheme provides specific objectives and strategies for Metropolitan Melbourne, including the following:

Clause 12.05 A great place to be – seeks to create urban environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity, including:

- § Promotion of good urban design to make the environment more liveable and attractive.
- § Recognition and protection of cultural identity, neighbourhood character and sense of place.
- § Improvement of community safety and encouragement of neighbourhood design that makes people feel safe.
- § Protection of heritage places and values.
- § Promotion of excellent neighbourhood design to create attractive, walkable and diverse communities.
- § Improvement of the environmental health of the bays and their catchments.

Clause 12.08 Better transport links seeks to:

- § Manage the road system to achieve integration, choice and balance by developing an efficient and safe road network and making the most of existing infrastructure.
- § Give more priority to walking and cycling in planning urban development and in managing the road systems and neighbourhoods.

It is considered that this application meets these objectives.

Clause 14.01: Planning for Urban Settlement

This section of the Scheme seeks to facilitate the orderly development of urban areas. It is considered that this application is consistent with the abovementioned objectives.

Clause 32.01: Residential 3 Zone

The purpose of the Residential 3 Zone includes providing residential development at a range of densities with a variety of dwellings to meet the housing needs of all households. To encourage residential development that respects the neighbourhood character, to limit the maximum height of a dwelling or residential building. A planning permit is required to subdivide land.

Clause 56: Residential Subdivision

To create livable and sustainable neighbourhoods and urban places with character and identity. To achieve residential subdivision outcomes that appropriately responds to the site and its context for:

- Metropolitan Melbourne growth areas.
- Infill sites within established residential areas.
- Regional cities and towns.

To ensure residential subdivision design appropriately provides for:

- Policy implementation.
- Livable and sustainable communities.
- Residential lot design.
- Urban landscape.
- Access and mobility management.
- Integrated water management.
- Site management.
- Utilities

It is considered that the proposal is consistent and responsive to the provision of Clause 56 of the Kingston Planning Scheme.

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Clause 65: Decision Guidelines

This clause of the Planning Scheme sets out other matters which must be given regard to before deciding on an application.

It is considered that the proposed development meets the requirements as set out in this Clause of the Planning Scheme.

General Comment

The proposed two (2) lot subdivision, removal of reserve status and removal of drainage easement is considered appropriate for the site as evidenced by:

- The use of the land is considered to be compatible with the surrounding area, and appropriate to a site on the periphery of residential development;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS and Residential 3 zoning.

It is considered that the objector's concerns have been addressed where appropriate, as evidenced by the revised plans submitted by the applicant in response to the objections received. It is considered that subject to the inclusion of suitable conditions on any permit issued, the proposal is considered reasonable and warrants support.

Recommendation

Subject to appropriate conditions, including the conditions required pursuant to Clause 66.01 of the Kingston Planning Scheme, the proposed subdivision is considered reasonable, and should be supported.

RECOMMENDATION:

That a Notice of Decision for the removal of reserve status, two (2) lot subdivision and the removal of the drainage easement and the creation of a restriction in accordance with the attached plan be issued subject to the following conditions:

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
2. Prior to the issue Statement of Compliances a restriction must be created that specific any building on Lots 1 and 2 must have an upper limit of 7 metres above the site and only one (1) dwelling may be erected on each Lots one (1) and two (2).
3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.
4. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of

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subdivision submitted for Certification in favour of the relevant authority for which the easement or site is to be created.

5. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.
6. Reticulated water, sewerage and electricity must be available to each lot shown on the endorsed plans before any lot can be used or occupied.
7. Once the subdivision has started it must be continued and completed to the satisfaction of the Responsible Authority.

Expiry of permit:

In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

- The subdivision is not started before "[insert date]" .
- The subdivision is not completed within five years of the date of certification.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Note: Each building or part of a building resulting from this subdivision must comply with Regulation 3.3 of the Building Regulations 1994.

The meeting was addressed by Mrs Robyn McRae on behalf of the objectors.

Crs McKeegan/Petchey

Motion:

That a Notice of Decision for the removal of reserve status, two (2) lot subdivision and the removal of the drainage easement and the creation of a restriction in accordance with the attached plan be issued subject to the seven conditions specified in the report.

Crs McKeegan/Petchey

Amendment:

That:

- (i) the words "to grant a permit" be added to the motion after the words "Notice of Decision"; and
- (ii) condition 2 be amended to read as follows:
"2. Prior to the issue of a Statement of Compliances for this subdivision, a restriction for this subdivision must be created that specific that any

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building on Lot 1 and Lot 2 must have a maximum upper limit of 7 metres above the ground being directly below the site, and only one (1) dwelling must be erected on each Lot 1 and Lot 2 and ay front fencing must be a minimum of 50% transparent.”

The amendment was put and **lost**.

The motion was put and **lost**.

A division was called

For

Against

Mayor Cr Nixon

Cr Alabaster

Cr McKeegan

Cr Petchey

Cr West

The Motion was **Lost**.

Crs McKeegan/Petchey

That a meeting be held between the Ward Councillor, objectors and planning officers to discuss the future of 10 Tradewinds Lane, Patterson Lakes

Carried

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**K 99 PLAN – Moorabbin to Mordialloc Integrated Framework Plan,
 Consultation Summary and Document Recommendations.**

Approved By: Tony Rijs - General Manager Environmental Sustainability
Author: Rosa Zouzoulas, Team Leader Strategic Planning
 Matt Slavin, Urban Designer

1. Purpose

The purpose of this report is to brief Council on the outcomes of the consultation process undertaken for PLAN, the Moorabbin to Mordialloc Integrated Framework Plan and to table the recommended changes to the PLAN document upon consideration of community comment. The focus for this stage of the PLAN project is the development of draft built form and scale controls to guide development outcomes in the Moorabbin, Cheltenham, Mentone and Parkdale Activity Centres. The objective is to seek interim height controls for these four activity centres. The next stage of the PLAN project concentrates on detailed structure planning and addresses specific matters relating to open space, access and parking.

The Background section to this report provides a summary of the consultation undertaken in April and May 2008. The recommended changes to the PLAN document are tabled in the Issues section.

2. Background

Councillors have been progressively informed on the development of PLAN through briefings, most recently on February 18, March 3 and May 19, 2008 and at the Ordinary Council meeting on 31 March 2008 where the consultation strategy was tabled.. The Strategic Planning Unit undertook an extensive community consultation process during April and May 2008 focussing on proposed built form controls for the four activity centres.

The purpose of the consultation was to outline to the community Council's desire to put in place controls to guide development outcomes in activity centres where no or limited controls are currently in place. Through the consultation process, it was deemed important to illustrate the past and current housing trends both within the Kingston and wider metropolitan context. The metropolitan strategy, Melbourne 2030 suggests that activity centres shall be the focus for new and diverse residential opportunities to cater for an increased population. As highlighted through the consultation process, physical changes to the PLAN activity centres are likely to varying degrees. This message forms the basis for Council's interest for pursuing interim height controls.

The consultation process was not only about dispersing information but to provide an opportunity for community comment on the draft controls. A summary of the public notification and consultation processes undertaken are as tabled below.

- Public notices sent to 13,000 residents within 1 kilometre of each activity centre promoting 4 information sessions/public meetings and survey opportunities.

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- Public notices in local papers (promoting same)
- Full printed PLAN report (available upon request)
- Project information on the Kingston website.
- On-line survey
- Printed surveys (available upon request)
- In Centre promotion, Moorabbin & Cheltenham – 12 April, Mentone & Parkdale – 19 April.
- Information sessions, Moorabbin - 22 April, Mentone - 24 April, Cheltenham - 29 April, Parkdale - 30 April.
- Focus Groups, Moorabbin & Mentone – 23 April, Cheltenham and Parkdale – 28 April
- Village Committee presentations. (pending scheduling)
- KYC articles (April Edition)

Consultation and exhibition was undertaken from April 7 to May 9 with the close of submissions and surveys. Surveys and submissions were received up to May 16.

A total of 203 submissions/surveys were received. They are comprised of the following;

Mentone - Total 70 (35 hard copy surveys, 32 on line surveys, 3 written submissions)

Parkdale - Total 51 (25 hard copy surveys, 23 on line surveys, 3 written submissions)

Cheltenham – Total 56 (32 hard copy surveys, 18 on line surveys, 6 written submissions)

Moorabbin – Total 22 (15 hard copy surveys, 7 on line surveys)

General (PLAN area) – Total 4

Responses in relation to the Stanley Ave land within the Cheltenham Activity Centre are covered later in the report.

A graph summarising the responses to the draft built form and scale controls for each of the four activity centres is contained in Attachment 1. Each survey requested participants to answer yes or no to the proposed number of storeys and the setbacks applied to each precinct. These precincts and the heights proposed varied between each of the four activity centres. Survey respondents were also given the opportunity to provide a general comment in relation to each precinct. A summary of these comments are included below.

Summary Comments.

Moorabbin Major Activity Centre

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The survey indicates that precincts ranging from 3 to 5 storeys were generally supported. An even response was received for 6 storeys (same number of yes and no). There was less support for 7 storeys. There was general support for the setbacks for all precincts.

Written comment was varied. Some respondents were concerned about traffic and parking in relation to the potential expansion of the centre, others suggested a reduction of one level across some precincts.

Overall the focus group feedback and in-centre consultation was positive. There was some feedback that focused on the need for Council to undertake further work in relation to traffic and parking. There was general support for the heights and setbacks for all precincts with many residents being of the view that any development in this Activity Centre would be an improvement. No written submissions were received.

Cheltenham Major Activity Centre

The survey indicates that precincts A to E ranging from 3 to 4 storeys attracted a comparable response overall. Areas such as the south side of Station Rd (A), Stanley Ave (B), the east side of Nepean Hwy (C) and the Park Rd area (D) received more favourable support to the proposed number of storeys whereas the Charman Rd core (Precinct E) received a slightly lesser level of support (23 yes to 27 no) The precincts ranging from 5 to 7 storeys received a mixed response. Precinct I which proposed 7 storeys along the Nepean Hwy attracted a comparable response. There was only a minor difference in the level of support for precincts proposing 5 to 6 stories. There was greater support for the setbacks over all precincts.

As with the focus group and in-centre consultation feedback for the Moorabbin Activity Centre, there was strong support for the heights and setbacks proposed for the precincts of the Cheltenham Activity Centre. Residents considered the heights and setbacks acceptable mainly due to the lack of and variety of residential housing in the immediate vicinity of the activity centre and that the significantly higher heights were concentrated towards the heart of the activity centre closest to Nepean Hwy furthest from established residential areas.

Written comment was varied. Again, concern was expressed about traffic and parking. Comment was made about protecting the residential interfaces and the potential impacts on amenity. Some survey respondents supported increased height within the core of the activity centre as no residential interfaces exist. Whilst there was support for the setbacks proposed for residential interfaces, some suggested reduced setbacks to commercial street edges to provide for greater surveillance of the streets.

Six written submissions were received, some including comment on the Council owned land at Stanley Avenue. Of the total number of responses received, options on the future use of Stanley Ave are as detailed below.

Option A – Retain the land and develop as a public open space – 11

Option B – retain the land for civic and community uses that may be required in the future. Develop a portion of the site for a small pocket park primarily for the purpose of a children’s playground and seek to develop open space within the heart of the activity centre in the form of an urban plaza - 4

The 15 responses received came from a total of 56 survey responses.

Mentone Major Activity Centre

The survey indicates that precincts proposing 3 storeys (B,F, G, I, J) were well supported. Precinct A, D and E which proposes 4 storeys were less supported. Precinct A included residential interfaces. Precinct D and E focussed on the traditional strip shopping areas along Como Pde and Mentone Pde. Support for the proposed setbacks was mixed. A view on this element of the Mentone survey has been difficult to determine. For instance, Precinct D which proposes the most generous of setbacks (10 metres for each level above 2 storeys) generated 39 responses expressing a negative response to this setback, as compared to 27 responses that expressed a positive response.

Feedback from the focus groups and in-centre consultation for the Mentone Activity Centre was generally positive although there were mixed but even opinions with regard to the heights in some of the precincts namely those designated as 4 storeys. Residents agreed that some areas within the activity centre could support 4 storeys so long as the design and built form outcome was appropriate. There were mixed but even opinions about 4 storeys on the periphery of the activity centre. Half of the respondents felt that 4 storeys would be inappropriate given the residential interface but half felt that it would be appropriate given the position and likely ability to achieve development in such locations and not have to contend with such development in established residential areas surrounding the activity centre.

Written comment centred on maintaining a 3 storey height limit for Mentone. Whilst comment was made on traffic and parking, community sentiment towards maintaining its village character was evident and it appears that this is driving the 3 storey preference. Whilst negative comment was generated at 4 storeys for residential interfaces within Precinct A, several comments suggested that 4 storeys were appropriate for the commercial or in-centre areas of this precinct.

3 written submissions were received. One submission included a petition from 163 residents requesting Council set a maximum of 3 storeys for the Mentone Activity Centre.

Parkdale Neighbourhood Activity Centre

PLAN suggests only a minimal level of change. It proposes 3 storeys to a section of Como Pde East and Parkers Rd (Precinct B). Como Pde West (Precinct A) is restricted to 2 storeys as provided by a current overlay. PLAN does not propose changes to Precinct A. The survey indicates that respondents were less in favour of 3 storeys, 27 no to 19 yes responses. The setbacks delivered an identical response. Written comments centred on a preference for 2 storeys.

The focus group feedback was very supportive of the two storey maximum height envisaged for the foreshore side of the activity centre as it helped to protect the character and heritage qualities of the shopping centre. Feedback was generally mixed with regard to Precinct B in Parkdale. Residents considered 3 storeys to be too

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high on the basis of residents' current dissatisfaction with the current 3 storey development on the railway line opposite the library.

General Public Submissions

Four (4) general submissions were received which provided comment on the overall PLAN document. These were very detailed submissions and raised important issues addressing sustainability and infrastructure requirements.

During the process of consultation, a copy of the draft PLAN report was forwarded to the Department of Planning and Community Development for comment. Council officers received a response on May 28 which is provided in Attachment 2. This has been considered as a submission, and is discussed in greater detail in later sections of this report. The letter provides a series of statements regarding what the Department is likely to recommend to the Minister as being supportable.

A main issue for consideration is the weighting applied to the responses received via the surveys and submissions. Community sentiment on PLAN was generally more positive when the in-centre promotions were undertaken. The survey data presented in this report excludes the dialogue which occurred between Strategic Planning officers and the public (except those returned surveys which were distributed during the in-centre promotion). The in-centre discussions yielded a positive response to Council's objective of guiding development outcomes through the introduction of built form controls.

Similarly, the dialogue between residents who participated in the Focus Groups was also generally positive. A brief summary of the focus group discussion on the Precinct Maps is contained within Attachment 4. When you compare responses received through all 4 consultation mechanisms, the positive verbal feedback through the focus groups and in-centre promotions provided a contrasting balance to the negative sentiment expressed at some times during some of the public meetings.

It is important to recognise that the consultation mechanisms were geared to ensure that the views of all age groups could be captured. It was considered that the focus groups and in-centre promotions best provided for this opportunity, as compared to the public meetings where mature age brackets were more highly represented.

The survey responses for Mentone and Parkdale, whilst being the most moderate to minimal areas of potential change, suggested further reductions to maintain amenity and reduce traffic in the centres. It is evident that in the Mentone results, that community sentiment would appear to have been amplified by the recent proposal on the former Le Gym site. The emotive responses requiring a cap of 3 storeys for Mentone needs to be balanced with the comments that recognise change within the PLAN activity centres in some form is necessary and that providing opportunities to increase population requires housing options which are new and different to what is currently and traditionally available.

It is considered that there is a general level of acceptance for the level of change proposed for Moorabbin and Cheltenham, with managing residential interfaces being critical in achieving appropriate design and amenity outcomes.

3. Issues

3.1 Submission from the Department of Planning and Community Development (DPCD).

As mentioned in Section 2 of this report, Council sought the feedback from the DPCD in relation to the draft PLAN report. The letter outlines a number of comments. These are discussed as follows:

§ *Background Analysis*

DPCD state that PLAN would benefit from a more comprehensive consideration of the role and hierarchy of Kingston's activity centres within a regional context, and identifying future employment, commercial, and mixed use development opportunities through a comprehensive retail and economic analysis. With the level of familiarity the Department has with the City of Kingston's Retail and Commercial Development Strategy and its recommendations, it is unclear to Officers how this comment has been included. The draft PLAN report highlights in the Planning Context section the detailed considerations arising from the Strategy for each of the Principal and Major Activity Centres with regard to their ability to support future retail and commercial activity and the strategic initiatives required for this to occur. The detailed sections of the PLAN report with regard to each individual centre outline the strategic directions for the centre taking into account the economic and planning matters and recommendations arising from the Retail and Commercial Development Strategy.

Recommendation: The draft PLAN report currently implements and includes key aspects of the Retail and Commercial Development Strategy. It is not recommended that any changes to the draft PLAN report are therefore required in response to this request..

§ *Discretionary Height Controls*

The department has made it clear in its letter to Council that it will only support the introduction of mandatory height and setback controls in exceptional circumstances and only within a limited and well defined area. This is on the basis that good design outcomes can be achieved without mandatory controls. By using discretionary controls the Department states that Council could maintain the opportunity to consider proposals which meet the strategic intent of structure plans and offer community benefit.

Council will be familiar with the outcomes of recent local circumstances it has explored mandatory versus discretionary height and setback controls. In particular and of late, Council Officers have sought to pursue mandatory controls for the Mordialloc and Highett Activity Centres following the completion of structure plans. It is now apparent that Independent Planning Panels and thus the Minister for Planning will allow mandatory controls in exceptional circumstances whereby the following matters are evident:

- The mandatory controls are required to provide for a detailed outcome in a heritage area or place that might otherwise be compromised with more discretionary controls;

- That mandatory controls are justified where planning has taken account of all the strategic issues and has been undertaken in sufficient detail to show that an area exudes special or exceptional characteristics, and a built form that best accommodates all of the objectives. Where planning has been taken to this level of detail and an attempt is being made to realise a collective vision which is to apply over multiple ownerships.

This is evident by recent Planning Panel recommendations for both Mordialloc and Highett whereby mandatory controls were approved for Mordialloc due to the local heritage character and values of Main Street and in Highett where mandatory controls were only approved for the Highett Road precinct where the urban character of that precinct was considered an exceptional circumstance due to its character and urban design considerations. Importantly, the Panel that considered the Highett amendment made it very clear that whilst the strategic detail and justification for mandatory controls in relation to heights and setbacks was appropriate for the former Gas and Fuel precinct, that the vision would not be compromised by the application of discretionary controls as opposed to mandatory.

Recommendation: The draft PLAN report be amended to:

- § Provide absolute and detailed setback and height provisions for precincts that exhibit heritage characteristics, and require special urban design considerations as follows:
 - Maximum height controls to control the height of the street wall
 - Detailed setback provisions applicable to the first setback from the street wall;
 - Maximum building height only in exceptional circumstances that can be strategically justified and would compromise urban design objectives at a higher level.
- § Apply discretionary controls in all other areas;
- § *Inhibiting Growth*

The issue of inhibiting growth is linked to the comments of the Department in relation to discretionary height controls outlined above.

The letter further states that controls proposed must not limit the ability of an Activity Centre to accommodate community requirements for retail, commercial, housing, health and education services and other essential requirements.

The draft PLAN report seeks to provide for a mix of uses in precincts and activity centres that have the ability or are lacking in such community services and facilities. Importantly, the recommendations of the Retail and Commercial Development Strategy have been applied to PLAN to determine the requirements for retail and commercial facilities within each centre. Similarly, in the background phase of the PLAN project, a detailed assessment and review of each activity centre was undertaken to determine the strengths and weaknesses. This review was coupled with the feedback received from the community through its substantial consultative process that involved both qualitative and quantitative

research. This research assessed the centres to highlight community services and facilities that are deficient. This information collectively informed the built form and scale envisaged for each centre, including the types of uses. Accordingly the draft PLAN report facilitates a number of redevelopment opportunities of substantial scale in each of the centres that have the ability to cater for the community requirements as identified by the Department's letter.

Recommendation: The draft PLAN report currently implements and includes key aspects of the Retail and Commercial Development Strategy and seeks to facilitate a range of development outcomes based on research and community consultation that cater for specific community requirements. It is not recommended that any changes to the draft PLAN report are therefore required.

§ *Strategic Sites*

The submission from DPCD does not consider that the PLAN report has explored the real potential for development on strategic redevelopment sites in Cheltenham and Mentone in particular and suggests that further work analysing the special opportunities for additional growth and improved pedestrian connections provided by these sites should be undertaken before the adoption of PLAN. As discussed in great detail within the draft PLAN report, the precincts and thus the built form and scale within each precinct particularly the larger more strategic sites within each activity centre have been developed from the Strategic Directions Plans developed by Council's Urban Designer. These plans are based upon a detailed analysis of the capacity for change, open space opportunities, linkages and connections both pedestrian and vehicular, and other key urban design considerations such as street scale, building patterns, critical view lines and landscape opportunities. Following the analysis, model work was undertaken to complement the Strategic Directions Plans and to validate suggested scale and height proposals.

The City of Kingston considers the urban design analysis of each activity centre to be of the utmost importance when undertaking its Structure Plans. Council is aware of the need for forward plans to provide for opportunities for additional growth and regards its framework plan as visionary in its ability to provide for appropriate growth in a manner complimentary to established urban forms and character of its Activity Centres. Council does not consider it appropriate to begin with a numbers exercise that would ultimately shape the form and scale of its Activity Centres, this would result in undue design outcomes that would have the potential undermine the character and appearance of centres particularly where centre's exhibit 'special' or 'heritage' characteristics.

Recommendation: The draft PLAN report currently outlines height and setback provisions for each precinct within each Activity Centre. In accordance with proposed recommendations outlined above, it is contended that strategic redevelopment sites will not be constrained by way of growth opportunities given the discretionary nature of the recommended changes to the PLAN report.

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§ *Principles for Determining Height & Setbacks*

Discretionary built form controls should include clear design objectives that are based on sound urban design principles. To this end, the Department suggests that wider road reserves can accommodate vastly taller built forms on the street edge without detriment, and that good urban design principles would suggest that balconies should come to the edge of lower floors as examples.

The draft PLAN report has been developed keeping in mind good urban design principles and established planning controls. Considerations such as those provided by way of example by the Department have been catered for in the development of the built form controls outlined in the PLAN report. The built form examples clearly indicate higher built forms along Nepean Hwy and South Roads in both the Moorabbin and Cheltenham Activity Centres. It is contended that in addition to urban design principles focussed upon in the Department's letter, that Council has sought to include a raft of other design, character, heritage and planning principles in its decision making and ultimate built form controls as presented in the report. Furthermore, as with all structure planning exercises, and as outlined in the Practice Note for the development of structure plans, matters of concern identified by the community have also been included in Council's development of built form controls included in the draft PLAN report. Accordingly it is considered that Council has reasonably considered all relevant principles and objectives in the development of its draft PLAN report.

Recommendation: It is not recommended that any changes to the draft PLAN report are required.

§ *Testing Potential Controls*

Appropriately, the Department has highlighted the need for the built form controls described in PLAN to be examined and tested to determine their desirability and economic feasibility. The basis of the suggestion stems from the need to ensure that controls do not create unrealistic development envelopes, that function poorly and are cost prohibitive to develop. Since receiving the Department's feedback to the PLAN project, Council officers have sought to test the controls both from an urban design and planning perspective. This has identified conflicting objectives, particularly on corner sites where different built form controls are proposed. Accordingly, and in addition to the other considerations identified by the Department, it is considered appropriate that the setbacks be modified, in accordance with the recommendations outlined earlier in this report relating to mandatory versus discretionary controls, to ensure realistic development outcomes are achievable.

Recommendation: It is recommended that the changes to the draft PLAN report as outlined earlier in this report in relation to mandatory versus discretionary built form controls will appropriately respond to this issue.

§ *Pedestrian Access and Movement*

The Department has identified the need for Council to work towards the development of an Integrated Transport Strategy as part of its structure planning

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process. Council is mindful of the need to do further work in relation to pedestrian access and transport. This has been a key issue arising from the public consultation process undertaken for the PLAN project, and is a critical aspect of the second stage of the PLAN project whereby individual detailed structure plans for each Activity Centre will be developed.

Recommendation: The individual structure plans that are proposed to be developed for the Activity Centres will critically examine the movement and transport issues. Individual Structure Plans are proposed to be developed in the coming year(s) once completion of the overarching PLAN framework plan has been achieved and implemented within the Kingston Planning Scheme by way of interim planning controls.

3.1 Discussion of Recommended changes to PLAN

As outlined in section 3.1 of this report, changes to the draft PLAN report have been recommended. These are as follows:

The draft PLAN report be amended to:

- § Provide absolute and detailed setback and height provisions for precincts that exhibit heritage characteristics, and special urban design considerations and characteristics as follows:
 - § Maximum height controls to control the height of the street wall.
 - § Detailed setback provisions applicable to the first setback from the street wall.
 - § Maximum building height only in exceptional circumstances that can be strategically justified and legitimately cannot be entertained at higher levels.
- § Apply discretionary controls in all other areas;

Maps showing the precincts where mandatory built form controls will be sought are attached as Appendix 3 to this report.

In considering all the feedback received to the draft PLAN report, and a review of the precincts and proposed built form controls, a number of other additional areas have been examined by Council Officers with a view towards recommending changes to the draft PLAN report. These are outlined as follows:

§ *Moorabbin*

It is not proposed to alter any of the precinct boundaries or built form controls beyond that described with regard to mandatory versus discretionary controls for this Activity Centre. The basis of this decision is the generally positive feedback received from the community through all mediums of consultation undertaken.

As outlined in Section 2 of this report there was general support for the precincts ranging from 3 to 5 storeys an even response was received for 6 storeys and there was general support for the setbacks in all precincts. There was less support for 7 storeys. Whilst there was less support for 7 storeys it is reasonable to suggest 7 storeys in areas where there is no abuttal with established residential areas, the

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precinct does not display any special or heritage characteristics and the width of the road, and locational characteristics can easily support such heights.

The two precincts nominated for 7 storeys are located on Nepean Hwy and South Road respectively. Buildings in relative proximity and indeed within each of these precincts already display substantial building forms not dissimilar to the proposed 7 storeys. Accordingly no changes are proposed

Recommendation: No changes to the precinct boundaries or built form controls proposed for the Moorabbin Activity Centre apart from those outlined earlier in this Section in relation to mandatory versus discretionary prescription of built form controls which are detailed in the plans attached in Appendix 3.

s *Cheltenham*

Overall the feedback received in response to the Cheltenham Activity Centre was generally positive. There was an even response to most precincts with some comments suggesting variations and setback proposals were in the main positive. Council's own review of the precincts and proposed built form controls led to a few minor suggested changes with regard to precinct boundaries. These changes maintain the proposed heights suggested but rather change the built form outcomes to the street wall to accord with the preferred streetscape envisaged.

In particular, it is proposed that the southern corner of Station Road and the Nepean Hwy be changed from precinct A(4) to precinct C(4). This results in a three storey street wall as opposed to a two storey street wall. The change is recommended on the basis that the streetscape for this intersection is consistent across the intersection and consistent in its interpretation and appearance from Nepean Hwy. No changes are proposed to the setbacks from the residential edge.

It is proposed to extend precinct H(6) to expand around Railway Road and extend precinct G(5) to the western laneway at the rear of the Charman Road facing properties. The effect of this change is a more consistent approach to development outcomes along the northern side of Station Road and a larger developable area within which to reasonably and realistically achieve both five (5) and six (6) storey heights as stated for precincts H and G. Given the precincts would abut 4 storey heights to the west and 7 storey heights to the east, it is considered a reasonable transition from precinct E to the existing City of Kingston Cheltenham Offices currently developed at a maximum height of 7 storeys. The precincts are located substantial distances from nearby established residential areas and do not affect the special character of the Charman Road precinct proposed to be provided through mandatory provisions.

The low number of responses received to the proposed options for the Stanley Ave land indicate that a definitive use of the land does not appear as an immediate priority to the community in relation to the current stage of the PLAN project. It is considered that Option B provides for a mix of options that allowed for the land to be retained for civic and community uses that may be required in the future. Specifically Option B provided for a small pocket park primarily for the purpose of a children's playground in conjunction with other civic and/or community uses that

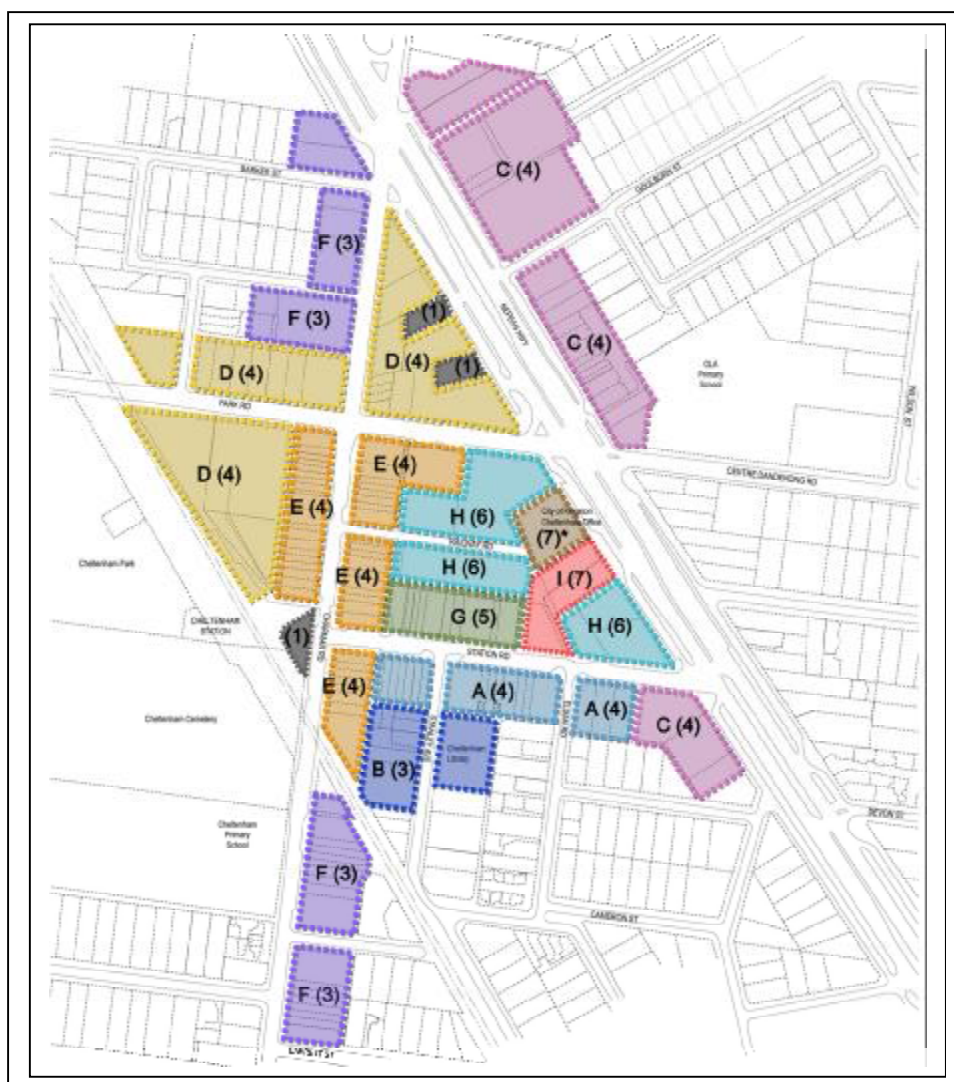
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could also be provided for on the balance of the land. Option B therefore does not restrict the community benefit that could be derived from the land in the future.

Recommendation: The changes to the precinct boundaries as outlined above are graphically shown below. Changes to the PLAN report further include those outlined earlier in this section in relation to mandatory versus discretionary prescription of built form controls and are detailed in the plans attached in Appendix 3.



§ *Mentone*

As mentioned in Section 2 of this report the survey indicates that precincts proposing 3 storeys (B,F, G, I, J) were well supported. Precincts A, D and E which propose 4 storeys were less supported. Precinct A includes residential interfaces. Precincts D and E focussed on the traditional strip shopping areas along Como Pde and Mentone Pde. Support for the proposed setbacks was mixed.

In addition to the one petition received during the consultation process, Council has since received two additional petitions that seek an amendment to the draft PLAN report that alters all proposed four storey precincts to a maximum of three storeys and the other being that Council adopt a motion put forward by Councillor West at the May Council Meeting for a maximum three storey height limit for any

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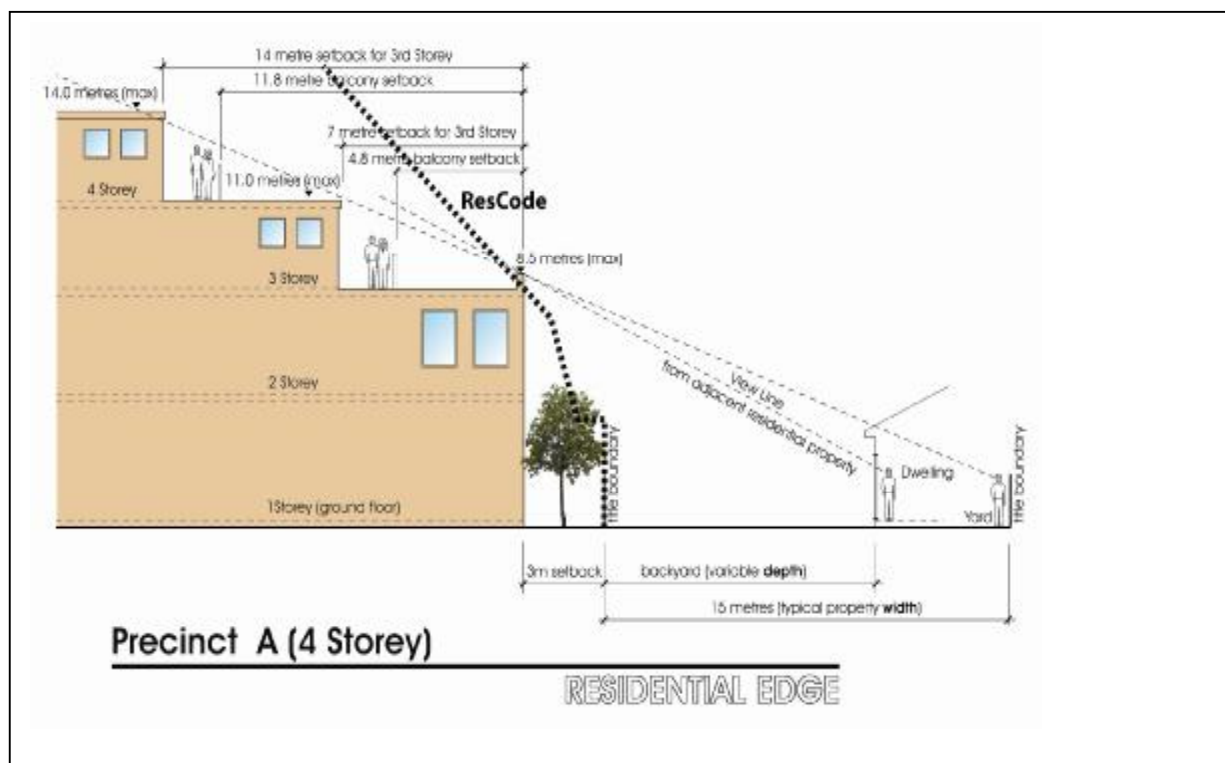
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development with a residential interface within the boundaries of Nepean Hwy, Balcombe Road and the Railway line.

Council Officers have reviewed the feedback received in relation to sound planning and urban design principles required to be considered when formulating built form controls as detailed in the Planning Practice Note developed by the State Government in addition to the feedback recently received by the Department in response to the draft PLAN report.

Overall Council Officers are of the view that the review of the Mentone Major Activity Centre precincts and built form controls are appropriate given the centre's locational characteristics, the appearance and character of the centre, the heritage qualities of the centre and the pedestrian and street scale of the centre. Accordingly, no changes to the overall heights and built form controls of each of the precincts is proposed. Precincts that abut residential areas, this being predominantly precinct A, envisage substantial setbacks that are well in excess of any other urban design or planning scheme provisions, including ResCode or those used in a comparable initiative such as Mordialloc. This ensures that any possible detrimental impacts to neighbouring residential areas are removed, see image below.



Furthermore, it is considered unreasonable that development within Precinct A be subjected to additional restrictions by way of three storey height limits on the basis that the location, the size and substantial setbacks applicable to such precincts would be above and beyond that applicable to directly adjoining sites whereby three storeys or higher could be established with considerably less setbacks and constraints.

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Should Councillors decide that the A(4) precinct on the northern side of Balcombe Road and east of the railway line be limited to three storeys in accordance with community feedback, then recommendation B as outlined below for Mentone be pursued. Recommendation B alters the precinct map contained within the draft PLAN report by creating a new precinct A⁺(3). The setbacks would not change under this option.

Other changes recommended by Officers include a change to the precinct map for the A(4) precinct on the southern side of Balcombe Road.. The area on the corner of Mentone Parade and Balcombe Road includes a number of properties that display the same characteristics as those that front Como Parade and as such should be treated in a similar manner with regard to the streetscape outcomes. Accordingly it is proposed to amend the boundaries of this A(4) precinct and create a second E(4) precinct on the corner of Balcombe Road and Como Parade.

Lastly, the final change includes a precinct boundary amendment. Precinct D(4) is proposed to be shortened (see map below) and precinct G(3) is proposed to be extended north to encompass those properties up to the pedestrian crossing at the top of Mentone Parade. The properties included in the extended G(3) precinct exhibit the same property characteristics and are located within an area that has sensitive heritage considerations both within the precinct and in the broader context.

The streetscape outcome is not dissimilar for both precincts in that a two storey street wall with a 10m setback for the third storey from Mentone Parade is encouraged. Precinct D(4) exhibits much larger properties that have the ability to accommodate four storeys without compromising the proposed setbacks for upper levels which are considered most important given the special heritage characteristics of the immediate area.



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Recommendation: The changes to the precinct boundaries as outlined earlier as graphically shown be pursued. Changes to the PLAN report further include those outlined earlier in this section in relation to mandatory versus discretionary prescription of built form controls and are detailed in the plans attached in Appendix 3.

Recommendation B: The changes to the precinct boundaries as outlined earlier as graphically shown be pursued. Alter the precinct map contained within the draft PLAN report by creating a new precinct A⁺(3) located on the northern side of Balcombe Road east of the railway line. The setbacks for the new precinct A⁺(3) would not change. Changes to the PLAN report further include those outlined earlier in this Section in relation to mandatory versus discretionary prescription of built form controls and are detailed in the plans attached in Appendix 3.

§ *Parkdale*

It is not proposed to alter the precinct boundaries or the built form controls for the Parkdale Activity Centre. The foreshore side of the activity centre is currently subject to the provisions of Schedule 1 to the Design and Development Overlay which limits building heights to a maximum of two (2) storeys. The inland side of the activity centre is described as Precinct B in the draft PLAN report. A maximum of three (3) storeys is proposed for Precinct B. Council Officers do not propose to alter the three storey height proposed for this section of the activity centre on the basis that there are limited opportunities for growth on the foreshore side of the centre and the proposed setbacks envisaged for precinct B are well in excess of those that would result on adjoining properties should they be developed with a maximum height of three storeys under ResCode.

Recommendation: No changes to the precinct map or built form controls are proposed for the Parkdale Activity Centre beyond those outlined earlier in this Section in relation to mandatory versus discretionary prescription of built form controls and are detailed in the plans attached in Appendix 3.

4. Next Steps

It is recommended that the built form controls and precinct boundaries identified by the draft PLAN report and as recommended to be amended by this report be developed into a statutory control for incorporation into the Kingston Planning Scheme as soon as is practicable in order to provide for interim controls to guide planning decisions in the short term. Following the introduction of interim controls it is recommended that the detailed individual structure plans be commenced and completed to guide an amendment to introduce permanent controls. Council has provided sufficient resources in the coming year for it to tackle key issues primarily in relation to the provision of open space within activity centres and carparking and traffic management. It is considered that this phase of work will be sufficiently detailed within the detailed individual structure plans thereby ensuring that the comments of residents as provided through the various forms of consultation for PLAN are carefully considered.

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Accordingly, the next step envisaged is an amendment to the Kingston Planning Scheme that seeks to:

- § *Introduce four new Schedules to the Design and Development Overlay to provide guidance with regard to the built form, height and design standards for all new development within each of the four activity centres of Moorabbin, Cheltenham, Mentone and Parkdale.*
- § *Modify any relevant clauses of the Municipal Strategic Statement to give recognition to the objectives for the future of these four Activity Centres.*
- § *Amend where relevant existing local planning policies to ensure that development outcomes proposed to be pursued by the new Schedules to the Design and Development Overlay are not compromised by the existing planning scheme provisions.*

5. Triple Bottom Line Checklist

Budget/Financial Impact

It is considered there are no financial implications associated with the PLAN document.

Social Impact

The introduction of built form and scale controls provides a mechanism to assure residents that matters of building scale, amenity, character and design have been considered and that new activity developments will not unduly impact on the liveability of their neighbourhood. It is recommended that feedback is provided to all involved in the consultation process, upon the adoption of the recommendations of Council.

Environmental Impact

It is considered there are no environmental implications associated with the contents of this report or its recommended actions. It is recognised that the issue of sustainability will become important in the further development of PLAN as it seeks to undertake detailed structure planning with particular emphasis on integrating transport and land use decisions and considering where feasible, additional public space in activity centres.

6. Summary and Conclusion

The consultation for PLAN has involved a comprehensive process of public engagement through various forums such as public meetings, in centre promotions, focus groups and surveys for a period of one month. The consultation outcomes have been considered in the review of the final PLAN document that will now form the basis for the request and introduction of interim planning controls.

For the reasons outlined in this report, the following recommendation is provided to Council. Please see over.

Recommendations

1. Council resolve to adopt the PLAN report in accordance with the following recommendations:
 - a) The draft PLAN report be amended to:
 - § Provide absolute and detailed setback and height provisions for precincts that exhibit heritage characteristics, and special or exceptional urban design analysis and characteristics as follows and as detailed in the images attached in Appendix 3:
 - § Maximum height controls to control the height of the street wall
 - § Detailed setback provisions applicable to the first setback from the street wall;
 - § Maximum building height only in exceptional circumstances that can be strategically justified and development cannot be entertained at higher levels.
 - § Apply discretionary controls in all other areas and as detailed in the maps attached in Appendix 3;
 - b) That the southern corner of Station Road and the Nepean Hwy, Cheltenham be changed from precinct A(4) to precinct C(4);
 - c) Extend precinct H(6) to expand around Railway Road and extend precinct G(5) to the western laneway at the rear of the Charman Road facing properties in Cheltenham;
 - d) In Mentone, amend the boundaries of the north western A(4) precinct and create a second E(4) precinct on the corner of Balcombe Road and Como Parade; and
 - e) Precinct D(4) be shortened and precinct G(3) be extended north to encompass those properties up to the pedestrian crossing on Mentone Parade, Mentone.
2. Council initiate a Planning Scheme Amendment and seek authorisation from the Minister for Planning pursuant to Section 20 (4) of the Planning and Environment Act 1987 to introduce through new schedules to the Design and Development Overlay, interim controls relating to design and built form of development within the Moorabbin, Cheltenham, Mentone Major Activity Centres and the Parkdale Neighbourhood Activity Centres, generally in accordance with attachments to this report.
3. That following recommendations 1 and 2 above, Council commence the development of detailed structure plans for the Moorabbin, Cheltenham and Mentone Activity Centres in an effort to commence more detailed community consultation in early 2009.
4. Council notify all parties who have made submissions throughout the PLAN consultation and have attended the PLAN consultation forums of the above resolutions.
5. Council endorse Option B (mix of community use and open space) for the Stanley Ave land in the Cheltenham Major Activity Centre.
6. That Council Officers provide an update to Local Members of Parliament regarding its completed consultation process and resolutions of Council arising from the discussions contained within this report

Alternatively, should Councillors pursue a change to precinct A(4) on the northern side of Balcombe Road and east of the railway line in the Mentone Activity Centre, then the following recommendation is provided to Council: Please see over.

Recommendations

1. Council resolve to adopt the PLAN report in accordance with the following recommendations:
 - a) The draft PLAN report be amended to:
 - § Provide absolute and detailed setback and height provisions for precincts that exhibit heritage characteristics, and special or exceptional urban design analysis and characteristics as follows and as detailed in the images attached in Appendix 3:
 - § Maximum height controls to control the height of the street wall
 - § Detailed setback provisions applicable to the first setback from the street wall;
 - § Maximum building height only in exceptional circumstances that can be strategically justified and development cannot be entertained at higher levels.
 - § Apply discretionary controls in all other areas as detailed in the maps attached in Appendix 3;
 - b) That the southern corner of Station Road and the Nepean Hwy, Cheltenham be changed from precinct A(4) to precinct C(4);
 - c) Extend precinct H(6) to expand around Railway Road and extend precinct G(5) to the western laneway at the rear of the Charman Road facing properties in Cheltenham;
 - d) In Mentone, amend the boundaries of the north western A(4) precinct and create a second E(4) precinct on the corner of Balcombe Road and Como Parade; and
 - e) Alter the precinct map contained within the draft PLAN report by creating a new precinct A⁺(3) located on the northern side of Balcombe Road east of the railway line, in Mentone. The setbacks for the new precinct A⁺(3) would not change; and
 - f) Precinct D(4) be shortened and precinct G(3) be extended north to encompass those properties up to the pedestrian crossing on Mentone Parade, Mentone.
2. Council initiate a Planning Scheme Amendment and seek authorisation from the Minister for Planning pursuant to Section 20 (4) of the Planning and Environment Act 1987 to introduce through new schedules to the Design and Development Overlay, interim controls relating to design and built form of development within the Moorabbin, Cheltenham, Mentone Major Activity Centres and the Parkdale Neighbourhood Activity Centres generally in accordance with attachments to this report.
3. That following recommendations 1 and 2 above, Council commence the development of detailed structure plans for the Moorabbin, Cheltenham and Mentone Activity Centres in an effort to commence more detailed community consultation in early 2009.
4. Council notify all parties who have made submissions throughout the PLAN consultation and have attended the PLAN consultation forums of the above resolutions.
5. Council endorse Option B (mix of community use and open space) for the Stanley Ave land in the Cheltenham Major Activity Centre.
6. That Council Officers provide an update to Local Members of Parliament regarding its completed consultation process and resolutions of Council arising from the discussions contained within this report

Crs Alabaster/West

Motion:

1. Council resolve to adopt the PLAN report in accordance with the following recommendations:
 - a) The draft PLAN report be amended to:
 - § Provide absolute and detailed setback and height provisions for precincts that exhibit heritage characteristics, and special or exceptional urban design analysis and characteristics as follows and as detailed in the images attached in Appendix 3:
 - § Maximum height controls to control the height of the street wall
 - § Detailed setback provisions applicable to the first setback from the street wall;
 - § Maximum building height only in exceptional circumstances that can be strategically justified and development cannot be entertained at higher levels.
 - § Apply discretionary controls in all other areas and as detailed in the maps attached in Appendix 3;
 - b) That the southern corner of Station Road and the Nepean Hwy, Cheltenham be changed from precinct A(4) to precinct C(4);
 - c) Extend precinct H(6) to expand around Railway Road and extend precinct G(5) to the western laneway at the rear of the Charman Road facing properties in Cheltenham;
 - d) In Mentone, amend the boundaries of the north western A(4) precinct and create a second E(4) precinct on the corner of Balcombe Road and Como Parade; and
 - e) Alter the precinct map contained within the draft PLAN report by creating a new precinct A(3) located on the northern side of Balcombe Road east of the railway line, in Mentone. The setbacks for the new precinct A(3) would not change; and
 - f) Precinct D(4) be shortened and precinct G(3) be extended north to encompass those properties up to the pedestrian crossing on Mentone Parade, Mentone.
2. Council initiate a Planning Scheme Amendment and seek authorisation from the Minister for Planning pursuant to Section 20 (4) of the Planning and Environment Act 1987 to introduce through new schedules to the Design and Development Overlay, interim controls relating to design and built form of development within the Moorabbin, Cheltenham, Mentone Major Activity Centres and the Parkdale Neighbourhood Activity Centres, generally in accordance with attachments to this report.
3. That following recommendations 1 and 2 above, Council commence the development of detailed structure plans for the Moorabbin, Cheltenham and Mentone Activity Centres in an effort to commence more detailed community consultation in early 2009.
4. Council notify all parties who have made submissions throughout the PLAN consultation and have attended the PLAN consultation forums of the above resolutions.

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5. That Council Officers provide an update to Local Members of Parliament regarding its completed consultation process and resolutions of Council arising from the discussions contained within this report

Crs West/Alabaster

Amendment:

That part 1 b of the recommendation be amended to read as follows:

- “b) That the southern corner of Station Road and the Nepean Hwy, Cheltenham be changed from precinct A(4) to precinct C(3) and that the rest of the southern side of Station Road be changed from A(4) to A(3).”

The amendment was put and **lost**.

Crs Alabaster/West

That the motion be adopted.

Carried

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K 100 Town Planning Report KP938/07 -530 Main Street, Mordialloc

Applicant: 530 Main Street Pty Ltd
Location: No. 530-540 Main Street, Mordialloc
Melways Ref: 87E12
Proposal: *Mixed Use Development (Comprising the development and use of the land for a supermarket, shops, dwellings, basement car parking, advertising signage and a reduction in the car parking (Clause 52.06) and bicycle storage requirements (Clause 52.34) and to demolish buildings on land affected by a Heritage Overlay (Clause 43.01) of the Kingston Planning Scheme).*

File Number: KP938/07
Planning Officer: Sherie Kirby
Objections: Fifteen (15)
Zoning: Business 1

Kingston Planning Scheme Ordinance Controls:

Clause 14.01: *Planning for Urban Settlement*
Clause 16.02: *Medium Density Housing*
Clause 17.01: *Activity Centres*
Clause 17.02: *Business*
Clause 18.01: *Declared Highways, Railways & Tramways*
Clause 18.02: *Car Parking & Public Transport Access to Development*
Clause 19.03: *Design & Built Form*
Clause 21.03: *Land Use Challenges for the New Millennium*
Clause 21.04: *Strategic Framework Plan*
Clause 21.06: *Retail and Commercial Land Use*
Clause 22.14: *Mordialloc Activity Centre*
Clause 22.15: *Outdoor Advertising Sign Policy*
Clause 34.01: *Business 1 Zone*
Clause 43.01: *Heritage Overlay*
Clause 43.02: *Design & Development Overlay (Schedule 10)*
Clause 52.05: *Advertising Signs*
Clause 52.06: *Car Parking*
Clause 52.07: *Loading & Unloading of Vehicles*
Clause 52.29: *Land Adjacent to a Road Zone (Category 1)*
Clause 52.34: *Bicycle Facilities*
Clause 65: *Decision Guidelines*
Clause 66: *Referrals*

Residential Policy Area *Not Applicable

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Development Summary:

<i>SITE AREA</i>	<i>3450m²</i>
<i>FRONTAGE/S</i>	<i>77.91 metres to Nepean Highway (Main Street)</i>
	<i>37 metres to Epsom Road</i>
<i>DEPTH</i>	<i>37 metres</i>
<i>SITE COVERAGE</i>	<i>100%</i>
<i>NO. OF DWELLINGS</i>	<i>39</i>
<i>NO. OF STOREYS</i>	<i>3</i>
<i>NO. OF BASEMENT LEVELS</i>	<i>2</i>
<i>FRONT SETBACK</i>	0 metres to Nepean Highway (Main Street) - East 0 metres to Epsom Road - North
<i>MINIMUM SIDE SETBACK</i>	To the south: 0 metres To the west: 0 metres
<i>REAR SETBACK</i>	0 metres to rear (west) property boundary

Existing Conditions:

The subject site comprises seven (7) allotments and has direct road abuttal to both Nepean Highway (Main Street) and Epsom Road, Mordialloc. To Nepean Highway, the land has a frontage width of 77.91 metres to the east and a frontage width of approximately 37 metres to Epsom Road to the north. The land has an overall area of 3450m² and is irregular in shape. The topography of the land is relatively flat and void of any significant vegetation.

At present, the land is developed and use for a supermarket (NQR Store), three (3) specialty shops and a motor vehicle repairs premises. Vehicle access to the site is available from two (2) access points along the site's Epsom Road frontage and also at the north-west end of the service road that runs parallel to Main Street. The existing entry from the service road predominantly serves as vehicle access to the loading bay area of the supermarket.

Surrounding the subject site, the land is used for a combination of commercial and residential uses. The land to the north of the site is occupied by the Mordialloc Sporting Club at the south-east intersection of Epsom Road and Main Street. To the west, the land is developed and used for medium density housing which fronts Epsom Road. Land to the south along Main Street represents the core commercial precinct of Mordialloc, with a combination of single-storey and double-storey buildings fronting the street frontage. On-street car parking is available within the service road along this section of Main Street. Land opposite the subject site to the east across Nepean Highway is predominantly developed and used for commercial purposes.

The subject site is located within the Mordialloc Activity Centre which is designated as a "major activity centre" under the State Government's Melbourne 2030 Strategy. The land is situated within close proximity to all forms of physical and social infrastructure, namely the Mordialloc Railway Station to the south-east, local shops to the south and the Mordialloc foreshore reserve to the west.

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The subject site and the land directly to the south is zoned Business 1 whilst the land to the north and west is zoned Residential 1. It is noted that Main Street is not a Road Zone (Category 1).

Site History:

Planning Permit No. KP904/03 was issued by the City of Kingston on 6th May, 2004, for the development of the site for a restricted retail premises with a reduced car parking requirement, pursuant to Clause 52.06 of the Scheme.

Planning Permit No. KP99/884 was issued by the City of Kingston on 2nd August, 2000, for the construction of buildings and works on the site.

Proposal:

It is proposed to develop and use the land for a supermarket, three (3) specialty retail stores, thirty-nine (39) dwellings with a basement car parking area. The proposal also seeks approval for the demolition of existing buildings, the display of business identification signage and a reduction in the car parking and bicycle storage requirements of the Kingston Planning Scheme.

A total of 167 car parking spaces would be provided on-site with the two (2) basement car parking levels, with vehicle access to be provided along the site's Epsom Road frontage.

At ground level, the proposed supermarket (1005m²) would occupy the majority of retail floor space in addition to ten (10) retail premises fronting both Main Street and Epsom Road. The first floor and second floor levels would comprise the residential component of the development.

A summary of the residential component of the proposed development is provided below:

	Area (m²)	Private Open Space Area (m²)	No. of Bedrooms
Dwelling 1	107	29	3
Dwelling 2	76	27	2
Dwelling 3	148	15	3 + Study
Dwelling 4	72	46	2
Dwelling 5	67	26	2
Dwelling 6	65	17	2
Dwelling 7	72	30	2
Dwelling 8	75	29	2
Dwelling 9	72	30	2
Dwelling 10	68	10 & 5	2
Dwelling 11	72	26	2
Dwelling 12	72	37	2
Dwelling 13	45 & 41	14	2
Dwelling 14	45 & 41	14	2

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Dwelling 15	45 & 41	14	2
Dwelling 16	45 & 41	14	2
Dwelling 17	72	22	2
Dwelling 18	72	30	2
Dwelling 19	72	47	2
Dwelling 20	72	49	2
Dwelling 21	72	46	2
Dwelling 22	56	18	1
Dwelling 23	107	48	3
Dwelling 24	76	22	2
Dwelling 25	80	15	2
Dwelling 26	72	21	2
Dwelling 27	67	22	2
Dwelling 28	65	17	2
Dwelling 29	72	21	2
Dwelling 30	75	26	2
Dwelling 31	72	31	2
Dwelling 32	68	10 & 3	2
Dwelling 33	101	35 & 3	3
Dwelling 34	72	15	2
Dwelling 35	72	21	2
Dwelling 36	72	23	2
Dwelling 37	72	29	2
Dwelling 38	72	27	2
Dwelling 39	56	14	1

The proposed development would comprise five (5) levels, with two (2) full basement car parking levels and three (3) above ground levels. It is noted, however, that the third level would be well setback from the site's Main Street frontage.

External building materials would include a combination of different finishes and colours which are contemporary in style and form.

Planning Controls:

Pursuant to Clause 34.01 of the Kingston Planning Scheme, a planning permit is required for a number of purposes, being:

- A permit is required for the use of the land for the purpose of a dwelling given that the frontage at ground level (being the lobby entry) would exceed two (2) metres.
- A permit is required for the use of the land for the purpose of a retail premises.
- A permit is required for the construction of a building and to carry out works.

A planning permit is not required for the use of the land for the purpose of a supermarket as this use is defined as a "shop" which is a Section 1 use.

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Pursuant to Clause 43.01 of the Scheme, a planning permit is required to:

- demolish or remove a building.
- Construct a building or carry out works.

Pursuant to Clause 52.05 of the Scheme, a planning permit is required to display business identification signage which exceeds more than 8 square metres in area.

In accordance with Clause 52.06 of the Scheme, the following car parking rates should be applied for the proposed land uses:

- Shop – 8 car spaces per 100m² leaseable floor area.
- Dwelling – 2 car spaces for each dwelling.

Based on the above rates, a total of 265 on-site car parking spaces should be provided as a part of the proposed development. However, a total of 168 car parking spaces are proposed to be provided within the two (2) basement car parking levels. As such, a planning permit is required for a reduced car parking rate under this section of the Scheme.

A number of the policies contained within the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF), including Council's Municipal Strategic Statement (MSS) are considered relevant in the consideration of this proposal, namely:

- Clause 14.01: Planning for Urban Settlement
- Clause 16.02: Medium Density Housing
- Clause 17.01: Activity Centres
- Clause 17.02: Business
- Clause 18.01: Declared Highways, Railways & Tramways
- Clause 18.02: Car Parking & Public Transport Access to Development
- Clause 19.03: Design & Built Form
- Clause 21.03: Land Use Challenges for the New Millennium
- Clause 21.04: Strategic Framework Plan
- Clause 21.06: Retail and Commercial Land Use
- Clause 22.14: Mordialloc Activity Centre
- Clause 22.15: Outdoor Advertising Sign Policy
- Clause 34.01: Business 1 Zone
- Clause 43.01: Heritage Overlay
- Clause 43.02: Design & Development Overlay (Schedule 10 – Mordialloc Activity Centre)
- Clause 52.05: Advertising Signs
- Clause 52.06: Car Parking
- Clause 52.07: Loading & Unloading of Vehicles
- Clause 52.29: Land Adjacent to a Road Zone (Category 1)
- Clause 52.34: Bicycle Facilities
- Clause 65: Decision Guidelines
- Clause 66: Referrals

Referrals:

Pursuant to Clause 52.29 of the Scheme, the application is required to be referred to the relevant Road Authority (VicRoads) where access to land adjacent to a Road Zone Category 1 is to be altered. Two separate responses have been received by Council, one of which requires several specific conditions to be included on any permit issued, whilst the other states that “VicRoads will not support any access arrangement for this development on **Main Street and the service road**.”

The application was also referred to the following internal Council departments for comment:

- Development Approvals Engineer
- Vegetation Management Officer
- Council’s Strategic Planning Department – Heritage Advisor
- Council’s Urban Designer
- Council’s Traffic Engineering Department

All relevant internal departments have offered no objection to the proposed development, with the exception of Council’s Urban Designer. However, it is considered that the concerns raised with regards to the visual presentation of the proposal can be satisfactorily addressed through the inclusion of suitable conditions of any planning permit issued.

Advertising:

The application was advertised by letters to all adjoining and surrounding property owners and/or occupiers and two (2) notices placed on the site for fourteen (14) days. The notification process was satisfactorily completed and sixteen (16) objections were received, however, one (1) was subsequently withdrawn. The main grounds of objection can be summarised under the following headings:

- Overdevelopment;
- Car parking and traffic issues;
- Out-of-character; and
- Amenity concerns (overshadowing, visual bulk, noise, etc.).

A preliminary conference was held at Council’s Cheltenham office on 8th April, 2008, with the applicant, objectors and Council officer in attendance. Each of the above issues were discussed at length, however, no resolution was reached. There have also been a number of further meetings held which have involved the applicant, objectors, the Ward Councillor and Council officers, however, no real resolutions appear to have been achieved.

Planning Assessment:

The following section will consider the application against the relevant sections of the State Planning Policy Framework, Local Planning Policy Framework (including the MSS), zoning objectives and Particular Provisions of the Kingston Planning Scheme.

State Planning Policy Framework

Clause 14.01 – Planning for Urban Settlement

One of the key objectives under Clause 14.01 of the Scheme aims “*to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses*”.

The proposal is considered to satisfy this objective by establishing a medium density housing development on the land that would have a direct interface with both Mordialloc’s commercial precinct and existing residential development to the west. Also, the subject site is easily accessible to a well-serviced transport node and is serviced by all reticulated services.

Clause 16.02 – Medium Density Housing

A State Planning Policy for the provision of urban housing aims “*to encourage the development of well-designed medium density housing which respects the character of the neighbourhood, improves housing choice, makes better use of existing infrastructure and improves energy efficiency of housing*”.

Council officers consider that the proposal addresses the core elements of this objective by providing medium to high density living at the northern end of Mordialloc’s commercial precinct. The proposed mixed use development is considered an appropriate response to the demand for smaller, more affordable dwellings in this location. Further, the site’s proximity to public transport infrastructure, local shops, schools and the Mordialloc foreshore reserve represents an ideal opportunity for the re-development of this site for a combination of residential and commercial uses.

Clause 17.01 – Activity Centres

The key policy objectives for Activity Centres under Clause 17.01 of the Scheme includes an aim “*to encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres) which provide a variety of land uses and are highly accessible to the community*”.

The proposal would provide additional medium density housing close a range of existing facilities within the Mordialloc town centre.

Clause 18.01 – Declared Highways, Railways and Tramways

The State Planning Policy Framework of the Scheme encourages the development of such opportunity sites close to declared highways and railways, as outlined under Clause 18.01 of the Scheme. A key strategic objective under this section is “*to integrate land use and transport planning around existing and planned declared highways, railways, principal bus routes and tram lines*”.

The proposal would be respectful of it’s location with respect to existing main roads (Main Street) and the Melbourne to Frankston Railway line.

Clause 19.03 – Design & Built Form

Council officers consider that the proposed mixed-use development is consistent with the principles outlined under this Section of the Scheme, namely in relation to context, the public realm, safety, landmarks, views and vistas, pedestrian spaces, heritage, consolidation of sites, light and shade, energy efficiency and architectural quality.

Local Planning Policy Framework (including the MSS)

Clause 21.03 – Land Use Challenges for the New Millennium

The relevant objectives under this section are considered to be in relation to an identified future housing need and residential amenity.

Single dwellings on single allotments are the predominant housing form identified within the City of Kingston under Council’s Municipal Strategic Statement. The proposed development would offer an alternative to the typical housing form in Mordialloc through the provision of thirty-nine (39) apartments (if supported the number will be 37) above a retail/commercial development. The subject site is ideally located for future residents being central to the existing shopping facilities and public transport infrastructure.

Clause 21.04-3 – Strategic Framework Plan

Council’s Strategic Land Use Framework Plan identifies the subject site as being located within the “primary activity centre”. The proposed development is considered to be consistent with the objectives of this plan as it would provide medium density housing within an established commercial activity centre.

Clause 21.06 – Retail & Commercial Land Use

One of the key objectives under this section of the Scheme is “*to protect and strengthen the hierarchy of activity centres within Kingston. This is to be achieved through consolidating land use activities which encourage a broader range of cultural, social, commercial and higher density housing opportunities to complement retail functions of activity centres and enhance the economic viability*”.

Council officers consider that the proposed mixed use development would be consistent with the above objective in terms of strengthening the viability of the Mordialloc activity centre. Specifically, the provision of thirty-seven (37) apartments in addition to an active retail frontage at the ground level should enhance the economic viability of the commercial core of Mordialloc.

Clause 22.11 – Residential Development Policy

The purpose of this Policy is to identify those locations where increased housing diversity, incremental housing change, minimal housing change and residential renewal will be encouraged. Whilst this Policy does not directly apply to the application (given the zoning of the land), it does actively promote high-density development around activity centres and locations close to public transport.

Clause 22.14 – Mordialloc Activity Centre Policy

The subject site is located within Precinct 6: Main Street Precinct of the Mordialloc Activity centre.

A number of key policies relating to this precinct include:

- Promote specialised retail and commercial services to continue to address Main Street at the street level, contributing to an attractive and active commercial promenade.
- Enable the activation of upper level Main Street buildings through discreet setback additions behind the primary parapet.
- Reinforce the historic rhythm of commercial street frontages within Main Street through the incorporation of vertical elements, materials and details that reflect these elements but do not replicate or mimic them.
- Ensure buildings provide a zero lot alignment to the street frontage and physically address the street through permeable fenestration and points of entry.
- Reinforce the northern gateway of the Main Street precinct through the redevelopment of the site west of the junction of McDonald Street and Nepean Highway, south of Epsom for a mixed use development comprising of retail and commercial street activity and upper level residential and/or service accommodation.

Clause 22.15 – Outdoor Advertising Sign Policy

A number of policies are relevant in the consideration of the advertising signs proposed as a part of this development, namely in relation to shopping and commercial areas and also main road areas. When considering advertising signage in commercial areas, the policies encourage consideration of the overall role of the activity centre and the type and level of signage which is deemed appropriate. Further, advertising signs proposed along main road areas need to be appropriate with regards to streetscape, amenity impacts and pedestrian and traffic safety.

It is considered that the proposed business advertising signage associated with the development should be consistent with the type and level of signage which exists along this section of Main Street.

As discussed above, the proposed development would satisfy the broader strategic objectives under Council's MSS through the provision of high density housing in an identified retail activity centre.

Zoning Provisions

Clause 34.01 – Business 1 Zone

The subject site is located within a Business 1 Zone, where the purpose of the zone is identified as follows:

- *To encourage the intensive development of business centres for retailing and other complimentary commercial, entertainment and community uses.*

The proposed development is considered to be highly consistent with the above objectives of the zone.

Overlays

Clause 43.01 – Heritage Overlay

The subject site is affected by a Heritage Overlay (No. 123) which applies to the entire Main Street precinct. Council officers consider that the proposed mixed-use development would conserve and enhance the cultural significance of this precinct and would enhance those elements which contribute to the heritage significance of this area.

Clause 43.02 - Design & Development Overlay (Schedule No. 10 – Mordialloc Activity Centre)

Council officers strongly believe that the proposed development would be consistent with the built form provisions under this Schedule, particularly in relation to Precinct A6. Specifically, the proposed development would not exceed the maximum building height of eleven (11) metres and the upper level setbacks have been adequately recessed from the Main Street frontage.

Particular Provisions

Clause 52.05 – Advertising Signs

The proposed advertising signage is considered appropriate with respect to the location within commercial centre and the type proposed. Council is awaiting comment from Vic Roads with respect to the internally-illuminated signage proposed fronting Main Street, given that is deemed a Road Zone (Category 1).

Clause 52.06 – Car Parking

As previously discussed, the applicant is seeking approval for a reduced car parking requirement based on the rates set out under Clause 52.06-5 of the Scheme. Based on the car parking rates set out under this section of the Scheme, a total of 265 car parking spaces would be generated, whereas 168 have been proposed.

Council officers consider that the car parking deficit of 97 car parking spaces should not unduly affect the demand for on-street car parking or the traffic movement on the surrounding roads as a result. Given the mixed-use nature of the development, it is considered that the number of on-site car parking spaces to be provided should adequately accommodate the demand at any time.

Clause 52.07 – Loading & Unloading of Vehicles

The proposed loading bay area for the supermarket (to be accessed from Epsom Road) exceeds the minimum area and dimensions required under this section of the Scheme.

Clause 52.29 – Land Adjacent to a Road Zone (Category 1)

Comments are being sought from Vic Roads regarding the alteration to the existing service road (with the provision of three (3) additional car parking spaces) and removal of access to the subject site at the northern end of the existing service road.

Clause 52.34 – Bicycle Provisions

Based on the requirements set out under this section of the Scheme, a total of (8) bicycle parking spaces would be required on site to serve both the residential and

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commercial component of the development. Whilst the applicant is seeking approval for a reduction in the number of bicycle parking spaces to be provided on site, it is noted that bicycle parking spaces would be provided within a landscaping area along Main Street.

Response to Objector/s Concerns:

The following responses are offered in relation to the main grounds of objection to the application:

Overdevelopment

The intensity of the development, given the combination of residential and commercial land uses, is consistent with the preferred future development of the northern section of Main Street in accordance with the Mordialloc Activity Centre. The proposed development does not demonstrate characteristics associated with overdevelopment, such as inadequate on-site car parking, overlooking, overshadowing and lack of private open space for individual dwellings.

Car Parking and Traffic Issues

As discussed under previous sections of this report, the number of on-site car parking spaces is considered sufficient for the combination of land uses proposed. Further, the access arrangements for cars and trucks entering the site off Epsom Road is considered adequate based on the comments received from Council's Traffic Engineering Department.

Out-Of-Character

A number of concerns raised were in relation to the impact of the proposed development on the "village atmosphere" of Mordialloc. On the contrary, the proposal is considered to accord with the strategic direction for the future development of the Main Street precinct of Mordialloc. Built form characteristics of the proposal, such as the recessed upper floor levels and the provision of sheltered areas under the canopy structures is considered to be consistent with the existing character of Mordialloc.

Amenity Concerns (Overshadowing, Visual Bulk, Noise, etc.).

Concerns regarding the possible loss of amenity were raised by residents to the west of the subject site from Epsom Road and Montgomery Street. With respect to possible overshadowing, it is noted that the existing walls constructed along most of the length of the site's west (rear) property boundary would be retained and that the new construction at the upper levels would not generate any additional shadow.

The visual impact of the development when viewed from these properties would not be excessive given the existing walls on the west property boundary would be retained and also given that the upper floor levels would be recessed from this boundary.

The issue of noise, however, is a legitimate concern given that no details have been provided with respect to external heating/cooling units, exhaust fans, etc. A condition

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of any planning permit issued for the proposed development should require details of the location of all external heating and cooling units and exhaust fans.

General Comment:

The proposed development is considered appropriate for the site as evidenced by:

- The proposed mixed use development is consistent with the zoning provisions and the preferred development outcome for the Mordialloc Activity Centre;
- The design and siting of the proposed development is considered to be compatible with the surrounding area;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS, Retail and Commercial Land Use, Mordialloc Activity Centre Policy, Outdoor Advertising Sign Policy, Business 1 zoning and the Schedule to the zone and Design & Development Overlay (Schedule 10 – Mordialloc Activity Centre).

On balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

Recommendation

That Council resolve to issue a Notice of Decision to Grant a Permit for the construction of buildings and works on the site, comprising a supermarket, ten (10) retail premises, thirty-seven (37) dwellings, the demolition of existing buildings, the use of the land for dwellings and retail premises, to display business identification signage, a reduced car parking rate pursuant to Clause 52.06 of the Scheme, a reduced bicycle parking rate pursuant to Clause 32.34 of the Scheme and to alter access to land adjacent to a Road Zone (Category 1), in accordance with the following conditions:

1. Before the development and/or use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted with the application but modified to show:
 - a) the location of all externally-located heating and cooling units, exhaust fans, and the like clearly shown;
 - b) the provision of separated vehicle crossings with a maximum width of 5.5 metres (for the car park access) and a maximum width of 7.0 metres (for the access to loading dock) with the note: Vehicle crossings constructed to Council's current standards (industrial strength);
 - c) the entry/exit driveway of the basement car park to incorporate an apex of no less than 150mm above existing back of footpath level on Epsom Road;

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- d) the provision of a colour, materials and finishes schedule, including samples where appropriate, for all external surfaces of the building;
- e) the Main Street façade of the building further modified so as to present as a two-storey form, which could include balconies, to reflect the existing and preferred street wall presentation for at least two-thirds of the site's Main Street property boundary;
- f) the decorative box shaped frame facing the site's Epsom Road frontage reduced in scale;
- g) dwellings 28 and 32 modified to fully satisfy the provisions of the Design and Development Overlay 10 with regard to building setbacks;
- h) the facades to present a level of material detailing which is considerate of the Main Street character of the area, in particular that:
 - i. the expansive use of rendered walling is kept to a minimum;
 - ii. the modern applied metallic finishes do not dominate;
 - iii. a rendered expression to the balustrades is utilised; and
 - iv. the use of block work and alternate cladding materials (which could include timber) is utilised.
- i) the highlight columns to the upper storeys removed;
- j) the retail premises to incorporate shop wall raisers below windows;
- k) the removal of the street facing planters;
- l) full details of the streetscape treatment fronting Main Street incorporated and detailed to the satisfaction of the local authority, with such works to include paving, planting, street furnishing treatments and power line under grounding, and the a notation that the cost and execution of these works is to be borne by the applicant/permit holder;
- m) the entire length of the new west facing wall of the 'Aldi Storage' set back 1.09metres from the title boundary with No. 10 Epsom Road, with this area to become part of the body corporate, and be provide with a fence and gate to enclose this area from the "delivery and Aldi loading dock";
- n) the removal of the pedestrian door from the "Aldi Storage" into the 1.09 metre wide body corporate area referred to in Condition 1m) of this permit;
- o) the architectural feature over "delivery and Aldi loading dock" removed;
- p) dwelling 24 and dwelling 25 consolidated into one three (3) bedroom dwelling;
- q) dwelling 38 and dwelling 39 consolidated into one three (3) bedroom dwelling;
- r) the planter box outside dwellings 19, 20 & 21 increased in width by 1 metre without altering the setback from the west title boundary, so as to further reduce the potential for overlooking;
- s) security/gate access arrangement to be introduced at the base of the entry ramp from Epsom Road (within upper basement level) to Council's satisfaction, with the gate(s) to carpark to be closed to the public daily in accordance with the trading hours of Aldi, but no earlier than 8:00pm;
- t) the provision of a security system (cameras) to be introduced within the basement carpark levels. The security system is to be monitored by the body corporate;
- u) the provision of a suitable traffic calming measure(s) introduced along Epsom Road, in front of the subject site, to Council satisfaction, with all

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- costs associated with the installation of this measure nominated as being at the full cost of the applicant/permit holder;
- v) a notation placed on the plans stating that all condensing units associated with the residential apartments not to be visible from the immediate surrounds;
 - w) all freezers associated with the Aldi supermarket to be located internally within the building; and
 - x) the provision of a 10 000litre rainwater storage tank and integrated sprinkler system into the development to service the communal garden.
2. The development and/or as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 3. Prior to the occupation of any part of the development hereby permitted, full details of the traffic calming measure(s) as required Condition 1u) of this permit must be submitted to, and approved by Council, with such plans to be prepared by a suitably qualified traffic consultant/engineer, with all costs, including the construction of any required works, to be wholly borne by the applicant/permit holder.
 4. Prior to the occupation of any part of the development hereby permitted, the security gate and associated works as detailed under Condition 1s) of this permit, and the security system as detailed under Condition 1t) of this permit must be installed to Council satisfaction, at the applicant's/ permit holder's cost.
 5. The dwellings hereby permitted must not be occupied until all buildings and works and the conditions of this permit have been complied with, unless with the prior written consent of the responsible authority.
 6. The development hereby permitted must not be commenced until the Owner of the land has entered into an Agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 to provide for the following matters:
 - a) the construction and maintenance (for a period of no less than 12 months) of any works required in both Main Street and Epsom Road as a result of the development commencing;
 - b) the relocation, removal or replacement of any existing assets that are deemed necessary by the relevant authority;
 - c) the costs associated with the works outlined under conditions 4(a) and 4 (b) of this permit must be paid for entirely by the applicant unless otherwise agreed with the Responsible Authority;
 - d) all issues involved in the construction of components of the building over the public carriageway, including public liability insurance, air space licences etc.;
 - e) any clothes drying on balconies not to be visible from the public realm, and no clothes drying to be permitted on the roof top decks;

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- f) all costs relating to the preparation and registration of the Agreement (including costs incurred by the Responsible Authority) must be borne by the applicant.
7. Before the commencement of any building or works on the land a Construction Management Plan (CMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The CMP must deal with the parking of vehicles during construction, delivery of materials, containment of waste on site and suppression of dust, existing business operations on the site during construction, arrangement for car parking for the existing businesses during construction, construction over the public domain.
8. The development of the site must be provided with stormwater treatment works which will entail the use of water sensitive urban design principles (including re-use) to reduce stormwater run-off quantity and improve discharge quality. Discussion with Councils Development Engineer on treatment options is advised prior to a design being submitted. The system must be maintained to the satisfaction of the Responsible Authority.
9. Before the development hereby permitted commences, a drainage plan showing the method of treatment and discharge to the nominated point must be prepared to the satisfaction of the Responsible Authority. The plan must be prepared by a qualified person and show all details of the proposed drainage works, including all existing and proposed features that may have impact on the drainage (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).
10. Stormwater drainage of the site must be provided so as to prevent overflows onto adjacent properties and be in accordance with the approved drainage plan.
11. **Conditions Required by VicRoads**
- i) Prior to endorsement of the plans and any works authorised by this permit, the applicant must arrange for an updated Traffic Impact Assessment Report to be prepared to the satisfaction of VicRoads. The report must include the analysis of the traffic impact generated by this development on Nepean Highway (U-turn movements and turning traffic at the McDonalds Street roundabout). Additionally an auto-turn diagram for service vehicles should be provided for consideration.
- ii). Prior to endorsement of the plans and any works authorised by this permit the applicant must;
- (a) Prepare functional layout plans for the access arrangement and any mitigating works along Nepean Highway, to the satisfaction of VicRoads.
- (b) Subsequent to the approval of the functional layout plans, prepare detailed engineering plans for the roadworks along Nepean Highway, to the satisfaction of VicRoads.

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- iii). Before the commencement of any roadworks along Nepean Highway authorised by this permit, the developer must:
- a). Provide a bank guarantee (in the name of the developer/owner) without a termination date, to VicRoads for the estimated cost of works.
 - b). Provide a payment to VicRoads of the pre-estimate certification audit fee.
 - c). Provide evidence that the Contractor has a public liability insurance policy for at least \$10 million, effective for the duration of the works.
 - d). Provide VicRoads with the name, address, business and out-of-hours telephone numbers of the principal roadworks contractor.
- iv). The applicant must engage VicRoads pre-qualified contractors (pre-qualified at the appropriate level or as otherwise approved) to undertake all roadworks along Nepean Highway.
- v). Prior to the commencement of any roadworks in, on, under or over the Nepean Highway reservation the applicant must have first applied for and received written consent from VicRoads for those works in accordance with Section 63 of the Road Management Act 2004.
- vi). The applicant must pay the full cost of all roadworks, drainage, service relocations, public lighting and any other costs associated with the subject development.
- vii). Prior to the commencement of any use authorised by this permit the applicant must complete all roadworks, in accordance with approved plans and to the satisfaction of VicRoads.
12. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
- (i) fully constructed;
 - (ii) properly formed to such levels that they can be used in accordance with the plans;
 - (iii) surfaced with an all-weather-seal coat;
 - (iv) drained;
 - (v) line marked to indicate each car space and all access lanes.
- Car spaces, access lanes and driveways must be kept available for these purposes at all times.
13. No vehicles associated with the site must be parked in the privately owned car park abutting the site to the north-west at any time.
14. Construction on the site must be restricted to the following times:
- | | |
|------------------|------------------------|
| Monday to Friday | 7:00am to 7:00pm; and, |
| Saturday | 9:00am to 6:00pm |

Or otherwise as approved by the Responsible Authority in writing.

15. Exterior lights must be installed in such positions to effectively illuminate all pathways, car parks and other public areas to the satisfaction of the Responsible Authority and designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
16. The maintenance of the buildings, service areas and the surrounds within the site shall be the responsibility of the Body Corporate, owner or agent and must be serviced at such frequency as will render the service areas and the surrounds to be neat, tidy and clean at all times to the satisfaction of the Responsible Authority.
17. Council's Waste Management Department must be consulted regarding the location of rubbish bins and the options for collecting waste from the site.
18. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the responsible authority.
19. All piping and ducting (other than stormwater downpipes) above the ground floor storey of the development must be concealed to the satisfaction of the responsible authority.
20. No external equipment (including, but not limited to: ducting and piping, air-conditioning units, heating units, satellite dishes etc), services and architectural features, other than those shown on the endorsed plan, shall be permitted unless with the prior written consent of the Responsible Authority
21. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the satisfaction of the responsible authority.
22. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the responsible authority.
23. Once the development has started it must be continued and completed to the satisfaction of the responsible authority.

Expiry of permit

This permit will expire if one of the following circumstances applies:

- The development is not commenced before (two (2) years from date of issue).
- The development is not completed before (four (4) years from date of issue).

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The Responsible Authority may extend these times if a request is made in writing before the permit expires or within three months afterwards.

The meeting was addressed by Mr John McNaughton on behalf of the objectors and Mr Les Finnis on behalf of the applicant. Mr Finnis advised that the development had been amended to include an additional 60 car parking spaces on site in order to address objectors concerns re car parking issues and the developer had agreed to contribute \$60,000 for traffic calming devices to be installed around the site.

Crs Petchey/Alabaster

That Council defer the motion, subject to the submission of a traffic impact assessment report to the satisfaction of VicRoads.

Carried

4. Urgent Business

The Chief Executive Officer advised that in accordance with section 84(4) of the Local Government Act 1989, as not all Councillors are present, the meeting is not able to deal with another matter.

5. Confidential Items in Camera

There were no items in camera.

The meeting closed at 8.53pm.

Confirmed.....His Worship The Mayor 28 July 2008.