Planning and Environment Act 1987

Panel Report

Kingston Planning Scheme
Amendment C124
Mentone Activity Centre Structure Plan

19 September 2013
Planning and Environment Act 1987
Panel Report pursuant to Section 25 of the Act
Kingston Planning Scheme Amendment C124
Mentone Major Activity Centre Structure Plan

Nick Wimbush, Chair
Ken McNamara, Member
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<td>Design and Development Overlay</td>
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<td>DPCD</td>
<td>Department of Planning and Community Development</td>
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Executive Summary

Kingston Planning Scheme Amendment C124 proposes to rezone the Mentone Major Activity Centre (MAC) to the Activity Centre Zone and apply a Schedule 2, and make a number of other changes including making the Mentone Structure Plan a reference document.

Mentone is one of five MACs in Kingston and has its own character set by the rail line and heritage listed station, a significant heritage building fabric, existing relatively low scale development (generally of a two storey nature), an at times congested road/rail interface and a particular retail and commercial feel described by some submitters as ‘village-like’.

Perhaps more so than in other MACs in Kingston and the broader metropolitan area, the Structure Plan and Amendment encourage intensification and increased development in a measured rather than unfettered manner, a general approach which has been well received by most submitters.

In total 36 submissions were received to the Amendment, and these raised issues of:
- Height controls (increase and reduce height limits)
- Development and over-development
- Amenity
- Transport and traffic
- Open space
- Particular sites being the Council depot on Collins Street and the Bowls Club

The Panel has considered these submissions and the verbal submissions taken at the Hearing in forming its recommendation to support the Amendment. The Panel spends some time in this report discussing the detailed issues above, and particular that of proposed height limits in the town centre.

On balance it has concluded that what Council is proposing is reasonable in this MAC context and the Amendment should go forward.

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

Adopt Kingston Planning Scheme Amendment C124 as exhibited subject to the following changes:

- Delete the sentence on page 7 of 28 of the exhibited Activity Centre Zone Schedule 2 that reads: ‘This does not apply to a development of four or more storeys, excluding a basement’.
- Add a new dot point to Further strategic work in Clause 21.06-3 to read as follows:

  Work in partnership with VicRoads to prepare a strategy plan to implement the actions of the reference document, Mentone Structure Plan, and obtain the approval for proposals within the reference document where these proposals directly affect the declared arterial main road system.
1 Introduction

1.1 The Amendment

Kingston Planning Scheme Amendment C124, as exhibited, proposes to:
- Rezone land in the Mentone Activity Centre to the Activity Centre Zone Schedule 2 (ACZ2) (see Figure 1 below)
- Introduce the Activity Centre Zone and Schedule 2 to the Activity Centre Zone into the Kingston Planning Scheme
- Delete Design and Development Overlay – Schedule 18 (DDO18) from the Kingston Planning Scheme and remove it from the land to which it applies
- Amend Clause 21.05-4 Residential land
- Amend Clause 21.06-4 Retail and Commercial Land Use
- Reference the Mentone Activity Centre Structure Plan in the Kingston Planning Scheme

The planning authority and proponent is City of Kingston

Figure 1 Proposed Activity Centre Zone, Mentone
Council submitted that applying the ACZ2 to the Mentone MAC has the following purposes:

- To encourage a mixture of uses and the intensive development of activity centres as a focus for business, shopping, working, housing, leisure, transport and community facilities and to support sustainable urban outcomes that maximise the use of infrastructure and public transport;
- To deliver a diversity of housing at higher densities to make optimum use of facilities and services;
- To create thorough good urban design in an attractive, pleasant, walkable, safe and stimulating environment; and
- To facilitate the use and development of land in accordance with a Development Framework for the centre.

Council proposes to remove the DDO18 as they consider that it no longer required, and that the provisions of the proposed ACZ2 provide the appropriate parameters for guiding future development.

1.2 The Mentone Major Activity Centre

The Mentone MAC contains a range of retail, office and service based uses including the following:

- A retail core along Como Parade West and Mentone Parade, with Balcombe Road and Florence Street (in part)
- Woolworths and Coles supermarkets
- A well established residential catchment
- A very high concentration of schools in the immediate surrounds
- Mentone Railway Station, bus interchange and taxi rank
- Significant employment in the precinct beyond retail including the City of Kingston
- A strong heritage fabric covered by the Heritage Overlay (HO) including buildings such as the former Coffee Palace, Mentone Station, Abbott and Comber’s Building and the Estate Agent building.

1.3 Authorisation, exhibition and submissions

The Amendment was initially authorised on 13 October 2011 subject to consultation with the then Department of Planning and Community Development (DPCD). Between that time and when final authorisation was received on 2 April 2012, the Council and DPCD officers met numerous times to refine the Amendment documentation.

The Amendment was exhibited between 1 November and 14 December 2012. Notices were placed in the Mordialloc Chelsea Leader and the Government Gazette, and letters were sent to properties potentially affected by the Amendment. In response to exhibition, 10 submissions were received, including five objecting submissions. The main issues raised were in relation to traffic and parking, amenity, character and increased housing in the activity centre, future building heights, setbacks and existing use rights.

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1 Summarised from Council submission p4.
After the close of the exhibition period, 26 late submissions were received by Council and referred to the Panel. These generally related to:\(^2\)
- Building height
- Use of 101-103 Collins Street (the Council depot site)
- Provision of aged care
- Neighbourhood character

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter.

1.4 The Panel

This Panel was appointed under delegation on the 26 June 2013 pursuant to Sections 153 and 155 of the Planning and Environment Act 1987 to hear and consider submissions to the Amendment.

The Panel consisted of:
- Nick Wimbush (Chair)
- Ken McNamara (Member)

1.5 Hearings and inspections

A Directions Hearing was held on 25 July 2013 at the City of Kingston Offices in Cheltenham. The Panel Hearing was held on 20 August 2013 at the Cheltenham Library in Stanley Avenue.

The Panel inspected the Mentone Activity Centre and surrounds on an unaccompanied basis on Monday 12 August 2013.

The Panel heard the parties listed in Table 1. A list of all submitters is included in Appendix A.

1.6 Issues addressed in this report

Having reviewed the submissions, undertaken a site inspection and considered the exhibited material and material presented at the Hearing, the Panel considers the key issues to be addressed are:
- Planning context
- Height and built form
- Traffic and transport
- Other issues
  - 101-103 Collins Street
  - Mentone Bowling Club
  - Activity Centre Zone Schedule 2 provisions

The Panel considers these issues in detail in the following chapters.

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\(^2\) Council submission p24.
Table 1: Parties to the Panel Hearing

<table>
<thead>
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<th>Submitter</th>
<th>Represented by</th>
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<td>Kingston City Council</td>
<td>Mr Jonathan Guttman, Manager City Strategy and Ms Rosa Zouzoulas, Team Leader Strategic Planning</td>
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<tr>
<td>Yambacoona (Holdings) Pty Ltd</td>
<td>Mr David Wolff</td>
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<td>Mr Michael and Ms Fionnuala Tate</td>
<td>Ms Fionnuala Tate</td>
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<td>Helen Soulsby</td>
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<td>Martha and Nigel Baptist</td>
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<td>Nathan and Kate MacDonald</td>
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<td>Phillip Russo</td>
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<td>Hilary and Jim Johnston</td>
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<td>Luis Valenzuela</td>
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<td>Leo Gamble</td>
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<td>Ian and Nicole Bennett</td>
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<td>Evan Papadopoulos and Cheryle Bec</td>
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<td>Joan Peters</td>
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<td>Ms Dorothy Booth</td>
<td>Ms Dorothy Booth</td>
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<td>Friends of Mentone Station and Gardens Inc.</td>
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<td>Mr Bob Tyler</td>
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<td>Betty Costello</td>
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<td>Ron and Shirley Smith</td>
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<td>Gavin and Nadine Roberts</td>
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<td>Margaret Walker</td>
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<td>Kingston Residents Association</td>
<td>Ms Fionnuala Tate</td>
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<td>Mr Peter Kneebone</td>
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2 Planning context

2.1 Policy framework

(i) State Planning Policy Framework

The following sections of the SPPF are identified as relevant to the Amendment (some sections are paraphrased from Council’s submission):

Clause 11.01 Activity centres – the Amendment facilitates the provision of high quality development, activity and living for the community in Mentone. Consistent with Clause 11.01-1 the Amendment recognises that Kingston has addressed all its activity centres on a ‘network’ basis. The Amendment also is consistent with Clause 11.04-2 in working within a centre hierarchy developed by Council.

The Amendment also implements Clause 11.01-2 by giving clear direction to land use and development within the Mentone MAC.

Clause 15 Built Environment and heritage – the Amendment responds to the heritage fabric in Mentone whilst providing for appropriate development.

Clause 16.01 Residential development – the Amendment facilitates the provision of housing that will provide for a mix of housing types within close proximity to public transport and services in the Mentone Activity Centre.

Clause 17.01 Commercial – the Amendment will encourage investment in Mentone for retail, entertainment, office and commercial uses.

Clause 18.01 Integrated transport – the Amendment will encourage development in proximity to the Mentone Railway Station and bus interchange as well as facilitating increased pedestrian and cycling access to the station, and improving the amenity and safety of the town centre by implementing urban design responses, particularly around the Como Parade and Mentone Parade intersection.

(ii) Local Planning Policy Framework

Council submitted that the Amendment is consistent with the following sections of the LPPF:

Clause 21.05 - Residential land use

Clause 21.05-1 provides for the following objectives:

- Opportunities exist for higher densities within Kingston’s activity centres, particularly in the form of shop-top housing and mixed use developments;
- To ensure all residential neighbourhoods in Kingston are provided with supporting social infrastructure adequate to the population’s needs;
- Protect areas/elements in the built form and natural landscape which have an identified and valued character;
- Protect areas/buildings of recognised historical/cultural significance.

Clause 21.05-3 strategies include:

- Encourage residential development within activity centres via shop-top housing and mixed use developments, and on transitional sites at the
The intensity and scale of such development will need to be in keeping with the scale of these centres;

- Promote medium density housing development in close proximity to public transport facilities, particularly train stations;
- In areas experiencing rapid growth, ensure appropriate social infrastructure is provided in accordance with the anticipated needs of future residents.

Council submitted that the Amendment will ensure new residential development respects the character and identity of the centre, respects the valued heritage places of significance, is of a high standard, has a positive impact on the amenity of existing area and is of a scale and intensity in keeping with the adopted structure plan.

Clause 21.13 – Heritage

Specifically 21.13-2 provides for the following objectives:

- To identify, protect and enhance places of cultural heritage value and those elements that contribute to the significance of heritage places by the retention of significant buildings, trees, monuments and landscapes.
- To ensure new development and renovation does not adversely affect the significance of heritage places and areas, and contributes positively to identified heritage values.

Clause 21.13-3 strategies include:

- Encourage all new development within a Heritage Overlay to visually and harmoniously integrate with and be recessive to the original character of the streetscape or heritage place;
- To ensure that the siting and design of new residential development takes account of interfaces with sensitive and strategic land uses.

The Amendment encourages new residential development to achieve architectural and urban design outcomes that positively respond to the heritage of the centre and neighbourhood character having particular regard to that identified in the Kingston Neighbourhood Character Guidelines.

Residential Development Policy

Clause 22.11-2 has the following objectives:

- To encourage new residential development to achieve architectural and urban design outcomes that positively respond to neighbourhood character having particular regard to that identified in the Kingston Neighbourhood Character Guidelines – August 2007;
- To ensure that the siting and design of new residential development takes account of interfaces with sensitive and strategic land uses.

The Amendment encourages new residential development to achieve architectural and urban design outcomes that positively respond to the heritage of the centre and neighbourhood character having particular regard to that identified in the Kingston Neighbourhood Character Guidelines.
Clause 21.12 - Transport

Specific objectives include:

- To create a safe, convenient and efficient road network based on a functional hierarchy of local and regional road linkages, which meets the transport and freight needs of Kingston’s residents, businesses, and through traffic.
- To protect and enhance the amenity of Kingston’s residential areas and other sensitive land uses through appropriate management of transport networks.

And strategies:

- Reinforce the road hierarchy recommended by the Kingston Transport Strategy to ensure that the function of the arterial and local roads, particularly adjacent to residential and shopping areas are maintained.
- Advocate for improvements to the capacity and frequency of the existing public transport network and the development of integrated public transport interchanges at existing activity centres of Southland, Moorabbin, Cheltenham, Mentone, Mordialloc and Chelsea.
- Encourage opportunities for non car based travel by maximising access to public transport, pedestrian and cycling routes.

The Amendment proposes safe, efficient and convenient road networks through improved pedestrian linkages and bicycle paths, and maximising access to public transport by non car based travel.

2.2 Zones and Overlays

The land subject to the Amendment is covered by the following zones:
- Commercial 1 Zone (previously it contained Business 1 and 2 areas)
- Residential 1 Zone
- Public Use Zone 4 – Public Transport
- Public Use Zone 6 – Local Government
- Public Park and Recreation Zone
- Road Zone Category 1.3

The following overlays currently apply:
- Design and Development Overlay Schedule 18 – an interim control that expires in April 2014. This overlay will be superseded by the Activity Centre Zone Schedule 2 proposed in this Amendment if approved
- Heritage Overlay.4

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3 Council submission p5.
4 Council submission pp5-6.
2.3 Other policy documents relevant to the Amendment

Mentone Activity Centre Structure Plan

The Mentone Activity Centre Structure Plan was prepared by Council in July 2011. The Structure Plan identifies public realm improvements, transport and parking initiatives and social improvements.

The document followed on from work prepared through the Prosperous, Liveable, Accessible Neighbourhoods Study (PLAN). The structure planning area is based around the railway station along with the retail and commercial areas of Mentone Parade, Como Parade West and Balcombe Road. The boundary of the study area was predominantly within 400m walking distance from the railway station although other criteria was taken into account such as large sites, lot orientation, key commercial/retail uses and physical constraints.

The vision for the Mentone MAC in the structure plan is described as:

To enhance the beauty of Mentone by celebrating its past whilst capitalising on the role it now plays as a significant centre of activity.\(^5\)

Mentone Structure Plan Transport Study

This document was prepared by Arup in May 2011. The document aims to assess alternative road networks for the Mentone area following comments made by VicRoads and the local community on the Draft Mentone Structure Plan. The plan suggests some important elements including signalising the Balcombe Road and Como Parade West intersection to improve efficiency of the intersection and rail crossing. It also suggests developing a ‘shared space’ concept around the triangular building at the intersection of Como Parade West and Mentone Road to improve amenity and pedestrian/cyclist safety in this area.

Three eastern peripheral road options were developed and discussed:

- Option 1 – North of Florence Street only
- Option 2 – North and South of Florence Street (Curved alignment)
- Option 3 – North and South of Florence Street (Straight alignment).

Mentone Activity Centre Retail Needs and Opportunity Assessment

This report was prepared for the City of Kingston by MacroPlan in May 2010. The report provided a retail economic analysis of the three activity centres of Cheltenham, Mentone and Moorabbin. The report makes recommendations in relation to the economic performance of the Mentone MAC and provides estimates of the likely additional demand for retail floorspace.

Among its key findings were:

- the Mentone MAC can potentially accommodate up to 5,300sqm of additional retail floorspace, and increased demand will create competition for such floorspace
- currently the Mentone MAC contains nearly 18,000sqm of retail floorspace which is consistent with other MACs

\(^5\) Mentone Activity Centre Structure Plan p6.
it is probable that most of the future expansions in retail floorspace will take place in specialty retailing and food catering due to the population needs with high levels of disposable income and increased worker catchments.

2.4 Activity centre planning in Kingston

Melbourne 2030 identified Kingston as containing one Principal Activity Centre (PAC) at Southland and five MAC at Moorabbin, Cheltenham, Mentone, Mordialloc and Chelsea.6

In its submission, Council noted that of the 31 metropolitan municipalities, Kingston is second only to the City of Monash with more centres categorised as Principal or Major Activity Centres. Accordingly, Council submitted that Kingston has a greater ability to plan for the differentiation of each activity centre within the activity centre network than other municipalities.7

They outlined the overall approach and approach to particular centres in the Hearing as follows.

(i) Prosperous Liveable Accessible Neighbourhoods Study (PLAN)

The strategy was undertaken by City of Kingston in 2006 and adopted in 2008. The strategy provides a sustainable land-use and development framework for the activity centre corridor. It involves the principal, major and neighbourhood activity centres from Moorabbin to Mordialloc.

The strategy formed the basis for interim design and height controls as an interim measure whilst further structure planning work was undertaken. These interim controls were approved as DDOs as part of Amendment C100, including DDO18 at Mentone.

(ii) Clayton South Framework Policy

This policy is inserted at Clause 22.13 of the Kingston Planning Scheme and encourages increased housing opportunities around the Westall Neighbourhood Activity Centre. It achieves this by redeveloping the former Industrial zoned Westall Timberyard Site to provide for 330-400 dwellings.8

Since this policy was implemented, Council prepared Amendment C126 at Industrial Land in Clayton South which intends to provide for a residential renewal development of 2-6 storeys and approximately 420 dwellings.9

(iii) Mordialloc MAC

This policy is inserted at Clause 22.14 of the Kingston Planning Scheme and by DDO10. The planning provisions for the Mordialloc MAC resulted from Amendment C52 to the Kingston Planning Scheme. Development is limited within Mordialloc to a maximum scale of three

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6 Council submission p6.
7 Council submission p6.
8 Council submission p9.
9 Council submission p9.
storeys although a few larger sites have a limitation of four storeys, as a result of heritage and coastal constraints.\(^\text{10}\)

**(iv) Highett NAC**

The Highett Neighbourhood Activity Centre (NAC) is inserted at Clause 22.17 of the Kingston Planning Scheme and also by DDO12. As there are no significant coastal or heritage areas, development has been encouraged at a number of key locations.

The former Gas and Fuel site and adjacent sites close to the Southland PAC are shown in DDO12 to provide for a range of accommodation at larger scales.\(^\text{11}\) In addition, development is to take place next to the Moorabbin Law Courts and a five to six storey development next to the Sir William Fry Reserve. This is likely to add approximately 700 additional dwellings.\(^\text{12}\) DDO21 has also been introduced which provides for development of between 3 - 8 storeys on the border of the Southland and Highett Activity Centres.\(^\text{13}\)

**(v) Moorabbin MAC**

The Moorabbin MAC is contained within three municipalities, the majority being within the City of Kingston. The MAC is not constrained by heritage, aviation height restrictions, coastal interface, character or limited development sites. The existing built form in the centre already exceeds 20m in height. The adopted structure plan identifies a number of redevelopment opportunities.

Heights in the centre are planned from 4-7 (23 metres) storeys. Council has recently approved two development applications for apartment buildings of more than 130 apartments.\(^\text{14}\)

**(vi) Cheltenham MAC**

Cheltenham, similar to Moorabbin, is a MAC that is not heavily constrained. A structure plan was approved by Amendment C117 and has provided for Kingston’s first Schedule to the ACZ. The Schedule makes provision for the redevelopment from two storeys to 6-7 commercial storeys (28 metres).

As a result of this, a number of developments along Charman Road have been completed or are currently being constructed. There has also been Amendment work for a rezoning of Business 3 land for accommodation adjacent to the Council office and for a completed seven storey Quest Apartment Building.\(^\text{15}\)

**(vii) Southland PAC**

The Southland PAC is situated on the boundaries of the cities of Bayside and Kingston. It is mainly located around the Westfield shopping centre but also includes surrounding residential land, the Sir William Fry reserve and commercial development next to the

\(^{10}\) Council submission p10.

\(^{11}\) Council submission p10.

\(^{12}\) Council submission p10.

\(^{13}\) Council submission p11.

\(^{14}\) Council submission p11.

\(^{15}\) Council submission p12.
shopping centre towards the Nepean Highway. The Incorporated Plan Overlay (IPO) states that development at the Westfield Shopping Centre can take place up to a height of approximately 43 metres for commercial buildings. However, the owners of the site have as yet not pursued this option.

A structure plan is yet to be prepared for this PAC although Council has prepared a significant amount of background work.\(^{16}\)

### 2.5 Practice Notes

The following Practice Notes are relevant to the Amendment.

**PN56: Activity Centre Zone, September 2009**

The purpose of this Practice Note is to:
- explain the function of the Activity Centre Zone
- provide guidance on how to apply the Activity Centre Zone
- assist Councils in tailoring the schedule to the Activity Centre Zone to accord with their centre’s adopted structure plan.

The Practice Note states that the ACZ is developed specifically for application at Central Activities Districts (CADs), Principal Activity Centres (PACs), Major Activity Centres (MACs) and Specialised Activity Centres (SACs) in metropolitan Melbourne.

It also states that Councils must have an adopted structure plan or a body of significant strategic work in place for the area to where the ACZ will be applied. The Practice Note also provides guidance in relation to drafting the zone schedule.

**PN58: Structure Planning for Activity Centres, April 2010**

This Practice Note provides guidance to councils on the activity centre structure planning process. It covers the reasons for structure planning in activity centres, the policy context, and possible inputs and outputs of the process.

Although this Practice Note is designed specifically for principal and major activity centres, the structure planning process can be tailored to all types of centres.

**PN60: Height and Setback Controls for Activity Centres, April 2010**

This Practice Note provides guidance in relation to the preferred approach to the application of height and setback controls for activity centres.

It states that height and setback controls must be based on the outcomes of strategic research that includes a built form analysis that is consistent with State policy. Mandatory height and setback controls will only be considered in exceptional circumstances.\(^{17}\) Exceptional circumstances include sensitive coastal environments where exceeding an identified height limit will unreasonably detract from the significance of the

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\(^{16}\) Council submission p12.

\(^{17}\) Practice Note 59: *The role of mandatory provisions in planning schemes* is also considered in Chapter 3.
coastal environment, and significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values.

2.6 Other relevant amendments

Amendment C100 to the Kingston Planning Scheme

This Amendment was approved by the Minister for Planning on 21 January 2010 and applied interim built form guidance for the Moorabbin, Cheltenham, Mentone and Parkdale MACs by introducing schedules to the DDO. The interim controls were extended on 21 March 2013 and will lapse on 30 April 2014.

Significant redevelopment activity near the Mentone Major Activity Centre

Council submitted that the following four locations have experienced significant renewal in Mentone over the past few years. These are:

- The Mentone Junction – Amendment C96
- Former Nylex Factory – Amendment C45
- Thrift Park – Amendment C81
- Southern Road, Mentone – Amendment C111.

Council submitted that these amendments:

...are clear demonstrations that reasonable levels of urban consolidation can be achieved around Mentone without needing to focus all development activity into a heavily fragmented centre.\(^{18}\)

Council stated that:

...of the twenty suburbs in Kingston, Mentone will still provide the fourth most number of new residents projected to 2031.\(^{19}\)

2.7 Discussion and conclusion

The Panel has reviewed the policy framework for the Amendment and is satisfied that the general approach the Council has taken is sound, particularly in relation to planning for activity centres across the municipality and the process of structure planning for the Mentone MAC.

The consideration of activity centres on a network basis which allows consideration of different issues and outcomes within the network the Panel believes is not only consistent with State policy, but provides the opportunity to produce different outcomes that better reflect social, environmental, economic and built form conditions and provide for more diverse and resilient communities.

The Council has also used the ACZ and the Panel strongly supports this as a nearly ‘one stop shop’ for the consideration of use and development in the MAC and an efficient planning

\(^{18}\) Council submission p14.

\(^{19}\) Council submission p14.
tool that should be simpler and clearer for the broader community and development community alike to use.

The Panel has reviewed the relevant practice notes and considers that Council has generally followed their guidance except in relation to the issue of height controls. This issue is discussed in more detail in Chapter 3.

The Panel has reviewed the response to the strategic assessment guidelines in the explanatory report and Council submissions and is satisfied that the Amendment meets the guidelines, and if implemented should result in sound planning outcomes for Mentone and the broader community.
3 Height and built form

3.1 The issue

As outlined in Chapter 2, Mentone is a Major Activity Centre (MAC) with consequent expectations that the centre will contribute to the objective of activity centre planning in state planning policy; namely:\textsuperscript{20}

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.

As shown in Figure 1 the MAC is a relatively compact area centred on the Mentone Railway Station, and there is an expectation that the intensity of development will be considerably higher than surrounding residential areas.

Part of the consideration of intensity relates to development height. The existing interim control in place (DDO18) which expires in April 2014, allows for a mix of heights ranging up to 5-7 storeys in some strategic locations such as at the corner of Balcombe Road and Como Parade and between Station Street and the rail line.

The exhibited Amendment through the Activity Centre Zone Schedule 2 (ACZ2) proposes a non-discretionary maximum building height of 4 storeys (14m) in the MAC. This height limit generally applies to the central commercial area and around the railway and includes Precincts 1A, 1B, 1C, 2A and 5. The precincts are shown in Figure 2.

The issue to be considered is whether this is appropriate in this MAC in the context of activity centre planning.

3.2 Submissions

There were a range of submissions on height controls in the MAC including:

- Support for a two storey height limit on Collins Street (Council proposes three storeys on the depot site (Precinct 3) and 2-3 storeys elsewhere in Precinct 4)
- Support for a two storey height limit across the entire MAC
- Support for a three storey height limit across the MAC
- Support for the four storey maximum across the MAC proposed in the Amendment
- Request for increased height limits in Precinct 2 on Florence Street

These are considered below.

\textsuperscript{20} SPPF Clause 11.01-2, as discussed in Chapter 2.
Figure 2  Activity Centre Zone Framework Plan
(i) Requests for reduced height limits

A number of submissions requested reduced heights limits in the Mentone MAC, and particularly in residential streets where it was suggested that residential character may be detrimentally affected.

For example Ian and Nicole Bennett submitted that a two storey limit on residential streets is important:

*It is important that the height limit for the residential streets within the activity centre be capped at 2 storeys, so future development is within keeping with the existing houses.*

In arguing for a two storey height limit across the centre, Joan Peters submitted that:

*Mentone in my opinion is now becoming completely overdeveloped and causing great traffic congestion, ...*

Martha and Nigel Baptist submitted:

*We request the height limit for the Mentone Activity Centre be capped at 3 storeys so that Mentone can retain as much as possible the village aspect which attracted the residents in the first place.*

The Kingston Residents Association generally supported the four storey mandatory maximum height limit for the MAC but also submitted that a mandatory two storey height limit at various residential and other locations within the MAC is appropriate. They suggested:

*The new Mentone Activity Centre Zone needs to work for and not against the community. The residents want our residential streets and shopping centre improved and maintained to a standard that complements the neighbourhood character in our streets.*

Nina Earl suggested that:

*Excessive height would have a detrimental effect on the amenity and general character of central Mentone, and may dwarf iconic heritage buildings.*

Many submissions also supported Council in proposing a four storey limit in the commercial area of the MAC.

In response Council submitted that the approach to building height in the primarily residential areas in Precinct 4 is effectively supporting the ‘status quo’ in the existing Residential 1 Zone.21

They further submitted that introducing the ACZ2 with the specific 2-3 storey height control in this Precinct provides a more certain control over height and built form than the existing zone provisions.

They noted that in Precinct 3, the Council depot site, that a three storey built form is envisaged to facilitate the development of aged care (discussed further in Chapter 5), but

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21 Council submission p25.
that this a lower scale development that previously approved by Council of four storeys via a section 173 agreement\textsuperscript{22} if the land were to be sold.

**(ii) Request for increased height limits**

One submission, made by Taylors Consultants on behalf of the owners of 39-41 Florence Street (Yamcacoona Holdings Pty Ltd) and 45 Florence Street (Australia Post) submitted that the mandatory four storey height controls proposed for the Mentone commercial centre are not appropriate for a MAC. The properties are located within Sub Precinct 2A of Precinct 2 *Contemporary Redevelopment* precinct and are marked as key development areas on the Mentone Activity Centre Framework Plan in the ACZ2.

The Taylors submission argued that the two sites are relatively isolated (from residential use) and thus could achieve land consolidation benefits if they were to be developed over four storeys. Such development cannot be approved via a planning permit as clause 4.4 prohibits this approach.

They also submitted that state and local policy guidance for the MAC supports a higher intensity of development:

...*the planning policy framework unequivocally invites a significant level of change within MACs which seeks to encourage intense redevelopment and the highest densities in and around the MAC, making efficient use of land that is readily accessible to public transport and amenities.*

They noted the following objective relating to MACs (clause 11.01-2) in the SPPF:

*To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural development into activity centres which provide a variety of land uses and are highly accessible to the community.*

Taylor’s submissions also drew the Panel’s attention to the LPPF, and particularly the identification of *Housing Diversity Areas* in the MSS (including Mentone) as the locations expected to have a higher capacity to absorb medium and higher density housing.

The identification of a four storey mandatory maximum they submitted is not consistent with this policy framework and:

...*is not consistent with current development trends, is misleading, creates a perception that additional height is not encouraged in this locale, and is simply not distinguishing the MAC from the surrounding residential areas, let alone a recognised key development site from the remainder of the activity centre.*

The Victorian Civil and Administrative Tribunal (VCAT) case of 261 CRB Pty Ltd v Glen Eira CC\textsuperscript{23} was raised in the submission, noting that Member Rundell in directing that a permit for a four storey building in a MAC be issued, commented on the need to treat development sites in MACs as a scarce resource and development opportunities be optimised.\textsuperscript{24}

\textsuperscript{22} *Under the Planning and Environment Act 1987.*

\textsuperscript{23} [2011] VCAT 892.

\textsuperscript{24} Ibid. para 19.
It was put in the submission that a maximum height in the order of six storeys or greater, as proposed in the original draft Mentone Structure Plan, would be more appropriate.

Taylors noted that a 5-7 storey height limit was originally proposed in this area, consistent with the existing DDO18 interim control, and there does not appear to be a robust justification for the reduction to four storeys in the structure plan, amendment or Council minutes.

They submitted the site does not abut a residential area and Florence Street provides a good buffer to residential properties to the south, thus removing the need for reduced height controls to manage a residential interface.

In the Hearing, Mr David Woolf represented Yambacoona Holdings and reinforced the points made above. In particular he drew the Panel’s attention to the Council minutes of 11 June 2013 where Council officers, in response to the Taylors submission, recommended to Council that a 5-7 storey limit be reinstated for this area and further notice of the Amendment be given. This recommendation was not accepted by Council and the four storey limit and submissions were referred to the Panel.

In response to these submissions at the Hearing, Mr Guttman reinforced Council’s general approach to differentiation in MAC planning (discussed in Section 2.5 of this report) and noted that Mentone has never had, and is unlikely to have, a significant office offer driving significant higher development.

He noted that apart from the Taylors submission, there had not been significant concerns in the Amendment relating to increasing the allowable heights in the MAC.

Mr Guttman and Ms Zouzoulas reviewed a number of other MACs in Bayside and Port Phillip, and provided to the Panel a slide show demonstrating the types of contemporary built form that is possible within a MAC with a four storey height limit.

Importantly, he submitted in relation to the MACs in Port Phillip and Bayside:25

...it is however apparent that contemporary change at a scale similar to that envisaged in Amendment C124 is largely occurring across other activity centres including Bentleigh, Hampton, Brighton and Elwood all closer to Melbourne’s CBD.

Mr Guttman submitted that the four storey development on the Le Gym site on the corner of Balcombe Road and Swanston Street is the type of development scale and built form that would still be possible if the Amendment is approved.

Council also submitted that the housing profile in Mentone is already diverse and that in an around the activity centre there is already a high level of medium density housing stock. They submitted that:26

...the Statistical Areas (SA’s) that border Plummer Road, Beach Road, Balcombe Road and Warrigal Road these generally have in excess of 60% of dwellings that are classified as medium density housing in 2011 by the ABS.
Mrs Tate in submissions at the Hearing on behalf of her and her husband and other submitters provided a list of medium density developments that have been recently approved in the vicinity in Mentone, Mentone North and Mentone Junction. She submitted that 569 dwellings have already been approved and another 118 are subject to application. These developments ranged from 4-90 apartments over 3-9 storeys, thus there is already significant development occurring locally without increased height limits in the MAC.

(iii) Built form and amenity

Mr Peter Kneebone on behalf of the Owners Corporation at 28 Florence Street, expressed concern about the maximum building height in Zone 2A on the north side of Florence Street, opposite 28 Florence Street. They are concerned that there may be loss of winter light or overshadowing if the built form is too high.

He also expressed concerns over a number of design issues including:

- Allowance for plant above the ‘maximum’ height of development opposite 28 Florence Street
- The way and level in which setbacks and visualisations might be calculated for development
- The definition of ‘sufficient privacy’
- Issues around noise and amenity from new development
- The operation of the new peripheral road and Florence Street near their driveway

3.3 Panel discussion

(i) Height limits

Reduced height limits

The Panel has reviewed the submissions in relation to whether height limits should be reduced further. In relation to the residential precinct (Precinct 4) the Panel notes that the 2-3 storey (9m height) is consistent with the height limit in the new General Residential Zone (GRZ), albeit the height in that zone can be varied by Council through a schedule.

Thus the Panel considers that for the residential precinct, this is a reasonable position for Council to take and is more conservative than development potentially allowed under the existing Residential 1 Zone (R1Z). It considers that reducing the limit further would not only be inconsistent with planning for a MAC but also with the new approach to residential zones.

The Panel also does not support submissions calling for a blanket two or three storey height limit across the MAC, as this is inconsistent with activity centre planning that suggests more intense (and higher) development should be focussed in the commercial areas of the MAC where impacts on residential areas can be minimised. A flat two or three storey limit could also contribute to poor urban design outcomes where development ‘builds to the limit’ across broad areas.

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27 After the hearing Council provided the Panel with information indicating 10 of these permits were issued by VCAT, three by Council and two are outstanding at VCAT.
In relation to Precinct 3, the Panel supports the three storey height approach to this site as it is a key site with considerable potential. The Precinct guidelines emphasise that development needs to be sympathetic to the scale of the surrounding neighbourhood and heights should step down to adjoining residential areas and on this basis the Panel is comfortable that the limit is appropriate.

**Increased height limits**

The submission from Taylors and Yambacoona Holdings raises a number of key issues in relation to the central Precinct 2 and particularly Sub Precinct 2A which is meant to provide significant redevelopment sites in the MAC. The Panel characterises these issues as:

- Is the four storey (14m) limit appropriate in a MAC?
- Is the limit appropriate as a mandatory control?

The Panel notes the submissions in relation to the existing interim control in DDO18 and an earlier draft of the structure plan suggesting a 5-7 storey limit as appropriate in the centre. To some extent the Panel agrees in that that there does not seem to be a strong urban design ‘trail’ that justifies the reduction in heights in the Amendment.

That being said, the Panel was also not presented with urban design evidence that the four storey limit is inappropriate. The scale of Mentone is primarily now of a two storey nature, with the only significant departure from this being the recently developed four storey apartment building on the corner of Balcombe Road and Swanson Street. The highest feature in the centre is the tower on the former Coffee Palace (Kilbreda College), and this would likely remain so under the new controls.

Council submitted, and the Panel agrees, that Mentone is a different MAC to others in Kingston such as Cheltenham, where the height context has been partially set by modern development, in that case the City of Kingston Council office building.

Mentone can be characterised as a low scale, heritage rich, village centre and there is a strong sense in the structure plan that this is how Council would like it to remain, with strategic development up to four storeys containing a mix of more intensive activity centre uses. In the context of Mentone, this scale of development will still be a significant change, as evidenced by the development of the Le Gym site on the corner of Swanston Street and Balcombe Roads.

The specific submission relating to increased height asks for the height of development in the central core of Florence Street to be returned to the earlier limit of 5-7 storeys. The Panel notes the support of the Council officers for this change at the Council meeting, but that Council officers provided an admirable defence in the Hearing of Council’s adopted position.

In the Panel’s mind are the key questions of whether these sites on Florence Street could sustain 5-7 storey development whilst maintaining the essential character of Mentone. There is not urban design evidence before the Panel beyond the limited analysis in the structure plan itself. Whilst the Panel notes the benefits of the sites in terms of central

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28 The Panel considers the open space issue in Section 5.1.
location, apparently good setbacks from residential areas (apart from Florence Street residents to the south), it is not satisfied on the material before it that the higher heights (5-7 storeys) are necessary or desirable to achieve the MAC outcomes sought.

The following question is then should the four storey height limit be a mandatory or discretionary control. Council provided the Panel with the examples of development in Bayside that could be aspired to in Mentone in terms of buildings scale. The Panel notes in reviewing the controls (for example DDO10 in the Bayside Planning Scheme introduced by Amendment C101), that a mandatory height control for residential precincts has been approved but a ‘preferred’ height control for the commercial precincts. That is, there is the ability to go for a higher built form in commercial areas subject to a planning permit application and consideration of design issues.

The use of a mandatory height control without the possibility of variation by permit (prohibited in the proposed clause 4.4 of the ACZ2) is clearly inconsistent with normal planning practice and the relevant practice notes. These practice notes make it clear that mandatory provisions should be used in exceptional circumstances, said in PN60 to include (i.e. the list is not exhaustive):

- Sensitive coastal environments
- Significant landscape precincts
- Significant heritage places
- Sites of recognised state significance
- Helicopter and aeroplane flight paths

PN59 also makes it clear that mandatory controls should have clear strategic support and only be used where discretionary controls can not produce acceptable outcomes.

The Panel has not heard evidence on these matters, but has walked the Mentone centre and surrounds and keenly observed the current form and operation of the centre. Without denying that a built form of 5-7 storeys might be able to be designed and constructed on, for example, the Florence Street sites subject to submissions, the Panel is left with the clear sense that a four storey form, as exists east of the railway, is inherently more in keeping with existing elements of the Mentone centre, and particularly existing scale and heritage fabric.

A 5-7 storey building, whilst eminently acceptable in many MACs, in the Panel’s view would be a significant and unwelcome departure from the existing fabric in Mentone. In this case, the Panel considers that the four storey mandatory limit provides a level of clarity and certainty that is reasonable and acceptable.

The Panel also notes and accepts Council’s submission in relation to existing medium density in and around the MAC. The Panel’s own inspections confirmed that there appears to be a significant amount of older style (perhaps 1960’s and 1970’s) generally two storey flats and apartments in and around Mentone. This can be easily seen by viewing on aerial photography, as an example, the block surrounded by Balcombe Road, Davies Street, Ancona Road and Florence Street.

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29 Practice Note 59: The role of mandatory provisions in planning schemes; and Practice Note 60: Height and setback controls for activity centres.
(ii) Built form and setbacks

The issues raised by the Owners Corporation at 28 Florence Street largely go to issues of design. There is a significant setback provided by Florence Street itself and the Panel is satisfied that the combination of height and setback controls and design guidelines in the ACZ2 will provide effective mechanisms to ensure these matters are addressed at the planning permit stage.

3.4 Conclusions

In summary, the Panel accepts that the built form outcomes sought in the Amendment are appropriate. Whilst the four storey mandatory height limit is in many respects not consistent with normal planning practice, the Panel considers that when the proposal is examined closely in the Mentone context, it is a reasonable outcome that still allows the implementation of State MAC planning.

Specifically, the Panel supports the mandatory four storey maximum for the following reasons:

- The Mentone MAC has a different context in terms of existing scale of development and a heritage rich fabric that support the limit
- Mentone and the Mentone MAC are already ‘pulling their weight’ in terms of the provision of increased housing density
- The Mentone MAC and surrounds already have a high proportion of existing medium density housing stock
- There is not, and there is unlikely to be, significant pressure for major new large scale retail and office uses in the Mentone MAC
- The City of Kingston has successfully argued that they are not abrogating their responsibility to accept increased housing density, but rather applying a more nuanced and differentiated approach to MAC planning.

For these reasons the Panel recommends no changes to the Amendment in terms of height controls and built form.
4 Traffic and transport

4.1 The issue

The major changes envisaged in the Structure Plan for the Mentone Major Activity Centre (MAC) will require a suite of new traffic management initiatives in the coming years to address inadequacies in the existing Mentone road layout, the need to recreate the centre’s pedestrian scale and the provision of parking for commuters, visitors to the centre and traders.

Given its role as the transport hub for the surrounding area there is also the need to better cater for buses and non-motorised transport in the centre.

4.2 Submissions

Of the thirty six (36) submissions received as a result of the Amendment advertising process, six (6) submissions were received on traffic and parking issues including a requirement from VicRoads for further strategic work, and the City of Kingston tabling a detailed report from their consultants ARUP on the matter.

VicRoads suggested a new dot point be added to Further strategic work in Clause 21.06-3 on page 7 of 9 of the clause:

The objectives and strategies set out in the reference documents Clause 21-06 represents Council’s vision. Council to liaise with VicRoads to obtain approval for proposals within these reference documents where the proposals directly affect the declared road system.

Council agreed in principle with the suggestion but suggested the following alternate wording:

Work in partnership with VicRoads to prepare a strategy plan to implement the actions of the reference document, Mentone Structure Plan, and obtain the approval for proposals within the reference document where these proposals directly affect the declared arterial main road system.

The public submissions covered issues such as traffic congestion in Balcombe Road leading to the Mentone Railway crossing, Como Parade West, Mentone Parade and Florence Street parking provision for all new development and the need for a Traffic Management Plan as part of Amendment C124.

Two (2) submissions considered the Amendment does not adequately address the issue of traffic.

Of those submitters appearing before the Panel Mr and Mrs Tate of Childers Street, Mentone, and representing ten (10) other people in the general Mentone MAC area, raised the issue of traffic delays in Balcombe Road due to the railway crossing being closed down due to train activity.
Mr Booth representing the Friends of Mentone Station and Gardens and the Mordialloc and District Historical Society raised the issue of traffic congestion in the Mentone Centre, particularly before and after school time.

Mr Tyler representing himself and eleven (11) other people raised the issue of traffic congestion in the area and in particular Collins Street being used as a short cut to Balcombe Road from Nepean Highway.

Mr Kneebone representing the Owners Corporation at 28 Florence Street raised the issue of access to Florence Street if the proposed new north south link road is constructed.

The Kingston City Council in their submission referred to the transport study carried out on their behalf by the ARUP Group which covered the VicRoads Network Operating Plan, VicRoads Principal Bicycle Network, a Bus Lane Concept for the centre, a Shared Space Concept, options for a Peripheral Road Network, transport modelling based on Development Plans for the centre, and appraisal of options and finally an Alternative Concept with recommendations.

4.3 Discussion

Firstly, addressing the ARUP Transport Study as it covers many of the issues raised by submitters, the Panel’s role is not to recommend any one of the Peripheral Road options but rather to ensure that the options address the traffic management issues to meet the needs of the proposed Structure Plan and those issues raised by submitters.

Looking at the traffic congestion issues in the centre the Peripheral Road Network concept which channels through traffic to the periphery of the activity centre to improve pedestrian and bicycle connectivity, reduce the delay to the public transport system and improve the public realm near Mentone Station in the Panel’s opinion, appears to be a sound proposal.

Of the options presented the straight option south of Florence Street depends on Council acquiring private land and considering the loss of public parking.

Suffice to say the Panel supports the option which relieves traffic congestion in Mentone Parade and Como Parade West to allow for increased pedestrian and bicycle safety, improved street level amenity and efficient public transport operation.

That is, all traffic except buses/bicycles/taxis is re-routed to the new peripheral road and parking loss is minimised.

(i) Balcombe Road/Safeway Access Road

Traffic congestion in Balcombe Road has been raised by a number of submitters. Clearly a dedicated right turn lane in Balcombe Road west of the Peripheral Road is required to accommodate right turning traffic which would necessitate removal of on-street parking in the vicinity of the intersection.

Given this provision for right turning traffic from Balcombe Road the Panel supports the ban of right turns from Balcombe Road into Como Parade West to relieve traffic congestion at that intersection.
(ii) **Balcombe Road/Como Parade West**

The Panel supports the concept of replacing the round-about at Balcombe Road/Como Parade West with traffic signals co-ordinated with Balcombe Road/Swanston Street on the basis it produces a significant drop in travel time and delay on Balcombe Road, and addresses a number of issues raised by submitters.

(iii) **Alternative Concept**

The Panel has considered at length the alternative proposal of relocating the Bus Interchange from Como Parade West to the eastern side of the rail line with a new at grade crossing of the rail line south of Mentone Station.

Whilst it is accepted that separation of bus and private vehicles is an advantage, the Panel believes it highly unlikely the government would approve an additional at grade rail crossing in the area. Also additional through traffic in Davies Street should be avoided.

On this basis the Panel believes the concept is not practical.

(iv) **Shared Space Concept – Bus Lane Concept – Como Parade West**

The Panel notes the conflict between the Shared Space Concept and the Bus Lane Concept in Como Parade West and VicRoads’ preference for maintaining connectivity in this north south corridor.

Given these conflicts the Panel supports the Hybrid Concept as the Concept provides benefit for both traffic and urban realm and meet VicRoads’ requirements.

(v) **Schedule, Phasing and Finance**

Clearly the provision of the northern peripheral road is required prior to changes to the triangle area on Como Parade West. In terms of the provision of traffic signals in Balcombe Road at the Peripheral Road and at Como Parade West to replace the round-about this is a matter for Council and VicRoads to negotiate.

In terms of Mr Kneebone’s submission on behalf of the Owners Corporation at 28 Florence Street regarding future access to the property, this is an urban design issue that will require negotiation with Council. The Panel however is satisfied that a technical solution can be designed to manage the access point.

Mr Tyler’s submission on Collins Street being used as a shortcut to Balcombe Road from Nepean Highway should be taken up with Council’s Traffic Engineers.

4.4 **Conclusions**

The Panel has reached the following conclusions relating to Traffic and Transport Issues:

- The Planning Scheme Amendment and its accompanying reports adequately addresses the issues of traffic in the Mentone Centre.
- The concept of replacing the existing roundabout at the intersection of Balcombe Road and Como Parade West with traffic signals and a ban on right hand turns into Como Parade West from Balcombe Road West is supported by the Panel.
- The Peripheral Road network Concept is supported in principle by the Panel.
• The signalisation of the intersection of Balcombe Road and the northern Peripheral Road complete with right turn storage lanes in Balcombe Road West and access to the Safeway – Woolworths loading bay is supported by the Panel.
• The alternative proposal to relocate the bus interchange from Como Parade West to the eastern side of the rail line via an at-grade intersection is not supported by the Panel.
• The Hybrid Concept for Como Parade West for buses, bicycles and through traffic is supported by the Panel.
• The scheduling, phasing and financing of traffic and transport management issues be the subject of further discussion between Council and the relevant authorities.
• The issues surrounding Mr Kneebone and Mr Tyler’s submissions to the Panel be the subject of further discussions with Council.

Most of these matters are addressed in the Structure Plan which is to become a reference document in the planning scheme and do not require a specific recommendation.

In relation to the additional text suggested by VicRoads and Council, the Panel agrees in principle that the addition is worthwhile. Having reviewed the two alternatives the Panel supports that proposed by Council.

The Panel recommends:

Add a new dot point to Further strategic work in Clause 21.06-3 to read as follows:

Work in partnership with VicRoads to prepare a strategy plan to implement the actions of the reference document, Mentone Structure Plan, and obtain the approval for proposals within the reference document where these proposals directly affect the declared arterial main road system.
5 Other issues

5.1 101-103 Collins Street

(i) The Issue

Some twenty two (22) of the thirty six (36) submissions received to the Amendment mentioned public open space as an issue and a number mentioned the City of Kingston depot at 101-103 Collins Street as a potential open space site.

(ii) Submissions

Submissions from The Kingston Residents Association, Mr Tyler, Ms Booth and Ms Tate included comment on the large number of units having been built in the area and there being no provision for additional public open space.

The Kingston Residents Association’s submission indicated that the Amendment area had only 0.39ha/1,000 persons open space against the Council minimum standard of 2.4ha/1,000 persons.

Council’s Structure Plan indicates a lack of open space between the rail line and Nepean Highway. Council submitted that their stated preference is for the Collins Street site to be developed as an aged care facility, but that the ACZ2 does not preclude the use of the land for a park.

Mr Guttmann in his presentation to the Panel indicated Council had several million dollars in its open space fund from developer contributions. He agreed that there is a deficit of open space in this area (planning area 4C/6A in Council’s open space strategy) and that Council’s approach is to consider options for open space at the Mentone Lawn Bowls site and the Mentone Recreation Reserve on Remo Street as shown in the structure plan and ACZ2 framework plan.

(iii) Discussion

The Panel accepts that Council has a significant open space fund for acquiring land but considers that compulsory acquisition of land for any use is a difficult process that can lead to social disruption and take a long time.

The acquisition of land in this area should be given significant impetus by the finalisation of Amendment C124 which provides the strategic basis in the planning scheme. However, the Panel understands the desire of the local community to use the depot site for open space, given that Council already owns it and its use as a park would not displace another use.

The Panel is not convinced that the depot site is the best location for open space, being somewhat ‘hidden away’ from the major streets in the area.

It was put to the Panel in the Hearing that the Council’s adopted position is that the depot site be put out for an expression of interest process or similar for aged care, and that particular decision is not before the Panel.

On balance the Panel considers that the Amendment should not be changed in response to submissions on this issue. This is primarily because if the Council does change its views on
the use of 101-103 Collins Street for open space, the Amendment, if adopted in its current form, does not preclude the site from being used for that purpose.

(iv) Conclusion

The Panel concludes that no change should be made to the Amendment in response to submissions on open space on the Collins Street depot site.

5.2 Mentone Bowling Club Relocation

(i) The Issue

In its submission to the Panel the City of Kingston indicated the Mentone Bowling Club on the North East corner of Swanston Street and Balcombe Road could be relocated to the Mentone Recreation Reserve. This would allow approximately half the site to be developed and half to be public open space that would be highly accessible to residents in the 4C/6A Open Space Strategy precincts.

(ii) Submissions

Some fifteen (15) submissions were received by the Panel supporting the club remaining on its existing site including presentations from Ms Tate, Mr Tyler and the Kingston Residents Association.

(iii) Discussion

In its inspection of the centre the Panel noted the proliferation of advertising on the fencing surrounding the Bowling Club site which presents a poor image for a major gateway to the Mentone MAC.

The other question which arises, is given the traffic congestion around the Swanston Street/Balcombe Road intersection would the club be better located within the Mentone Recreation Reserve adjacent to other recreation uses with improved access and amenity?

These are questions for a later time if Council wishes to actively pursue the site for development and open space. Given the Bowling Club owns the land on which it is located there would have to be agreement between the club and Council on relocation and the Amendment does not take away any particular rights that the Club might have in a negotiation or compulsory acquisition process.

(iv) Conclusions

The Panel concludes that given the reasons above there should be flexibility on the future use of the Mentone Bowling Club site as it presents a key gateway entry opportunity into the Mentone Centre. No changes to the Amendment are recommended as a result of these submissions.
5.3 Activity Centre Zone Schedule 2 provisions

The Panel has carefully reviewed the ACZ2 provisions and is satisfied that there are no substantive issues raised beyond those addressed in this report. The Panel notes there are minor errors that should be corrected\(^{30}\) but none go to the content or merit of the controls.

Post Hearing Mr Guttman e-mailed the Panel noting that there is an apparent inconsistency or error in the exhibited schedule relating to the application of clause 55.\(^{31}\) He suggested that the reference to ‘four or more storeys’ should be a reference to ‘five or more storeys’ to be consistent with the new residential zones. The Panel notes this change would also be consistent with the decision guidelines in the head clause to the Activity Centre Zone.

Given that the ACZ2 proposed a mandatory height limit of four storeys, deletion of the sentence entirely would seem appropriate. The Panel does not consider this a substantive change warranting further notification.

The Panel recommends:

Delete the sentence on page 7 of 28 of the exhibited Activity Centre Zone Schedule 2 that reads: ‘This does not apply to a development of four or more storeys, excluding a basement’.

\(^{30}\) For example the inconsistent use of ‘Precinct’ and ‘Precincts’ in the conditions to the use tables.

\(^{31}\) At the bottom of page 7 of 28 of the ACZ2 Schedule.
## Appendix A  List of Submitters

<table>
<thead>
<tr>
<th>No.</th>
<th>Submitter</th>
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<tbody>
<tr>
<td>1</td>
<td>EPA Victoria</td>
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<td>2</td>
<td>Taylors on behalf of Yambacoona Holdings Pty Ltd</td>
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<td>3</td>
<td>Peter Kneebone</td>
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<td>5</td>
<td>Department of Sustainability and Environment</td>
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<td>6</td>
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<td>Alvis Svikers</td>
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<td>9</td>
<td>Volker and Erika Ottowa-Rene, also on behalf of Mr and Mrs Kanda and Lisa Balasubramanian</td>
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<td>10</td>
<td>Bayside City Council</td>
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<td>11</td>
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<td>12</td>
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<td>Evan Papadopoulos and Cheryle Bec</td>
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<td>Kingston Residents Association Inc.</td>
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