

Agenda

Planning Committee Meeting

Wednesday, 23rd August 2023

Commencing at 7.00pm

Council Chamber
1230 Nepean Highway, Cheltenham

kingston.vic.gov.au

Peter Bean
Chief Executive Officer
Kingston City Council

ACKNOWLEDGEMENT OF COUNTRY

The City of Kingston proudly acknowledges the Bunurong People of the Kulin Nation as the Traditional Owners and Custodians of this land, and we pay our respect to their Elders, past and present and emerging.

Council acknowledges the Bunurong's continuing relationship to the land and waterways and respects that their connection and spiritual identity is maintained through ancient ceremonies, songlines, dance, art and living culture.

Council pays tribute to the invaluable contributions of the Bunurong and other Aboriginal and Torres Strait Island elders who have guided and continue to guide the work we do.

**City of Kingston
Planning Committee Meeting**

Agenda

23 August 2023

Notice is given that Planning Committee Meeting of Kingston City Council will be held at 7.00pm at Council Chamber, 1230 Nepean Highway, Cheltenham, on Wednesday, 23 August 2023.

1. Apologies

2. Confirmation of Minutes of Previous Meetings

Minutes of Planning Committee Meeting 21 June 2023

3. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest

Note that any Conflicts of Interest need to be formally declared at the start of the meeting and immediately prior to the item being considered – type and nature of interest is required to be disclosed – if disclosed in writing to the CEO prior to the meeting only the type of interest needs to be disclosed prior to the item being considered.

4. Planning and Place Reports

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5. Confidential Items

Nil

Explanation of Meeting Procedure

Meeting Procedure is Regulated by Local Law

The procedures for this Planning Committee Meeting are regulated by Council's Meeting Procedures Local Law.

Chairperson

The Mayor as Chairperson is the ultimate authority for the conduct of the meeting.

Agenda

The business to be dealt with at the meeting is set out in the agenda. No other business can be dealt with.

Motions

A motion must be moved and seconded to be valid. The mover of the motion will then be permitted to speak to it. Other Councillors will then be permitted to speak either for or against the motion. The mover will be permitted a right-of-reply, which will conclude the debate.

Voting

The motion will then be voted on by show of hands. If the motion is carried, it becomes a resolution (decision) of the Committee. Any Councillor may call for a Division, in order that the vote of each Councillor is formally recorded.

Amendments

A Councillor may move an amendment to a motion. Any amendment moved shall be dealt with in the same way as a motion, except that there is no right of reply for the mover of the amendment and the mover of the motion if the amendment is carried. If carried, the amendment becomes the motion and the previous motion is abandoned.

Speaking at the Meeting

No visitor to a Planning Committee meeting may speak to the meeting, except for:

- The applicant (or his/her representative) and one objector in relation to an application for a planning permit;
- Special circumstances in which leave to speak is granted by the Chairperson.

Unless special circumstances apply, the Chairperson will limit the presentation of a speaker to three minutes duration.

Confidential Business

The meeting may be closed at any time to deal with confidential items in camera. In these instances members of the public will be asked to leave the Council Chamber, and the meeting re-opened once the confidential business is completed.

Explanation of Meeting Procedure

Courtesy to the Mayor

All Councillors are required to direct their attention towards the Chairperson when speaking. This is in accordance with protocols relating to respect for the Chairperson of a meeting, and is a requirement of Council's Meeting Procedures Local Law.

Emergency Evacuation of Chamber

Members of the public are requested to note the green and white EXIT signs.

In the event of an emergency requiring evacuation of the Chamber, the public should evacuate by way of the EXIT located to the right hand side of the Council Chamber. This leads to the foyer through which you passed in order to enter the Chamber. Proceed from the foyer through the revolving door/side door and out of the building. This is the primary evacuation route.

If the nature of the emergency is such that the primary evacuation route is impracticable, the public should evacuate by way of the EXIT located to the right of the Council table as viewed from the public gallery. Follow further EXIT signs thereafter, which lead to an exit point on the south side of the building. This is the secondary evacuation route.

Council staff will issue directions on how to proceed to evacuate in the event of an emergency.

Recording of Meetings

Planning Committee meetings are recorded and streamed live on the internet.

Recordings are archived and available on Council's website www.kingston.vic.gov.au.

All care is taken to maintain your privacy; however as a visitor in the public gallery, your presence may be recorded.

Are You Hard of Hearing?

Phonic Ear Hearing Assistance is available to any member of the public gallery with a hearing disability. Just ask a member of staff for a unit prior to the meeting.

Language Line



4. Planning and Place Reports

Planning Committee Meeting

23 August 2023

Agenda Item No: 4.1

TOWN PLANNING APPLICATION DECISIONS - JULY 2023

Contact Officer: Carly De Mamiel, Senior Customer Liaison and Administration Officer

Attached for information is the report of Town Planning Decisions for the month of July 2023.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	72	85
Notice of Decision	4	5
Refusal to Grant a Permit	0	0
Other - Withdrawn (8) - Prohibited (0) - Permit not required (1) - Lapsed (0) - Failure to Determine (0)	9	10
Total	85	100

(NB: Percentage figures have been rounded)

OFFICER RECOMMENDATION

That the report be noted.

Appendices

Appendix 1 - Town Planning Application Decisions July 2023 (Ref 23/206740) 

Author/s: Carly De Mamiel, Senior Customer Liaison and Administration Officer

Reviewed and Approved By: Naomi Crowe, Team Leader City Development Administration

4.1

TOWN PLANNING APPLICATION DECISIONS - JULY 2023

1	Town Planning Application Decisions July 2023.....	9
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Planning Decisions July, 2023							
APPL. No.	PROPERTY ADDRESS	SUBURB	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT DECISION
KP-2023/270	2 Foy Avenue	CHELSEA	22/05/2023	3/07/2023	Subdivide the Land into Three (3) Lots	Permit	No
KP-2023/262	20 Third Avenue	CHELSEA HEIGHTS	17/05/2023	3/07/2023	Subdivide the Land into Two (2) Lots	Permit	No
KP-2020/13/A	1 393-407 Warrigal Road	CHELTENHAM	4/05/2022	4/07/2023	The development of the land for a storage facility on a lot affected by the Special Building Overlay, the display of internally illuminated, externally illuminated and business identification signage and the alteration and creation of access to a road in the Transport Zone 2	Permit	No
KP-2018/144/A	7A Anchor Street	ASPENDALE	5/01/2023	4/07/2023	Develop the land for the construction of a double storey dwelling to the rear of the existing dwelling and buildings and works to the existing dwelling	Permit	No
KP-2023/357	Warehouse 22 85 Keys Road	MOORABBIN	23/06/2023	5/07/2023	The construction of a mezzanine level in an existing warehouse	Permit	No
KP-2023/271	80 Flinders Street	MENTONE	23/06/2023	5/07/2023	The construction of a front fence in a Special Building Overlay	Permit	No
KP-2023/241	108 Chute Street	MORDIALLOC	9/05/2023	5/07/2023	Subdivide the land into three (3) lots in the Special Building Overlay	Permit	No
KP-2022/499/A	21 Melaleuca Drive	CARRUM	20/04/2023	6/07/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2022/829	32 Nepean Highway	ASPENDALE	22/12/2022	7/07/2023	The construction of one (1) single storey dwelling on land affected by the Design and Development Overlay	Withdrawn	No

KP-2010/450/A	422 Station Street	BONBEACH	3/07/2023	7/07/2023	The development of this site for twelve (12) dwellings, in accordance with plans to be submitted pursuant to Condition 1 hereof	Permit	No
KP-2022/749	18 Kareela Street	MORDIALLOC	18/11/2022	10/07/2023	The use of the land as a place of assembly (function centre) and a waiver of the car parking requirement.	Withdrawn	No
KP-2023/256	2 18 Eighth Street	PARKDALE	16/05/2023	10/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2022/747	459-460 Station Street	BONBEACH	17/11/2022	10/07/2023	Development of two (2) dwellings and a front fence exceeding 1.2 metres in height	Permit	No
KP-2023/182	75 Malcolm Road	BRAESIDE	11/04/2023	11/07/2023	Development of buildings and works (warehouse)	Permit	No
KP-2022/733	6 Sheppard Street	MOORABBIN	14/11/2022	11/07/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2019/529/A	Unit 1 10 Browning Avenue	CLAYTON SOUTH	3/07/2023	11/07/2023	Develop four (4) dwellings	Permit	No
KP-2023/373	13A First Street	CLAYTON SOUTH	30/06/2023	12/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2017/387/A	21 Silver Street	CHELTENHAM	21/12/2020	12/07/2023	Develop the land for the construction of one (1) dwelling to the rear of the existing dwelling and alterations to the existing dwelling	Permit	No
KP-2023/25	582 Nepean Highway	BONBEACH	23/01/2023	12/07/2023	The development of one (1) dwelling and associated works on land affected by a Design and Development Overlay, Schedule 1 generally in accordance with the submitted plans	Permit	No
KP-2023/140	12C 93 Wells Road	CHELSEA HEIGHTS	24/03/2023	13/07/2023	The use of the land as a shop (sauna and cryotherapy)	Permit	No
KP-2000/226/C	1 Kelvin Grove	CHELSEA	5/05/2023	13/07/2023	To develop the site for two (2) dwellings, in accordance with plans	Permit	No

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KP-2023/261	33 Bevan Avenue	CLAYTON SOUTH	17/05/2023		to be submitted pursuant to condition 1 hereof		
KP-2023/387	84 Valetta Street	CARRUM	10/07/2023	13/07/2023	Subdivide the Land into Four (4) Lots	Permit	No
KP-2022/757	1 12 Berwen Street	CHELSEA	25/11/2022	13/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2023/260	14 29 York Street	BONBEACH	17/05/2023	14/07/2023	The development of two (2) double storey dwellings	Permit	No
KP-2022/812	2 2-6 Kingston Drive	DINGLEY VILLAGE	16/12/2022	14/07/2023	The construction of a verandah and pergola associated with an existing dwelling	Permit	No
KP-2023/300	1 27 Swansea Road	CHELSEA	5/06/2023	14/07/2023	Subdivide the land by re-aligning the boundary between Lot 2 and the common property (Plan of Strata Subdivision 017894)	Permit	No
KP-2023/250	74A Flinders Street	MENTONE	11/05/2023	14/07/2023	Alterations and additions to an existing dwelling. Extension prohibited.	Permit Not Required	No
KP-2023/331	13-15 Cochranes Road	MOORABBIN	9/06/2023	14/07/2023	Proposed first floor extension to existing dwelling	Withdrawn	No
KP-2023/382	364 Nepean Highway	PARKDALE	4/07/2023	14/07/2023	Use the land for the Sale of Liquor (Remote Seller's Packaged Liquor Licence)	Permit	No
KP-2023/190	55 Glenola Road	CHELSEA	18/04/2023	14/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2023/263	2 42 Kalimna Street	CARRUM	18/05/2023	18/07/2023	Alterations and additions to the existing dwelling and a new dwelling to the rear.	Permit	No
KP-2023/377	31 Mulkarra Drive	CHELSEA	3/07/2023	18/07/2023	The construction of a carport associated with a dwelling on a lot less than 300 square metres	Permit	No
KP-2023/242	8 Tuck Street	MOORABBIN	1/05/2023	18/07/2023	The construction of a single storey dwelling in the Special Building Overlay	Permit	No
					Subdivide the land into three (3) lots and create common property	Permit	No

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KP-2021/900/A	630-632 Warrigal Road	OAKLEIGH SOUTH	16/12/2022	18/07/2023	Use and develop the land for a childcare facility and alter access to a road in a Transport Zone 2	Permit	No
KP-2023/279	11 Parkside Boulevard	CARRUM	25/05/2023	18/07/2023	Develop the land for the construction of a carport on common property	Permit	No
KP-2023/397	58 Herbert Street	PARKDALE	18/07/2023	19/07/2023	The proposal alterations and additions consists of the following: ? Minor fitout modifications to existing Bathroom. ? New Powder room located within the existing dwellings footprint. ? Removal of internal wall and providing new openings from the existing living space to allow visibility to the backyard	Rejected	No
KP-2023/384	Warehouse 39 1-5 Lake Drive	DINGLEY VILLAGE	10/07/2023	19/07/2023	The construction of a mezzanine level within the existing warehouse	Permit	No
KP-2023/386	37 Mulkarra Drive	CHELSEA	10/07/2023	19/07/2023	The construction of a single storey dwelling in the Special Building Overlay	Permit	No
KP-2022/467	18 Phillip Street	MENTONE	12/07/2022	19/07/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2023/314	44 Glen Street	ASPENDALE	5/06/2023	19/07/2023	Two (2) lot Subdivision	Permit	No
KP-2023/315	16 Robert Street	PARKDALE	5/06/2023	20/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2023/293	51 Brownfield Street	MORDIALLOC	31/05/2023	20/07/2023	Subdivide the Land into Two (2) Lots	Permit	No
KP-2023/296	139 Palm Beach Drive	PATTERSON LAKES	31/05/2023	21/07/2023	The construction of a double storey dwelling in the Land Subject to Inundation Overlay	Permit	No
KP-2023/235	13B Randell Street	PARKDALE	12/07/2023	21/07/2023	The construction of a front fence	Permit	No

KP-2022/731	11 Harvey Court	CHELTHENHAM	10/11/2022	21/07/2023	Construction of two (2) dwellings	Permit	No
KP-2023/211	354-355 Station Street	CHELSEA	28/04/2023	24/07/2023	Develop the land for the construction of Two (2) dwellings and associated works in accordance with the endorsed plans	Permit	No
KP-2021/687	2 Berwen Street	CHELSEA	1/10/2021	24/07/2023	The construction of one (1) double storey dwellings to the front of the existing dwelling on a lot	Permit	Yes
KP-2021/767	30 Healey Street	MOORABBIN	4/11/2021	24/07/2023	In accordance with the endorsed plans Construction of a three storey building containing ten (10) dwellings	Permit	Yes
KP-2022/727	58 Mentone Parade	MENTONE	9/11/2022	24/07/2023	The development of two (2) dwellings	Notice of Decision	No
KP-2023/414	1 2-6 Hartwood Court	CHELSEA HEIGHTS	24/07/2023	25/07/2023	x1 'kit shed' temporary structure to be anchored / installed to x1 carpark of x4 staff parking at rear of leased building. The carparks are not shared and exclusive to SVDP use (carparks are part of the lease), less than 10m2 and less than 2.0m in height. There is no requirement for electricity or u	Withdrawn	No
KP-2023/247	55 Eighth Street	PARKDALE	10/05/2023	25/07/2023	The development of two (2) dwellings and subdivide the land into two (2) lots	Permit	No
KP-2020/141/B	1 1299A Nepean Highway	CHELTHENHAM	25/07/2023	25/07/2023	lodged in error	Withdrawn	No
KP-2023/330	8 580-581 Nepean Highway	BONBEACH	17/07/2023	26/07/2023	The construction of a deck, verandah and first floor balcony associated with the existing dwelling	Permit	No
KP-2023/389	57 Jacks Avenue	DINGLEY VILLAGE	11/07/2023	26/07/2023	Subdivide the Land into Two (2) Lots	Permit	No

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KP-2022/805	9 Bendigo Street	CHELTENHAM	14/12/2022	26/07/2023	The construction of two (2) dwellings	Permit	No
KP-2021/786	42-48 Sunmore Close	HEATHERTON	9/11/2021	26/07/2023	Buildings and works in a commercial zone, reduction in car parking, native vegetation removal and change of use for office and warehouse.	Withdrawn	No
KP-2023/221/B	32 Dahmen Street	CARRUM	20/07/2023	27/07/2023	The construction of a front fence in the Special Building Overlay	Permit	No
KP-2023/205	222-226 Chesterville Road	MOORABBIN	28/04/2023	27/07/2023	The display of an internally illuminated promotion sign	Permit	No
KP-2023/208	539-541 Clayton Road	CLAYTON SOUTH	28/04/2023	27/07/2023	The continued display of an internally illuminated promotion sign on an existing bus shelter	Withdrawn	No
KP-2023/207	102-114 Gladesville Boulevard	PATTERSON LAKES	28/04/2023	27/07/2023	The display of an internally illuminated sign	Permit	No
KP-2023/209	G0 1 1 Cochrane Road	MOORABBIN	28/04/2023	27/07/2023	The display of an internally illuminated promotion sign	Permit	No
KP-2011/935/C	626 Nepean Highway	CARRUM	1/02/2023	27/07/2023	Develop the Land for the Construction of Three (3) Dwellings	Permit	No
KP-2023/398	15 Biscop Road	MOORABBIN	18/07/2023	27/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2019/359/A	94 Tootal Road	DINGLEY VILLAGE	18/07/2022	27/07/2023	Use and develop the land for a minor sport and recreation facility, function centre, medical centre, shop, museum and reduction of bicycle parking requirements	Permit	No
KP-2022/798	179-217 Centre Dandenong Road	DINGLEY VILLAGE	9/12/2022	28/07/2023	Lopping of native vegetation	Notice of Decision	No
KP-2023/399	12 Mack Crescent	CLARINDA	18/07/2023	28/07/2023	Subdivide the land into two (2) lots	Permit	No

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KP-2022/475	19 Central Avenue	MOORABBIN	15/07/2022	28/07/2023	Develop the land for a five storey apartment building with basement car parking comprising of 44 dwellings	Permit	No
KP-2023/213	606-608 South Road	MOORABBIN	28/04/2023	28/07/2023	The display of an internally illuminated promotion sign	Permit	No
KP-2023/214	494 South Road	MOORABBIN	28/04/2023	28/07/2023	The display of an internally illuminated promotion sign	Permit	No
KP-2018/701/B	43-45 Westall Road	CLAYTON SOUTH	13/02/2023	28/07/2023	The construction of ground floor extensions and internal rearrangements to the existing primary school and the removal of one (1) native tree within the front setback	Permit	No
KP-2023/109	21 Brixton Street	BONBEACH	7/03/2023	28/07/2023	Develop the land for the construction of one (1) dwelling to the rear and extend (including alterations) the existing dwelling	Notice of Decision	No
KP-2022/808	43 Milton Avenue	CLAYTON SOUTH	15/12/2022	28/07/2023	The development of three (3) dwellings	Notice of Decision	No
KP-2023/415	2 Francis Street	MORDIALLOC	24/07/2023	31/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2023/417	28 Jean Street	CHELtenham	24/07/2023	31/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2023/406	39 Marriott Street	PARKDALE	19/07/2023	31/07/2023	Subdivide the land into two (2) lots	Permit	No
KP-2010/705/C	236-246 Governor Road	BRAESIDE	19/07/2023	31/07/2023	Construction of buildings and works and to use for industry, factory/warehouse/office, with reduced car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme, to erect associated business identification signage and create/alter access to a Road Zone - Category 1	Permit	No
KP-2023/141	17 Hartwell Place	CHELtenham	23/03/2023	31/07/2023	Construction of two (2) dwellings	Permit	No

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KP-2023/118	13 Lochiel Avenue	EDITHVALE	10/03/2023	31/07/2023	Develop the land for the construction of two (2) dwellings	Permit	No
KP-2023/271/A	80 Flinders Street	MENTONE	20/07/2023	31/07/2023	The construction of a front fence in a Special Building Overlay	Permit	No
KP-2002/406/B	36 La Perouse Boulevard	BONBEACH	24/01/2023	31/07/2023	The development of the land for 178 dwellings, the subdivision of the land into 178 lots and the removal of an easement from the land, in accordance with plans submitted pursuant to Condition 1 hereof	Permit	No
KP-2023/85	8 Levanto Street	MENTONE	17/02/2023	31/07/2023	Construction two (2) double storey dwellings	Permit	No
KP-2022/297	25-27 Wells Road	CHELSEA HEIGHTS	5/05/2022	31/07/2023	Develop the land for a storage facility and alter access to a road in the Transport Zone 2	Permit	No
KP-2001/351/B	151 Bay Trail	PARKDALE	9/11/2022	31/07/2023	The use of land for a food and drink premises (café) and function centre, buildings and works, the display of business identification signage, the sale and consumption of liquor, and a waiver of the car parking requirement	Permit	No
KP-2022/717	30 Acacia Avenue	MENTONE	7/11/2022	31/07/2023	The construction of three (3) double storey dwellings	Permit	No
KP-2023/59	59 Davanzo Avenue	CLARINDA	9/02/2023	31/07/2023	Development of two dwellings (one existing and one new dwelling)	Withdrawn	No

Planning Committee Meeting

23 August 2023

Agenda Item No: 4.2

KP-2022/804 - SITE TO THE REAR OF 118 - 146 PALM BEACH DRIVE PATTERSON LAKES

Contact Officer: Beau McKenzie, Principal Planner

Purpose of Report

This report is for the Planning Committee to consider Planning Permit Application No. KP-2022/804 - Rear of 118 to 146 Palm Beach Drive Patterson Lakes.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or contractor/s who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

RECOMMENDATION

That the Planning Committee determine to support the proposal and issue a notice of decision to grant a planning permit for the use of land for informal outdoor recreation (shared user path) at the site to the Rear of 118 to 146 Palm Beach Drive Patterson Lakes, subject to the conditions contained within this report.

This application requires a decision by the Planning Committee, as the applicant is City of Kingston.

EXECUTIVE SUMMARY

Address	Rear of 118 to 146 Palm Beach Drive, Patterson Lakes
Legal Description	Lot 1 on TP413076A & Crown Allotment 2069
Applicant	City of Kingston
Planning Officer	Beau McKenzie

PLANNING REQUIREMENTS

Planning Scheme	Kingston
Zoning	Clause 36.01 – Public Use Zone (Schedule 1)
Overlays	None
Particular Provisions	Clause 52.06 – Car Parking Clause 52.17 – Native Vegetation Clause 52.31 – Local Government Projects
Permit Trigger/s	Clause 36.01-1 – Use of land for informal outdoor recreation (shared user path) in the Public Use Zone

APPLICATION / PROCESS

Proposal	Use of land for informal outdoor recreation (shared user path)		
Reference No.	KP-2022/804	RFI Received	13 February 2023
App. Received	14 December 2022	App. Amended	NA
Site Inspection	Yes		

**City of Kingston
Planning Committee Meeting**

Agenda

23 August 2023

S.52 Advertising commenced	2 March 2023 (first round) 12 July 2023 (re-advertising)		Advertising Completed	20 March 2023 (first round) 27 July 2023 (re-advertising)	
S.55 Referrals	Melbourne Water				
Internal Referrals	Yes				
Objection(s)	Six (6) (TRIM checked on 31 July 2023)				
Vegetation	Trees > 8m	No	No. of Trees to be Removed (110cm circumference)	No	
LEGISLATIVE					
Covenant/Other Restriction	Yes		Complies: Yes		
Aboriginal Cultural Sensitivity Area	Yes				
CHMP	Exempt				
Considered Plans	Site plan titled 'Kananook Creek Proposed Shared Path Melbourne Water Pumping Station to No. 146 Palm Beach Drive', sheet 1-2, submitted to Council on 3 July 2023.				

1.0 KEY CONSIDERATION

- 1.1. The main point of consideration arising from this proposal relates to the appropriateness of the use.

2.0 SITE AND SURROUNDS

- 2.1. The photographs below illustrate the subject site.



Looking from the western access to the site.



Looking east across site.



Looking at adjoining residential properties.



Eastern access to the site.

**Allotment
Placement**

The subject site is situated between the rear of No. 118 to 146 Palm Beach Drive, Patterson Lakes and Kananook Creek as outlined by the white line below:



The site encompasses two parcels of land, Lot 1 on TP413076A and Crown Allotment 2069. However, the site is mostly within Lot 1 on TP413076A.

Size (m²)

1,750m² (approx.)

Existing Use	The site is vacant grassland at the top northern bank of Kananook Creek. The land is used informally for pedestrian access which was observed during the officer's site inspection.
Topography	The land is generally flat where the application applies to. There is a sharp drop from the top to the toe of the Kananook Creek bank.
Fencing	The site is bordered to the north by residential properties which feature various fencing styles on the shared boundary with the site. The fencing consists of both open and solid design. There is no fencing on its eastern boundary where it meets the existing shared user path. There is an existing gate and timber post/wire fence on the western side of the site adjacent to the existing pumping station.
Vegetation	Void of any significant vegetation. The land is mostly mowed exotic grassland with little native vegetation.
Easement(s)	There are no easements where the proposed use applies to.
Covenant(s) / Restrictions	There is a restriction outlined on the title plan of Lot 1 TP 711344P. The restriction relates to works for a bridge on the land and channel. The proposal does not breach the restriction.

3.0 SURROUNDING LAND


3.1 The following map illustrates the subject site in its surrounding context.



Subject site outlined in white, source NearMap dated 15 February 2023.

North	Fifteen (15) residential properties adjoin the site to the north from No. 118 to 146 Palm Beach Drive. These properties generally have their secluded private open space and rear fencing along the direct interface of the site. Many of these properties have open fencing on their rear boundaries, taking advantage of views towards Kananook Creek and Seaford Wetlands.
East	An existing shared user path (SUP) and Palm Beach Drive road reserve exists directly to the east of the subject land. It is noted that the existing shared user path will be upgraded as part of the proposed extension on the subject site.
South	Kananook Creek and Seaford Wetlands.
West	Melbourne Water pumping station and associated gravel access track.

4.0 PROPOSAL

Description	<p>The application proposes to use the subject land for informal outdoor recreation, specifically a shared user path (SUP). The shared user path will extend from the upgraded shared user path on its eastern side, allowing for formalised pedestrian and cycling access along the northern edge of Kananook Creek to the Melbourne Water pumping station. The shared user path will be approximately 360 metres long and 2.5 metres wide.</p> <p>The new shared user path is part of the State Government plan to improve user connectivity to the Seaford Wetlands under the broader Suburban Parks Program. The project is being delivered by Council with funding provided from the Department of Energy, Environment and Climate Action (DEECA).</p>
Plans	<p>The overall plan of the shared user path is shown in the below diagram with the part of the new shared user path that is subject to this application indicated in green and the upgraded shared user path indicated in purple (not forming part of this application).</p>  <p>Detailed plans are shown as follows:</p>



Western portion of the new shared user path.




Central portion of new shared user path.



Eastern portion connecting to upgraded shared user path.

The shared user path will continue east to Old Wells Road. However, this part of the shared user path is an upgrade to the existing path and does not require planning permission. Plans of this part are provided below for information purposes:



	
<p>Vegetation Removal / Retention</p>	<p>No significant vegetation is proposed to be removed. Whilst native grass and plants will be removed, it is noted that the grass is regrowth and is exempt from the considerations of Clause 52.17 (Native Vegetation). Further discussion is provided within section 6 of the report.</p>
<p>Works</p>	<p>The proposed works for the shared user path do not require a planning permit in accordance with the exemptions of Clause 52.31 (Local Government Projects). Refer to Section 4 below for further details.</p>

5.0 AMENDMENTS UNDER SECTION 50 / 50A / 57A OF THE ACT

5.1 No amendments made.

6.0 PLANNING PERMIT REQUIREMENT

Zone / Overlay / Particular Provisions	Requirement																												
Clause 36.01 – Public Use Zone (PUZ1)	<p>The land is situated in the Public Use Zone. Pursuant to the table of uses under Clause 36.01-1, informal outdoor recreation falls under ‘any other use’ as highlighted below:</p> <div data-bbox="419 548 1425 1021"> <p>36.01-1 14/11/2022 VC227</p> <p>Table of uses</p> <table border="1"> <thead> <tr> <th colspan="2">Section 1 - Permit not required</th></tr> <tr> <th>Use</th><th>Condition</th></tr> </thead> <tbody> <tr> <td>Automated collection point</td><td>Must meet the requirements of Clause 52.13-3 and 52.13-5. The gross floor area of all buildings must not exceed 50 square metres.</td></tr> <tr> <td>Railway</td><td></td></tr> <tr> <td>Tramway</td><td></td></tr> <tr> <td>Any use listed in Clause 62.01</td><td>Must meet the requirements of Clause 62.01.</td></tr> <tr> <td>Any other use</td><td>The use must be for the purpose described in the table to Clause 36.01-6 which corresponds to the notation on the planning scheme map. The use must be carried out by or on behalf of the public land manager.</td></tr> </tbody> </table> </div> <p>A planning permit is required to use the land for ‘informal outdoor recreation’ as the corresponding conditions above have not been met. Specifically, the use is not for the purpose described in the table of Clause 36.01-6 which corresponds to the notation in the planning scheme map being in this instance PUZ1. Under Clause 36.01-6, the purpose of the PUZ1 is for service and utility:</p> <div data-bbox="419 1288 1193 1733"> <p>36.01-6 20/01/2022 VC205</p> <p>Table of public land use</p> <table border="1"> <thead> <tr> <th>Shown on the planning scheme map</th><th>Purpose of public land use</th></tr> </thead> <tbody> <tr> <td>PUZ1</td><td>Service & Utility</td></tr> <tr> <td>PUZ2</td><td>Education</td></tr> <tr> <td>PUZ3</td><td>Health & Community</td></tr> <tr> <td>PUZ5</td><td>Cemetery/Crematorium</td></tr> <tr> <td>PUZ6</td><td>Local Government</td></tr> <tr> <td>PUZ7</td><td>Other public use</td></tr> </tbody> </table> </div> <p>Informal outdoor recreation does not fall under the allocated public land use for service and utility.</p> <p>In accordance with the application requirements of Clause 36.01-3, an application for a planning permit made by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager (PLM) indicating that the public land manager consents generally or conditionally either:</p> <ul style="list-style-type: none"> • To the application for permit being made. 	Section 1 - Permit not required		Use	Condition	Automated collection point	Must meet the requirements of Clause 52.13-3 and 52.13-5. The gross floor area of all buildings must not exceed 50 square metres.	Railway		Tramway		Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.	Any other use	The use must be for the purpose described in the table to Clause 36.01-6 which corresponds to the notation on the planning scheme map. The use must be carried out by or on behalf of the public land manager.	Shown on the planning scheme map	Purpose of public land use	PUZ1	Service & Utility	PUZ2	Education	PUZ3	Health & Community	PUZ5	Cemetery/Crematorium	PUZ6	Local Government	PUZ7	Other public use
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Zone / Overlay / Particular Provisions	Requirement
	<ul style="list-style-type: none"> To the application for permit being made and to the proposed use or development. <p>As the subject site encompasses two parcels of land, consent from two public land managers were required for the application including Melbourne Water for Lot 1 on TP413076A and Department of Energy, Environment and Climate Action (DEECA) for Crown Allotment 2069. Consent has been provided from each public land manager for the application being made and for the proposed use, subject to conditions included on any permit issued.</p>
Clause 52.06 – Car Parking	<p>Informal outdoor recreation and its broader recreational land use definitions do not have a specified car parking rate under Table 1 of Clause 52.06-5. Therefore, under Clause 52.06-6 where the use of land is not specified in Table 1, car parking must be provided to the satisfaction of the responsible authority.</p> <p>As the application relates to improved pedestrian and cycling access to the adjacent Seaford Wetlands for the local Patterson Lakes residents, the proposal is not anticipated to generate demand for car parking. There may be instances where users from further away may drive to the shared user path to access the wetlands. However, the existing on-street car parking can accommodate this low and irregular demand.</p>
Clause 52.17 – Native Vegetation	<p>The shared user path will result in the removal of native plants from the land including:</p> <ul style="list-style-type: none"> - Toad Rush (<i>Juncus bufonius</i>) - Small Loosestrife (<i>Lythrum hyssopifolia</i>) - Common Reed (<i>Phragmites australis</i>) <p>The application was accompanied by an ecology assessment (prepared by Biosis) confirming that the removal of the above species falls under the planning permit exemption 'regrowth' as per Clause 52.17-7.</p> <div data-bbox="421 1397 1347 1554" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Regrowth Native vegetation that is to be removed, destroyed or lopped that has naturally established or regenerated on land lawfully cleared of naturally established native vegetation, and is:</p> <ul style="list-style-type: none"> ▪ less than 10 years old; or </div> <p>The ecologist further confirmed the listed species are an annual plant that is regularly slashed and therefore less than ten (10) years old as per the above exemption.</p> <p>It is noted that there are native trees along the south side of the new shared user path that are not proposed to be removed, lopped or pruned. However, the ecologist advised that if any impact was proposed, this would be exempted under 'planted vegetation' and 'lopping and pruning for maintenance' of Clause 52.17-7.</p>
Clause 52.31 – Local Government Projects	<p>A planning permit is not required for works in the Public Use Zone, as the proposal meets the following exemptions of Clause 52.31-1:</p> <p><i>Any requirement in a zone or a schedule to a zone to obtain a permit to construct a building or construct or carry out works does not apply to the</i></p>

Zone / Overlay / Particular Provisions	Requirement
	<p><i>development of land carried out by or on behalf of a municipal council. This exemption does not apply to:</i></p> <ul style="list-style-type: none"> <i>• A development with an estimated cost of more than \$10 million. (Estimated cost of works \$200,000)</i> <i>• A development in the Urban Floodway Zone unless the development is carried out to the satisfaction of the relevant floodplain management authority.</i> <i>• A development associated with the use of land for accommodation, earth and energy resources industry, energy generation facility, industry or warehouse.</i> <i>• A development for which an environment effects statement has been, or is required to be, prepared under the Environment Effects Act 1978.</i> <i>• A development for which the Minister for Planning has decided that an assessment through an environment effects statement under the Environment Effects Act 1978 is not required if the Minister's decision is subject to conditions.</i>
Clause 62.02-2 – Buildings and works not requiring a permit	<p>In addition to the exemptions of Clause 52.31 above, the proposed works also fall under the below exemption of Clause 62.02-1:</p> <ul style="list-style-type: none"> <i>• Buildings or works with an estimated cost of \$1,000,000 or less carried out by or on behalf of a municipality.</i>

7.0 REFERRALS

External Referrals

7.1 The application was referred to the following external authorities pursuant to Section 55 or 52 of the *Planning and Environment Act 1987*.

Department	Section 52/55	Determining / Recommending	Objection	Comments
Melbourne Water	Public land manager & s52	NA	No	Subject to conditions included verbatim within the recommendation section of this report.
Department of Energy, Environment and Climate Action	Public land manager & s52	NA	No	Subject to conditions included verbatim within the recommendation section of this report.
Frankston City Council	52	NA	NA	No response provided.

Internal Referrals

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

Department / Area	Comments / Rationale / Recommended Conditions
Vegetation Management Officer	Advised that the proposed shared user path is not expected to adversely impact any on-site or adjoining trees. However, it was recommended that a basic tree management plan be conditioned on any permit issued to ensure that the proposed works are constructed in a matter that does not impact on existing trees on-site, street and neighbouring properties.

8.0 ADVERTISING

8.1 The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days as per the below maps:



Letters sent to the above marked properties.



Yellow star indicating the location of signs placed on-site.

8.2 Six (6) objection(s) to the proposal were received. The grounds of objection raised are summarised as follows:

- Loss of privacy.
- Safety risks.
- Impact to security of adjacent properties.
- Impact to flora and fauna.
- Cultural heritage issue.
- Increased noise.
- Increased pedestrian/vehicle traffic.
- Reduced property values.
- Maintenance issues of path.
- Water runoff and impact to surrounding structures/embankment.
- Construction impacts.
- Allocation of public funds.

8.3 The application was re-advertised on 12 July 2023 due to an error in the previous advertising material which included the incorrect land and title information and absence of public land manager consent. The re-advertising material included the correct site description, and the advertising documentation was updated to accurately reflect the subject land and include the required public land manager consent from Melbourne Water and Department of Energy, Environment and Climate Actions (DEECA). The proposal itself did not change between these two advertising stages. The reason for re-advertising was clearly outlined within the notices.

8.4 The application was re-advertised by sending letters to adjoining and opposite properties only. Signs were not required to be placed on-site again as notice to the broader area was deemed unnecessary as there are no changes to the proposal itself.

8.5 Three (3) objections were received following re-advertising, however these objections were received from original objectors from the first round of advertising and reiterated concerns already raised. As such, no new grounds of objection were raised through the latest readvertising process.

9.0 PLANNING CONSULTATION MEETING

9.1 A planning consultation meeting was held on 12 April 2023 with the relevant Council planning officer, representative of the permit applicant and four (4) objector(s) in attendance. The above-mentioned issues were discussed at length.

9.2 The above concerns were unable to be resolved at the meeting and the objections still stand.

10.0 POLICY FRAMEWORK

Planning Policy Framework

10.1 **Clause 11.01-1S (Settlement)** aims to facilitate the sustainable growth and development of Victoria. Of relevance is the strategy that seeks to integrate water resources into the urban environment, supporting public health, environment and amenity outcomes.

- 10.2 **Clause 12.03-1S (River and Riparian Corridors, Waterways, Lakes, Wetlands and Billabongs)** seeks to protect and enhance waterway systems. Strategies relevant to the application include providing new green pedestrian and cycling links with open space, enhancing public access to waterways and surrounding parklands, discouraging privatisation of spaces that interface with waterways and maximising visibility and passive surveillance.
- 10.3 **Clause 14.02-1S (Catchment Planning and Management), Clause 14.02-1L (Catchment Planning and Management – Kingston) and Clause 14.02-2S (Water Quality)** generally seeks to protect and restore waterways and catchments with respect to stormwater/drainage management and water quality. Relevant strategies listed include ensuring new land uses avoid detrimental impacts on the performance of local waterways and maximise the potential for development to incorporate public open space and recreational activities.
- 10.4 **Clause 19.02-6S (Open Space) and Clause 19.02-6R (Open Space – Metropolitan Melbourne)** seeks to establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community. Relevant strategies include linking open space networks through provision of walking and cycling trails particularly along waterways and natural drainage corridors. Additionally, it is emphasised under these provisions that public access on public land is maintained immediately adjoining waterways.
- 10.5 The application has been assessed against the Planning Policy Framework and it is considered that the proposed use is consistent with the relevant policies contained within this section of the Kingston Planning Scheme. The shared user path will formalise a walking and cycling connection along Kananook Creek, providing improved connectivity and amenity for the local community. The use will not have a detrimental impact to the adjoining creek and maintenance access will continue to be available. Melbourne Water and the Department of Energy, Environment and Climate Action have provided consent to the proposed use as public land managers, subject to conditions. Conditions recommended include ensuring maintenance access is unobstructed and no run-off to enter the creek.

Zoning Provisions

- 10.6 The land is situated in the Public Use Zone. The purpose of the Public Use Zone (PUZ) is as follows:
- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - *To recognise public land use for public utility and community services and facilities.*
 - *To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*
- 10.7 The decision guidelines of the Public Use Zone are as follows:
- *The Municipal Planning Strategy and the Planning Policy Framework.*
 - *The comments of any Minister or public land manager having responsibility for the care or management of the land or adjacent land.*
 - *Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.*

10.8 Pursuant to the table of uses under Clause 36.01-1, informal outdoor recreation falls under 'any other use' as highlighted below:

36.01-1
14/11/2022
VC227

Table of uses

Section 1 - Permit not required	
Use	Condition
Automated collection point	Must meet the requirements of Clause 52.13-3 and 52.13-5. The gross floor area of all buildings must not exceed 50 square metres.
Railway	
Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.
Any other use	The use must be for the purpose described in the table to Clause 36.01-6 which corresponds to the notation on the planning scheme map. The use must be carried out by or on behalf of the public land manager.

10.9 As touched on under Section 6 of this report, a planning permit is required to use the land for informal outdoor recreation as the corresponding conditions above have not been met. Specifically, the use is not for the purpose described in the table of Clause 36.01-6 which corresponds to the notation in the planning scheme map being in this instance PUZ1. Under Clause 36.01-6, the purpose of the PUZ1 is for service and utility:

36.01-6
20/01/2022
VC205

Table of public land use

Shown on the planning scheme map	Purpose of public land use
PUZ1	Service & Utility
PUZ2	Education
PUZ3	Health & Community
PUZ5	Cemetery/Crematorium
PUZ6	Local Government
PUZ7	Other public use

Informal outdoor recreation does not fall under the allocated public land use for service and utility.

10.10 In accordance with the application requirements of Clause 36.01-3, an application for a planning permit made by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager (PLM) indicating that the public land management consents generally or conditionally either:

- To the application for permit being made.
- To the application for permit being made and to the proposed use or development.

10.11 As the subject site encompasses two parcels of land, consent from two public land managers were required for the application including Melbourne Water for Lot 1 on TP413076A and Department of Energy, Environment and Climate Action (DEECA) for Crown Allotment 2069. Consent has been provided from each public land manager for the application being made and for the proposed use, subject to conditions.

10.12 As identified earlier in the report, the specific purpose of the Public Use Zone on the site is for 'service and utility' for the maintenance of Kananook Creek and its embankment. Accordingly,

the proposed use for informal outdoor recreation for a shared user path is not consistent with this purpose for 'service and utility'. Despite this, the proposal is considered to meet the overarching purpose of the Public Use Zone for the following reasons:

- The land will continue to be available for the ongoing maintenance of Kananook Creek and its environs as access to this area will remain unrestricted and unobstructed by the new path. The land can therefore be used concurrently for service & utility and recreational purposes without detrimentally impacting on one another.
- Melbourne Water (MW) and the Department of Energy, Environment and Climate Action (DEECA) as Public Land Managers of the subject site have provided consent for the application being made and for the proposed use of land for a shared user path. Consent has been given subject to conditions which have been included verbatim within the recommendation.
- The land is currently used informally by pedestrians as a shorter connection between footpaths on Palm Beach Drive. The proposed path will not result in a significant change to how it is currently used and will allow for it to be formalised.
- The path will provide greater amenity to the surrounding community by enhancing links to Kananook Creek and being part of a future link to Seaford Wetlands. The proposed and future upgrades form part of the Victorian Government's Suburban Parks Program. This benefit is significant and will improve the recreational and environmental values of the area.
- The proposal is well supported by state and local policy under the Planning Policy Framework (PPF), particularly with respect to encouraging walking and cycling links along waterways and connecting open space areas.

Aboriginal Cultural Heritage

10.13 The Subject Land **is** identified in an area of Aboriginal cultural heritage sensitivity. However, the proposed activity is exempt from the requirements of the *Aboriginal Heritage Regulations 2018*. The land has previously undergone significant ground disturbance given that land is an artificial mound that has heavily been battered to prevent flooding from the creek to the adjacent Patterson Lakes residential area. As such, the land is not an area of cultural heritage sensitivity in accordance with the regulations.

11.0 RESPONSE TO GROUNDS OF OBJECTIONS

11.1 The objector's concerns are addressed as follows:

Objection	Response
Loss of privacy, security and noise issues	<p>Residents raised concerns with amenity impacts including loss of privacy, security and noise due to the path being located behind residential properties. Many of the properties backing onto this corridor have chosen to establish low or open fencing on their rear boundary to take advantage of the views to the creek.</p> <p>However, it is acknowledged that this corridor is public land and the residential properties do not have a privatised right to views to the creek. It is not uncommon for pathways to be located behind residential properties particularly where</p>

	<p>there is an interface with a waterway or public open space. This is evident on the same shared user path for properties along Mermaid Court, 300 metres to the east of the site.</p> <p>It is also noted that the land is already used informally for public access which was observed during a site visit. The land does not have any restrictions and can easily be accessed on foot at either end.</p> <p>As discussed earlier in the report, public access to waterways is encouraged under local and state planning policy and should not be prevented because of private residences backing onto these corridors.</p>
Safety	<p>Safety concerns have been raised to the shared user path's proximity to the Melbourne Water pumping station. The application has been referred to Melbourne Water and they have raised no objection regarding any safety issues between the two uses.</p>
Impact to flora and fauna	<p>The application was accompanied by an ecology assessment (prepared by Biosis) discussing the potential impact to native flora and fauna from the proposed path. The assessment concluded that native vegetation removed from the land (only grass species) is exempt from the considerations under the relevant planning controls for native vegetation, Clause 52.17. The assessment did not raise any concerns with respect to any impacts to fauna using the land.</p> <p>The application was referred to Council's vegetation officer who has offered support for the proposal subject to permit conditions relating to the protection of existing trees on-site.</p>
Cultural heritage issues	<p>The proposed path is situated on previously filled ground having no impact to cultural heritage. Refer to paragraph 10.13 which addresses this issue.</p>
Water runoff and impact to surrounding structures/embankment	<p>The application was referred to Melbourne Water in relation to potential impacts from water runoff and to the Kananook Creek embankment. No objections were raised, subject to conditions which have been reflected in the recommendation.</p>
Increased pedestrian/vehicle traffic	<p>Council officers acknowledge that the proposal will result in an increase to pedestrian traffic</p>

	<p>along the Kananook Creek corridor. However, as discussed throughout the report, there is significant policy support in using waterways for such purposes.</p> <p>It is not expected that the new path will increase vehicle traffic on the surrounding road network given the infrastructure supports alternative transport (walking and cycling). Concerns were raised regarding increased traffic from the new bridge over Kananook Creek. The bridge is not subject to this application with its potential impacts not able to be considered.</p>
Maintenance issues	<p>The path and adjoining land will be required to be maintained by the City of Kingston as confirmed by the public land managers (Melbourne Water and DEECA) as outlined within conditions. All other areas will continue to be maintained by Melbourne Water and DEECA, as appropriate.</p>
Devaluation of property	<p>Devaluation of property is not a valid planning consideration under the <i>Planning and Environment Act 1987</i>.</p>
Construction impacts	<p>Construction impacts are not considered under the planning application. Construction impacts will be a consideration separately under the <i>Building Act 1993</i>, if a building permit is required.</p>
Other path location options	<p>Residents indicated a preference for other options for a shared user path in this area. It is understood that extensive consultation has previously been undertaken by Council and DEECA for the various options for a shared user path. Council planning officers can only consider the option that has been proposed under this application and cannot advise or comment on other options.</p>
Allocation of public funds	<p>The allocation of public funds to the construction of the new shared user path is not a valid planning consideration.</p>

12.0 CONCLUSION

- 12.1 On balance, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported.
- 12.2 As outlined above, it has been determined that prior to deciding on this application, all factors pursuant to Section 60(1) of the Act have been considered. Further to this, the proposal does not give rise to any significant social or economic effects.
- 12.3 The proposed use is considered appropriate for the site as evidenced by:
- The strong local and state policy support in the provision of pedestrian and cycling links along waterways and public open space areas.
 - The proposal will not have a detrimental impact on surrounding properties particularly as the land is already used informally for public access.
 - The proposal will provide a benefit to the broader community, improving pedestrian and cycling connections and enhancing access to the natural environment.
 - The proposal satisfies the requirements of the Kingston Planning Scheme, including the Public Use Zone.

13.0 RECOMMENDATION

- 13.1 That the Planning Committee determine to support the proposal and issue a of Notice of Decision to Grant a Planning Permit for the use of land for informal outdoor recreation (shared user path) at the rear of 118 to 146 Palm Beach Drive, Patterson Lakes (Lot 1 on TP413076A and Crown Allotment 2069), subject to the following conditions:

Amended Plans

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 an electronic copy must be provided. The plans must be substantially in accordance with the site plan titled 'Kananook Creek Proposed Shared Path Melbourne Water Pumping Station to No. 146 Palm Beach Drive', sheet 1-2, submitted to Council on 3 July 2023, but modified to show:
 - a) The location of tree protection measures illustrated to scale and labelled on the site plan as per the endorsed tree management plan.
 - b) Any changes as required by condition 3.
2. The use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Tree Management Plan

3. Concurrent with the endorsement of plans, a tree management plan prepared by a suitably qualified arborist in accordance with AS4970-2009, must be submitted to and be endorsed by the Responsible Authority and incorporating:
 - a) A tree management plan (written report) must provide details of:
 - i. Any pruning works to be undertaken as part of the proposed works, with details regarding how these works are to be undertaken in accordance with AS4373-2007.
 - ii. Any major intrusions into the tree protection zone (TPZ) and structural root zone (SRZ) of the protected trees in this position, with details regarding how the works in this position will be undertaken without adverse impact to the trees.

- iii. Any changes to the proposal required to avoid detrimental impact to the protected trees in this position.
 - b) A tree protection plan (scale drawing) must provide details of:
 - i. Any major intrusions to the onsite, street and neighboring trees in this position, with details of any changes required to ensure the trees are not adversely impacted.
 - ii. All pruning works to be undertaken as part of the proposed works. With notes clearly stating that Council-owned trees are only to be pruned by Council contractors or with their express permission, and that all pruning works are to be conducted by a qualified arborist in accordance with AS4373-2007.
4. All protection measures identified in the tree management plan must be implemented, and development works undertaken on the land must be undertaken in accordance with the tree management plan, to the satisfaction of the Responsible Authority.
5. Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the tree management plan must be submitted to the Responsible Authority.

Melbourne Water requirements

6. Prior to commencement of works, a Build Over application must be submitted online for Melbourne Water's review and approval prior to finalising plans and for any construction of permanent or temporary structures, demolition of existing structures or tree removal within 5m of a Melbourne Water asset.

Details to include:

- No cut into "original" embankment.
- Show interface with existing paths and proposed paths.
- Cut and fill sections.
- The proposed path must be designed to carry heavy load vehicles for maintenance.
- A report detailing the works from a qualified dams engineer must demonstrate that proposed works do not have any structural impact on the levee bank.
- Any new landscaping within 5 metres of the asset will need to comply with Melbourne Water's Planting Guidelines.

For more information please refer to: <https://www.melbournewater.com.au/building-and-works/work-or-build-near-our-assets-or-easements/utility-installation-guidelines>

7. Prior to the commencement of works a separate application to Melbourne Water must be made and approved of any new or modified storm water connection to Melbourne Water's drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.
8. No services are to be installed across any Melbourne Water Assets or within any easements or owned land that are in favour of Melbourne Water unless approval in writing has been granted by Melbourne Water.
9. Updated final detailed design plans must be submitted to Melbourne Water for assessment.
10. Additional conditions may be requested by MW's assets and land management via application reference MWA-1293703.
11. Prior to commencement of works, a site meeting is to be arranged to establish protocols surrounding access for maintenance.

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12. Prior to the commencement of the works, Council must enter into a shared pathway agreement with Melbourne Water's Property Team.
13. Due to the alignment of the shared pathway traversing near a driveway access to the Melbourne Water station;
 - a) Council acknowledges that they are responsible for the maintenance of the land behind the pump station as outlined in green on image 1 attached within Annexure 1 and the 2 metres both sides of the shared user pathway on the Melbourne Water land mentioned in this letter above. This maintenance change over must be captured within the Shared Pathway Annexure.
 - b) Council acknowledges that Melbourne Water requires unobstructed access to Melbourne Water land and pump station.
14. Melbourne Water is indemnified from any public liability claims arising from the proposed works.
15. The owner of installation of these structures is liable for any damage, injury or loss incurred in connection with the works on or near Melbourne Water's asset. Melbourne Water is indemnified from and against all losses, actions, claims, demands, costs and expenses in connection with these works (including your employees, contractors, agents and workers) and you will not make any claims against us in respect of any damage, injury or loss.
16. The proposed works may trigger approval requirements concerning environmental, biodiversity and cultural heritage controls. Accordingly, you are advised to consult with the following authorities and agencies: Department of Energy, Environment and Climate Action, Office of Aboriginal Affairs Victoria, Heritage Victoria and Municipal Council.
17. Final design plans must be submitted within 12 months from the date of the consent letter (6 July 2023), after which this approval will lapse, and Melbourne Water will reserve the right to either grant an extension of time or impose additional conditions.
18. Please note that Melbourne Water's consent to the proposal does not affect the rights of any other parties over the area in question.

Department of Energy, Environment and Climate Action requirements

19. The works are to be carried out generally in accordance with plans titled:
 - 'Seaford Wetland, Patterson Lakes Shared User Path Construction between Old Wells Road and Palm Beach Drive Functional Plan', n.d. rev A, prepared by Engineering Design Department, Kingston City Council, received via email dated 26/05/23 from Pim Hooijboer, Kingston City Council.
 - 'Kananook Creek Proposed Shared Path Melbourne Water Pumping Station to No. 146 Palm Beach Drive', n.d., received via email dated 23/06/23 from Fleur Gascoyne, Kingston City Council.
 - 'Tree Management and Protection Plan Shared-Use Path Upgrade and Extension Kananook Ck, Patterson Lakes' dated 2/02/23 report no. 10751.12023, prepared by Arboriculture Pty Ltd.
20. Any modification to the works proposed will require further approval by the Program Manager Land and Built Environment, Port Phillip Region, DEECA.
21. Prior to works commencing, landowner consent from Melbourne Water for the shared user path on Melbourne Water land must be obtained.
22. Indigenous vegetation must not be damaged or removed as a result of the works.
23. Any clearing or construction activity associated with the works, should be carried out in accordance with the EPA Publication No. 275 *Construction Techniques for Sediment Pollution Control* (May 1991).

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24. The construction site must be managed in accordance with EPA Publication 1834: Civil construction, building and demolition guide (26 November 2020).
25. Building materials, refuse and site run-off must be contained and controlled and not permitted to impact on or enter Eel Race Creek.
26. All works must be completed, the site reinstated, and the works maintained to the satisfaction of Kingston City Council and Melbourne Water.
27. Ongoing management and maintenance of the shared user path will be the responsibility of Kingston City Council.
28. This consent will expire if the works are not completed within two years of the date of issue, unless an extension of time is applied for and granted by the Program Manager Land and Built Environment, Port Phillip Region, DEECA.

Permit Expiry

29. Once the use has started it must be continued and completed to the satisfaction of the Responsible Authority.
30. In accordance with Section 68 of the *Planning and Environment Act 1987* (the Act), this permit will expire if one of the following circumstances applies:
 - The use is not started before two (2) years from date of this permit.
 - The use is discontinued for a period of two (2) years.


In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

Note: The property is subject to flooding from the Eel Race Creek. The applicable 1% Annual Exceedance Probability (AEP) flood level for the property, being the 1% probability in any one calendar year, is 2.5 metres to Australian Height Datum (AHD).

Note: The path and earthworks proposal are in proximity to the Patterson Lakes Drain, Eel Race Creek and Eel Race Levee Bank within Melbourne Water-owned land. Nearby assets include, the waterway, a 1,350mm diameter reinforced concrete pipeline and outlet structure/pump station.

Note: A shared pathway agreement may be required. It should be noted that at various times the shared user pathway will need to be closed to allow Melbourne Water maintenance access to the pump station.

Appendices

Appendix 1 - KP-2022/804 - Rear of 118 to 146 Palm Beach Drive Patterson Lakes -
Considered Plans (Ref 23/192197) 

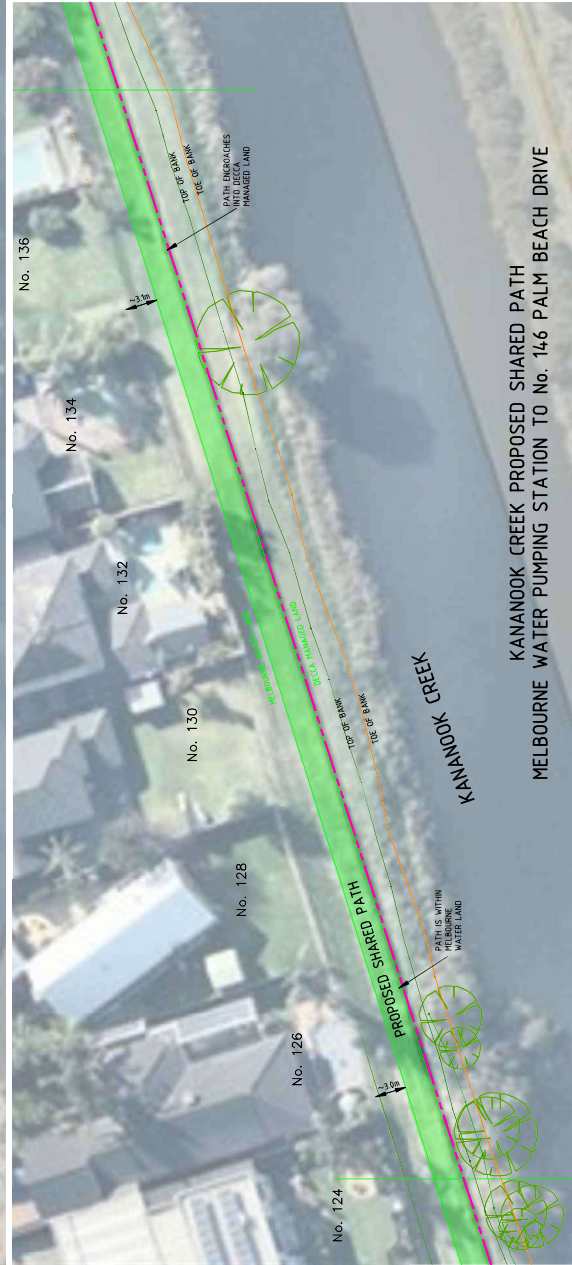
Author/s: Beau McKenzie, Principal Planner
Reviewed and Approved By: Jennifer Pippo, Team Leader Statutory Planning
Alfred Carnovale, Manager City Development

4.2

KP-2022/804 - SITE TO THE REAR OF 118 - 146 PALM BEACH DRIVE PATTERSON LAKES

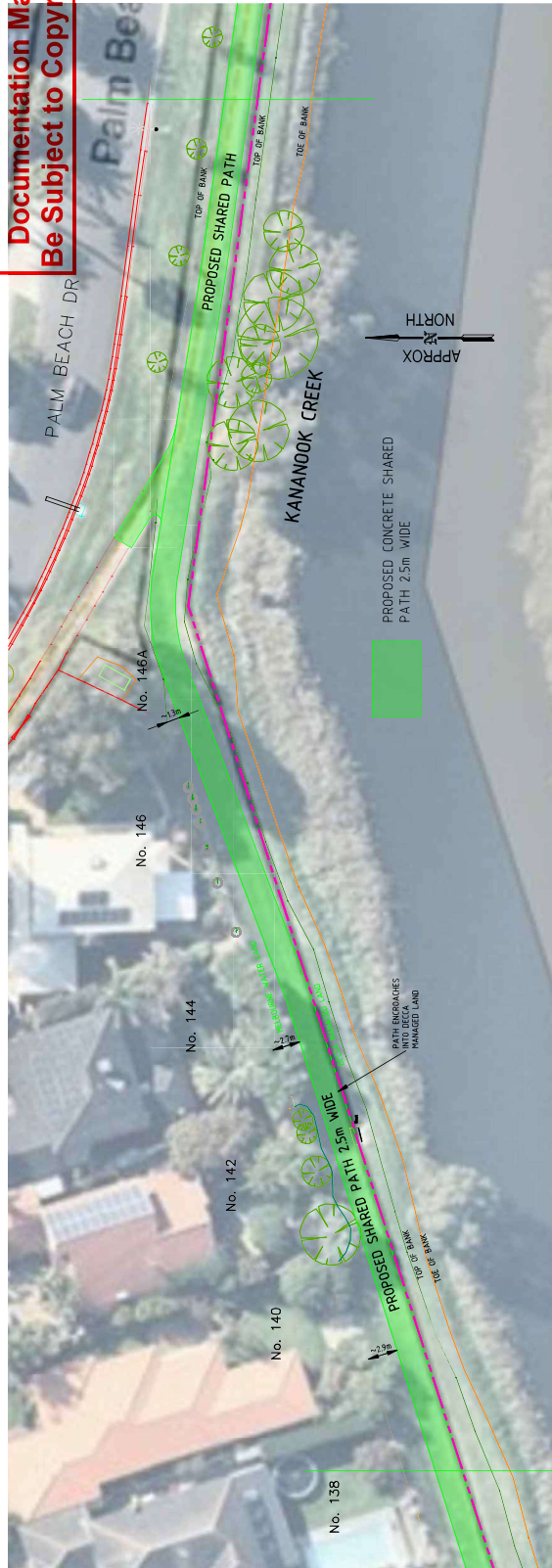
1	KP-2022/804 - Rear of 118 to 146 Palm Beach Drive Patterson Lakes - Considered Plans.....	41
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ADVERTISED PLANS
Documentation May
Be Subject to Copyright



KANANOOK CREEK PROPOSED SHARED PATH
MELBOURNE WATER PUMPING STATION TO No. 146 PALM BEACH DRIVE

ADVERTISED PLANS
Documentation May
Be Subject to Copyright



KANANOOK CREEK PROPOSED SHARED PATH
MELBOURNE WATER PUMPING STATION TO No. 146 PALM BEACH DRIVE

Planning Committee Meeting

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Agenda Item No: 4.3

KP-2022/60/A - 71 CATHERINE AVENUE, CHELSEA

Contact Officer: Metika Claxton, Statutory Planner

Purpose of Report

This report is for the Planning Committee to consider Planning Permit Application No. KP-2022/60/A - 71 Catherine Avenue, Chelsea.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or contractor/s who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

RECOMMENDATION

That the Planning Committee determine to support the proposal and issue a Notice of Decision to Grant an Amended Planning Permit to use the land as a place of assembly (Men's Shed and community space) and a reduction in the car parking requirements at 71 Catherine Avenue, Chelsea, subject to the conditions contained within this report.

This application requires a decision by the Planning Committee as the City of Kingston is the applicant and owner of the subject site.

EXECUTIVE SUMMARY

Address	71 Catherine Avenue, CHELSEA VIC 3196
Legal Description	Lot 70 on LP 06752
Applicant	City of Kingston
Planning Officer	Metika Claxton

PLANNING REQUIREMENTS

Planning Scheme	Kingston
Zoning	Clause 32.06 – General Residential (Schedule 3)
Overlays	None
Particular Provisions	Clause 52.06 – Car Parking
Permit Trigger/s	Clause 32.06 – Use of the land for a place of assembly. Clause 52.06 – Reduction in the car parking requirement.

APPLICATION / PROCESS

Proposal	Amending the permit preamble to include 'community space' which is proposed to read as follows: To use the land as a place of assembly (Men's Shed and community space) and a reduction in the car parking requirement. Amending the following conditions of the permit:
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	<ul style="list-style-type: none">Condition 14 to increase patrons to twenty-seven (27) coupled with increasing the reduction in car parking to three (3) car parking spaces.Condition 13 to increase hours to: Monday to Friday 9.00am to 5.00pm and Saturday 9.00am to 1.00pm.Condition 1(c) to correct the reference to the tree management plan condition.Condition 23 to refer to the amended acoustic design report provided.			
Reference No.	KP-2022/60/A	RFI Received	NA	
App. Received	28/04/2023	App. Amended	NA	
Site Inspection	Yes			
S.52 Advertising	Commenced: 5 June 2023	Advertising Completed	22 June 2023	
S.55 Referrals	None			
Internal Referrals	Yes			
Objection(s)	One (1) (TRIM checked on 27 June 2023)			
Vegetation	Trees > 8m	No	No. of Trees to be Removed (110cm circumference)	Nil
LEGISLATIVE				
Covenant/Other Restriction	No	Complies: NA		
Aboriginal Cultural Sensitivity Area	Yes			
CHMP	Exempt as a preliminary Aboriginal heritage test prepared by a heritage advisor was provided that indicated significant ground disturbance in the original permit application KP-2022/60.			
Considered Plans	No changes to endorsed plans. Acoustic design report prepared by Resonate, dated 11 April 2023.			

DISCLOSURE OF OFFICER / CONTRACTOR DIRECT OR INDIRECT INTEREST

No Council officer/s and/or contractor/s who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

1.0 KEY ISSUES

- 1.1. There has been one (1) objection received that raised the following concerns:
- Failure to inform residents of the proposal.
 - Car parking reduction not appropriate.
 - Safety when it comes to cars entering and exiting the site.
 - Environmental impacts associated with pollution generated from the use.

2.0 SITE AND SURROUNDS

- 2.1. The photograph below illustrates the subject site from a streetscape perspective.



Allotment Placement and Size	The subject site is located on the corner of Catherine Avenue and Beardsworth Avenue. The site is generally rectangular in shape with a width of 20.11 metres and a depth of 39 metres.
Size (m²)	908m ²
Built Form	The site is occupied by a building that was previously used as a kindergarten.
Topography	The land is generally flat.
Fencing	Wire fencing.
Vegetation	Void of any significant vegetation.
Easement(s)	None.
Footpath Assets / Access	One (1) existing crossover adjacent to the north (side) common boundary. There is one (1) street tree along the site's Catherine Avenue frontage.

3.0 SURROUNDING LAND

3.1. The following map illustrates the subject site in its surrounding context.



North	Single storey brick dwelling, with a crossover located along their south boundary.
East	Chelsea Recreation Reserve with a bowls club and football ground among other facilities.
South	Catherine Avenue with a three (3) dwelling development across the street.
West	Single storey weatherboard dwelling with a crossover located along their west boundary.

4.0 PROPOSAL

Section 72 Amendment	<p>Modify the permit preamble as follows: To use the land as a place of assembly (Men's Shed and community space) and a reduction in the car parking requirement.</p> <p>Amend condition 14 to increase patron numbers to twenty-seven (27) and increase the reduction in car parking spaces to three (3). The planning permit currently allows a maximum of twenty-three (23) patrons.</p> <p>Amend condition 13 to increase hours to: Monday to Friday 9.00am to 5.00pm and Saturday 9.00am to 1.00pm. the planning permit currently allows operating hours between 9:00am and 1:30pm, Monday to Friday and 9:00am to 12:30pm on Saturday.</p> <p>Condition 23 has also been amended to refer to the updated acoustic design report provided by the applicant, dated 11 April 2023.</p> <p>A correctional amendment is also proposed by way of this application to rectify an administrative error. This relates to amending condition 1(c) to correct the reference to the tree management plan condition. This was noted as condition 10, but it is in fact condition 14 (incorrectly referred to as condition 15 in the application material). This change was not included in the advertising preamble as it is a correction of an administrative mistake and of no material detriment to any other person.</p>
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5.0 PLANNING CONTROLS

Zone / Overlay / Particular Provisions	Rationale
Clause 32.08 – General Residential Zone (Schedule 3)	Pursuant to the table at Clause 32.08-2, a place of assembly is not listed and is therefore a Section 2 use and requires a planning permit within the General Residential Zone. The proposed amendment proposes to allow a community space as well as the already approved men's shed on the land, and to increase the operating hours.
Clause 52.06 – Car Parking	<p>The following car parking rates apply to a place of assembly:</p> <ul style="list-style-type: none"> 0.3 car parking spaces to each patron permitted. <p>The maximum number of patrons proposed is twenty-seven (27). Therefore, the car parking requirement is eight (8) car parking spaces (rounded down from 8.1).</p>

Zone / Overlay / Particular Provisions	Rationale
	The proposal provides five (5) on-site car parking spaces, including one (1) accessible space and one (1) space suitable for a vehicle with a trailer. The original application considered a reduction of one (1) car parking space. Therefore, permission is sought for a reduction of a further two (2) car parking spaces.

6.0 REFERRALS

External Referrals

- 6.1. The application was not referred to any external authorities pursuant to Section 55 of the *Planning and Environment Act 1987*.

Internal Referrals

- 6.2. The application was referred to the following Council department for comment:

Department / Area	Comments / Rationale / Recommended Conditions
Traffic Engineer	No objection raised and no conditions recommended.

7.0 ADVERTISING

- 7.1. The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. One (1) objection to the proposal was received. The valid grounds of objection raised are summarised as follows:

- Failure to inform residents of the proposal.
- Car Parking reduction not appropriate.

- 7.2. The following issues raised are not valid planning considerations for this amendment as they are elements that were considered appropriate and approved under the original planning permit:

- Safety when it comes to cars entering and exiting the site.
- Environmental impacts of pollution of the use (it is noted that the additional use proposed is for a community centre with no pollution impacts and the men's shed pollution impacts have already been considered in the original application and ventilation details have been included on the endorsed plans).

8.0 PLANNING CONSULTATION MEETING

- 8.1. In accordance with Council's Planning Consultation Meeting Policy, no meeting was required as less than six (6) objections to the application were received. The objector spoke to a Council planning officer about their objection and concerns on the day they submitted their application. It should be noted that during the discussion with the objector no request was received by the planning officer for a planning consultation to be held.

- 8.2. The objector's concerns were provided to the applicant, they were unable to be resolved, and the objections still stand.

9.0 PLANNING CONSIDERATIONS

Planning Policy Framework

- 9.1. The amendment application has been assessed against the Planning Policy Framework and it is considered that the proposed amendment is consistent with relevant policies contained within this section of the Kingston Planning Scheme.
- 9.2. **Clause 11.02** (Managing Growth) aims to ensure a sufficient supply of land is made available for a variety of purposes. To achieve this, it takes into account sufficient land availability to meet forecasted demand. The proposal allows for the non-residential use of the land in a residential area that is suitable for a community service to be located.
- 9.3. **Clause 02.03-8** (Transport), at a local level, provides strategic directions for transport planning including to improve traffic circulation, car parking, site layout and truck access to sites within Kingston's older industrial areas, integrate land use and transport planning to create a more sustainable community and to minimise conflict with abutting land uses. The proposal provides appropriate car parking provision, with a suitable reduction under **Clause 52.06** (Car Parking) and utilises the existing road access without substantial burden on the existing network.

Zoning Provisions

- 9.4. The application has been assessed against the relevant zoning (**General Residential Zone**) and it is considered that the proposed amendment is consistent with the purpose of the zoning controls contained within the Kingston Planning Scheme.
- 9.5. The zone's purpose includes to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations. The proposed community space use will allow for a suitable non-residential use to service the local community needs. Community space uses will include low-impact uses such as reading club, movie viewing and art classes.
- 9.6. The acoustic design report has been updated to include the new uses, and the possible extension of hours for the men's shed, and considers the noise impacts will be able to be appropriately controlled and compliance achieved subject to recommendation (that are required to be complied with as per Condition 23).

Particular Provisions

- 9.7. The application has been assessed against the relevant particular provisions and it is considered that the proposed amendment meets the requirements contained within this section of the Kingston Planning Scheme.

Clause 52.06 – Car Parking

- 9.8. Pursuant to Columns A and C in the Table at Clause 52.06-5, the proposal requires eight (8) car spaces for twenty-seven (27) patrons for a place of assembly. As five (5) car parking spaces are provided, a planning permit is triggered for a reduction in the car parking requirement pursuant to Clause 52.06-3 for two (2) car spaces (one (1) considered under the original permit application).
- 9.9. The applicant has sought a reduction in the car parking requirements pursuant to this clause. Having regard to the proposed use and the proposed expected patron numbers on-site, the

amount of car parking provided on-site is considered sufficient and a reduction is warranted, in this instance. Furthermore, the application has been referred to Council's traffic engineer who held no objection to the proposal.

Aboriginal Cultural Heritage

- 9.10. The subject land **is** identified in an area of Aboriginal cultural heritage sensitivity. However, the proposed activity is **exempt** from requiring a cultural heritage management plan, as the land has already been subject to significant ground disturbance as demonstrated in the evidence prepared by a heritage advisor and submitted by the permit applicant during the original application, pursuant to the *Aboriginal Heritage Regulations 2018*.

10.0 GENERAL COMMENT

- 10.1. Under **Clause 71.02-3** (Integrated Decision Making), the responsible authority is asked to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. It is considered that the proposed use of a community space and extending the allowable hours for the men's shed would have a net community benefit that would outweigh the minor amenity impacts on the surrounding area that such a use may concern, as it provides a valued community service.
- 10.2. It is considered that the objector's concerns have been addressed below or were considered under of the original application. The proposed use of the land for a place of assembly and a reduction of the car parking requirement is considered appropriate to the site and its location in the General Residential Zone (Schedule 3). It is therefore recommended that the application be supported with the issue of a notice of decision to grant an amended planning permit.

11.0 RESPONSE TO GROUNDS OF OBJECTIONS

- 11.1. **Failure to inform residents of proposal:** The amendment has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, with notices sent to the adjoining property owners and occupiers (and other nearby lots as per Council's internal notification policy of planning applications) and two (2) notices placed on site for a period of fourteen (14) consecutive days. Any other community consultation conducted by Council's Project Management Officers is not a relevant consideration to this planning permit amendment and the notification undertaken as part of the consideration of this amended application is appropriate and meets legislative requirements.
- 11.2. **Car parking reduction is not appropriate:** As discussed above in Section 9 of this report, the proposal includes a further reduction of two (2) car parking spaces to increase the patron capacity to twenty-seven (27) (one (1) car parking space reduction was considered under the original application), which is considered acceptable. The nature of the use means that people may come and go through-out the day, and it is unlikely it will be running at full capacity for all permissible hours. There is on-street car parking and public car parking directly across the road that is associated with the bowls club and the Chelsea Reserve. It is noted that the application was referred to Council's traffic engineer who held no objection to the car parking reduction sought.

12.0 CONCLUSION

- 12.1. On balance, the proposed amendments are considered to substantially comply with the relevant planning policy and therefore should be supported.
- 12.2. As outlined above, it has been determined that prior to deciding on this application, all factors pursuant to Section 60(1) of the Act have been considered. Further to this, the proposal does not give rise to any significant social or economic effects.
- 12.3. The proposed amendment to the use is considered appropriate for the site as evidenced by:
- The proposed use to be compatible with the surrounding area.
 - The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions).
 - The proposal satisfies the requirements of the Kingston Planning Scheme, including the Planning Policy Framework, strategic vision, zoning controls and Particular Provisions.

17.0 RECOMMENDATION

- 17.1 That the Planning Committee determine to support the proposal and issue a Notice of Decision to grant an amended planning permit to use the land as a place of assembly (Men's Shed and Community Space) and a reduction in the car parking requirement at No. 71 Catherine Avenue, Chelsea (Lot 70 on LP06752), subject to the following conditions:

Amended Plans

1. Before the 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 an electronic copy must be provided. The plans must be substantially in accordance with the plans prepared by CohenLeigh Architects, Project No. 220102, Sheets 1 to 19 inclusive, Revision F, submitted to Council on 30 May 2022, but modified to show:
 - a. The ground floor plan to include a survey of all existing trees on the site and within 3 metres of the site's boundaries, with the on-site vegetation to be clearly nominated as either retained or removed.
 - b. The location of tree protection measures illustrated to scale and labelled on the ground floor plan as per the endorsed tree management plan.
 - c. **Any changes as required by condition 14 of this planning permit, which requires a tree management plan.**
 - d. The proposed vehicle crossover to the north of the Beardsworth Avenue frontage kept separate from the neighbour's vehicle crossover to create a pedestrian refuge of no less than 1 metre wide.
 - e. Corner splays as per Clause 52.06-9 shown and complied with at each accessway.
 - f. A car parking space clearly dimensioned on the proposed driveway to the north of the site.
 - g. The current external material of No. 69 Catherine Avenue correctly identified on respective plans.
 - h. Any flues, air purifiers, exhaust fans or the like that will manage dust from the workshop.

Endorsed Plans

2. The use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Landscaping

3. Within six (6) months of the use commencing, a landscape plan in accordance with the submitted plans is to be submitted to council for endorsement. This landscape plan is to be to the satisfaction of the Responsible Authority and is to incorporate:
 - i. A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant with all plants chosen to be to the satisfaction of the Responsible Authority.
 - ii. A survey, including, botanical names of all existing trees to be retained or removed on the site including tree protection zones for trees to be retained calculated in accordance with AS4970-2009.
 - iii. A survey including botanical names, of all existing trees on neighbouring properties where the tree protection zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
 - iv. The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works.
 - v. A range of plant types from ground covers to large shrubs and trees, provided at adequate planting densities (e.g. plants 1 metre width at maturity planted 1 metre apart); with the species chosen to comprise of a minimum 50% coastal indigenous species by plant type and total quantities.
 - vi. A minimum of three (3) indigenous canopy trees capable of growing to minimum mature dimensions of 12 metres in height and 7 metres in width.
 - vii. A minimum of six (6) indigenous canopy trees capable of growing to minimum mature dimensions of 8 metres in height and 5 metres in width.
 - viii. Indigenous species capable of growing to a minimum 4 metres in height at maturity planted along the site's northern and southern boundaries.
 - ix. All trees provided at a minimum of 2 metres in height at time of planting, medium to large shrubs to be provided at a minimum pot size of 200mm.
 - x. The provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
4. Within six (6) months of the landscape plan being endorsed, landscaping works as shown on the endorsed landscape plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority including that any dead, diseased or damaged plants are to be replaced.

General Amenity

5. The amenity of the area must not be detrimentally affected by the use, through the:
 - i) Transport of materials, goods or commodities to or from the land.
 - ii) Appearance of any building, works or materials.
 - iii) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - iv) Presence of vermin.
 - v) Any other way.
6. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.

Car Parking and Access

7. Before the use commences, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be constructed to the satisfaction of the Responsible Authority and be:
 - i) Properly formed to such levels that they can be used in accordance with the plans.
 - ii) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.
 - iii) Drained to the satisfaction of the Responsible Authority.
 - iv) Line-marked to indicate each car space, all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.
 - v) In accordance with any Council adopted guidelines for the construction of car parks.
8. Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
9. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
10. Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossover.
11. The loading and unloading of goods to and from vehicles must only be carried out on the land.

Use

12. **The use must operate only between the hours of:**
Monday to Friday: 9.00am to 5.00pm; and
Saturday: 9.00am to 1.00pm
Or otherwise as approved by the Responsible Authority in writing.
13. **The maximum number of patrons on site at any one time must not exceed twenty-seven (27), unless otherwise approved by the Responsible Authority in writing.**

Tree Management Plan

14. Concurrent with the endorsement of plans, a tree management plan prepared by a suitably qualified arborist in accordance with AS4970-2009, must be submitted to and be endorsed by the Responsible Authority and incorporating:
 - a. A tree management plan (written report) must provide details of:
 - i. Tree protection measures that will be utilized to ensure all trees to be retained remain viable post-construction.
 - ii. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
 - b. A tree protection plan (scale drawing) must provide details of:
 - i. The tree protection zone and structural root zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the tree protection zone falls within the subject site.
 - ii. The location of tree protection measures to be utilised.
 - iii. A notation to refer to the tree management plan.

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15. All protection measures identified in the endorsed tree management plan must be implemented, and development works undertaken on the land must be undertaken in accordance with the tree management plan, to the satisfaction of the Responsible Authority.
16. Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the tree management plan must be submitted to the Responsible Authority.
17. Tree protection fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete and:
 - i. The fencing is to be a 1.8 metre high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting.
 - ii. The fencing is to encompass the entire nature strip with each end 3 metres from the base of the tree.

Stormwater Drainage

18. Stormwater drainage of the site must be provided so as to prevent any overflows onto adjacent properties and be directed to the nominated point of discharge.

Noise

19. The use of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard any nuisance shall be assessed in accordance with the Australian Standards AS1055 and AS2107 relating to the measurement of Environmental Noise and recommended sound levels.
20. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the *Environment Protection Act 2017* and the incorporated Noise Protocol (Publication 1826, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues).
21. Mechanical plant should not be located near adjacent existing dwellings, unless accompanied by an acoustic report showing noise protocol conformance, submitted for endorsement to the satisfaction of the Responsible Authority.
22. Uses shall be conducted in accordance with times set out in Environment Protection Regulations 2021, Part 5.3, Division 2, Clause 114, unless accompanied by an acoustic report showing conformance with suitable acoustic benchmarks, submitted for endorsement to the satisfaction of the Responsible Authority.
23. **The measures in the endorsed environmental noise assessment, prepared by Resonate, dated 11 April 2023, Revision E, must be implemented to the satisfaction of the Responsible Authority before the use can commence and the use shall be conducted in accordance with the measures identified in the report. The environmental noise assessment must not be modified, unless with the written consent of the Responsible Authority.**

Infrastructure

24. Prior to the commencement of any development associated with the approved use, property boundary, footpath and vehicle crossover levels must be obtained from Council's roads and drains department with all levels raised to the satisfaction of the Responsible Authority.
25. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
26. All reinstatements and vehicle crossovers must be constructed to the satisfaction of the Responsible Authority.
27. Vehicle crossovers must be constructed to council's industrial strength specifications.

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28. All front and side fences must be contained wholly within the title property boundaries of the subject land.
29. Any existing vehicular crossover not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossover must be fully constructed to the Responsible Authority's standard specification.

Permit Expiry



30. In accordance with Section 68 of the *Planning and Environment Act 1987* (the Act), this permit will expire if one of the following circumstances applies:

- The use is not started before two (2) years from date of this permit.
- The use is discontinued for a period of two (2) years.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

Note: Prior to the commencement of the development or use, you are required to obtain the necessary building permit.

Appendices

Appendix 1 - KP-2022/60/A - 71 Catherine Avenue, CHELSEA VIC 3195 - Update
Acoustic Report for endorsement (if approved) (Ref 23/200630)  

Author/s: Metika Claxton, Statutory Planner
Reviewed and Approved By: Jennifer Pippo, Team Leader Statutory Planning
Alfred Carnovale, Manager City Development

4.3

KP-2022/60/A - 71 CATHERINE AVENUE, CHELSEA

- 1 KP-2022/60/A - 71 Catherine Avenue, CHELSEA VIC 3195 -
Update Acoustic Report for endorsement (if approved)..... 57



71 Catherine Avenue - Men's shed

Acoustic Design Report

M220267RP1 Revision E

Tuesday, 11 April 2023

www.resonate-consultants.com

**Document Information**

Project	71 Catherine Avenue - Men's shed
Client	City of Kingston
Report title	Acoustic Design Report
Project Number	M220267

Revision Table

Report revision	Date	Description	Author	Reviewer
0	11 May 2022	For Issue	Mingsan Boulter	Tom Evans
A	28 June 2022	Update for ceiling/roof noise breakout	Mingsan Boulter	Tom Evans
B	16 November 2022	Updated for new operational times	Mingsan Boulter	Tom Evans
C	28 November 2022	Updated usage information	Mingsan Boulter	Tom Evans
D	14 March 2023	Updated project information	Tom Evans	Damien van Raaphorst
E	11 April 2023	Clarified hours reference on page 4	Tom Evans	Damien van Raaphorst

Resonate

Glossary

A-weighting	A spectrum adaption that is applied to measured noise levels to represent human hearing. A-weighted levels are used as human hearing does not respond equally at all frequencies.
dB	Decibel—a unit of measurement used to express sound level. It is based on a logarithmic scale which means a sound that is 3 dB higher has twice as much energy. We typically perceive a 10 dB increase in sound as a doubling of loudness.
Day	Monday to Saturday (except public holidays), from 7 am to 6 pm as defined in Environment Protection Regulations (Victoria)
Environment Protection Regulations (Victoria)	The objective of these Regulations are to further the purpose of, and give effect to the Environment Protection Act 2017.
Evening	Monday to Saturday, from 6 pm to 10 pm; and Sunday and public holidays, from 7 am to 10 pm as defined in the Environment Protection Regulations.
Frequency (Hz)	The number of times a vibrating object oscillates (moves back and forth) in one second. Fast movements produce high frequency sound (high pitch/tone), but slow movements mean the frequency (pitch/tone) is low. 1 Hz is equal to 1 cycle per second.
L _{Aeq}	A-weighted Equivalent Noise Level—Energy averaged noise level over the measurement time. This is used to characterise noise emissions from a source under the Noise Protocol.
L _{OCT90}	Sound pressure level for a specified octave band that is exceeded for 90 % of the time interval considered.
Night	Between 10 pm and 7 am of the following day as defined in the Environment Protection Regulations (Victoria).
Noise Limit	The maximum effective noise level allowed in a noise sensitive area, as determined in accordance with the Noise Protocol.
Noise Protocol	Environmental Protection Authority Publication 1826: <i>Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues</i> .
Noise Source	Premises or a place at which an activity is undertaken, or a machine or device operates, resulting in the emission of noise.
R _w	Weighted Sound Reduction Index – A Laboratory measured value of the acoustic separation provided by a single building element (such as a partition). The higher the R _w the better the noise isolation provided by the building element



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1 Introduction

This report details an environmental noise assessment conducted for a Men's Shed, proposed to be relocated to 71 Catherine Avenue, Chelsea. It is understood that the existing building at that site will be redeveloped to allow for light to medium-grade workshop equipment. Our assessment of the building is based on drawings that have been supplied by Cohen Leigh Architects (Tender Issue T2 Dated: 21/02/2023).

The proposed operating times of the Men's Shed, including community use, are as follows:

- Weekdays: 9 am – 5 pm
- Saturdays: 9 am – 1 pm

The site would host up to 27 users (at most).

The expected noisiest activities for the site will include the use of woodworking equipment. The location of the current Men's Shed is at 5 Blantyre Street, Chelsea. It is understood that the woodworking tools and equipment at 5 Blantyre Street will be relocated to proposed site.

In addition to woodworking the following activities may occur:

- Reading club
- Book reading
- Movie viewing
- Drawing / art classes

We have been advised that no smoking or alcohol will be allowed on site.

This assessment has been conducted to assess noise emissions from the proposed use against applicable requirements under the Environment Protection Act 2017 and subordinate legislation.

2 Project description

2.1 Site description

The proposed site is to be located at 71 Catherine Avenue, Chelsea. It is understood that the proposed site was initially used for childcare/kindergarten, but has been left vacant for a prolonged amount of time.

The closest noise sensitive area that could be affected by noise from the Men's Shed is located at 69 Catherine Avenue, Chelsea. Figure 1 below displays the location of the proposed site and the surrounding areas.



Figure 1 Site, attended noise monitoring location and surrounding area (image source: Google Maps)

2.2 Proposed usage

The proposed operating times of the Men's Shed, including community use, are as follows:

- Weekdays: 9 am – 5 pm
- Saturdays: 9 am – 1 pm



It is expected that the proposed site to be able to host 27 users (at most).

The expected noisiest activities for the site will include the use of woodworking equipment. It is understood that the use of woodworking equipment would be limited to the Day period as defined by the Environment Protection Regulations.

In addition to woodworking the following activities may occur during the nominated operating times:

- Reading club
- Book reading
- Movie viewing
- Drawing / art classes

We have been advised that no smoking or alcohol will be allowed on site.

From site visit and discussions, much of the existing façade (single glazed (approx. 4mm) and brick) are to remain. From supplied drawings, the glazing located at the western façade is to be removed and replaced with masonry (e.g. brick). Minor construction at the site is planned to convert the existing building into a space to allow for the following:

- Workshop
- Kitchenette
- Meeting room
- Community room
- Electronics room
- Store rooms
- Plant room

Figure 2 presents the proposed floor plan for the Men's Shed, from supplied drawing set (Tender Issue T2 Dated: 21/02/2023)

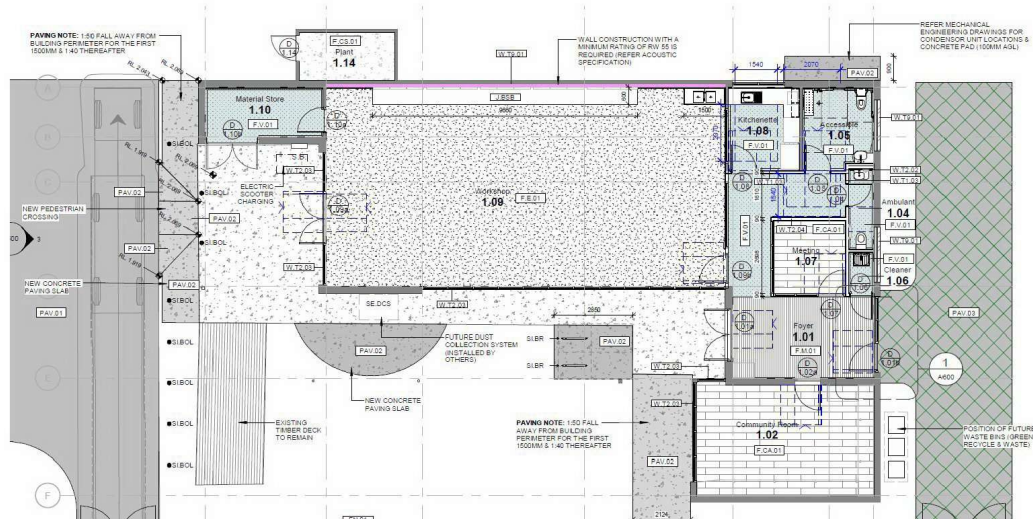


Figure 2 Proposed floorplan for Men's Shed (North is located to the right)

71 Catherine Avenue - Men's shed—Acoustic Design Report

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3 Existing environment

Attended noise measurements were undertaken on site on 3 May 2022 at the measurement locations displayed in Figure 1. The noise measurements were conducted at the following locations:

- Attended noise monitoring location 1 - 69 Catherine Avenue, Chelsea
- Attended noise monitoring location 2 - 65 Catherine Avenue, Chelsea

At each location two sets of 10 minute measurements were conducted (spaced apart by at least 30 minutes).

Table 1 presents the instruments used for noise measurements. Field calibrations were conducted before and after the measurements and no drift in calibration was observed. Weather conditions were conducive for acoustic measurements.

Table 1 Instruments used for noise measurements

Instrument	Manufacturer	Model	Serial number	Calibration due date
Sound level meter	Brüel & Kjær	Type 2250	3001240	31/01/2023
Microphone	Brüel & Kjær	Type 4952	2730065	31/01/2023
Acoustic calibrator	Pulsar	Model 106	93194	11/05/2022

The measured attended noise levels are presented in Table 2

Table 2 Measured attended noise levels

Address	Time	Attended measured noise level	
		dB L _{A90}	dB L _{Aeq}
69 Catherine Avenue	13:14	45	53
	15:10	45	54
65 Catherine Avenue	13:28	45	54
	15:21	47	58

The average measured background noise level for the day period, which is when woodworking activities will occur at the proposed Men's Shed, is 45 dB L_{A90}.



4 Noise limits

The following sections provide information regarding the relevant noise criteria and resulting noise limits applicable to environmental emissions from 71 Catherine Avenue.

4.1 General environmental duty

Section 25(1) of the *Environment Protection Act 2017* (the Act) sets forth the General Environmental Duty (GED), which states:

A person who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste must minimise those risks, so far as reasonably practicable.

The proponent for this Project, has an obligation to understand the risks associated with noise and to take reasonably practicable steps to minimise those risks.

The Environment Protection Authority (EPA) Victoria has released a range of subordinate legislation and guidelines to support the Act. Compliance with these subordinate legislation and guidelines would be expected to assist in meeting the GED.

4.2 Environment Protection Regulations

The EPA Victoria Environment Protection Regulations are subordinate legislation that support the Act. Under the Environment Protection Regulations, the assessment of noise from commercial, industrial and trade premises at noise sensitive areas must be carried out in accordance with the Noise Protocol, both in terms of establishing noise limits as noise sensitive areas and in terms of the measurement of noise from the subject premises.

Noise sensitive areas are defined in the Environment Protection Regulations as:

- The area within 10 m of the external walls of dwellings (including residential care facilities but excluding caretaker's houses), residential buildings and noise sensitive residential uses
- The area within 10 m outside the external walls of any dormitories, wards, bedrooms and living rooms of caretaker's houses, hospitals, hotels, motels, residential hotels specialist disability accommodation, corrective institutions, tourist establishments, retirement villages and residential villages.
- The area within 10 m outside the external walls of classrooms or other rooms in which learning occurs at childcare centres, kindergartens, primary schools and secondary schools.
- Within the boundary of tourist establishments, campground and caravan parks that are located in rural areas.

The Environmental Protection Regulations also define Day, Evening and Night periods for the assessment of noise, reproduced in Table 3

Table 3 Applicable time periods

Time period	Details
Day	Monday to Saturday, 7 am to 6 pm
Evening	Monday to Saturday, 6 pm to 10 pm Sundays and public holidays, 7 am to 10 pm
Night	10 pm to 7 am any day

The *Environment Protection Regulations* prescribe 'unreasonable noise' and 'aggravated noise' as follows:



- Unreasonable noise from commercial, industrial and trade is noise that exceeds the applicable noise limits from the Noise Protocol
- Aggravated noise thresholds for commercial, industrial and trade premises are:
 - 75 dB $L_{Aeq,30m}$ or the Noise Protocol noise limit by more than 15 dB during the day
 - 70 dB $L_{Aeq,30m}$ or the Noise Protocol noise limit by more than 15 dB during the evening

4.3 Noise Protocol – noise limits

Environmental noise emissions from the site (such as any mechanical plant or equipment that may emit noise) are required to comply with the requirements of the Environmental Protection Regulations (Victoria) and EPA Noise Protocol at neighbouring noise sensitive areas (NSA). The Noise Protocol prescribes procedures for determining the statutory environmental noise limits that apply at noise sensitive areas, such as residential areas, with respect to noise due to commercial, industrial and trade operations.

The noise protocol noise limits are dependent on:

- Zoning levels – Based on the planning scheme zoning types within 70m and 200m radii of the noise sensitive area (see Table 4).
- The time of day i.e. different limits apply at different times of the day.
- The background noise levels (L_{A90}) in the noise sensitive area, in the absence of noise due to commercial, industrial or trade operations.

Based on our site inspection, the nearest noise sensitive area is located along 69 Catherine Avenue, Chelsea. Noise limits for the nearest NSA have been calculated based on the current land zoning and measured background noise levels and are presented in Table 4.

Since attended measurements were conducted during the Day period only, neutral limits for Evening and Night periods have been adopted. This is generally considered a conservative approach. It is also noted that the site is not proposed to operate outside of the Day period, such that the Evening and Night period noise limits are presented for information only.

Table 4 EPA Noise Protocol noise limits

Time Period	Time	Zoning Level, dB L_{Aeq}	Background Level, dB L_{A90}	Classification	Noise Limit, dB L_{Aeq}
Day	7 am to 6 pm Monday to Saturday (except public holidays)	50	45	High	51
Evening	6 pm to 10 pm Monday to Saturday 7 am to 10 pm Sunday and public holidays	44	-	Neutral	44
Night	10 pm to 7 am everyday	39	-	Neutral	39

It is noted that the noise limits above do not apply to noise from voices.



5 Environmental noise emissions

5.1 Men's Shed workshop noise emissions

It is understood that equipment used at the existing Men's Shed site will be transported to 71 Catherine Street. Therefore, in order to understand noise emissions, measurements of equipment were taken at 5 Blantyre Street, which is the current location of the Men's Shed.

The noise emissions from each item of equipment were measured at 1 m and microphone was located away from reflective surfaces. The following measured sound pressure levels (at 1 metre) for each equipment are presented in Table 5. The measurements are reflective of the equipment operating continuously, which is unlikely to occur across a 30-minute period.

Table 5 Measured Sound Pressure Levels of Proposed Equipment

Equipment	Measured sound pressure level	
	dB L _{Aeq}	dB L _{A,Max}
Drop Saw	97	105
Bench Saw	89	96
Vibrating Sander	77	79
Belt Sander/Vibrating Sander	77	84
Band Saw	80	86
Dust Extractor and Thicknesser ⁽¹⁾	85	92
Router Bench	90	94
Belt Sander (Sharpening Metal)	86	91
Wheel Sander (Sharpening Metal)	87	89
Scroll Saw	85	92
Air Filter	65	81
Air Compressor	82	86
Lathe – shaping block of wood	80	88
Hand Angle Grinder – Grinding on metal	92	96

(1) Dust extractor and thicknesser were operating concurrently during measurement. It was noted that the noise level was controlled by the thicknesser.

All of the above equipment will be located indoors, with the exception of a dust extractor fan, which will be located outdoors. Figure 3 presents the proposed location.

The dust extractor noise levels were not able to be accurately measured during the site visit to the existing facility as the contribution from the thicknesser dominated the overall noise emissions. The manufacturer of the dust extractor is Carba-Tec. Manufacturer data indicates that the sound pressure level of the dust extractor at 1 m is 79 dB L_{Aeq}.

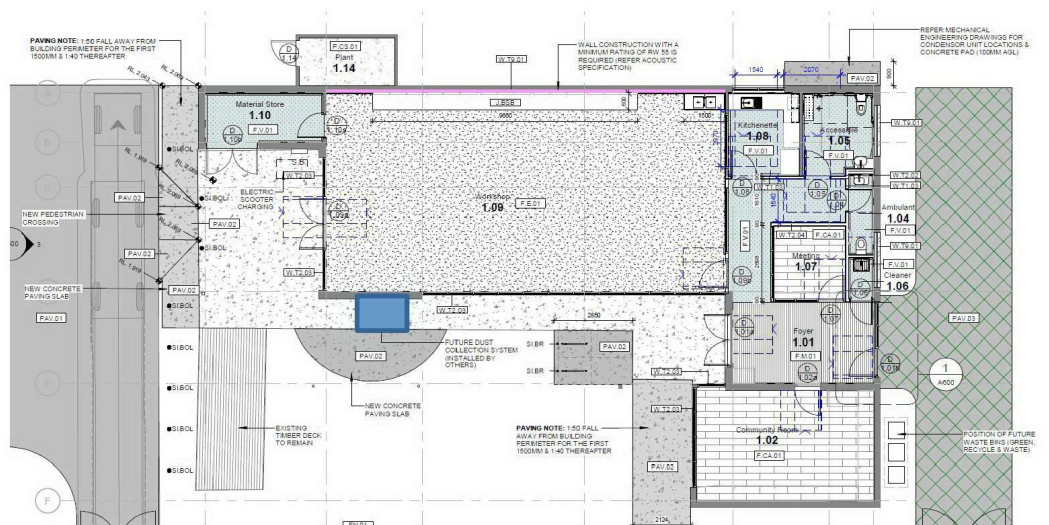


Figure 3 Indicative location for dust extractor (dark blue)

5.1.1 Noise character adjustment

According to Noise Protocol, a measured or predicted noise level needs to be adjusted for noise character to derive the Effective Noise Level for an assessment. Potential duration and noise character adjustments are discussed below:

- **Duration adjustment (potential reduction):** when the noise emission is not audible over the whole of a continuous 30-minute period, then a duration adjustment based upon the total amount of time for which the noise is audible over that continuous 30-minute period shall be determined in accordance with item 3.3 of Noise Protocol
- **Impulsive adjustment (potential increase):** When the noise emission is impulsive in character, then any impulse noise emission event shall be considered to be audible for 10 seconds after the occurrence of the event for the purposes of determining the duration adjustment. Then, an adjustment shall be made as follows:
 - When the impulsive character of the noise is just detectable then adjustment of +2 dB
 - When the impulsive character of the noise is prominent then the adjustment is +5 dB
- **Intermittency adjustment (potential increase):** When the noise emission is intermittent or variable and the noise emission, when measured by a sound level meter set to F time-weighting and A frequency weighting, increase in level rapidly on at least two occasions during a 30-minute period and maintains the level for at least a one-minute duration, then an adjustment determined shall be made in accordance with Item 3.4 of Noise Protocol
- **Tonal adjustment (potential increase):** when the noise is tonal in character then an adjustment shall be made as follows:
 - When the tonal character of the noise is just detectable then a tonal adjustment of +2 dB applies.
 - When the tonal character of the noise is prominent then a tonal adjustment of +5 dB applies.

In accordance with the Noise Protocol, the Effective Noise Level is then derived by applying any determined character adjustments to the measured or predicted L_{Aeq} noise level for assessment against the noise limits.

5.1.2 Noise assessment

For the assessment of workshop noise from the proposed Men's Shed, the following has been assumed:

- All equipment listed in Table 5 will be located indoors, except for dust extractor and thicknesser.
- Dust extractor be located outdoors, at the Eastern façade of the workshop



- Windows and doors to be closed when tools are in use.
- Based on observations, the existing glazed façade is assumed to have a thickness of 4 mm and will remain in place with the exception of the Western façade being upgraded as shown in Figure 4.
- Roof construction to use existing roof tiles.
- Portion of the Western façade is to be reconstructed to have windows removed. It is assumed to have a minimum R_w 55 acoustic rating, as per supplied drawings (Tender Issue T2 Dated: 21/02/2023).
- Southern and Eastern facades are to remain as is. From observation and supplied drawings, the construction of Southern and Eastern facades is brick (minimum 70mm in thickness) and glazing (assumed to be 4 mm).
- A maximum of 27 users are allowed on site.

5.1.3 Interior woodworking noise

The following has been assumed with respect to noise generated across a typical worst-case 30-minute period:

- The assessment has been conducted on the basis of the loudest equipment (drop saw) running continuously. This is considered a conservative approach as typically this equipment would only be used for less than one-minute at a time. As it has been assumed to be running continuously, no duration, impulsive or intermittency adjustments have been applied.
- Based on observations during the measurements, a tonal component was observed for the drop saw. As such a +5 dB tonal correction has been applied to the predicted noise levels in accordance with the Noise Protocol.
- The assessment also assumes that the dust extractor fan may be operating continuously during a worst-case period.

It is predicted that, in order to meet noise limits stated in Section 4.3, a wall construction with a minimum rating of R_w 55 is required. An example wall construction that can achieve this are as follows:

- 1x13 mm fire rated plasterboard
- Minimum 92 mm steel studs at 600 mm centres
- Bradford Soundscreen R2.5 in cavity or acoustic equivalent
- 70 mm brick.

The proposed wall construction should be placed along the western façade of the workshop. Figure 4 presents the area where the construction is to be installed.

In order to minimise noise breakout through the ceiling, one of the following is recommended:

- Flush 13 mm thick plasterboard ceiling on workshop side. It is noted that this would increase reverberation inside the workshop although this is not predicted to affect compliance with the applicable noise limits at neighbouring properties. If it is desired to reduce reverberation within the space to improve the outcome for users of the facility, then acoustic absorption could be applied to the walls or ceiling.
- Mineral fibre ceiling tile with a minimum CAC 35 and a minimum NRC 0.5.

Figure 4 presents the area where recommended ceiling treatment is to be located.

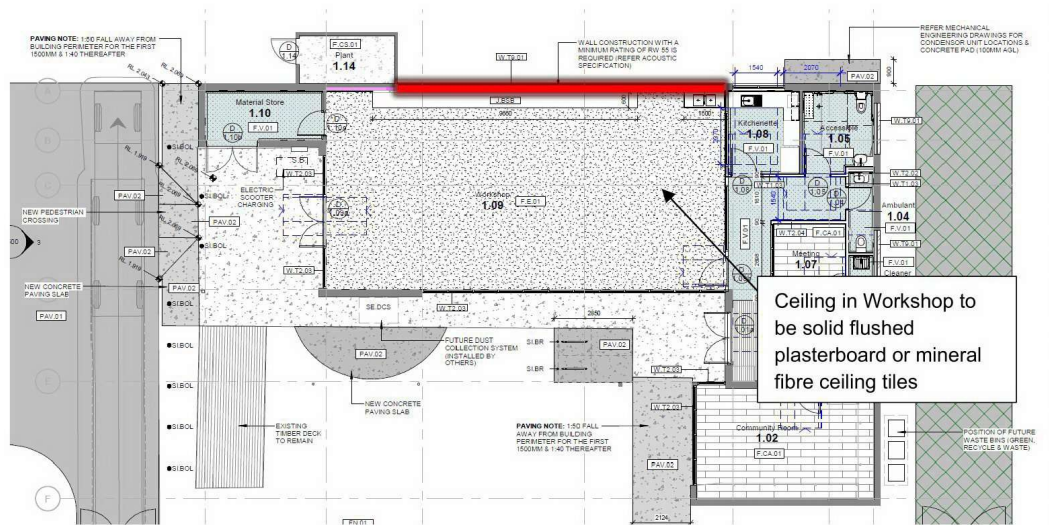


Figure 4 Location of R_w 55 wall construction (red) and replacement to workshop ceiling

Incorporating the above recommendations, Table 6 presents the predicted noise levels at each sensitive location with drop saw running indoors. The predictions have been based on standard ceiling acoustic performance including effects from, for example, the ceiling grid between ceiling tiles.

Table 6 Predicted noise levels at sensitive receivers – typical worst-case operation

Address of sensitive receiver	Predicted noise level – dB, L_{Aeq}	Day time noise limit – dB, L_{Aeq}			Compliance		
		Day	Evening	Night	Day	Evening	Night
69 Catherine Avenue	45	51	44	39	Complies	Not operating	Not operating
70 Catherine Avenue	48	51	44	39	Complies	Not operating	Not operating
Bowls Club ⁽¹⁾	50	51	44	39	Complies	Not operating	Not operating

(1) The Bowls Club is not considered a noise sensitive receiver under the Environment Protection Regulations, but has been assessed to the Noise Protocol

The results indicate that woodworking activities, including the external dust extractor fan, are predicted to comply with Day limits. As such, with woodworking limited to Day as per the proposed operating hours, noise emissions from the site are predicted to remain compliant with the requirements of the Environment Protection Regulations.

5.1.4 Mechanical services

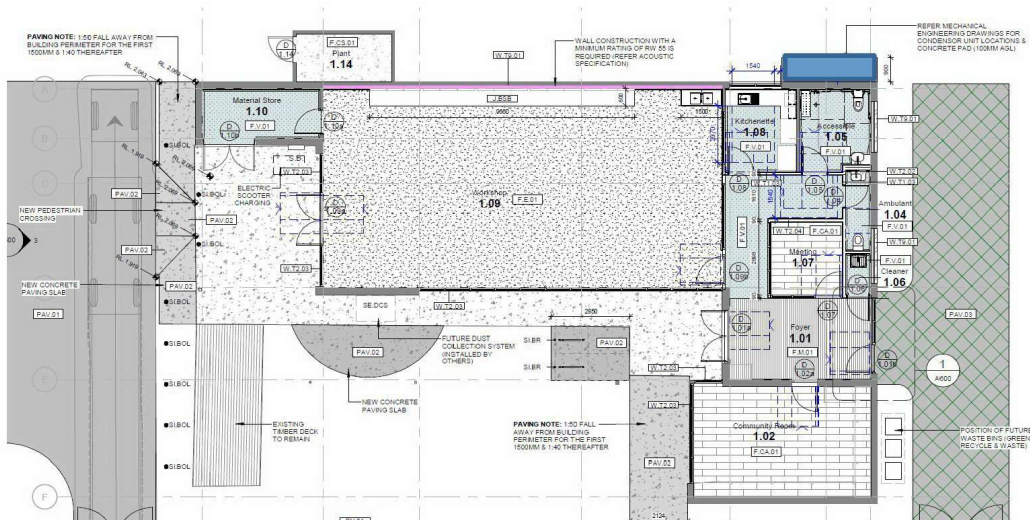
The cumulative noise emissions from the development, including noise from mechanical services such as exhaust fans and condenser units, are required to comply with the applicable noise limits provided in Section 4.3.

At this stage of the development, initial selections have been made. The following units are presented in Table 7.

Table 7 Mechanical selection and sound power levels

Label	Manufacturer	Model	Sound Power Level, dB(A)
CU-1	Daikin	RXM95PAVMA	67
CU-2	Daikin	RXV20WVMA	59
CU-3	Daikin	RXV45UVMA	60

Figure 5 below presents the proposed location for condenser units.


Figure 5 Proposed location of mechanical units (blue)

The assessment of mechanical noise has assumed the following:

- Condenser units are placed on ground
- Fence is solid timber and at 1.8 m in height, no gaps below
- Condenser units are running co-currently and constantly. This is generally considered a conservative approach.

Table 8 presents the predicted noise level from condenser units at 69 Catherine Avenue. The results indicate that, with all units running, noise limits at all periods will be achieved.

Table 8 Predicted noise level from mechanical services at 69 Catherine Avenue

Usage of units	Predicted noise level – dB, L_{Aeq}	Day time noise limit – dB, L_{Aeq}			Compliance		
		Day	Evening	Night	Day	Evening	Night
All units running	39	51	44	39	Complies	Complies	Complies

If the final unit selections differ from those above they must be reviewed by the Acoustic Consultant.



5.2 Non-woodworking activities

It is understood that some non-woodworking activities at the site will occur including:

- Reading club
- Book reading
- Movie viewing
- Drawing / art classes

Given that no alcohol will be permitted at the site, previous experience has indicated that these activities are low risk for environmental noise emissions to neighbouring properties. Noise associated with these activities would be able to be appropriately managed through:

- maintaining the proposed operating hours of 9 am to 5 pm Monday to Friday and 9 am to 1 pm Saturday
- holding movie viewing indoors at all times.



6 Conclusion

The report presents the outcomes of a noise assessment for the Men's Shed proposed to be located at 71 Catherine Avenue, Chelsea.

Environmental noise limits have been established in accordance with the Environment Protection Regulations, and an assessment undertaken based on measurements conducted at an existing facility representative of the proposed facility.

Based on the assumptions made in this report and provided documentation (Tender Issue T2 Dated: 21/02/2023), it is expected that noise emissions from the site will be able to be appropriately controlled and compliance achieved with the applicable noise limits. In order for this to occur, it is recommended that the following be implemented:

- Maintain the proposed operating hours of 9 am to 5 pm Monday to Friday and 9 am to 1 pm Saturday.
- Windows and doors to the workshop area to remain closed when tools are in use.
- Ensure the construction of the western facade meets the recommendations provided in Section 5.1.2 of this report.
- Proposed selection and location of condenser units are predicted to comply with noise limits stated in Section 4 of this report, providing that:
 - Condenser units are located at ground level
 - Fence is solid timber and at least 1.8m in height
- Workshop area is to incorporate either:
 - Flushed solid plasterboard ceiling, or
 - Mineral fibre ceiling tile with a minimum CAC 35, and a minimum NRC 0.5.
- For all other proposed activities, it is recommended that:
 - movie viewing be held indoors at all times.

Planning Committee Meeting

23 August 2023

Agenda Item No: 4.4

KP-2021/845 - 71 ARGUS STREET, CHELTENHAM

Contact Officer: Harris Argyriou, Statutory Planner

Purpose of Report

This report is for the Planning Committee to consider Planning Permit Application No. KP-2021/845 - 71 Argus Street, Cheltenham.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or contractor/s who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

RECOMMENDATION

That the Planning Committee determine to support the proposed secondary consent application and issue amended endorsed plans associated with Planning Permit KP-2021/845 at 71 Argus Street Cheltenham, which allowed the use of the land for an education centre (kindergarten) in accordance with the endorsed plans.

This application requires a decision by the Planning Committee, as the land is owned by the City of Kingston and the applicant is the City of Kingston.

EXECUTIVE SUMMARY	
Address	71 Argus Street, CHELTENHAM VIC 3192
Legal Description	Lot 1 on TP224133T
Applicant	City of Kingston
Planning Officer	Harris Argyriou
PLANNING REQUIREMENTS	
Planning Scheme	Kingston
Zoning	Clause 32.08 – General Residential Zone (Schedule 3)
Overlays	None
Permit Trigger/s	Clause 32.08-2 – Use of the land for a kindergarten.
APPLICATION / PROCESS	
Proposal	The use of the land for an education centre (kindergarten) in accordance with the endorsed plans.
Reference No.	KP-2021/845
SC App. Received	9 May 2023
LEGISLATIVE	
Covenant/Other Restriction	None Complies: NA
Permit Expiry Date	5 August 2024 (for the commencement of the use).

1 PERMIT AND APPLICATION BACKGROUND

- 1.1 An application has been received to amend plans, under secondary consent provisions, in association with condition 1 of Planning Permit KP-2021/845. Planning permit KP-2021/845 was considered and supported at the Planning Committee meeting of 22 June 2022 and a notice of decision to grant a planning permit was subsequently issued.
- 1.2 The planning permit was not a permit issued at the direction of the Victorian Civil and Administrative Tribunal or a permit issued under Division 6 of the *Planning and Environment Act 1987*.
- 1.3 Plans satisfying condition 1 of the planning permit were endorsed on 4 August 2022.
- 1.4 Notice (advertising) of the original planning permit application was required and occurred between 17 March 2022 and 4 April 2022. One petition, with a total of three (3) objections were received. The relevant grounds of objection to the planning permit application are expressed as follows:
 - Anti-social behaviour occurring in the existing car park.
 - Security fencing and gates should be installed.
- 1.5 A secondary consent amendment was applied for on 24 January 2023, seeking approval for the removal of ten (10) native and exotic trees on the subject site. The secondary consent application was considered and supported at the Planning Committee meeting of 19 April

Proposed Car Parking Plan:



- 2.2 The proposed changes do not have any implications for the concerns that have been previously expressed.
- 2.3 The permit has not yet been acted on, with the funding and documentation of the project having recently been resolved at the start of 2023.
- 2.4 Furthermore, necessary changes arose as a result of the applicant being made aware in the first quarter of 2023 that a building permit was obtained via alternate users of the subject land to erect a storage shed on land previously approved for car parking, necessitating the revised car parking plan, and this subsequent amendment referred to above.



(Source: NearMap aerial imagery, 24 April 2023)

- 2.5 There have been no notable changes, since the issuing of the planning permit, to the subject site's surrounds.



3 PLANNING PERMIT REQUIREMENT(S) FOR ORIGINAL APPLICATION

- 3.1 The executive summary table on page 1 lists the applicable permit triggers for the original planning permit application.
- 3.2 Pursuant to Clause 32.08-2 of the Kingston Planning Scheme, a planning permit was required for the use of the land for a kindergarten.
- 3.3 Since the issue of the planning permit, there have been no changes to the applicable planning controls.

4 REFERRAL ADVICE

- 4.1 The sought amendment(s) to the endorsed plans, under the provisions of secondary consent, have not been referred to any external authorities.
- 4.2 The sought amendment(s) to the endorsed plans were referred to Council's vegetation management officer who reviewed the proposal in relation to the proximity of the amended car parking area to the trees being retained in the north-eastern quadrant of the site, particularly the impact on Tree No. 9.
- 4.3 Council's vegetation management officer has no objection to the proposal, suggesting that the development should be undertaken with guidance from a tree protection and management plan as there is construction within proximity to several large trees. This information was relayed to the applicant, who subsequently provided a Tree Protection and Management Plan (prepared by McLeod Trees dated July 2023). Council's vegetation management officer reviewed the plan is satisfied that the proposed works will not adversely affect the integrity of Tree No. 9 along with the surrounding trees.
- 4.4 Details on the gravel surfacing to the carparking area was also requested, with the applicant providing these details demonstrated in the plan prepared by Crackerjack Consulting ref. JUL23. Council's vegetation management officer requested that the metal strip dividing the gravel car parking area from the fill/soil at the tree end of the carpark area be above natural ground level. This request has been addressed and therefore Council's vegetation management officer has no objection.
- 4.5 Comments were also sought from Council's traffic engineer who reviewed the proposal in relation to the car parking configuration along with the proposed crushed rock surface material to the car parking area. Council's traffic engineer provided comments that the department had no objections to the proposed amendment, or to the crushed rock car park, provided that the car park is even and free of tripping hazards and that car parking spaces must be delineated with markers.

5 CONSIDERATION

5.1 The principles, or tests, of secondary consent

The Tribunal has set out the principles, or tests, of secondary consent. A notable case worth drawing from is WestPoint Corporation PL v Moreland CC (Red Dot) [2005] VCAT 1049. In summary, this case establishes four (4) principles for the assessment of amending plans under condition 2 (or equivalent condition) of a permit. The principles raise a number of questions which are to be asked and answered in respect to the sought amendments made under secondary consent.

5.2 To classify as a secondary consent application, the amendments sought must meet the following principles:

- 'It [the proposed amendment] does not result in a transformation of the proposal.
- It [the proposed amendment] does not authorise something for which primary consent is required under the planning scheme.
- It [the proposed amendment] is of no consequence having regard to the purpose of the planning control under which the permit was granted.
- It [the proposed amendment] is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent' [38].

NOTE: 'When deciding whether a use or development may be altered under a secondary consent provision in a permit, the scale of the change is not relevant per se' [38]. Therefore, provided the sought change meets the above tests, it need not be "minor" in nature to be considered and permitted under secondary consent.

6 ASSESSMENT

6.1 An assessment is provided below in response to the relevant secondary consent test:

1. It [the proposed amendment] does not result in a transformation of the proposal.

The proposed amendment(s) do not result in a transformation of the original proposal. The altered plans do not make any change to the permitted land use. The nature of all changes and degree of all changes sought do not constitute a 'transformation' of the proposal.

2. It [the proposed amendment] does not authorise something for which primary consent is required under the planning scheme.

The proposed amendment(s) do not authorise something for which permission is either required or given in response to an application for a permit in accordance with the provisions of the Act and the Kingston Planning Scheme.

3. It [the proposed amendment] is of no consequence having regard to the purpose of the planning control under which the permit was granted.

The following proposed changes are considered to be trivial and inconsequential as they are generally in accordance with the endorsed plans, they do not conflict with any of the controls that led to the need for a permit in the first instance and they do not require separate assessment against policy contained within the Kingston Planning Scheme:

Item No.	Proposed Modification
1	The provision of an alternate car parking scheme / layout within the north-east quadrant of the site due to the location of a storage shed on site, located on land previously approved for car parking.

The proposed change in the form of the provision of an alternate car parking scheme is considered to be acceptable for consideration under secondary consent and therefore recommended for approval for the following reasons:

- The proposed change does not result in the transformation of the original proposal.
- The proposed change does not conflict with any of the relevant planning controls.
- The proposed change does not impact or alter the intent of the permit preamble.
- The proposed change is minor in nature, and the change is not considered to cause, or have potential to cause, further detriment to the neighbouring properties.
- The alterations to the endorsed plans constitute a minor amendment and inconsequential having regard to the purpose of the planning controls which lead to the need for the primary permission.
- The change to the car parking scheme/layout does not result in any net gain or loss of car parking spaces and maintains the required fourteen (14) car parking spaces based on the proposed use of the site which requires 0.22 car parking spaces to each child. A maximum number of sixty-six (66) children are permitted by the permit to be present on site and therefore generates the requirement of fourteen (14) car parking spaces.
- No significant changes to the landscaping is being made and there are no further trees being removed to accommodate the proposed revised car parking layout.
- The grounds of objection to the original application related to anti-social behaviour occurring in the existing car park and security fencing and gates being installed, with no objections or concerns raised regarding the layout and configuration of the carpark.
- The proposal has been referred to Council's vegetation management officer who has not raised any objections to the proposal. The recommendations/requests provided have been addressed through the inclusion of a tree protection and management plan along with details regarding the gravel surfacing to the car parking area.
- Comments on the proposal were also received from Council's traffic engineer, who also advised of no objection to the proposed works.

- 4. It [the proposed amendment] is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.**

A full review of the relevant planning permit has been undertaken and, accordingly, it has been established that all amendments sought by this application do not conflict with any of the conditions contained within the permit or with the description of what the permit authorises.


7 GENERAL COMMENTS

- 7.1 Based on the above assessment against the relevant test established by the Tribunal, it is considered that the proposed modifications to the endorsed plans are satisfactory and meet the tests of secondary consent.
- 7.2 It has been determined that prior to deciding on this application, all factors pursuant to Section 60(1) of the Act have been considered. Further to this, the proposal does not give rise to any significant social or economic effects.

8 RECOMMENDATION

- 8.1 That the amended application at 71 Argus Street, Cheltenham (Lot 1 on TP224133T) be supported to form part of the planning permit, with consent issued and the following occur:
1. Plan to be superseded and endorsed under this amendment: Sheet 1, Drawing No. AS001, Issue F by Design Worldwide Partnership, Project No. 20-0355, dated 15 June 2023.
 2. Plan to be endorsed under this amendment: Sheet 3A, Drawing No. SK01, Revision P1, by Cracker Jack Consulting, Project No. S22_070, dated July 2023.

Appendices

Appendix 1 - KP-2021/845 - 71 Argus Street, CHELTENHAM VIC 3192 (Lot 1 on TP224133T) - PLANS FOR CONSIDERATION (Ref 23/200999) 

Author/s:	Harris Argyriou, Statutory Planner
Reviewed and Approved By:	Amy Lin, Team Leader Statutory Planning Alfred Carnovale, Manager City Development

4.4

KP-2021/845 - 71 ARGUS STREET, CHELTENHAM

- 1 KP-2021/845 - 71 Argus Street, CHELTENHAM VIC 3192 (Lot 1 on TP224133T) - PLANS FOR CONSIDERATION 87

Use figured dimensions only. Do not scale from drawings.
Weep cannot guarantee the accuracy of content and format for copies of drawings issued electronically. The completion of the Issue Detail is required for all drawings.
Checked and Authorised section is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed by Construction and authorised for issue.
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NOTES:
1. *TREE T11* TO BE PARTIALLY PRUNED ON THE EAST SIDE (ABOVE THE PROPOSED BUILDING).



Architect/ Designer
dwp
www.dwp.com

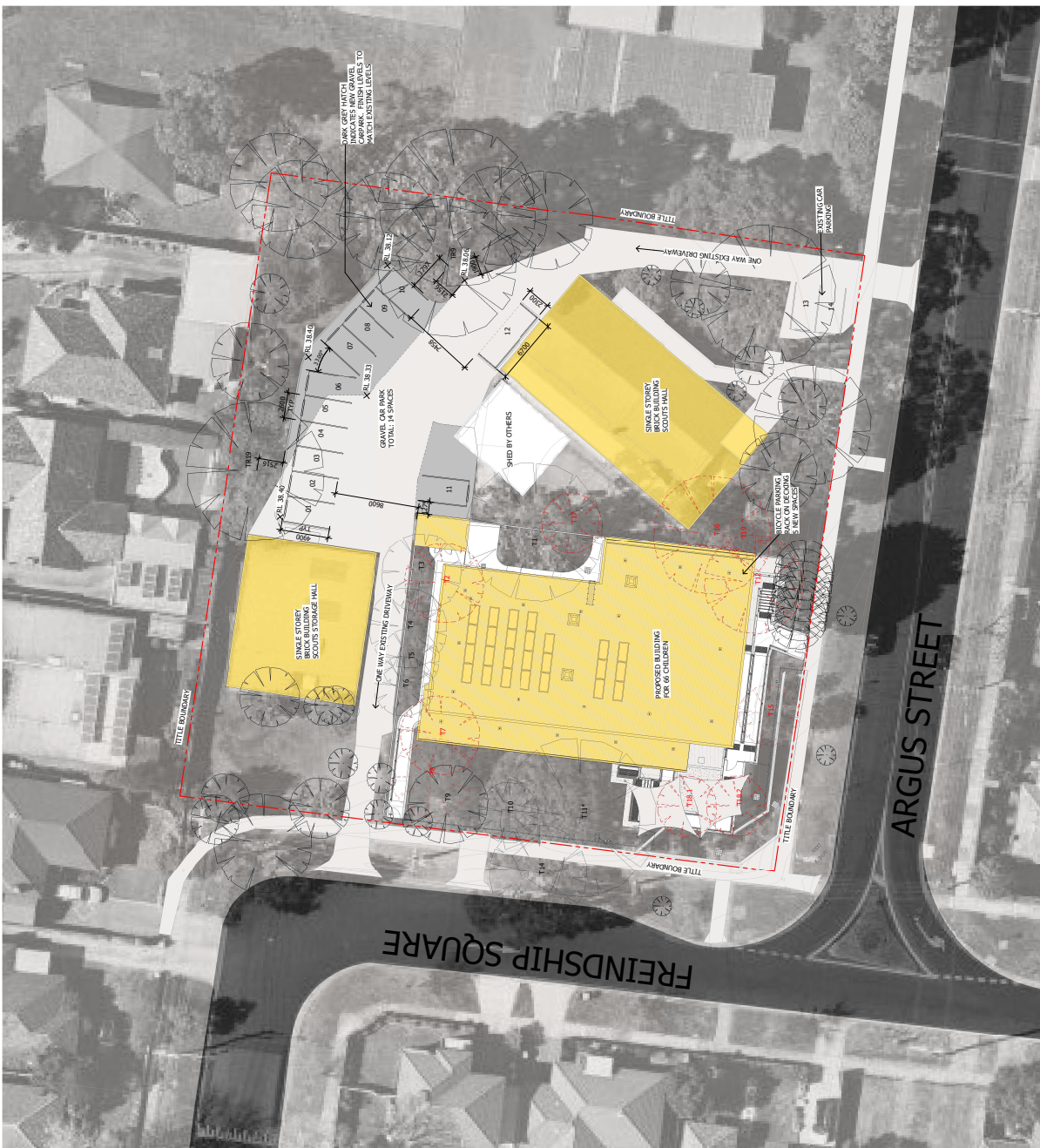
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Location
71 ARGUS STREET, NORTH

Project Number

1 : 200 15/06/2023 3:01:08 PM

C



Notes:
This plan is submitted in accordance with the requirements of the Planning and Environment Act 1987.
The plan is submitted for the purpose of obtaining a Planning Permit for the proposed development.
The plan is submitted for the purpose of obtaining a Planning Permit for the proposed development.
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Area	Area	Area
Activity Room 1	107.25 m ²	107.25 m ²
Activity Room 2	107.25 m ²	107.25 m ²
Outdoor Spaces	467.9 m ²	467.9 m ²
Activity Room 1	107.25 m ²	107.25 m ²
Activity Room 2	107.25 m ²	107.25 m ²
Outdoor Spaces	467.9 m ²	467.9 m ²
Activity Room 1	107.25 m ²	107.25 m ²
Activity Room 2	107.25 m ²	107.25 m ²
Outdoor Spaces	467.9 m ²	467.9 m ²



SCHEMATIC DESIGN FOR THE PROPOSED DEVELOPMENT

Address: 1100-1110 St. John's Road
City: Kingston
Province: Ontario
Country: Canada
Website: www.dwp.com

Client: CITY OF KINGSTON

Project: NORTH CHELTENHAM PRESCHOOL

Location: 1100-1110 St. John's Road, North Cheltenham, Ontario

Scale: 1:100

Date: 17/02/2022 12:14:36 PM

Revision: A

20-0355

SITE PLAN_OPTION D3

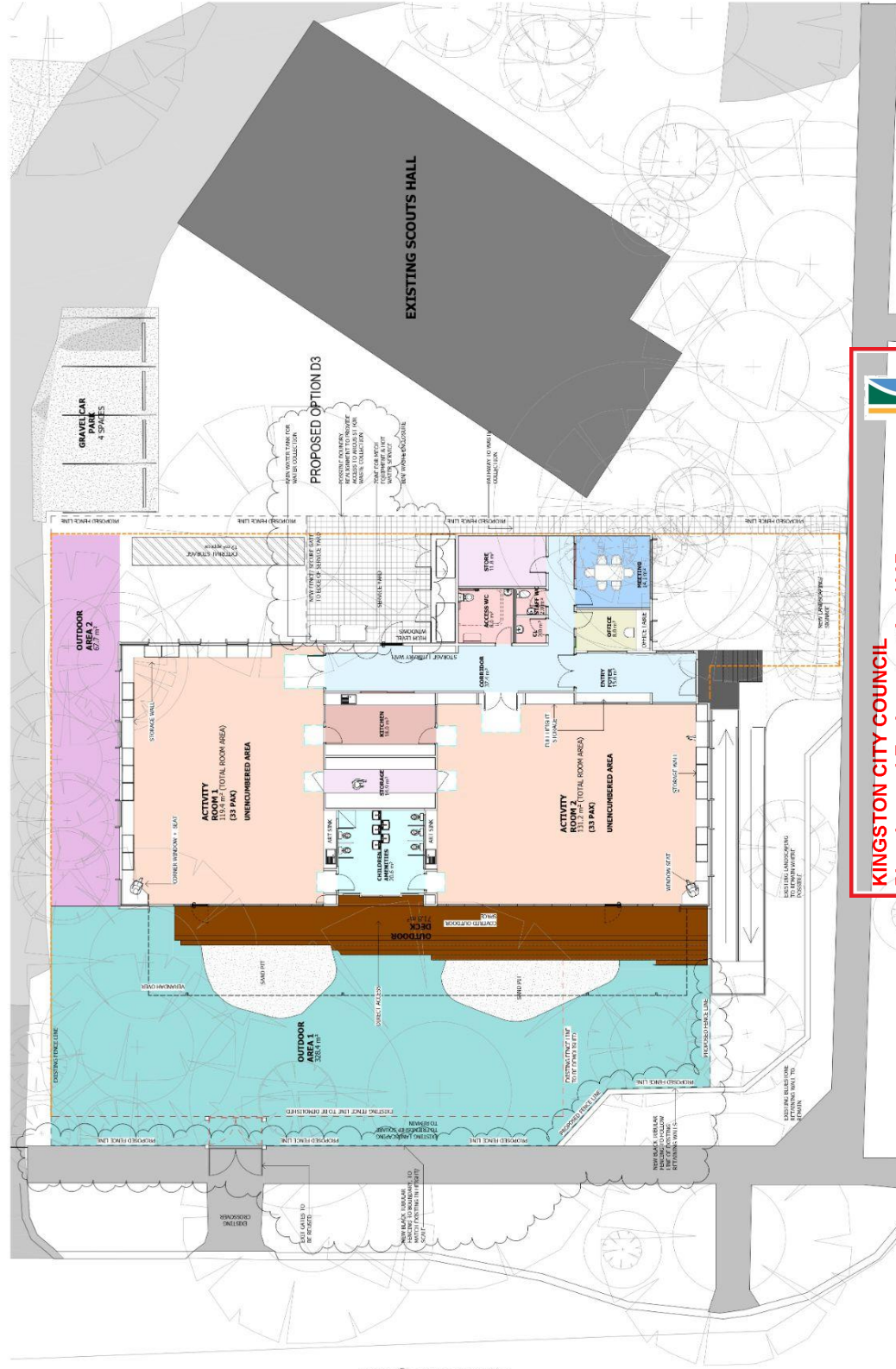
17 February 2022

Revision A



KINGSTON CITY COUNCIL
Planning and Environment Act 1987
Kingston Planning Scheme

Plan endorsed as part of
Planning Permit No: KP-2021/845
Council Delegate: James Leonard
Date: 4 August 2022
Page 2 of 3



OUTDOOR PLAY AREA REQUIREMENT			
ACTIVITY ROOM 1	ACTIVITY ROOM 2	OUTDOOR SPACES	
N/A AREA REQ 3.35m ² /CHILD	N/A AREA REQ 7m ² /CHILD	N/A AREA REQ 467.9 m ²	
107.25 m ²	107.25 m ²	467.9 m ²	
107.25 m ²	107.25 m ²	467.9 m ²	

Notes:
 This information is provided as a guide only and is not intended to be used as a basis for any other design or construction. It is the responsibility of the client to ensure that the information is accurate and up to date. The information is provided on the basis of the information received from the client and is not intended to be used as a basis for any other design or construction. It is the responsibility of the client to ensure that the information is accurate and up to date.

KINGSTON CITY COUNCIL
Planning and Environment Act 1987
Kingston Planning Scheme
Plan endorsed as part of
Planning Permit No: KP-2021/845
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Date: 4 August 2022
Page 3 of 3



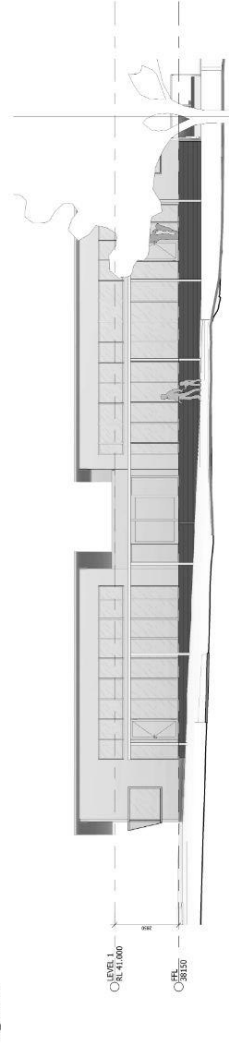
NORTH ELEVATION
 1:100



EAST ELEVATION
 1:100



SOUTH ELEVATION
 1:100



WEST ELEVATION
 1:100

SCHEMATIC DESIGN
 NOT TO BE USED FOR CONSTRUCTION

Drawn: [Name]
 Date: [Date]
 City: [City]
 State: [State]
 Postcode: [Postcode]
 Email: [Email]
 Phone: [Phone]
 Website: [Website]

CITY OF KINGSTON

NORTH CHELTENHAM PRESCHOOL
 100-110 CHELTENHAM STREET, NORTH
 CHELTENHAM

20-0355

BUILDING ELEVATIONS

Project Name: [Name]
 Date: [Date]
 Drawn: [Name]
 Checked: [Name]
 Approved: [Name]



