

**GLEN EIRA PLANNING SCHEME
AMENDMENT C60
(CAULFIELD VILLAGE)**

PANEL REPORT

JULY 2010

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AMENDMENT C60**

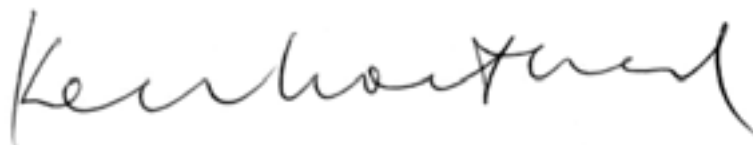
PANEL REPORT



Alison Glynn, Chair



David Mitchell, Member



Ken Northwood, Member

JULY 2010

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The Amendment	Glen Eira Planning Scheme Amendment C60 - MSS Review
Purpose of Amendment	<p>Amendment C60 to the Glen Eira Planning Scheme proposes to facilitate development of land north of the Caulfield Racecourse as a mixed use "Caulfield Village" development through a number of changes to the scheme including:</p> <ul style="list-style-type: none"> - rezoning land from Mixed Use and Residential 1 to a Priority Development Zone (Schedule 2) within the Phoenix Precinct of the Caulfield Major Activity Centre; - altering the existing Phoenix local policy (clause 22.06) to refer to the Caulfield Village; and - incorporating the Caulfield Mixed Use Area – Incorporated Plan as the guiding document to implement the provisions of the Priority Development Zone.
Planning Authority	Glen Eira City Council
Proponent	Melbourne Racing Club
Exhibition	19 November 2009 to 21 December 2009
The Panel	Alison Glynn (Chair) David Mitchell Ken Northwood
Panel Hearing	Directions Hearing: 20 April 2010 Panel Hearing: 18, 19, 20, 21, 25 and 28 May, 2010
Procedural Issues	Three late submissions were made to Council and the Panel, being from Mr Brohier, Mr Wilde and Mr Anderson. These submissions were accepted and referred to the Panel with Mr Brohier and Mr Wilde also made verbal presentation to the Panel.
Inspections	The Panel made unaccompanied inspections of the site and surrounds after the directions hearing and during breaks of the hearing.

Referred Submissions	See Appendix 1
Appearances	
<p>Glen Eira City Council Glen Eira City Council represented by Terry Montebello, Solicitor; calling the following witnesses:</p> <ul style="list-style-type: none"> - Kent Dodgshun, Urban Designer of Glen Eira City Council; and - Terry Hardingham, Traffic Engineer of O'Brien Traffic. 	
<p>VicRoads – was arranged to be heard but was unable to. Further written submission was forwarded to the Panel from the authority.</p>	
<p>Melbourne Racing Club represented by Stuart Morris, SC; with Mr Adrian Finanzio, Barrister, calling the following witnesses:</p> <ul style="list-style-type: none"> - Steve Hunt, Traffic Engineer of Cardno Grogan Richard; - Andrew Biacsi, Town Planner, of Contour Consultants; - Mark Sheppard, Urban Designer, of David Lock Associates; - Justin Ganley, Retail Analyst, of Deep End Services; and - Reg Jebb, Retail Consultant. 	
<p>Monash University represented by Michelle Quigley, SC with Ms Marita Foley, Barrister calling the following witnesses:</p> <ul style="list-style-type: none"> - Mr Lloyd Elliot, Town Planner of Urbis; and - Mr Russell Fairlie, Traffic Engineer of Ratio Consultants. 	
Mr John Hoey	
Ms Roslyn Gold	
Ms Cecily Close	
Mr Matthew Knight	
Ms Cheryl Forge	
Ms Elizabeth Volchok	
Ms Pamela Ireton	
Ms Rebecca and Lee Perring	
Ms Kath Healy	
Mr Julian Donlen	
Mr Peter Brohier	
Ms Nicole McNeilage	
Mr Gerald Sherry	
Ms Maria Exton	
Ms Bette Hatfield	

Mr David Wilde
Mr Craig Nisbet
Ms Lisa Marie Di Marco

1. Summary and Consolidated Recommendations

1.1 The amendment

Amendment C60 seeks to facilitate redevelopment of land owned mostly by the Melbourne Racing Club (MRC), north of the Caulfield Racecourse within the area known as the Phoenix Precinct or Caulfield Major Activity Centre. The land, which is currently zoned Mixed Use and Residential 1 within the Phoenix precinct policy area of the Glen Eira Planning Scheme is proposed to be rezoned to Priority Development Zone. This will enable a number of uses and development to be approved by Council as Responsible Authority through a Development Plan process rather than planning permit.

The amendment is based on a number of evolving concept plans the MRC has prepared for the land over the past 3 years. These concepts in turn build on the existing zoning and policy designation of the land.

1.2 Summary of Findings

1.2.1 Strategic Justification

The Panel is satisfied that considerable strategic work has been undertaken for this site and the broader Phoenix precinct over the past 14 years to direct that the subject land should be redeveloped. Amendment C60 is closely aligned with both State and Local Government policy, including Melbourne 2030, Melbourne @ 5 Million, State transport policy, and the Glen Eira Planning Scheme.

Whilst the density of development now proposed is somewhat more than first envisioned in 1996, the Panel finds this is consistent with a broader understanding across metropolitan Melbourne that more intensive built form is needed in and around activity centres to promote urban consolidation and reduce the need to further expand the boundaries of Melbourne. The Panel is of the view that character and acceptance to higher density built form is one that can and must change over time to accord with current planning principles and population pressures.

Mr Brohier submitted the amendment should be abandoned until a broader review of the activity centre is undertaken. The Panel finds this would be an unnecessary waste of public money in preparing further, and in the Panel's

view, unnecessary strategic work, hindering investment in needed areas such as this.

The Panel finds it far more important to progress implementation of Melbourne 2030 through amendments such as C60 that can lead to on ground development, than to further delay and procrastinate implementation through further strategic study.

The Panel finds, in principle, the use of the zoning of the land to Priority Development zone to be appropriate. Given the exhibition of the strategic intent for the site and the location of much of the site is away from immediate existing residential interface, the Panel finds third party review rights need only apply where there is a specific amenity impact to address that is beyond the scope of the concept.

Much submission was put to the Panel that it was inappropriate to facilitate the proposed development when the MRC had failed to meet existing obligations to manage crown land in the racecourse reserve. The Panel's role is to address the merits of Amendment C60, only, under the provisions of the *Planning and Environment Act, 1987*. The Amendment changes the zone and policy provisions of the Glen Eira Planning Scheme only. The Panel's role is not to make recommendations about the lease or licence arrangements between the MRC and the Crown. These are matters for the State Government to consider in renewing any lease of the Crown land to the MRC under the *Crown Land Reservation Act*.

There are two land use planning consequences of the amendment on the use of crown land the Panel identifies; greater reliance on crown land within the racecourse for car parking and greater reliance on the centre of the racecourse as open space in the area for residents of the proposed development. These issues are addressed in relation to whether the amendment can accommodate car parking and open space needs of the site and surrounds, not whether the crown land associated with the racecourse is managed appropriately.

1.2.2 Economic Impacts and Retail floor limit

The Panel is satisfied that the scale of the retail development at the Caulfield Village will not adversely impact on the operations of Chadstone Shopping Centre and Malvern Central Shopping Centre and the Panel considers the issues raised by these submitters appear to be unfounded.

There will be some potential trading impacts on Caulfield Plaza from the development of the Caulfield Village. However the Panel accepts that this impact is within the bounds of a normal competitive retail environment.

The Panel agrees with the Council proposal to include a restriction on floorspace to 15,000sqm of shop. The Panel considers that the inclusion strengthens the vision of the Incorporated Plan, and provides some certainty about the 'as of right' limits of the development.

1.2.3 Traffic Circulation

Peak hour vehicle traffic through the area currently causes congestion, particularly at the key intersections of Kambrook Road / Station Street and the Normanby Road / Smith Street viaduct, through to Dandenong Road.

However, this congestion is not dissimilar than many other areas of metropolitan Melbourne. The advantage this site has over many other metropolitan locations is that it is close to a range of transport options that can offer modal choice, rather than relying only on car based access.

Overall the Panel is satisfied that the level of information provided to date, which includes more extensive traffic modelling and documentation as put to the Panel provides sufficient confidence for the amendment to proceed.

The Panel considers that more detailed investigations are needed at the development plan stage to confirm how the intersection of The Boulevard and Station Street can best be treated based on the projected share of traffic along both Station Street and the Boulevard. This will depend on a number of variables. The Panel finds a key priority however, should be to provide safe and manageable pedestrian routes through the area.

The Panel also recommends more detailed assessment is required to locate public transport routes and facilities to and through the area. This can be addressed in the integrated transport plan.

It was agreed at the hearing that most of the proposed road closures were inappropriate at this time as alternative access arrangements were not in place. The Panel agrees, and recommend all the exhibited road closure overlays be deleted except for the small defunct laneway east of Heywood Street.

1.2.4 Carparking

Many residents were concerned that the development will result in the loss of parking at the Members carparks and therefore will exacerbate existing carparking problems in the area. Based on the evidence presented to the Panel it is clear that there will be more heavy reliance on the Kambrook and Guineas Car Parks that form part of the racecourse. The Panel acknowledges that the Guineas Car Park is on Crown Land and note the concerns raised by submitters that about this. The loss of Members carparks will put additional pressure on

the use of the Crown land that forms part of the racecourse, however this issue is beyond the scope of this report. The decision on the appropriate use of the Crown land under reservation is a matter for the relevant Minister to address not a matter to be addressed by the planning scheme and Planning and Environment Act. The Planning Scheme simply requires a use to provide parking to meet its needs.

The Panel concludes that the MRC is able to sufficiently accommodate the general demand for carparking associated with the Racecourse uses despite the loss of the Members Car Parks No 1 and No 2 and the Tabaret Car Park through use of other land forming part of the racecourse.

The Panel also concludes that the revised parking rates for the development, that correlate with those used at the Monash University Priority Development Zone, are appropriate to service the needs of the proposed development.

1.2.5 Open Space provision

Residents were concerned that the development had inadequate access to open space and would exacerbate problems of existing poor access to open space associated with the racecourse.

The Panel concludes that the size and location of existing reserves can provide adequate nearby open space for the development, however the centre of the racecourse has limitations with respect to access and is under-utilised.

The plans by the Council and the MRC to make additional land available as public open space will improve this situation over time. The Panel supports the proposal by council to pursue the acquisition of the water reserve on Glenhuntly Road and develop as public open space.

Additional money will be required by Council to make this land ready for use as public open space. Therefore the Panel supports the requirement for a financial public open space contribution is related to cost of improving existing reserves.

1.2.6 Urban Design requirements

Local residents submitted the design parameters were too broad and did not adequately protect existing residential amenity and character of the area. Our assessment of character has been to ensure that new development that immediately abuts existing residential areas in Heywood, Bond, Kambrook and Normanby Road can be integrated.

Further east, the Panel finds less need to respect existing character or identify what is or is not “in character”. The area has long been identified for redevelopment and the overarching priority must be to maximise the potential of the site as a Major Activity Centre where there are not immediate issues of residential amenity.

During the hearing the Panel was presented with various iterations of the Incorporated Plan with notations from both Council and the MRC about how to deal with specific design parameters. The Panel generally agrees with the principles of the Incorporated Plan and have made specific findings on issues where the Panel has found need.

An overall finding the Panel makes is that the Incorporated Plan needs to be clearer in intent. In particular, the diagrams in the Incorporated Plan should be clarified to be called “height and setback” diagrams, and only identify relevant height and setbacks that will direct when a permit (and therefore third party involvement) will be required. Other matters of design guideline should be in the text or separate diagram of the Incorporated Plan.

1.2.7 Other issues

A number of other issues are addressed throughout the report. In particular the Panel has made findings that:

- Student accommodation should be an “as of right” no permit required use in the Mixed Use and Smith Street precinct, but not the Residential precinct. The Panel also notes that the wording of this provision requires clarification to ensure that other residential uses (e.g. Motel) do not become as of right in the Residential Precinct;
- A legal agreement is required between the MRC and Council to ensure that infrastructure associated with the development is provided for. The Panel finds the most logical way to achieve this is for the MRC and Council to enter a general voluntary agreement prior to approval of the amendment that requires a further agreement specifying works to be undertaken prior to sale or subdivision of the land;
- The local Policy 22.06 requires minor updating to ensure that existing residential areas in Heywood and Bond Street that form part of the existing Phoenix precinct policy have appropriate decision guidelines; and
- The amendment should reinforce the commitments to affordable housing made prior to and as a result of exhibition of the amendment. Some strengthening of both the Schedule 2 by including after the dot point “*The provision of affordable housing*” the addition of the words “*in the form of social housing as defined in the Melbourne 2030 Strategy*” would clarify the intent to provide affordable housing, as opposed to relatively affordable housing.

1.2.8 Consolidated Recommendations

Based on the reasons set out in this Report, the Panel recommends Amendment C60 to the Glen Eira Planning Scheme should be adopted subject to the following:

1. Alter the priority Development Zone Schedule 2 as follows:

- (a) In Sub Clause 1.0 amend the use table to enable Student accommodation as a Section 1 non-permit required use in the Mixed Use and Smith Street precincts. In doing so ensure that other residential building uses, notably motel, backpackers lodge, boarding house and hostel do not become Section 1 uses in the Residential precinct.
- (b) Include a condition to the section 1 use of "Shop" to state.

The combined leasable floor space of all shops on the land shown on the planning scheme map as PDZ2 must not exceed 15,000 square metres
- (c) In Sub Clause 4.0 remove the words "construct The Boulevard and associated infrastructure as shown in the incorporated Plan" as works that can proceed before a development plan is approved.
- (d) Alter Sub Clause 4.0 of the schedule to clarify when a permit for buildings and works is required to state:

A permit is not required to construct a building or construct or carry out works if the buildings or works are in accordance with a development plan for the land approved under this Schedule and do not exceed the preferred maximum heights or encroach in to the preferred setbacks set out in the Incorporated Plan.
- (e) Add the following additional dot points to the requirements of the Integrated Transport Plan in Sub Clause 6.0:
 - *Works necessary to existing and proposed intersections to accommodate traffic increases and safe pedestrian movement.*
 - *Public transport arrangements that respond to the Public Transport Guidelines for land use and Development and pedestrian access routes.*
 - *Location of taxi ranks as may be appropriate*
 - *The need to signalise the intersection of the Boulevard and Station Street on the basis that:*
 - *Both through routes along Station Street, from Normanby Road to Kambrook Road and the route from Dandenong Road*

(currently via Smith Street, but proposed via The Boulevard) and will create turning movements at this intersection regardless of alignment.

- *There is a need to prioritise safe pedestrian movement through the intersection to the activity centre core and the railway station.*

(f) Alter Sub Clause 8.0 to provide parking rates as noted in Council notated PDZ Schedule 2 tabled on 18 May 2010, but with addition that parking for residential uses should be based on the provisions of Clause 55.03-11 and parking for student accommodation should accord with 22.09.

(g) In sub clause 9.0:

- i. Delete the first dot point to require the owners to enter an agreement for works.

In its place the Panel recommends the Planning Authority (City of Glen Eira) establish a voluntary agreement prior to approval of the amendment to the effect of:

It (the owner) shall not make any application for a planning permit for the subdivision of the subject land or sell any land forming part of the Priority Development Zone (schedule 2) unless and until either:

- *A Development Contribution Plan applying to the subject land is incorporated into the Planning Scheme;*
or
- *The Owner enters into a further Section 173 Agreement, under which it agrees to either provide all works, services and facilities constituting the infrastructure and development as outlined in the development plan to be approved by the responsible authority by an agreed date, to the satisfaction of the responsible authority. The agreement may provide:*
 - *That works can be carried out on a stage basis where works directly relate to the stage to the satisfaction of the Council.*
 - *That monetary contribution be paid to Council in lieu of works to an amount to the satisfaction of the responsible authority.*

- ii. Delete the second dot point and replace it with words to the effect of:

The owner must make a monetary public open space contribution to Council as follows:

- *Prior to the occupation of buildings on land, or at some other time as is agreed with Council,*
 - *5% of the site value of the land which is contained within the Mixed Use Precinct and the Smith Street Precinct; and*
 - *4% of the site value of the land which is contained within the Residential Precinct*

- (h) In Sub Clause 11.0 add an additional dot point to state:
- *The provision of affordable housing in the form of social housing as defined by the Melbourne 2030 metropolitan planning strategy.*
- (i) Adopt other corrections and alterations as detailed in the amended schedule tabled by Council to the Panel on 18 May, 2010, including requirements for contaminated land, ESD principles, a construction management plan and staging plan.

2. Alter the exhibited Incorporated Plan as follows:

In relation to transport and movement:

- (a) Delete the dot point within “03 – Plan Objectives - Smith Street”
To provide main vehicular site access from Station Street and Normanby Streets”
- (b) Add wording to the introduction of Section 4.0 – Networks to the effect of:
- The intersection of the Boulevard and Station Street requires detailed design assessment based on an integrated transport plan to determine its final configuration.*
- (c) In section “04 – Networks” maintain wording similar to that exhibited but with alteration to the design guideline dot point starting “Station Street will be redeveloped...” to replace this dot point with words to the effect of:
- Maintain Station Street as a main through route for both vehicles and pedestrians through the area.*
- (d) Make a notation on all relevant plans at the intersection of Boulevard and Station Street that the final design of this intersection will be the subject of the Integrated Transport Plan with consideration to alignment and signalisation the intersection to provide safe east / west and north / south pedestrian movement.

-
- (e) Modify the Pedestrian Movement Plan forming part of Section 4.0 - Networks as follows:
- i. Add pedestrian crossing points on all sides of the intersection of The Boulevard and Station Street.
 - ii. Add a pedestrian crossing point across Station Street at the intersection of Normanby Road with a note that this intersection should be reconfigured to give greater priority to pedestrian access to the station.
 - iii. On the pedestrian links between Heywood Street and the Boulevard and Bond Street and Kambrook Road, include a notation that both may include some minor residential or service access for vehicles but not through vehicle movements.
- (f) Modify the Road and Parking Plan forming part of Section 4.0 – Networks as follows:
- i. Remove all ‘site access’ arrows and the corresponding notation from the legend.
 - ii. Remove the on street parking from the centre of the Boulevard.
- (g) Remove the Public Transport Movement Diagram and add a new written design guideline to the effect of:
- *Public transport routes, stops and taxi ranks are to be provided throughout the area. The location of routes and stops will be determined in consultation with the Department of Transport and should consider:*
 - i. *The need to relocate the existing tram stop in Normanby Road, directly west of the intersection with the Boulevard to further west along Normanby Road, or consolidating this stop into a new single stop to replace this Normanby Road stop and that at the corner of Balaclava and Normanby Road.*
 - ii. *The location for existing and future bus routes through the area.*
 - iii. *The best location for taxi ranks that can service the development area, Caulfield racecourse and the Caulfield station precinct.*

In relation to use and built form:

- (h) Add a general notation within the guidelines to the effect of:

“These guidelines should be read in conjunction with the relevant provisions of Guidelines for Higher Density Residential Development – 2004, or the Objectives of ResCode as relevant to the development proposed”

- (i) In Section 03 – Objectives add an additional overall objective dot point:
- To provide affordable housing in the form of a social housing program*
- (j) In section 06 – Residential Precinct guidelines
- i. Add a new guideline to the effect of:
- Development at the south east corner of Heywood Street and Normanby Road should provide a gateway and transition from residential development to the north west to Caulfield Village and address both street frontages.*
- (k) Label the diagram forming part of 06 – Residential Precinct Guidelines “Height and Setback Diagram” and amend it in accordance with the notated plan in Figure 10.1 to this Panel Report.
- (l) In section 07 – Mixed Use Precinct Guidelines:
- i. The reference to ground floor retail development to include at least 50% glazed facades, be amended to refer to “50% of shopfront facade should be fully transparent, glazing”.
- ii. Guideline text referring to podium levels should include a need to provide reduce building height, or podium form where development interfaces with Normanby Road, Bond Street and the Boulevard. The guideline text should also refer to the need to consider pedestrian interface to Station Street through use of podium or other design treatment, but not prescribe such a form in the height and setback diagram.
- iii. Guideline text to state “Balconies overlooking the Boulevard, Station Street, Normanby Road and Bond Street at upper level are strongly encouraged” should conclude with words “... and should be preferably contained within the property boundary”.
- iv. Retain the exhibited guideline “Carparking is to be provided by integrated on site provision with supplementary on street car parking provided on the Boulevard and Station Street”; and do not include specific additional guideline proposed by Council to require parking to be in basements or buildings.
- v. Amend the “Lot A Guidelines” to clarify these are guidelines, not permit triggers to be utilised if Lot A is not in contiguous ownership with adjoining land and should refer to Clause 55 of the planning scheme, not clause 56.

- (m) Label the diagram forming part of 07 – Mixed Use Precinct Guidelines as “Height and Setback Diagram” and amend it in accordance with the notated plan in Figure 10.2 to this Panel Report.
- (n) In section 08 – Smith Street Precinct Guidelines:
 - i. The reference to ground floor retail development to include at least 50% glazed facades, be amended to refer to “50% of shopfront facade should be fully transparent, glazing”.
 - ii. Guideline text to state “Balconies overlooking the Boulevard are strongly encouraged” should also include reference to other street interfaces. The guideline should conclude with words “... and should be preferably contained within the property boundary”.
 - iii. Include a guideline for carparking, to state “Carparking is to be provided by integrated on site provision with supplementary on street car parking provided on the Boulevard, Normanby Road and Station Street”
 - iv. Include clearer direction to podium requirements or “preferred location for podiums” diagram, separate to the height and setback diagram that defines permit triggers. Direction for podiums should be based on priority to provision pedestrian interface, with particular attention to retail frontage areas.
- (o) Label the diagram forming part of 08 – Smith Street Precinct Guidelines “Height and Setback Diagram” and amend it in accordance with the notated plan in Figure 10.3 to this Panel Report.

In relation to document format:

- (p) The illustrations or “artist impressions” of the Incorporated Plan should be removed.
- (q) Correct references to “stories” with “storeys” on all relevant plans.
- (r) Correct the title and house alignment of Lot A to accord with its actual position.
- (s) Other minor word changes as put to the Panel and agreed between the MRC and Council, as noted in the ‘mark – up’ version presented to the Panel on 20 May 2010, be adopted, other than those specifically noted by the Panel in Chapter 10 as being unsupportable . Proposed wording changes, should be reviewed prior to adoption for clarity of wording and need. Additional guidelines should only be included where they add specific direction and do not simply duplicate

general design objectives already provided for in the planning scheme and relevant reference documents.

- (t) The Panel also recommends Council and the MRC review the format of the Incorporated Plan prior to approval to create an A4 format document that is more easy to use on a regular basis for statutory interpretation. This should include consideration to adding a scale and north point on the plans as an interpretation aid.
 - (u) Other objectives and unnecessary descriptive text proposed by Council after exhibition (as detailed in Chapter 10 of this report) not be included in changes made to the Incorporated Plan.
3. **Change the exhibited Road Closure Overlay Plan to delete all Road Closure Overlay (RXO) areas from the plan except for the road closure east of Heywood Street forming a defunct laneway on part of Members Car Park No 1.**
 4. **Amend the exhibited Local Policy 22.06 Phoenix Precinct policy to incorporate changes proposed by Council in its revised local policy circulated prior to the Panel hearing (Panel version) dated 1 May 2010, but updated to include decision guidelines relevant for existing residential areas in Precinct 1 that are not part of the Incorporated Plan, similar to decision guidelines in precinct 1 (residential precinct) of the existing local policy forming part of the Glen Eira planning scheme.**
 5. **Amend the preamble to Local Policy 22.09 to refer either specifically to development approvals in the Phoenix precinct, or “development plans”.**
 6. **Council continue to pursue improved on and off street parking and traffic arrangements with the MRC for events at the Caulfield Racecourse to reduce the impact of parking and access issues. This should include a review of on street parking restrictions and traffic circulation.**

2. What is proposed?

2.1 The subject site and surrounds

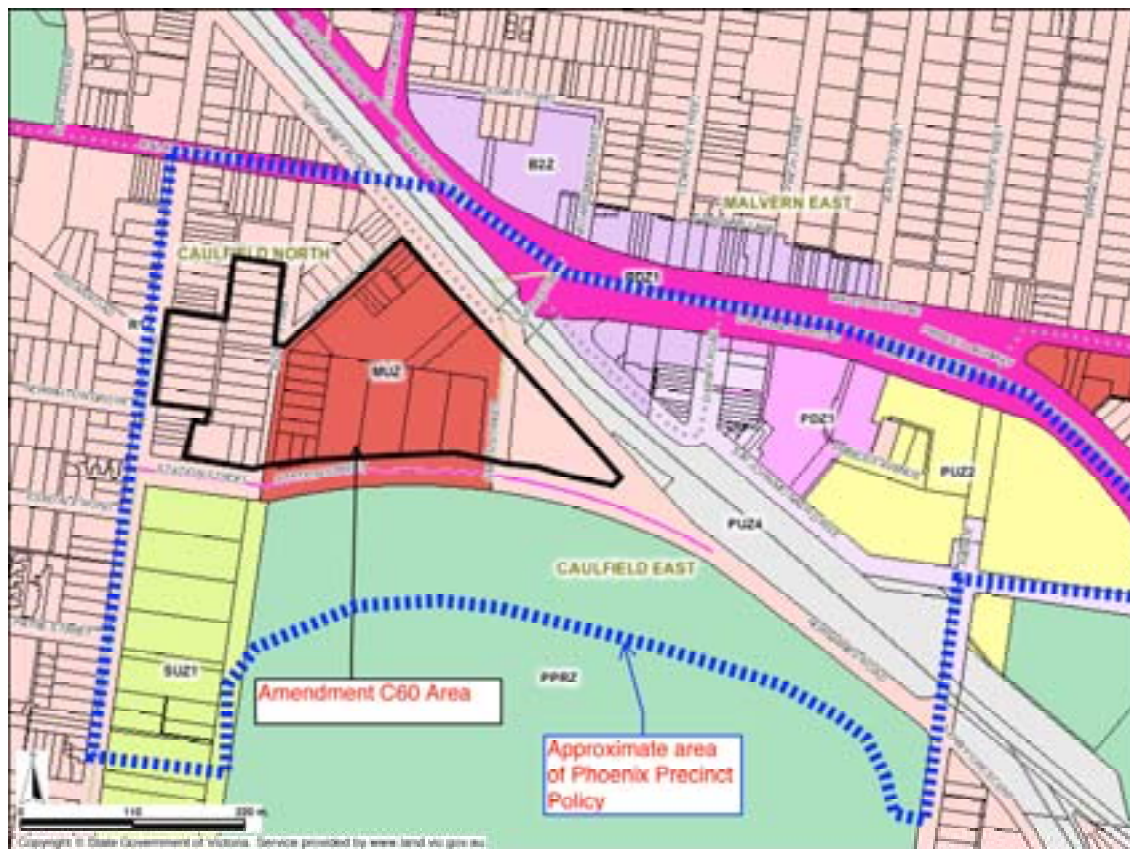


Figure 2-1 Amendment Area

Source: Land Victoria web map – sourced 2 June 2010 and notated by Panel.

The land affected by the Amendment is the generally bound by Station Street, Kambrook Road, Bond Street, Heywood Street and Normanby Road, Caulfield.

With the exception of the dwelling at 3 Normanby Road, the land west of Smith Street that forms the Amendment area is freehold title held by the Melbourne Racing Club (MRC). 3 Normanby Road is separately held private land of Ms Perring and her family who were submitters to the amendment.

The triangular parcel of land east of Smith Street is un-alienated Crown Land that is not reserved for any specific purpose. The MRC has an agreement with the State Government to transfer this land to freehold title in the name of the MRC through a land swap with other land it owns in Kambrook Road and a financial settlement.

The land (apart from 3 Normanby Road) is used for car parking associated with the Caulfield racecourse.

As summarised by Council in its submission the site:

- is located approximately 8km south-east of the Melbourne CBD;
- is generally flat;
- is part of a Major Activity Centre;
- is opposite the Caulfield Racecourse and a Tabaret which are on the opposite (south) side of Station Street;
- is opposite Caulfield Train Station which is located on the east side of Normanby Road, at the eastern end of Station Street;
- has an interface with established residential developments to its immediate west;
- abuts a rail line to the north and north east;
- is close to Monash University, Caulfield Campus, which is between Dandenong Road and Sir John Monash Drive;
- is separated from the Derby Road Shopping Centre which comprises a supermarket and 25 speciality Shops, by the railway line;
- has access to Caulfield Park approximately 400m - 800m to the west;
- The Train Station, University and Shopping Centre are all accessible via an underpass from Normanby Road to Sir John Monash Drive; and
- The site also abuts a tram service that runs on Normanby Road.

2.2 Background to the proposal

The Caulfield Activity centre has been identified in metropolitan Strategy *Melbourne 2030* as a Major Activity Centre. This builds upon Glen Eira Council's identification of this centre as the "Phoenix Precinct" in 1996¹ where more intensive redevelopment should occur.

The Phoenix precinct strategic work of the late 1990s was translated into Council's new format Planning Scheme in 1999 and subsequent Amendments C11, C14 and C25² in 2004.

Specifically Amendment C14 introduced the existing Phoenix policy into the planning scheme based on the 1996 strategy and the *Phoenix Precinct Urban Design Framework* 1998 (UDF). This UDF was prepared by Gerner Consulting Group and funded jointly by Council, Monash University, the Victoria Amateur Turf Club as it was then known (now the Melbourne racing Club), and the State

¹ Through the *Phoenix Precinct Strategy* 1996, followed by the *Phoenix Precinct Urban Design Framework* 1998.

² C11 introduced the urban villages policy into the scheme. C14 introduced the Phoenix Precinct policy and C25 introduced the Housing Strategy, which indicated intensive housing redevelopment would be focused toward urban villages and the Phoenix Precinct.

Government. The Strategy and UDF addressed the whole Phoenix Precinct, which is the Caulfield Activity Centre area south of Dandenong Road.

In 2000, before the Phoenix Precinct Policy was introduced, the Members Car Park No 1 and a number of abutting residential properties (including two privately owned properties) around it were rezoned from Residential 1 to Mixed Use.

In October 2006, a significant part of the Phoenix Precinct, the Monash University Caulfield site was rezoned to Priority Development Zone Schedule 1 supported by the *Monash University Caulfield Campus-Western Precinct Development - Incorporated Plan* via Amendment C53. At the same time, that part of Clause 22.06 relating specifically to the Monash University site was amended to achieve consistency with the Incorporated Plan.

In January 2007, the MRC prepared a Master Plan for the Caulfield Racecourse and the land subject of Amendment C60. The Master Plan does not have any statutory status, but was submitted in support of MRC's request to Council to prepare Amendment C60 and perhaps in response to a recommendation of the C14 Panel.³

In 2007, the MRC, requested that its land be rezoned to a PDZ supported by their Incorporated Plan same to facilitate redevelopment of its land for a mixed use development. It prepared draft Amendment documentation accordingly.

Concerned that MRC had provided insufficient information Council resolved initially not to seek authorisation for the amendment until further detail was provided. The MRC then requested the Minister to review the matter via a Priority Development Panel (PDP).

In January 2008, the PDP provided a report that concluded:

- *the use of the PDZ was appropriate;*
- *the revised Schedule to the PDZ advanced by Council with input from MRC would provide appropriate opportunity for third party input at a stage when the further detail of a development plan was available;*
- *Council and the MRC had agreed on an approach for improving the Incorporated Plan to better express the vision for the Precinct and to provide greater certainty about the development concepts and objectives for the site;*

³ See Glen Eira Planning Scheme Amendment C14, Report of a Panel pursuant to Sections 153 and 155 of the Act, December 2002, section 10.

- *the revised PDZ Schedule together with the Incorporated Plan would provide an appropriate mechanism for considering land use and development issues;*
- *traffic, parking and access issues could be further tested through an amendment process, with issues of detail to be resolved as part of a future development plan assessment process.*

In relation to the proposed amendment, it recommended that:

- *the revised Schedule 2 to the PDZ was of an appropriate form and content to allow the amendment to progress, subject to finalisation of the precinct plan.*
- *MRC should finalise the Incorporated Plan to include additional visual and explanatory material, as agreed during the PDP process;*
- *Council should resolve to seek authorisation to prepare the amendment as soon as the finalised Incorporated Plan is available; and*
- *The Minister should authorise it without delay and request Council to exhibit it as soon as practicable.*

After receipt of advice from the PDP and a finalised Incorporated Plan, Council resolved to seek authorisation to prepare the Amendment on 20 October 2009.

Ministerial Authorisation A01515 was subsequently given to prepare the amendment. The authorisation was not subject to any conditions.

2.3 The proposal

The intent of the amendment is to facilitate redevelopment of the land generally in accordance with the principles of the existing local policy and designation of the area as part of a Major Activity centre but with increased intensity to that previously considered. It also provides for an approval mechanism that reduces capacity for third parties to object or seek review of decisions made by Council as responsible authority for the area.

A development concept has been prepared by the MRC from the existing policy and the 2007 masterplan for the racecourse land. It is proposed to then translate this concept into an Incorporated Plan of the Planning scheme that will be implemented by rezoning the amendment land from Residential 1 and Mixed Use to Priority Development Zone.

This zone will restrict third party review rights where development is consistent with the Incorporated Plan. The Incorporated Plan, as exhibited, establishes three general precincts, as detailed in the precinct plan, as follows:

1. Residential Precinct – to comprising predominantly permanent residential accommodation
2. Mixed Use Precinct – incorporating a mix of retail, leisure commercial and residential accommodation.
3. Smith Street Precinct – incorporating a mix of commercial, service retail and residential accommodation.

The general concept, as exhibited, assumes a development scenario of:

- approximately 1000 – 1200 dwellings;
- 15,000 sqm retail floorspace including a supermarket, associated speciality retailing, food and leisure uses; and
- 20,000 sqm office space.

Figure 2 below identifies the precincts of the Incorporated Plan.

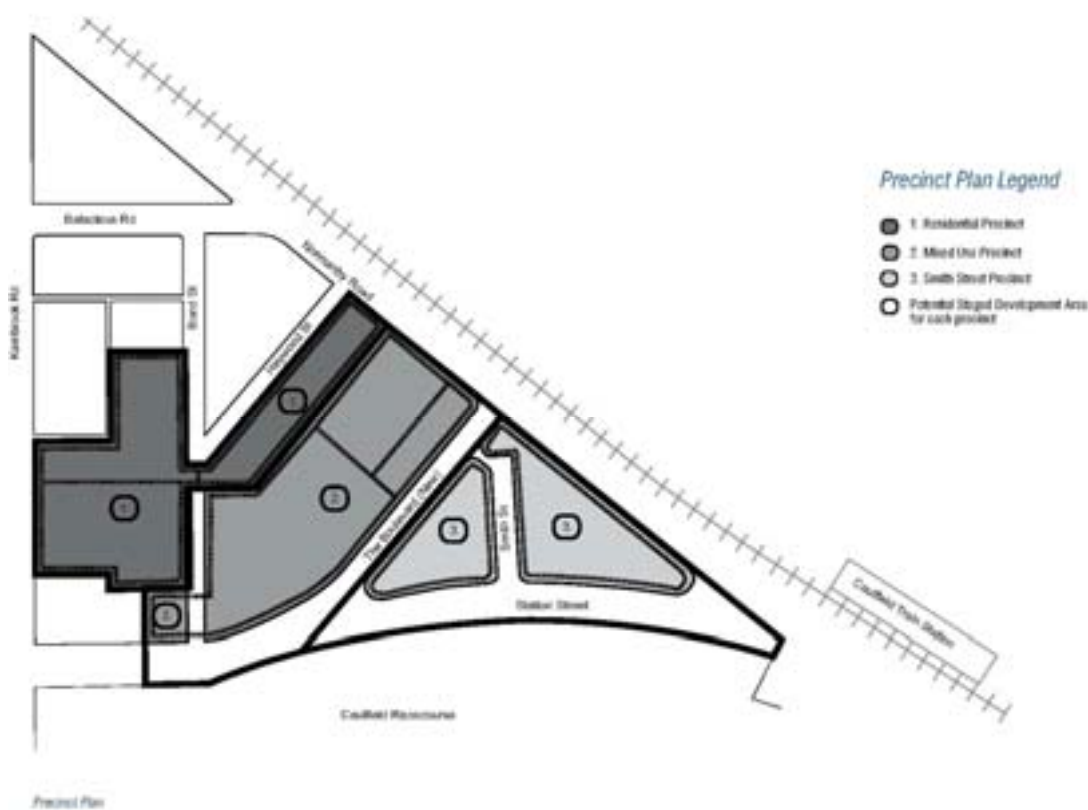


Figure 2-2 Precinct Plan

2.4 Details of the Amendment

Amendment C60 to the Glen Eira Planning Scheme proposes to amend the planning provisions as follows:

- rezones the land to a Priority Development Zone – Schedule 2;
- introduces this schedule into the Glen Eira Planning Scheme;
- applies the Road Closure Overlay to close part of Smith Street, Bond Street, a laneway west of Bond Street and a laneway south of Heywood Street;
- amends the existing Clause 22.06 - Phoenix Precinct Policy to reflect the development vision of the redevelopment;
- incorporates the “Caulfield Mixed Use Area Incorporated Plan, July 2008” into the planning scheme to guide future development of the site.

Council’s submission to the hearing supported a range of changes to the exhibited local policy 22.06 and Priority Development Zone schedule to address matters raised in submissions.

2.5 Exhibition and submissions

During the hearing, a number of submitters questioned if adequate notice had been provided about the amendment and if residents had received notices. Council provided the Panel with a list of people notified about the amendment. The Panel is satisfied that notice was circulated in accordance with the provisions of the Act and to a sufficiently broad area. The Panel accepts that some notices may have been lost or not received, however, the Panel does not consider these matters were fatal to the provision of notice. Whether there may have been more objections if further notice was given is questionable. Importantly, the range of issues identified in submissions is comprehensive and the Panel is satisfied that from the submissions received, relevant issues and concerns about the amendment can be identified.

3. Planning context

3.1 Policy framework

3.1.1 State Planning Policy Framework

Clause 12 of the state planning policy framework is the implementation of the metropolitan strategic plan *Melbourne 2030* into the planning scheme. It seeks to concentrate new development at activity centres near current infrastructure and in areas best able to cope with change⁴. It goes on to direct that activity centres should be the focus for high quality development, activity and living for the whole community.

Metropolitan policy of *Melbourne 2030* as summarized into Clause 12 seeks to ensure activity centres are developed in a way that:

- reduces the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible locations;
- encourages economic activity and business synergies;
- broadens the mix of uses appropriate to the type of centre and needs of the population served;
- provides focal points for the community;
- improves access by walking, cycling and public transport to services and facilities for local and regional populations; and
- supports the development of the Principal Public Transport Network.

These provisions are expanded in Clause 12, 14 and 16 of the State Planning Policy Framework (SPPF).

In addition, SPPF Section 17 'Economic Development' has an objective of encouraging retail, commercial, entertainment and cultural development within activity centres highly accessible to the community.

Clause 19.03 – Design and Built form also provides relevant context to the establishment of design elements proposed in the amendment.

In addition the planning update *Melbourne @ 5 Million* (2008) encourages employment, commercial activity, housing and community growth in

⁴ Clause 12.01-2

nominated Activity Centres. The 'Caulfield to Dandenong Employment Corridor' has been identified for targeted redevelopment, being a high capacity public transport corridor. Within this Caulfield is again identified as a Major Activity Centre.

The *Victorian Transport Plan* (2008) and *Towards an integrated and sustainable transport future* (2009) also provide support to this Amendment.

3.1.2 Local Planning Policy Framework

Municipal Strategic Statement (MSS)

Council's existing MSS identifies the site as part of the Phoenix Precinct in Clause 21.03 – 5 where it states:

This area is a major activity area containing major regional facilities, which include Caulfield Racecourse, Monash University and Caulfield Station. Other significant activities in the precinct include Derby Road Shopping Centre and East Caulfield Reserve. This is the major focus, based on educational, cultural and recreational use plus local convenience retailing, entertainment facilities and higher density residential development, particularly student housing, in the surrounding area.

The support for more intensive development at the Phoenix precinct is then articulated further in various strategic directions of the MSS as well as specific local policies detailed below.

Local planning policy

The designation of the Phoenix precinct, including the land subject of Amendment C60 is clearly and regularly identified in the MSS and local policies.

The specific relevant policy is Clause 22.06 – Phoenix Precinct and Clause 22.07.

The Panel notes that Clause 22.07 – Housing Diversity Policy specifically does not apply to the Phoenix Precinct. This is because housing in this area is directed by Clause 22.06 – Phoenix Precinct. The Panel is mindful that Amendment C25 that introduced Clause 22.07 and the Residential 1 "Minimal Change" provisions for much of the municipality was justified on the basis of increasing housing densities in housing diversity areas, with particular reference to the Phoenix Precinct. In the Panel report to Amendment C25 the Panel noted:

A large area of the municipality will not be significantly contributing to housing diversity given the extent of coverage of the minimal change areas, and a convincing rationale in terms of protecting neighbourhood character

is essential. **The Panel noted that the strategic success of the minimal change areas also depends on the success of the housing diversity areas** in providing the forecast quantity and range of residential accommodation identified in the Housing and Residential Development Strategy pg 26 – Panel Report to Amendment C25.

The proposed Rescued variations can therefore be seen as having a strategic basis, and **can be supported provided they are traded off against real increases in density in the housing diversity areas**. This is the strategic choice that Council has made pg 33 – Panel Report to Amendment C25.

The Panel further addresses the Phoenix Precinct in context of specific issues identified in the Panel process. In summary however the Panel notes that the policy explains the history of the policy being based on a vision for the whole of the Caulfield Activity centre, stating:

Over a number of years Council, in consultation with the community, has developed an Urban Design Framework that provides a vision for the Precinct. This policy has been developed to implement this vision.

The policy has the following objectives:

- *To promote the Phoenix Precinct as a regionally significant (major) activity centre.*
- *To convey and implement the preferred vision for land use, development and infrastructure within the Precinct based on the Phoenix Precinct Urban Design Framework.*
- *To create a high quality, vibrant urban environment with a strong sense of place and community, high standards in architecture and urban design, safety and permeability and a strong pedestrian and public transport focus.*
- *To ensure that all use and development of land and infrastructure provision is coordinated and undertaken to achieve a balanced planning outcome for the community.*

3.2 Planning scheme provisions

3.2.1 Zones

The land is currently zoned part Residential 1 and part Mixed Use. To the south is the Caulfield Racecourse, which is zoned Public Park and Recreation and special use.

To the north is the Caulfield Railway line. To the north east of this is Monash university and commercial development in Public Purpose, business and Priority Development Zones.

A number of roads affecting the amendment area are Category 1 Road zones, including Normanby Road and the connection of Smith Street to Dandenong Road.

3.2.2 Overlays

The land is affected by a Development Contributions Overlay. This overlay is not affected by the amendment. Two sites near the amendment land are affected by Heritage Overlays. These are No 1 Bond Street and the Caulfield Station.

3.3 Review of supporting documents

Amendment C60 is underpinned by a number of documents prepared on behalf of the proponent, Melbourne Racing Club and previous strategic documents. Most relevant are:

Key documents include:

- Phoenix Precinct Urban Design Framework – 1998 (Gerner Consulting for City of Glen Eira);
- Caulfield Racecourse Masterplan Report – Volume 1 and 2 – 2007 (Cox and others for MRC); and
- Advice of Priority Development Panel in relation to Melbourne Racing Club Ref: PDP07-27 January 2008,

4. Identification of issues

4.1 Summary of issues

Issues raised in submissions

From the submissions to the Amendment, the Panel identified a number of key issues that need to be addressed. These can be summarised as follows:

1. Can the development proposed be strategically justified? Most resident submitters were concerned the development was too intense especially in relation to the potential traffic, parking and resulting built form. One submitter, Mr Brohier, indicated the amendment was too narrow and did not capitalise on the strategic importance of the Caulfield activity centre.

In this a number of specific questions can then be identified:

- (a) Can the increase in development and therefore population of the site be supported by social and physical infrastructure around the site, including open space, transport and drainage infrastructure near in and around the site? This includes:
 - Can the form and scope of anticipated development accommodate expected traffic and car parking?
 - Is the proposed traffic management plan logical and appropriate? Notably is the proposed layout of Station Street and the Boulevard appropriate?
 - Does the proposal provide an adequate and safe pedestrian network?
 - Is it appropriate to close roads as proposed by the Amendment?
 - Can the anticipated development be serviced by existing open space?
 - Can the existing physical infrastructure support the anticipated development?
- (b) Can the commercial development be justified – and is there a need to cap the amount of retail floor space permissible without a planning permit?
- (c) Will the loss of car parking on site result in a need to accommodate car parking in other areas already under stress or inappropriate for the use of car parking?
- (d) Will the development impact on the heritage significance of the nearby station?

- (e) Will the development have any other environmental impacts that could be better addressed, including protection of existing trees on site and incorporation of Environmental Sustainability Design principles?
2. Does the strategic importance of the development warrant removal of third party review rights to VCAT as a result of use of the Priority Development Zone? With this relevant issues include:
- (a) Can the proposed urban design limits to guide the Priority Development zone be supported? At what point should a permit assessment be triggered?
- (b) Does the development need to specifically address a need for affordable housing? And if so, how should it do this?
- (c) Does the development need to specifically address student accommodation? And if so what level of restriction or facilitation should it provide?

Issues from the Strategic Assessment Guidelines

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The Guidelines require the Panel to consider:

- Is an amendment necessary?
- Does the Amendment comply with the requirements of the Planning & Environment Act?
- Does the Amendment support or implement the SPPF?
- How does the Amendment support or implement the LPPF, and specifically the MSS?
- Does the Amendment make proper use of the VPP?
- How does the Amendment address the views of relevant agencies?
- Have the resource and administrative implications of the Amendment for the responsible authority been properly considered?

Based on its strategic assessment of the Amendment the Panel considers that the strategic assessment guidelines can be met. Some specific issues of the guidelines are addressed below in Chapters of this report.

Ministerial Directions

The Minister has made a direction under Section 12(2)(a) that contains the following requirement:

Direction No 9 Metropolitan Strategy

In preparing a planning scheme amendment a planning authority must:

- *Have regard to the Metropolitan Strategy.*
- *Include in the explanatory report discussion of how the amendment addresses the following matters:*
 - *What aspects, if any, of the Metropolitan Strategy are relevant?*
 - *How does the Metropolitan Strategy affect the amendment?*
 - *Is the amendment consistent with any directions and policies in the Metropolitan Strategy?*
 - *Does the amendment support, give effect to or assist the implementation of the Metropolitan Strategy or can it be reasonably modified to do so?*
 - *Will the amendment compromise the implementation of the Metropolitan Strategy?*

Compliance with this direction is addressed in relevant issues. In general, the Panel is satisfied the amendment seeks to implement the directions of metropolitan strategy.

Form and content

The Minister has made a direction under Section 7(5) in relation to the form and content of planning schemes.

In addition *Using Victoria's Planning System, Chapter 9: Plain English* provides advice on form and content as do the following practice notes:

- Writing schedules;
- Using maps in planning schemes;
- Applying the Public Land Zones;
- Writing a local planning policy;
- Format of Municipal Strategic Statements; and
- Incorporated and reference documents.

The Panel has noted some issues relating to the form and content of the statutory provisions proposed. These are addressed in relevant issue chapters below.

4.2 Issues dealt with in this Report

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

This Report deals with the issues under the following headings:

- Strategic justification:
 - Is the right level of development provided?
 - Should the amendment address a broader area?
 - Can the amendment justify loss of third party review rights?
 - Are the implications of the amendment to parking and use of the racecourse land for open space relevant to the approval of the amendment?
- Economic Issues:
 - Is their economic capacity for the development proposed?
 - Is there a need to cap the amount of retail development without a planning permit?
- Traffic Management Issues:
 - Will the amendment facilitate a development that cannot be supported by the existing road and transport network?
 - What is the appropriate road design network to accommodate a balance between vehicle and pedestrian movement?
 - Should road closures form part of the amendment?
- Parking Issues:
 - Can the loss of parking on the existing land be justified?
 - Are the proposed rates for parking appropriate?
- Open Space Issues:
 - Can the increase in development be adequately serviced by surrounding open space?
 - What is the appropriate open space contribution if taken as a monetary contribution?
- Urban Design Concept and implementation:
 - Are the design and built form requirements of the Incorporated Plan appropriate?
 - How should the design concept address interface issues to 3 Normanby Road?
- Heritage and Environment Issues:
 - Does the amendment adequately address protection of heritage assets nearby? This includes the Caulfield Racecourse, 1 Bond Street and the laneways that traverse the site.
 - Does the amendment adequately address any contamination of land on site or nearby?

- Does the amendment adequately address existing landscaping in the area?
- Planning Scheme Implementation:
 - Are there specific changes required to the Priority Development Zone?
 - Are the changes to Clause 22.06 appropriate?
 - How should student accommodation be addressed in the zone schedule?
 - Does contribution for infrastructure require a specified agreement between Council and the MRC?
 - Should the amendment specifically provide for affordable housing?
- Other issues.
 - These includes matters regarding Environmental Sustainable design, tree protection and construction management.

5. Strategic Justification

5.1 What are the issues?

A number of submitters questioned if there had been adequate study and documentation to justify the Amendment. This includes a question as to whether the proposal should include a broader review of the activity centre of Caulfield as a whole prior to proceeding with the amendment. One submitter, Mr Brohier contended the amendment was too narrow in focus and not sufficiently visionary to capitalise on the potential of the activity centre as a metropolitan focus for development. In summary the Panel finds the key questions raised by submissions are:

- Is the basis of the amendment strategically justified?
- Has the amendment provided enough information to progress?
- Should the amendment address a broader area?
- Can the amendment justify loss of some third party review rights?
- Is it relevant that part of the land is crown land, or that part of the land is currently used for carparking associated with the Caulfield Racecourse?

5.2 Policy context of the issue

As detailed in Chapter 3.1 the area of the amendment is strategically identified in state and local policy as an area for redevelopment and intensification as part of the Caulfield Major Activity Centre.

In particular Council provided the Panel with a copy of the Urban Design Framework 1998 for the Phoenix Precinct. This was prepared prior to the introduction of metropolitan policy, *Melbourne 2030* in 2002, but recognises the strategic importance of the site as an activity centre.

Council has identified the Caulfield Activity centre in its MSS as the major area for redevelopment. The local planning policy framework for the Phoenix precinct⁵ identifies the land forming Amendment C60 as areas for redevelopment.

The existing Clause 22.06 – the Phoenix Precinct policy identifies that Members Car Park No 1, being the central area of the amendment site, currently zoned Mixed-use states:

⁵ Notably clauses 21.04, 21.06 and 22.06

This is a significant area within the Phoenix Precinct due to its size, location and underdeveloped state. It has interfaces to the railway line, residential area and racecourse land.

To implement the Phoenix Precinct Urban Design Framework, Council recognises the need to provide for a range of land uses that contribute to the vitality and amenity of the Precinct.

This existing policy then states:

Promote the use and development of the land for a variety of uses including residential, office, research and development, aged care, retirement village and medical facilities, that are respectful of the amenity of neighbouring properties.

The existing policy identifies the triangular land, east of Smith Street as a key area within the core of the activity centre that should provide a central feature with buildings of a scale equal or slightly greater than the Members Car Park No 1 area.

The existing policy also identifies Members Car Park No 2, being the area currently zoned Residential 1, along with residential areas in Bond, Heywood and Kambrook Road as areas where more intensive housing could occur, but with a transition in scale from Kambrook Road to the mixed use area of Members Car Park No 1.

5.3 Evidence and submissions

Matters raised by submitters can be addressed in three elements, firstly if the MRC land should be considered for redevelopment without addressing the broader racecourse area and perceived deficiencies with the broader racecourse land management, secondly is there sufficient policy justification for more intensive built form than previously contemplated for the area and finally whether the existing state policy should require this area to be reviewed again from first principles as part of a structure plan for the entire Caulfield Activity centre.

The Panel notes that particular detailed submission was put to the Panel by a number of submitters about existing problems the community has with the operation and management of the Caulfield Racecourse to the south of the amendment land. The most detailed of these being from Mr Campbell on behalf of the Glen Eira Residents Association. Relevant issues put to the Panel were that:

1. The loss of car parking from the subject land would place further pressure to use crown land, forming part of the racecourse reserve for car parking.

2. The increase in residents and people using the subject land from redevelopment would place further pressure on the need for use of the crown land forming the racecourse for open space.
3. The MRC should not be able to profit from redevelopment of its assets north of Station Street when it had failed in its responsibilities as manager of crown land forming the racecourse south of Station Street.

Specific issues relating to traffic, parking and open space management are addressed in other chapters of this report.

In this chapter the Panel seeks only to address the issues raised by submitters about whether redevelopment of the amendment land can be strategically justified and whether there is a need to link the land to any redevelopment or strategic review of the racecourse.

5.4 Discussion and Findings

From submissions put to the Panel and supporting documents, there was general agreement between the proponent and the Council regarding mix of uses. Of the submissions received, the majority were concerned with overcoming the impacts of development (such as built form, traffic management, provision of car parking and access to open space) rather than against the development itself. Most submitters acknowledged that some form of redevelopment of the land was inevitable given its prime location.

The *Market Assessment for the Caulfield Mixed Use Area* (May 2008), and *Caulfield Village Retail Impact Assessment* (April 2010) both prepared for the MRC by Essential Economics, summarise the potential land use mix and scale of development of the Phoenix Precinct Areas 1, 2 and 3 to be:⁶

Land Use Component	Floor space/Units
Retail (Neighbourhood Retail Centre)	Up to 10,000m ²
Café/Restaurants	Up to 5,000m ²
Office	10,000m ² (stage 1: 5 years) 10,000m ² (stage 2: 5-10 years)
Residential Dwellings/Units	1,000 units
Visitor Accommodation	Up to 100 hotel/motel/serviced apartments
55+ Lifestyle Accommodation	200-300 units
Student Accommodation	Up to 500 units

⁶ Essential Economics, May 2008, P35

In summary these economic assessments have identified the demand to provide at least 15,000m² of retail and related shop uses; some 1,000 - 1,200⁷ residential dwellings; and up to 20,000m² of office space, spread over the three Precinct Areas.

These outcomes are provided for as a Section 1 (as of right) use in the Schedule 2 to the Priority Development Zone as amended as part of Council's submission to the Panel.

The Panel finds that the broad objectives of Amendment C60 are closely aligned with both State and Local Government policy, including Melbourne 2030, Melbourne @ 5 Million, State transport policy, and the Glen Eira Planning Scheme.

The Panel is satisfied that considerable strategic work has been undertaken for this site and the broader Phoenix precinct over the past 14 years to direct that the subject land should be redeveloped as outlined in chapters above.

Whilst the density of development now proposed is somewhat more than first envisioned in 1996, the Panel finds this is consistent with a broader understanding across metropolitan Melbourne (as identified in *Melbourne 2030* and *Melbourne @5 Million*) that more intensive built form is needed in and around activity centres to promote urban consolidation and reduce the need to further expand the boundaries of Melbourne. The Panel also considers this is consistent with a greater market acceptance and developer interest in higher density development than was the norm in 1996. The Panel is of the view that character and acceptance to higher density built form is one that can and must change over time to accord with current planning principles and population pressures.

Specific details about built form and restrictions of the Incorporated Plan are addressed in following chapters of this report. As an overall concept, however, the Panel finds the amendment can be strategically justified.

5.4.1 Is the proposed type, mix and scale of development economically viable?

Retail and related uses

Market surveys undertaken for the *Caulfield Village Retail Impact Assessment* (April 2010) prepared for the MRC by Essential Economics, showed that the physical constraints of Dandenong Road and the railway line impacted on

⁷ The 'blend' of different types of residential dwellings is to be determined. However, the scale of residential units proposed in the Incorporated Plan is in the order of 1,000-1,200

consumer spending patterns such that the main trade area for Caulfield Village is considered to be predominately south of Dandenong Road and the railway line, with a primary sector and four secondary sectors identified.

The population of this 'main trade area' is forecast to increase from around 39,500 persons currently to around 41,700 persons in 10 years. Mr Ganley stated that he considered the Essential Economics' assessment of main trade area to be too limited and in fact forecast 50,000 persons within 10 years.

Regardless of this population size, Council and the MRC agreed that the main trade area population has an above average income profile which is reflected in above average rates of retail spending per capita. On the basis of this, and using the conservative population growth figure, retail spending by main trade area residents is forecast to increase from \$572 million in 2009 to \$727 million in 2021 in real terms.

Given this, the expert evidence concluded that there is market potential for 15,000m² of retail at Caulfield Village (including a full line supermarket and associated specialty stores, food and leisure uses) to trade successfully by 2012.

In support of this proposal, Mr Jebb, economic expert for the MRC, stated in his evidence that:

"...the location characteristics of Caulfield mean that in purely market terms a shopping centre of considerable size could be constructed and tenants would exist for such a centre. ... the proposed retail area of 15,000m² with a strong emphasis on food, convenience, restaurant, café and local retail will have adequate market demand".

Mr Biacsi's planning evidence on behalf of the MRC stated he believed that the supermarket lease in the Caulfield Plaza, which expires in 2018, and may not be renewed. He surmised that Monash University may utilise the supermarket space which would most likely see the Derby Road area decline as a retail centre.

He said, however, that he believed the Caulfield Village would thrive whether it faced competition from Caulfield Plaza or not.

Office accommodation:

The *Market Assessment for the Caulfield Mixed Use Area* (May 2008) undertaken by Essential Economics stated that Caulfield has excellent locational qualities for office development, and that the (Melbourne) south east region office market would support investor confidence in this area.

This market assessment indicates low and stable vacancy rates in Melbourne's suburban office market, and a relatively low supply of office floorspace in Caulfield compared with nearby municipalities (e.g. less than half the number of commercial building permits issued in Glen Eira over a five year period compared to both Stonnington and Boroondara.

On this basis the market assessment recommended that a portion of the site would be appropriate for major office development in the order of 10,000sqm of floorspace in the near term, and that development of this scale could continue beyond the next five years as Caulfield's location as an office precinct becomes established.

In support of this view, Mr Jebb in his economic expert evidence for the MRC, stated that:

"...demand for office accommodation in Caulfield will grow significantly ...because of its locational characteristics.... For this reason office space of up to 20,000 m2 has been considered, but in a staged form" (p4).

Ms Quigley QC, on behalf of Monash University, stated that Monash University supports the opportunity to develop and consolidate the Phoenix Precinct, and believed that the MRC proposal should acknowledge the potential of the site as a centre for research and learning as well as living and employment.

Whilst this position supports the case for the commercial viability of the office use, and would foster connectivity between the north and south of the railway line, the MRC was cautious about the potential of Monash University becoming a 'predominant use' on the site.

Along these lines, Mr Biacsi stated that while the mix of uses in the Precinct should complement Monash University, it should not be seen as a sub-precinct to Monash. He supported the view that strong synergies should be created between all land uses, without a domination of any one use.

In support of the overall thrust of the provision of 20,000m2 of office accommodation, provided in a staged form, Mr Ganley concluded:

"Caulfield Village is perfectly positioned to fill a gap which has existed in the south-eastern commercial market for many years." (p15)

This 'perfect position' relates to physical location, dearth of commercial floorspace in the southeast, and mix of existing and proposed activity in the precinct.

Residential dwellings/units:

The Essential Economics *Market Assessment for the Caulfield Mixed Use Area* (May 2008) anticipates the population of Boroondara and Stonnington Council areas to increase 19,000 persons between 2006 and 2021.

Subsequent research by Mr Ganley for the MRC, using updated *Victoria in Future 2008* figures shows an anticipated population increase in the two municipalities of 22,900 persons between 2006 and 2021.

Based on a number of acknowledged assumptions regarding household formation, these figures demonstrate that around 15,000 new dwellings will be required in Glen Eira and Stonnington over the next 10 or so years.

Although the Market Assessment made no recommendation regarding the number of dwelling which could be located within the Caulfield Village, the Incorporated Plan shows the building envelope yielding approximately 1,000-1,200 dwellings. These would be of a higher density nature.

Mr Ganley in his economic evidence, considered this number to be a conservative figure given the market demand, however, he concludes the number of dwellings cited in the Incorporated Plan:

"...appears perfectly reasonable ... given Caulfield's MAC status and the amenity advantages provided by the Caulfield Village location".

In addition the residential units for a general market, the Essential Economics report also indicates that markets could exist for varying dwelling types to cater for specific housing markets in the Caulfield Village.

These housing markets include 'Lifestyle' accommodation (aimed at the 55+ age group); 'Retirement' accommodation (65+); 'Short-term' accommodation (serviced apartments to cater for demand from Monash University and the Caulfield Racecourse); and Student accommodation (higher density units to cater predominantly for Monash University students).

Mr Ganley in his review of the Essential Economics market assessment found that the findings of the analysis undertaken was reasonable and that it could be expected that a viable market existed for each of the segments.

The actual blend of accommodation types provided in the development will be determined by market forces at the time of development.

In summary, presenting evidence on the proposed development overall (i.e. retail, commercial and office uses), Mr Jebb concluded that:

“The financial analysis for this scale of development over a 10 year period indicates that satisfactory returns can be achieved and good land values created and supported. In my opinion, market demand exists for the range and scale of uses proposed, the total project can be completed in stages within a realistic period and the overall project is viable from a financial viewpoint” p5.

Discussion

The Panel has considered the evidence about each of the three key components (retail, office and residential uses) both as individually viable components and as a whole. Whilst each of these uses is a viable component in itself, the symbiosis between all of the proposed uses further supports the viability of the whole project.

The Panel finds, based on the evidence put, and the strategic location of the site that the composition of the proposal is soundly based, reflects market demand and is capable of being implemented on a sound financial basis within a practical and realistic period.

The Panel therefore agrees with the Incorporated Plan '01 Vision of the Future' which states that:

“The plan provides the potential for a range of new residential accommodation, from individual dwellings to apartments and short-stay accommodation.

A tested development scenario that conforms to the Incorporated Plan building envelopes yields approximately 1000-1200 dwellings.

Caulfield Village will contain retail and leisure uses positioned to activate street frontages and to take advantage of solar access to footpath areas.

It will include a supermarket with associated specialty retail, food and leisure uses highly accessible to existing and new residents, employees and visitors alike.

A tested development scenario that conforms to the Incorporated Plan building envelopes yields approximately 15,000 square metres of retail premises.

The plan facilitates a range of commercial uses, from lower podium-level office space to higher 'tower' floor plates.

A tested development scenario that conforms to the Incorporated Plan building envelopes yields approximately 20,000 square metres of commercial office space”.

The Panel finds the concept of developing the land for residential and mixed use purposes is totally consistent with existing and proposed local policy for the site and can facilitate State policy.

5.4.2 Should the amendment address a broader area?

Mr Brohier submitted Amendment C60 was too narrow in focus and too small in its vision. He suggested a broader, bigger development should be pursued to capitalise on the transport hub around the Caulfield Station. To this extent he referred to the potential for this area to accommodate a new Chadstone or Southland development, but more in the context of Westfield developments at Bondi Junction, Sydney and in England. The Panel noted, however, he also questioned Mr Biacsi whether the proposed higher development east of Smith Street was too tall.

In response to this Mr Montebello drew on evidence from Mr Biacsi, town planning expert for the MRC, who stated that the development must have “...a sense of proportion and reality”. Mr Biacsi said that to talk about abandonment (of Amendment C60) would be ‘tantamount to negligence’ for this Precinct.

As Mr Montebello noted in closing, to dream is good, but one person’s dream can be another person’s nightmare.

Many resident submissions expressed concern the proposed development concept was too intense. Both Chadstone Shopping Centre and Malvern Central Shopping Centre made written submission to the amendment raising concern at the level of retail activity in the centre that may impact on the broader activity centre hierarchy in which the site sits.

To this extent the Panel agrees with Mr Ganley and Mr Biacsi’s comments in evidence that whilst the site may have capacity for some higher order development, there is a need for orderly planning. This requires moderation of what could be aspired to on this site if it were sitting in a metropolitan policy and retail vacuum. Within the metropolitan policy and retail context that it does sit, the Panel finds the general concept to be appropriate.

The Panel is satisfied that broader strategic planning for the Caulfield Activity Centre has occurred and is continuing to occur. Upon questioning, Mr Biacsi confirmed thoughts of ours that even if other development around the site could and should occur (such as on top of or north of the railway line), this amendment is unlikely fetter such development. The Panel finds that to abandon Amendment C60 until a broader review of the activity centre and, based on Mr Brohier’s submission, a review of south eastern Melbourne (and potentially all of Victoria and Tasmania), would be an unnecessary waste of

public money in preparing excessive strategic work and hindering investment in needed areas such as this.

In this context the Panel notes the comments of the Melbourne 2030 Audit review in 2008 that found “Any replacement strategic plan to deal with Melbourne’s future growth as a sustainable city would be likely to be based on the same underlying principles as Melbourne 2030, and would pursue similar strategies”⁸. The Audit group went on to state that, **it is our strong view that ‘on the ground’ implementation of the Plan has under-performed**” in several areas. Two of the three key areas identified were:

- *“The lack of significant residential or mixed-use development in and around principal and major activity centres.*
- *Insufficient provision or commitment to crucial public transport investments, ...”.*

The Panel finds it far more important to progress implementation of Melbourne 2030 through amendments such as C60 that can lead to on ground development, than to further delay and procrastinate implementation through further, and in the Panel’s view unnecessary, strategic study.

Some submitters also questioned the capacity of the area to accommodate more development when the investment in public transport was lacking. This is an issue that is beyond the scope of this panel to address, but note that the Audit committee expressed this as an issue for the State Government as part of the implementation of Melbourne 2030. Again, the Panel finds that the amendment should not be stalled awaiting investment in public transport, but rather the implementation of the amendment simply reinforces the need to make such investment as commented by the Audit committee.

5.4.3 Is there enough information to progress the amendment?

Many submissions stated the exhibited amendment lacked sufficient detail to make appropriate submission about the amendment. This related mainly to issues of traffic and built form.

Whether the traffic issues about the amendment are addressed further in Chapter 7 of this report. In short, the Panel agrees that the exhibited amendment lacked appropriate traffic analysis but the Panel is satisfied that the updated traffic counts and evidence of Mr Hunt provides sufficient detail to progress the traffic issues of the amendment to documentation of an integrated transport plan as required by the amendment.

⁸ Page 21 - Melbourne 2030 Audit report, May 2008.

Many of the written submissions raised concern that the documents did not give residents a chance to understand what the development will look like. In particular, residents are concerned that the loss of third party review rights will not enable them to comment on the detail design of the development, or that the development may be out of character with the area.

The amendment does not seek to define a specific built form outcome, and the Panel finds this is appropriate. The scale of the amendment area and its location is that development will occur over an extended time period, the Panel expects up to 10 years. The Panel finds prescribing too much detail about design outcomes may stifle creative design and is unnecessary at this stage. The amendment documentation provides a sufficient framework to guide decision making to the next stage through the development plan approval process.

5.4.4 Can the amendment justify loss of third party review rights?

Putting aside parking and open space issues that the amendment must address for one moment, the first question the Panel finds needs to be addressed is whether zoning the land for Priority Development Zone is appropriate in the existing and proposed policy context. That is, provided the car parking and open space issues can be satisfied, should the land be subject to a Priority Development Zone that limits third party review rights and in effect, gives the landowner certain development rights.

Whilst Mr Nisbet submitted “there are no rights to develop a property”, the Panel disagrees. The planning system sets up a structure of rights, based on a zoning system. In this, defined uses and development become “as of right” or do not need a permit so as to enable development of land in accordance with the zone provisions. Other use and development may not be as of right, but require a planning permit to be issued by the Responsible Authority. Whether this permit requires input from third parties may be either specified in the planning scheme, or at the discretion of the Responsible Authority if the planning scheme does not exempt the application from notice.

As Mr Morris noted in closing, there are many sections of the planning scheme that restrict the participation of third parties in the decision making process of Council as Responsible Authority. This is particularly so where there has been a strategic policy decision to direct a certain form of development, such as in a Special Use or Comprehensive Development Zone. The Panel is also aware that the new Activity Centre zone can also limit third party review rights.

The Priority Development Panel previously recommended the use of the Priority Development Zone. It has been used at the Monash University site to the north-east. As Mr Morris and Mr Montebello put, a number of tools could

be used to achieve the same outcome for this land. This could include use of a similar site-specific zone or a mixed use or business zone along with an Incorporated Plan overlay to facilitate the development concept.

The amendment seeks to enable a relatively specific concept for the site to be implemented. Much of the concept could be enabled with the existing zoning, and alteration to the local policy 22.06 so as to facilitate more intensive building form than considered in the late 1990s. However, this would still require each permit application to potentially require notice and possible review to VCAT. Given the extent of strategic work undertaken to date and the strong state and local policy support to intensify development around activity centres around such as Caulfield, the Panel finds the broader community interests are served by facilitating on ground development than arguing about detail of design, particularly if there are limited amenity impacts. Much of the amendment area has no immediate existing residential interface. This is particularly so for land east of the proposed Boulevard. This eastern area is currently zoned Mixed use and Residential 1 which the Panel finds is inappropriate to its strategic location so close to the station and core of the activity centre. A mixed use or commercial zoning can be easily strategically justified. If the land were zoned Business then all but the 30m adjacent to a residential zone would be exempt from notice provisions. This highlights to the Panel that the use of the Priority Development zone is not an unusually liberating zone. It is a zone that forms part of the Victorian Planning Provisions established by the State Government specifically to streamline approval processes where a well defined strategic outcome is sought.

The Panel finds that a number of tools may work, and that the Priority Development zone is a logical tool to use given its use nearby and capacity to facilitate concept plan implementation. There are a number of parameters that need to be addressed in constructing the zone provisions. In particular, determining the triggers for permit, rather than development plan or "consent" approval from the Responsible Authority and with this, the triggers for when third party review rights should exist.

In principle, the Panel finds the use of the zoning of the land to Priority Development zone to be appropriate. The Panel finds that given the exhibition of the strategic intent for the site and the location of much of the site from immediate existing residential interface third party review rights need only apply where there is a specific amenity impact to address that is beyond the scope of the concept that is to be translated into the Incorporated Plan provisions. The Panel discusses these further in following chapters.

Charter of human rights

Ms McNeilage submitted the amendment documentation included no assessment of whether it met the Charter of Human rights, particularly Section 13 (right to privacy) and Section 20 relating to property rights.

The Panel acknowledges that the Charter requires consideration of both property and privacy in decision making. The Charter also has general limitations to these rights via Section 7(2).

Ms McNeilage also commented that Section 38 of the Charter states that it is “unlawful for a public authority to act in a way that is incompatible with a human right or; in making a decision, fail to give proper consideration to a relevant human right”.

The Panel notes that there is nothing in the Priority Development Zone or other proposed provisions that would require the responsible authority to arbitrarily or unlawfully ignore rights to privacy and property within the context of Section 7(2). In this the Panel notes the recent findings of Deputy President Dwyer in the *Victorian Civil and Administrative Tribunal* hearing *Smith v Hobsons Bay CC* (includes summary) (red dot) [2010] VCAT 668, on 12 May 2010. In this Deputy President Dwyer notes the planning scheme still requires the responsible authority to make reasonable determinations regarding privacy and property. Whilst the amendment will remove some third party review rights, it will not remove the need of the responsible authority to address the general provisions of the planning scheme that include consideration of privacy and property rights as well as having due regard to the Charter of Human Rights as may be necessary. This will need to be in the context of legal principles now becoming clearer about interpreting the charter as expressed in the decision of Deputy President Dwyer.

5.4.5 Is it relevant that part of the land is crown land, or that part of the land is used for car parking associated with the racecourse?

Much submission was put to the Panel that it was inappropriate to facilitate the proposed development when the MRC had failed to meet existing obligations to manage crown land in the racecourse reserve. Whether the amendment adequately addresses car parking and open space provision is addressed in the following chapters. However, the Panel finds it important to clarify the scope of the amendment and the scope of the Panel considerations in relation to planning as opposed to crown land management.

Most of the land that is the subject of Amendment C60 is freehold title and it is the Panel’s understanding has no legal link to the function of the racecourse or its ancillary uses.

To this end, as the Panel understands, the MRC could sell the amendment land now and stop using the land for car parking, relying instead on the existing crown land and other freehold land it owns and currently uses for car parking, ancillary to the racecourse. This includes the existing Guineas and Kambrook Road car parks as well as the centre of the racecourse.

Some submitters, including Mr Knight inferred that the MRC should not be able to profit from selling the land given it has profited from its use of the adjoining crown land and that any profits the MRC has made from its use of the crown land should be shared by the community, rather than invested into development of the C60 land. The Panel clarifies that it is not relevant to its consideration who currently owns the land, as it is freehold title and has no legal burden linking it to the racecourse⁹. The racecourse must meet its obligations under Clause 52.06 for carparking for its use, that is currently provided for on the amendment land. The racecourse, regardless of this amendment will need to provide adequate carparking for its use, if the carparking on the amendment land is lost. This loss, may occur regardless of the amendment (e.g. if the MRC simply closes the gates, or sells the land).

The land east of Smith Street remains Crown land. The Panel also understands from submission of the MRC that this land is now un-reserved crown land and agreement has been made with the State Government for this land to be acquired by the MRC through a land exchange and financial compensation. The land is currently zoned Residential 1. As such it too could be developed for a range of purposes without the amendment proceeding. The change in zoning is not dependent on the Crown land transfer. In any event these agreements are already in place.

As stated at the hearing, the Panel's role is to address the merits of Amendment C60, only, under the provisions of the *Planning and Environment Act, 1987*. The Amendment changes the zone and policy provisions of the Glen Eira Planning Scheme only. Our role is not to make recommendations about the lease or licence arrangements between the MRC and the Crown. These are matters for the State Government in the on going lease of the Crown land to the MRC under the Crown Land Reservation Act. These lease and licence arrangements do not directly impede the development of the C60 land and indeed do not affect the C60 land. The only implication of the amendment to the licence arrangements is that there may be more frequent use of the existing racecourse car park for members car parking and more frequent use of the centre of the

⁹ Other than the racecourse must meet its obligations under Clause 52.06 for carparking for its use – that is currently provided for on the amendment land. The racecourse, regardless of this amendment will need to provide adequate carparking for its use, if the carparking on the amendment land is lost. This loss, may occur regardless of the amendment. (e.g. if the MRC simply closes the gates and does not open them on race days, or sells the land to a developer).

racecourse for parking associated with events allowable under the existing license and lease arrangements between the MRC and the Crown.

The Amendment is also likely to lead to greater demand on existing open space in the area. This will include the racecourse land given its reservation status as "Racecourse, Public Park and Recreation". The Panel discusses this further in Chapters 7, 8 and 9, but again note that many of the access issues raised by submitters are existing issues they have with the licence crown grant arrangements that do not form part of the Amendment.

5.5 Conclusions and recommendations

In summary the Panel finds Amendment C60 can successfully implement existing policy for metropolitan Melbourne and Caulfield. The Panel finds that to delay the amendment so that further study can be undertaken would be counterproductive to implementing the Melbourne 2030 vision and not in the interests of the local or broader community.

Subject to a number of issues of detail being addressed, as discussed in following chapters the Panel finds the use of the Priority Development zone with limited third party review rights to be an appropriate tool to enable development of the land.

Finally the Panel notes that the land to be developed is generally freehold title with the Crown land forming part of the amendment not reserved or restricted in use. The Panel makes no findings on the current reserve status of the Racecourse land or its lease or licence arrangements for the land south of the amendment as this is not for the Panel to address.

The Panel therefore make the following recommendation:

Amendment C60 be adopted subject to a number of changes as outlined in this report.

6. Economic Impact

6.1 What are the issues?

Chapter 5 of this report examined the Strategic Justification for the proposed development and concludes the amendment concept can be supported.

In this chapter the Panel discusses:

- Will the proposed development substantially impact on the viability of exiting retail centres?, and
- Is there a need to cap the amount of retail floor space permissible without a planning permit?

6.2 Will the proposed development substantially impact on the viability of exiting retail centres?

Submissions from Colonial First State (on behalf of the owners of the Chadstone Sopping Centre) and AMP Capital Investors (representing the owners of Malvern Shopping Centre), raised the issue of potential negative economic impact on other nearby centres such as Chadstone and Glenferrie Road, Malvern. Neither party appeared before the Panel to further present their case.

6.2.1 Evidence and Submission

The issue of adverse impact on nearby centres was addressed by Essential Economics in the *Caulfield Village Retail Impact Assessment* (April 2010) and also by Mr Ganley in the economic evidence prepared for the MRC.

The Essential Economics report analysed potential trading impacts through loss of turnover due to the development of the Caulfield Village on nine key centres, (including Malvern/Malvern Central, and Chadstone).

Overall the average impact on the nine centres in 2012 is a 2.1% reduction in the turnover that would otherwise have been achieved without the Caulfield Village. Of these centres Malvern/Malvern Central is anticipated to have a loss of turnover of -2.7%, and Chadstone -0.6%.

Mr Ganley, in reviewing the Essential Economics analysis stated that:

“There is certainly no prospect that the development of retail floorspace as envisaged at the Caulfield Village would threaten the viability of the Chadstone PAC or the Malvern MAC. Indeed, the entire Caulfield MAC

would only have 15% of the retail floorspace provided at Chadstone and one-third of the retail floorspace provided at Malvern, after the completion of the Caulfield Village."

He concluded:

"I do not find that the operations of Chadstone Shopping Centre and Malvern Central Shopping Centre will be unduly impacted by the expansion of retail facilities...at Caulfield MAC."

Closer to the Amendment C60 site, a submission from Monash University questioned the impact of the Caulfield Village on the trading potential of the existing retail at Caulfield Plaza (Darby Road shopping centre).

Essential Economics (2010) analysis showed that the potential trading impacts on Caulfield Plaza in 2012, due to the development of the Caulfield Village to be a 9.4% reduction in the turnover. The report considers this impact to be within the bounds of a normal competitive retail environment, especially since the existing Caulfield Major Activity Centre has the second highest trading level/m² of all nine surrounding centres (second only to Chadstone).

In discussion at the Panel, both Mr Ganley and Mr Biacsi stated that the supermarket lease at Caulfield Plaza was due to expire in 2018 and may not be renewed (this was not otherwise substantiated). However, Mr Ganley stated that whether this was the case or not, the whole Caulfield Major Activity Centre is in a strong position to thrive, given the current undersupply of supermarket and general retail in the precinct, and given also that the Caulfield Village development, when added to the Caulfield Plaza, will provide around 20,000m² of retail floorspace, which is considered to be the threshold of critical mass for retail mix and competition.

The Glen Eira Council also provided input to this matter through Officer comment, provided to the panel, relating to issues raised in submissions.

The Council Officer comment stated:

"It is considered that the current or even enhanced MRC proposal will not have significant adverse economic impact on other parts of the Caulfield centre or other nearby such centres as Chadstone or Glenferrie Rd Malvern." p15

The grounds cited for this opinion were:

- Government and Council policies recommending diversification and enhancement of retail uses at the Caulfield MAC to enable it to fully fulfil its role as a major activity centre;
- the current underdeveloped retailing role of the Caulfield centre;

- the limited retail mix in the current MRC;
- the considerable retail mix and depth at Glenferrie Road Malvern and Chadstone which will enable it to withstand the proposed competition at Caulfield; and
- the different markets that would be attracted to Caulfield compared to Glenferrie Road, Malvern and Chadstone due to the influence of the racecourse and Monash University.

6.2.2 Discussion

The Panel is satisfied that the scale of the retail development at the Caulfield Village will not adversely impact on the operations of Chadstone Shopping Centre and Malvern Central Shopping Centre and concerns raised by the representatives of Chadstone Shopping Centre and Malvern Central Shopping Centre would appear to be unfounded.

Mr Ganley stated in his report to the Panel that:

“There is what I would describe as an anti-competitive undercurrent present within both submissions, with a particular focus on the possibility that a Department Store could be added at Caulfield Village.” p31

The Panel acknowledges there will be some potential trading impacts on Caulfield Plaza from the development of the Caulfield Village. However the Panel accepts the evidence of Mr Ganley that this impact is within the bounds of a normal competitive retail environment.

The Panel also notes the potential for future restructure of the Caulfield Plaza and the positive impact which the Caulfield Village development could have on this in terms of creating critical mass for retail mix and competition.

Competition impacts to more distant centres such as Chadstone and Malvern central appear to be small. The Panel notes that Section 1 of Schedule 2 to the Priority Development Zone (Caulfield Mixed Use Area) requires a Department Store would require a planning permit thereby allowing the responsible authority to consider use issues and implications as part of its permit assessment.

The Panel agrees with the rationale and conclusion of Council Officers that the MRC proposal will not have significant adverse economic impact on surrounding retail centres beyond the bounds of a normal competitive retail environment.

6.3 Is there a need to cap the amount of retail floor space permissible without a planning permit?

6.3.1 What is the issue?

The exhibited Caulfield Mixed Area Incorporated Plan includes a statement in '01 A Vision of the Future' page 3 that the Caulfield Village will contain:

"...approximately 15,000m² of retail premises."

As a result of submissions received Council proposes to add words in the Schedule 2 to the Priority Development Zone – Section 1 of the land use table to restrict the use of shop to 15,000 sqm, with a specific condition against condition 1 use of shop to state:

"The combined leasable floor space of all shops on the land shown on the planning scheme map as PDZ2 must not exceed 15,000 square metres"

This provides an as of right use of up to 15,000m² of specified retail floorspace without a permit. A planning permit would be required to exceed this.

6.3.2 Evidence and Submission

Mr Biacsi in providing town planning evidence to the Panel hearing, stated in relation to this that it is unusual to prescribe floor space requirements in an Incorporated Plan for a Major Activity Centre. He considers that this can be too prescriptive and limit the achievement of the overall vision.

However, he considered that since the floorspace limits are generally in line with the overall vision that this did not create a significant issue.

Along similar lines, Mr Morris stated that while he thought the prescription of floorspace was 'conceptually too low' he would raise no issue with this. He stated:

"Although I do not agree in principle to the limit, the cap is practical and the MRC can live with this inclusion".

6.3.3 Discussion

An inclusion, at the request of the Council, of an additional clause to Schedule 2 to the Priority Development Zone, is consistent with the intent specified in the Incorporated Plan.

One of the main advantages of the specification of shop floorspace (and offices as well) is the degree of transparency and certainty provided at the Incorporate

Plan stage. This is useful to inform residents and other stakeholders of the proposed scale of retail development permitted without a planning permit.

At the Panel hearing evidence was provided by the MRC to suggest that it is unusual to prescribe floor space requirements in an Incorporated Plan for a Major Activity Centre and that this inclusion was too prescriptive and may limit the achievement of the overall vision.

The MRC conceded, however, that since the floorspace limits are generally in line with the overall vision, the issue was more one of principle rather than substance.

The Panel considers that the inclusion strengthens the vision of the Incorporated Plan, and provides some certainty about the 'as of right' limits of the development.

6.4 Conclusions and recommendations

Having considered the economic impact issues the Panel:

- concludes that the supermarket, retail, food and leisure uses proposed for the Caulfield Village will not adversely impact on surrounding centre beyond the bounds of a normal competitive retail environment: and
- agrees with the inclusion in Schedule 2, Section 1, Shop, of the words "*The combined leasable floor space of all shops on the land shown on the planning scheme map as PDZ2 must not exceed 15,000 square metres.*"

The Panel recommends the following:

Alter the Priority Development Zone Schedule 2 to include a condition to the section 1 use of "Shop" to state.

- *The combined leasable floor space of all shops on the land shown on the planning scheme map as PDZ2 must not exceed 15,000 square metres.*

7. Traffic Circulation

7.1 What are the issues?

Whilst the general concept proposed can be strategically justified the Panel also needs to be satisfied that the proposed traffic network, further traffic implementation plans and associated implementation works can reasonably accommodate the development likely to occur as a result of the amendment.

Particular questions the Panel identifies extending from this are:

- Will the amendment facilitate a development that cannot be supported by the existing road and transport network?
- What is the appropriate road design network to accommodate a balance between vehicle and pedestrian movement?
- Should road closures form part of the amendment?

7.2 Policy context of the issue

As detailed in Chapter 3 the amendment sits in a strong strategic context to increase activity and density around activity centres, particularly those with good public transport such as Caulfield.

This major activity centre includes Monash University – Caulfield Campus, the Caulfield Racecourse and the Caulfield Shopping centre, all centred on the Caulfield Railway station and the nodal interchange this has with bus and tram networks.

Caulfield Railway station is a premium station in the Melbourne train network and sits at the junction of the Pakenham / Cranbourne and Frankston rail lines.

The capacity for development to rely not only on car based transport, but to capitalise on the availability of transport infrastructure in accordance with local and metropolitan policy must form part of the consideration of transport capacity.

The Panel also notes that Amendment VC62 was approved by the Minister on 18 June 2010. This now adds additional policy into Clause 12 of the state section of the scheme to:

Improve access to the public transport network by:

- *Ensuring integration with walking and cycling networks.*

- *Providing end-of-trip facilities for cyclists and pedestrians at public transport nodes.*

and

Providing safe, convenient and direct pedestrian and cycling access to activity centres, public transport interchanges and other strategic redevelopment sites.

Along with a number of other consequential alterations to state policy and provisions for pedestrian and cycles. This reinforces the need for the site to prioritize pedestrian and cycle routes through the area, particularly links to the activity centre core and the railway station.

7.3 Evidence and submissions

A number of resident submitters, including Mr Sherry, Ms McNeilage, Ms Volchok, Ms Healy, Ms Exton and the written submission of Mr Cramphorn provided the Panel with detailed descriptions of how traffic currently travels to and through the area on a daily basis and the issues surrounding traffic on event days of the racecourse.

Numerous submitters raised concern that on event days the traffic in the area is severely congested to the point that residents cannot move out of the area. This impacts traffic particularly along Kambrook Road, Normanby Road and Booran Road. Likewise during significant event days on street parking was at a premium.

Residents explained that daily traffic through the area at peak hour was heavy. Particular congestion points were identified by residents at:

- the roundabout at Kambrook Road and Station Street, with traffic heading north, from Booran Road to Kambrook Road or Station Street banking back along Kambrook Road making pedestrian crossing difficult and egress from driveways and local streets off Kambrook Road into this road difficult;
- the intersection of Smith Street and Normanby Road and its link under the railway viaduct to Dandenong Road. This was at both morning and evening peak. At both these times, residents submitted traffic would make irrational moves to cross the complicated intersection including turning right out of the viaduct into Normanby Road from the tram lane or the left lane. Ms Perring also noted that with the tram turning right into Normanby Road and then stopping shortly after in Normanby Road it caused traffic to bank up as it came around the corner; and
- the intersection of Smith Street with Dandenong Road, particularly in evening peak with traffic turning right from Dandenong Road into the viaduct banking back along Dandenong Road.

All of these congestion issues were confirmed in the Panel's own site inspections of the area during peak hour periods. This included inspections the Panel made at morning and evening peak hours on a number of hearing days. During this time the Panel also observed the congestion in Kambrook Road, Station Street and the various creative moves cars made when travelling under the viaduct in north and south directions between Normanby Road and Dandenong Road.

Three sets of traffic evidence were put to the Panel:

- Mr Hunt on behalf of the MRC;
- Mr Hardingham on behalf of Glen Eira City Council; and
- Mr Fairlie on behalf of Monash University.

This evidence included two sets of traffic counts prepared by Mr Hardingham and Mr Hunt. These counts did vary but provided a generally consistent picture of traffic movements that correlated with observations from residents. That is that the key existing congestion points are at the Kambrook Road / Station Street intersection and the Smith Street / Normanby Street / Rail viaduct.

A local resident, Ms Exton also undertook her own traffic counts at the Kambrook Road / Station Street intersection. Whilst an expert did not undertake these, her observations still generally correlate with the figures nominated in the formal traffic counts undertaken by the experts. Ms Exton's counts travelling north in the morning peak were higher than those of the expert reports, but other figures were generally similar, allowing for daily fluctuations.

The congestion relating to these two intersections was also identified in SIDRA analysis undertaken by Mr Hunt's office. This confirmed the functioning of these intersections was currently poor and that with the additional development would remain poor.

A representative of VicRoads was unable to attend the hearing, but a written submission was received by the Panel outlining that initial concerns raised by it in its submission to the exhibition of the amendment were generally resolved through the further traffic analysis and evidence reports submitted as part of the Panel hearing, subject to some specific matters being addressed as part of the implementation of the amendment.

In short the expert opinions put to the Panel and reinforced in the written submission of VicRoads was that whilst the existing intersections are congested there are some improvements (as proposed by Mr Hunt) that could accommodate the expected additional traffic, but that there would remain significant congestion at these points. None of the experts, however, found the

amendment fundamentally flawed because of the existing or likely traffic generation.

The main areas of dispute between experts was the alignment of the proposed new “Boulevard” with Station Street, pedestrian connections to the station and whether local connections between the Boulevard and Heyworth Street and Heyworth to Bond Street should include local traffic movements as well as pedestrian movements.

These issues inter-relate to urban design evidence also put to the Panel by Mr Dodgshun and Mr Sheppard.

7.4 Discussion

7.4.1 Is the amendment fundamentally flawed because it cannot accommodate likely traffic increases?

Congestion and Intersection improvements

It was clear from submission, evidence and the Panel’s own inspection that peak hour vehicle traffic through the area currently causes congestion, particularly at the key intersections of Kambrook Road / Station Street and the Normanby Road / Smith Street viaduct, through to Dandenong Road.

However, this congestion is not dissimilar than many other areas of metropolitan Melbourne. The advantage this site has over many other metropolitan locations is that it is close to a range of transport options that can offer modal choice, rather than relying only on car based access.

The Panel also notes that from its various inspections of the area before, during and after the hearing the general traffic flows through the area are quite moderate, with little to no congestion outside of peak hours and event days.

Mr Hunt’s evidence proposed two possible improvements to the key intersections, including increasing a second turning lane into the Kambrook Road roundabout with Station street to accommodate the main north east turn into Station street in the morning, and a corresponding double left turn into Kambrook Road from Station Street to accommodate evening peak traffic.

Both Mr Fairlie and Mr Hardingham supported this improvement and VicRoads made no comment about the proposal. Both Mr Fairlie and Mr Hardingham did note that the addition of the second lane into the intersection would increase the flow of traffic in Kambrook Road, which would aid traffic flow, but impede safe pedestrian crossing. Therefore they recommended that

any such improvement also consider a need for a signalised pedestrian crossing in Kambrook Road.

The Panel agrees the proposed intersection works offer the most likely solution to accommodating the existing peak hour congestion and likely traffic increases that will place increased pressure on this intersection. The ultimate configuration of such an improvement can and should be resolved through preparation and implementation of an integrated transport plan as required by the proposed Priority Development Zone Schedule. The Panel makes no specific finding as to how the intersection improvement should be made, other than the Panel finds it is a matter that can be sufficiently addressed through the integrated transport plan and that part of this assessment should include any need to improve pedestrian crossing of Kambrook Road.

Similarly, Mr Hunt's suggested improvements to the Normanby / Smith Street viaduct to Dandenong Road area were generally supported by Mr Hardingham and Mr Fairlie, although it was noted that the proposed improvements would still have a limited improvement due to the overall capacity constraints of the intersection due to signal timing related to the tram movement and Dandenong Road traffic flow.

The Panel notes that VicRoads, whilst not appearing before the Panel at the hearing, did not object to the proposals put by Mr Hunt in its written letter dated 19 May 2010 to the Panel.

As with the Kambrook Road roundabout, the exact details of how this intersection can be improved and managed will need to be the subject of further work as required by the proposed zone schedule. However, the Panel is satisfied that whilst this intersection will continue to be congested, this congestion is not so fatal as to warrant abandoning Amendment C60. The Panel finds that what will be critical is that the integrated transport plan to be prepared as part of the implementation of the proposed provisions addresses various options to improve this intersection and opportunities to promote alternative transport access capitalising on the public transport infrastructure in the immediate area.

Overall the Panel is satisfied that the level of information provided to date, which includes more extensive traffic modelling and documentation as put to the Panel provides sufficient confidence for the amendment to proceed and more detailed design addressed through the integrated transport plan that is a primary requirement of the amendment implementation.

Management of Event Traffic

Much of the resident submission put to the Panel related to the traffic problems that currently occur on event days. This issue is also interconnected to the provision of car parking that is further addressed in Chapter 8.

Firstly, the Panel recognises that event traffic and parking causes existing stress to many residents. However, it is beyond the Panel's scope to address the existing problems or make recommendation on how this traffic should be managed in the future, other than to assess the impact of the loss of parking that will occur as a result of redevelopment of the members car parks and the impact of additional traffic from the development likely from the amendment on the overall traffic on event days.

The Panel recognises that the proposed amendment will generate more traffic in the area, and on event days, the new residents or patrons of the development will have similar problems to existing residents in getting in and out of the area.

The MRC submitted the inclusion of the new Boulevard would mean that on race days the current closure of Smith Street and therefore the link from Dandenong Road direct to Kambrook Road would be alleviated, as the new road could remain open on event days.

The Panel sees this is an improvement, but acknowledge that on major race and event days¹⁰ (that the Panel understands to be approximately 21 days per year) there will continue to be major traffic congestion in the area. This however, is a matter that needs to be addressed in the licensing and crown grant management of the racecourse along with the City of Glen Eira as traffic manager for the surrounding road network.

The event traffic issue put to the Panel related to the major events of the racecourse, where more than 1000 vehicles are expected at events, and potentially up to 4000 vehicles. These vehicles equate to 2000 – 8000 additional movements (i.e. one to the destination and one leaving). The traffic to and from these events causes stress on the road network due to the numbers of vehicles, and the fact that these vehicles seek the same destination in a confined timeframe.

The overall traffic volume increases modelled varied between evidence put to the Panel, but generally showed 100 – 300 additional vehicles at peak periods at intersections modelled. These are proportionally much lower to event traffic

¹⁰ Submissions and evidence suggested there were four "major" events (18 days per year) when centre racecourse car parking was used. These are in addition to the three race days of the Spring Carnival. The most major event being the Caravan and Camping show that runs for 3 – 4 days and impacts traffic flow during set up and deconstruction in the preceding and following week of the event.

and the Panel considers will only make minor additional impact of event traffic issues.

The Panel also reiterates that the existing zoning and policy applying to the land encourages redevelopment of it. The issue of event traffic is one that will be on-going, but not one that should inhibit the development of the C60 land.

7.4.2 What is the appropriate road design network to accommodate a balance between vehicle and pedestrian movement?

Boulevard alignment

There was difference of opinion between the urban design experts and traffic experts as to whether the proposed new Boulevard should form the main through route, with Station Street forming a T intersection to it, or Station Street remain the main through route with the new Boulevard forming a T intersection into it, similar to the way Smith Street currently functions.

In summary, the MRC experts prefer the Boulevard as the dominant road and the Council experts prefer Station Street as the dominant road. The Panel also notes Mr Fairlie's views as possibly being more impartial as evidence on behalf of Monash University, without a direct interest in the alignment of the Boulevard. It was his evidence that either option would work based on traffic counts, but that it was his view that from a traffic function viewpoint:

- if the intersection is not signalised then the Boulevard should be the priority with Station Street forming the base of the T to intersect into the Boulevard head;
- if the intersection is signalised then Station Street should remain the top of the T with the Boulevard running into it'
- if the intersection becomes a four-way intersection with a fourth leg being an access to development west of the Boulevard (e.g. supermarket car park) then it should be signalised and the Boulevard would become the top of the T with Station Street heading into it with a direct route across this to the fourth leg of the intersection.

From traffic counts the Panel agrees with the general evidence that there is little difference in the projected volumes for either The Boulevard or Station Street. There is no clear traffic imperative for one to dominate over the other. In peak hour the Boulevard is likely to generate the greater volume that may sway the balance of considerations toward the Boulevard being the dominant road.

From an urban design viewpoint, either option would also work. Retaining Station Street as the dominant route may provide greater pedestrian safety but the Panel also agrees with the notion that The Boulevard as a dominant route

has a greater potential for providing a Boulevard effect due to the sweep and contour of the road alignment. Whilst Mr Dodgshun gave evidence that Station Street performed this boulevard view, the Panel's inspections were that the hill in the road left little sense of being a grand boulevard as sightlines were limited. In contrast, a sweep from south to north east along the alignment of the new Boulevard may offer a more robust boulevard form.

The Panel is again mindful that the amendment requires preparation of an integrated transport plan as part of the first stage of development. The Panel finds that based on evidence and submission put to the Panel the most workable solution to this intersection will be a signalised intersection that enables both pedestrians and cars to traverse safely. This is most likely to be a four-way intersection with Station Street aligning as a base of the T into the Boulevard.

If the intersection remains a three leg intersection, the Panel finds that pedestrian safety should be the deciding factor toward re-aligning the boulevard to a T intersection with Station Street remaining the dominant route, or top of the T.

The Panel considers that more detailed investigations are needed at the development plan stage to confirm how this intersection can best be treated based on the projected share of traffic along both Station Street and the Boulevard. This will depend on a number of variables including:

- whether the intersection will be 3 way or 4 way;
- how the intersection of Normanby Road / Boulevard and the viaduct will be treated. This may impact the flow of traffic through this intersection rather than Queens Avenue via Station Street; and
- whether pedestrianisation at the intersection of Normanby and Station Street directs more through traffic to the Boulevard rather than to the east toward Queens Avenue.

The priority for safe pedestrian access is reinforced through recent amendment to the planning scheme via VC62 (approved 18 June, 2010) introducing additional policy to the state section to give priority to bicycles and pedestrians particularly in activity centres.

To this end the Panel finds the schedule to the Priority Development zone should be amended to remove the ability to construct The Boulevard prior to preparation of the integrated transport plan. The Panel also finds the Incorporated Plan should include a note that the configuration of the intersection of Station Street and The Boulevard should be finalised through the integrated transport plan with a priority at this intersection for safe pedestrian crossing.

Laneway Connections

Part of the design concept in the Incorporated Plan includes two laneways to be established, primarily for pedestrian use. One accessway, between Bond and Kambrook Road, was exhibited as a "Pedestrian Access". The other accessway, between Heywood Street and the new Boulevard was exhibited as Pedestrian Lane, but the MRC seeks the document be altered to refer to a "shared Pedestrian / Vehicular lane". Council objects to the use of the accessways for vehicles.

Mr Sheppard's urban design evidence on behalf of the MRC was that spaces could be better activated through inclusion of slow moving traffic.

Mr Hardingham's traffic evidence and Mr Dodgshun's urban design evidence, on behalf of the Council, however, was that safer pedestrian access could be provided without vehicles as it removed any potential conflict points. Mr Hardingham did acknowledge upon questioning that the link between Heywood and the Boulevard may require a crossing point for vehicles to enable service access to the mixed-use area between the north and south sections of this part of the development.

Mr Hunt's traffic evidence did not include any projected vehicle numbers in Bond and Heywood Street, however, he stated, on questioning that he did not envisage the traffic in these streets would increase substantially. He stated it was his view that the only additional traffic in these streets would be from some residential development of the immediate redevelopment area. He stated he did not see the use of vehicles in the link between Heywood and the Boulevard as a regular through route, but simply a service access for residential use fronting Heywood Street.

There was no dispute about the inclusion of the accessways, only whether they should include vehicles as well as pedestrians. Whilst Council argued a physical safety issue may result from vehicles into pedestrian priority areas, the MRC argued that this conflict was small given the likely speed of traffic, but had advantage of increasing a sense of personal safety through casual surveillance. Council argued that use of active street frontages and upper level residential development could provide adequate surveillance.

Ms Exton expressed concern in her submission that the existing laneways between Kambrook Road and Bond Street were used by people for anti-social behaviour due to the poor surveillance and low use. She submitted it was her preference as a resident that accessways include clear view lines and some use of vehicles so that there was a more general activation of these spaces.

Clause 19.03 of the planning scheme includes an objective to enhance liveability, diversity, amenity and safety of the public realm¹¹. It then details a number of principles for the design of new development to achieve these aims including activation of pedestrian spaces and increasing the perception of safety. The planning scheme then refers to the activity centre guidelines (2005) and the Safer Design Guidelines (2004) as tools for addressing these issues further.

The Panel notes that in the Activity Centre Guidelines it includes a design suggestion (3.2.4) to “Incorporate slow moving traffic and car parking in streets to enhance a sense of safety rather than creating pedestrian only malls.” It also suggests that new buildings facing streets and accessways should be designed to provide eye contact to the street.

The Safer Design Guidelines similarly have an objective (1.7) to “provide the highest level of natural surveillance and ‘eyes on the street’ by encouraging walking and cycling”. To do this it lists a number of design suggestions including:

1.7.1 – Convenient, direct pedestrian cycle and vehicle routes should be co-located along streets to maximise opportunities for surveillance.

It then also confirms at 1.7.9 that streets should limit the ability for vehicles to speed as this deters pedestrians and cyclists.

The Panel finds it important that both the buildings facing the accessways provide a sense of surveillance through active frontage and residential frontage and that they provide a sense of being active access ways through limited vehicle movement.

The Panel does not see that sharing the pedestrian use with vehicles necessarily creates an unreasonable risk to pedestrian safety. There are numerous locations around metropolitan Melbourne and many other cities where pedestrians share space with slow moving vehicles. It is the way that vehicle movements are managed, notably their speed and turning, that is important.

The accessways should not be seen as new through routes that will filter through traffic into the local streets of Bond and Heywood Streets but they can provide opportunity for some limited, restricted access to residential traffic. This may include design treatments such as bollards to prevent through access from The Boulevard to Heywood Street and similarly for the Bond / Kambrook Road link. Traffic in Heywood and Bond Street should be limited to residential traffic only, not commercial service traffic.

¹¹ Clause 19.03 - 1

The proposed mixed use area includes retail activity including a supermarket. Such facilities will require some “back of house” function including loading bays. The proposed accessways should not be seen as the location for these “back of house” functions if the accessways are to achieve their objective of being pleasant safe pedestrian environments.

The Panel acknowledges that at some location in the development there will be a need to provide such facilities, and that this will require careful design. This can be addressed further in the development plan stage.

Pedestrian Improvements

Council, Monash University and some resident submitters identified a need for better pedestrian connections between the Incorporated Plan area and the Station to the retail and university areas north east of the station.

The MRC agreed that pedestrian improvements were needed but much of what was put to the panel was beyond the scope of the amendment.

From submissions and the Panel’s observations made from inspection it is clear that the pedestrian connections:

- under the viaduct to Dandenong Road;
 - along John Monash Drive;
 - along Normanby Road, particularly at the intersection of Station Street; and
 - the intersection of John Monash Drive with Denby Street;
- are currently poor.

The Panel also agrees that it is not the MRC’s role to undertake general streetscape improvements that should be occurring regardless of the amendment. However, the Panel does find that there are some works not identified in the Public Infrastructure Plan forming part of the Priority Development Zone or in the Incorporated Plan that are in the confines of the Incorporated Plan or have a direct nexus to the implementation of the Incorporated plan.

The most notable is a need to provide a re-modelled intersection treatment at Station Street and Normanby Road to better cater for pedestrians. Currently there is no pedestrian crossing of Station Street at the south side of Normanby Road. The natural desire line for pedestrians is therefore to currently not cross at the nearby pedestrian crossing, but to travel further north west on the north side of Normanby Road and then cross Normanby Road, north of Station Street. They must cross at this point as there is no pedestrian path further north west on the north side of Normanby Road.

The amendment is likely to result in a significant increase in pedestrian traffic, much of which should be encouraged to access the station and the other facilities of the activity centre to the north east. Similarly, it is in the interests of the proponent to facilitate pedestrian access to the C60 amendment area from the Station and Monash University. This is reinforced in recent changes to the state planning policy as outlined in Chapter 3 of this report.

The Panel therefore finds that this is a pedestrian link that should be constructed or funded by the proponent. The Panel also recommends that pedestrian movement through the amendment area be a key part of the integrated transport plan.

7.4.3 Should road closures form part of the amendment?

A number of road closures are proposed as part of the amendment as detailed in the exhibited Road Closure Overlay (RXO) plan. A number of submitters, including DSE and VicRoads objected to the use of the RXO without appropriate replacement road provision being established.

There was agreement by relevant parties, including Council and the MRC that the Road Closure overlay was premature for the closure of Bond Street and Smith Street. These closures should occur after appropriate works have been undertaken to provide alternative access. The road closures can then be undertaken by Council through the Local Government Act 1989.

The RXO will also remove rear access to 70 Kambrook Road and 2 – 4 Station Street. From the Panels review of title information provided to it by the landowners of these properties it is clear that the access rights are part of their titles and provide for clear unfettered access. The right of access to these properties to a public road therefore needs to be maintained throughout the construction process unless an alternative legal agreement is made between the relevant landowners and the MRC.

It is therefore inappropriate for the amendment to close the laneway that provides legal access to 70 Kambrook Road and 2 – 4 Station Street. In protecting existing access rights it is important to ensure that the two properties retain public access to lanes, rather than to a new private lane. Council as road and public land manager will need to satisfy itself that any new lane is of a standard suitable to vest in their ownership, and be responsible for maintenance.

There is one laneway that no longer exists in physical form that would have originally extended along the rear of properties in Normanby Road, south east of Heywood Street that now forms part of the Members Car Park No 1., owned

by the MRC. This laneway provides no access to any other property and exists only on title, not in physical form.

The Panel therefore recommends that all parts of the Road Closure Overlay be deleted from the amendment except the small section of defunct laneway that forms part of the Members Car Park No 1, south east of Heywood Street.

7.4.4 Other issues

Access points

Both Council and the MRC agreed that there was not a need to identify the preferred access points for driveways or service access on the Incorporated Plan.

The Panel agrees that to do so unnecessarily restricts the location of access points that need to be the subject of more detailed design. The access points will still need to be addressed at the development plan stage and require approval of Council and where necessary VicRoads. The development plan process also includes a consultation with nearby residents. The Panel therefore will recommend these access points be deleted from the Incorporated Plan.

Public Transport facilities

There was some dispute between evidence of Mr Hunt for the MRC and Mr Hardingham for Council regarding whether the existing bus route along Station Street should be re-directed into The Boulevard or not.

Ms Healy also questioned if and where taxi ranks may be located south of the station.

Ms Rachel Perring and Ms Lee Perring who both live at 3 Normanby Road noted that the existing tram stop in front of their property causes congestion as it is just after the tram has turned from the viaduct. The Panel also noted that there is another tram stop approximately 200 metres north west at the corner of Balaclava Road that could be consolidated with the stop that the Perring's say causes problems.

The Panel finds these issues of public transport access can and should be further directed by the Department of Transport in the preparation of the Integrated Transport Plan. The Panel finds it is premature at this stage to determine which street can provide the better bus route and the exact location of future bus and tram stops and taxi ranks.

The Department of Transport requested that part of the preparation of the integrated transport plan in Section 6.0 include an additional dot point to state:

- *Public transport arrangements that respond to the Public Transport Guidelines for land use and Development and pedestrian access routes.*

Mr Montebello, on behalf of Council agreed this should be included. The MRC did not oppose the inclusion of the dot point.

The Panel agrees this is a useful addition to the consideration of the integrated transport plan and recommend it be included in the schedule. It also reinforces why it is premature to denote the location of public transport routes on the Incorporated Plan. The Panel therefore recommends the bus route be removed from plans in the Incorporated Plan.

The Panel also notes that the exhibited and post exhibition version of Schedule 2 to the Priority Development Zone includes a requirement that the integrated transport plan consider work necessary to accommodate public transport, but makes no specific reference to taxi ranks.

The Panel therefore will recommend that an additional dot point be added to the consideration of the integrated transport plan to address any need for taxi ranks.

7.5 Conclusions and recommendations

Change the schedule of the Priority Development Zone (tabled 18 May 2010) as follows:

- **In sub clause 4.0 remove the words “construct The Boulevard and associated infrastructure as shown in the incorporated Plan” as works that can proceed before a development plan is approved.**
- **Add the following additional dot points to the requirements of the Integrated Transport Plan in Sub Clause 6.0:**
 - **Works necessary to existing and proposed intersections to accommodate traffic increases and safe pedestrian movement.**
 - **Public transport arrangements that respond to the Public Transport Guidelines for land use and Development and pedestrian access routes.**
 - **Location of taxi ranks as may be appropriate.**
 - **The need to signalise the intersection of the Boulevard and Station Street on the basis that:**
 - **Both through routes along Station Street, from Normanby Road to Kambrook Road and the route from Dandenong Road (currently via Smith Street, but proposed via The Boulevard) and will create turning movements at this intersection regardless of alignment.**

- **There is a need to prioritise safe pedestrian movement through the intersection to the activity centre core and the railway station.**

Change the exhibited Incorporated Plan as follows:

- **Make a notation on all relevant plans at the intersection of Boulevard and Station Street that the final design of this intersection will be the subject of the Integrated Transport Plan with consideration to alignment and signalisation the intersection to provide safe east / west and north / south pedestrian movement.**
- **Add wording to the introduction of Section 4.0 – Networks; of the Incorporated Plan to the effect of:**
 - **The intersection of the Boulevard and Station Street requires detailed design assessment based on an integrated transport plan to determine its final configuration.**
- **Modify the Pedestrian Movement Plan forming part of Section 4.0 of the Incorporated Plan as follows:**
 - **Add pedestrian crossing points on all sides of the intersection of the Boulevard and Station Street.**
 - **Add a pedestrian crossing point across Station Street at the intersection of Normanby Road with a note that this intersection should be reconfigured to give greater priority to pedestrian access to the station.**
 - **On the pedestrian links between Heywood Street and the Boulevard and Bond Street and Kambrook Road, include a notation that both may include some minor residential or service access for vehicles but not through vehicle movements.**
- **Modify the Road and Parking Plan forming part of Section 4.0 of the Incorporated Plan as follows:**
 - **Remove all “site access” arrows and the corresponding notation from the legend.**
 - **Remove the on street parking from the centre of The Boulevard.**
- **Remove the Public Transport Movement Diagram from the plan and add a written new design guideline to the effect:**
 - **Public transport routes, stops and taxi ranks are to be provided throughout the area. The location of routes and stops will be determined in consultation with the Department of Transport and should consider:**

- **The need to relocate the existing tram stop in Normanby Road, directly west of the intersection with the Boulevard to further west along Normanby Road, or consolidating this stop into a new single stop to replace this Normanby Road stop and that at the corner of Balaclava Road and Normanby Road.**
- **The location of the existing and future bus routes through the area.**
- **The best location for taxi ranks that can service the development area, Caulfield racecourse and the Caulfield station precinct.**

Change the exhibited Road Closure Overlay plan to delete all Road Closure Overlay (RXO) areas from the plan to be adopted except for the road closure east of Heywood Street forming a defunct laneway on part of Members Car Park No 1.

8. Car Parking

8.1 Do car parking spaces existing on the amendment land need to be replaced?

8.1.1 What is the issue?

The amendment will result in existing carparks; Members Car Park No 1, Members Car Park No 2, and the Tabaret Car Park being redeveloped for separate purposes to the racecourse. This will result in the loss of approximately 1400 off-street car spaces that are used by MRC members on race days, and by the public for other MRC non-racing events. Many of the submissions from residents noted difficulties they face on race and event days due to the shortage of on-street parking spaces.

There is concern that the net loss of off-street car parking spaces, along with the development proposed under C60 will create additional demand for parking spaces, and result in a more critical shortage of parking and greater reliance on the Guineas Carpark and the centre of the racecourse (both of which are crown land) for parking during the Spring Carnival and major events.

8.1.2 Policy Context

The Glen Eira C14 panel report emphasised the problems with carparking stating:

“Car parking is a major issue facing the precinct as a whole, since many of the potential development sites are used as open car parks at the present time. This means that any development of the sites will not only need to provide car parking to meet its needs but additionally will have to provide for the relocation of the existing car parking spaces on days when they are used.

The Panel is not convinced that the issues regarding the relocation of existing car parking numbers has been satisfactorily addressed, especially in regard to the Melbourne Racing Club. Whilst submissions discussed opportunities to relocate spaces to the central part of the racecourse or to provide additional spaces within new parking structures, the issues do not appear to have been resolved. The Panel considers that dealing with the existing parking issues should be a high priority issue for the Council and the Melbourne Racing Club in particular. This should form part of the

Master Plan for the entire Caulfield racecourse and other MRC land in the precinct”.

8.1.3 Evidence and submissions

There were many submissions from residents on the parking issues they face during major events and race meetings. The submission from Mr Hoey summarised the impact at the northern end of Kambrook Road as significant on Caulfield Cup and Guineas days and less so on most of the other events. Mrs Hatfield stated that she is unable to park outside her house in Eskdale Road (west of Kambrook Road) on weekdays, and race days and major events, with cars often partially blocking her driveway.

Evidence on the impact of the loss of car parking spaces on the total off-street parking availability was largely based on an analysis of an aerial photograph of the 2008 Caulfield Cup by TTM Consulting, and parking surveys undertaken by Cardno Grogan Richards. There was some disagreement between the information provided in the TTM Consulting report, the evidence provided by Mr Hunt, the evidence provided by Mr Hardingham, the evidence provided by Mr Fairlie, and the submissions by Ms McNeilage and Mr Sherry. However, the differences are not considered by the Panel to be critical to an assessment of the impact of the closure of the three MRC Members car parks.

The existing car parking spaces include 3000 spaces in the centre of the racecourse, 1000 spaces in Members Car Park No 1, 260 spaces in Members Car Park No 2., 176 spaces in the Tabaret Car Park, and 449 spaces in the Guineas Car Park. During some major events this reduces to 120 spaces due to the placement of marquees and corporate hospitality or exhibition space. Therefore the total existing car park capacity is 5006 spaces on the race days and 5335 spaces on other event days.

Car Parking Area	Spring Carnival	Non-racing event days	Race days other than the Spring Carnival
Kambrook Road (To be upgraded to increase capacity).	674 (+224)	816 ¹² (+224)	674 (+224)
Guineas Car Park (Line marking of the mezzanine).	120 ¹³	536 (+87)	250 ¹⁴
Total	794	1352	924
Centre of Racecourse	3000	3500	3000
Total Capacity (net loss capacity)	3794 (-1212)	4852 (-483)	3924 (-1125)

Table 1 Proposed capacity of car parking on MRC land

(note number in brackets are the additional or loss of spaces from that currently provided)

There are four main situations in which parking is required:

1. During the Spring Carnival

The Spring Carnival includes three days of racing - the Caulfield Guineas, the Thousand Guineas, and the Caulfield Cup. During the Spring Carnival the proposed available off-street spaces is 3794. Demand for the 2008 Caulfield Cup for off-street spaces was measured at 2,978 spaces. However, submissions from many residents suggested that people also chose to park in the street as far as away as Bambra Road rather than using on course facilities. In some cases cars parked in no-standing areas, driveways and clearways. Ms Perring stated that people think their property is part of the MRC land and they have trouble getting out on Caulfield Cup day. It is also clear that the Centre of the racecourse is heavily relied upon during the Spring Carnival, and that there will continue to be significant on-street parking by people attending the event.

2. The non-racing event days.

The TTM Consulting report stated that in 2006/2007 there were four events that attracted over 1000 vehicles to the off-street parking spaces – the Stiches 7 Craft Show (1600 vehicles), ABC Gardening Australia Live (2400 vehicles), the Pet and Animal Expo (2400 vehicles), and the Caravan and Camping Show (4000 vehicles). Centre of the track was utilised for parking for these events that

¹² Includes 142 spaces in the float car park available on non-racing days.

¹³ During some major events a section of the Guineas Car Park is currently used for marquees and corporate hospitality or exhibition space reducing the capacity to approximately 120 spaces.

¹⁴ This is based on Mr Hunt's evidence statement that 250 spaces would remain "available to the public" on all other race event days other than the spring carnival. The Panel expects that at some more minor race days, more than 250 spaces will be available.

covered 18 days in total. The number of major events planned in the current year is similar, however, the MRC Master plan has an objective to attract more events. During the 18 days of major non-racing events the proposed off-street capacity will be 4852 and the TTM report estimated that the Caravan and Camping Show generates a demand for 4000 car spaces. This event is comparable in size to the Caulfield Cup. Submissions from residents also suggested that regardless of on course availability parking on-street spread across Kambrook Road and into the streets to the west. Once again, these events rely heavily on the centre of the racecourse and on-street spaces for parking.

3. Normal race days apart from the Spring Carnival.

On the 20 race days that fall outside the Spring Carnival the proposed capacity is 3924. Survey by Cardno Grogan Richards of the Futurity Stakes meeting on Saturday March 20th, 2010 showed off-street demand peaked at 1503 spaces, and the on-street demand immediately adjacent to the racecourse was 179, for a total of 1709 spaces. However, these figures were questioned by Ms McNeillage. If the Centre of the racecourse was not available there would be a total of 1123 off-street car spaces available, which would not have been sufficient for the 2010 Futurity Stakes, but would be sufficient for most other non Spring Carnival race meetings. On March 20th 2010 approximately 230 cars parked in the Centre of the racecourse and this may increase in future given the net loss of off-street capacity.

3. Normal weekday parking where no events are held at the racecourse.

On non-event days the impact of the net loss of car spaces is not a major consideration as the Cardno Grogan Richards survey on Tuesday 23 March 2010 indicated the peak number of cars parked off-street was 155 at 1pm, and the peak number of cars parked on-street was 207 at midday with 81 spaces not used – mostly at the western end of Station Street.

Monash University leases 210 spaces in the Guineas Car Park and 50 spaces in the Tabaret Car Park from the MRC. This agreement is to end in 2010 and the MRC has indicated that it will not be renewed. Mr Fairlie noted that “spaces within the Members Car Park No 1 are currently available to Monash University to cater for staff and student parking demands during MRC events and during Monash exam periods”. He estimated that the current demand by Monash University staff and students for off-campus parking (paid permits) is approximately between 150 to 300 spaces per day.

Several submitters noted that there are also parking problems on the days that Monash University examinations are held at the Racecourse. Mr Sherry stated that the report by Mr Hunt omitted the Monash examinations and that these

occur for 2 week periods twice a year, and that car parks are full during these times.

Council considers that if replacement parking is not provided for the loss of Members Car Parks No 1 and No 2, and the Tabaret Car Park, there will be a spill over into nearby streets, or the centre of the racecourse (with a commensurate “reduction in its availability as public open space”). Mr Montebello stated that this issue has been of concern to Council since the “commencement of the strategic planning process for redevelopment of the Precinct”, and that Council considers that utilising the centre of the racecourse for event car parking is unacceptable (and this was put to the C14 panel).

Mr Montebello stated that Council submits the MRC should “*be required to provide alternative car parking either in basement levels within the precinct – over an above demand generated for the precinct – but allowing the sharing of car parking – by constructing additional or perhaps decked parking facilities in the MRC land holdings as envisaged in the MRC’s 2007 Master Plan*”. The Master Plan provides for two new multi-storey car parks on the northern side of the racecourse, and a new Members Grove car park, as well as upgraded access to the centre of the racecourse.

Council’s closing submission stated that car parking on the centre of the racecourse is not only a planning issue, but also a political issue, and very significant issue for Council. Mr Montebello argued that the C60 site should not be dealt with separately from the racecourse facility as they have functioned as one for many years. He argued that the relatively recent intensification of commercial events has been dependant on, and mitigated by, the existence of the car parking on the C60 site.

Mr Morris, supported by the evidence of Mr Hunt, submitted that the additional parking to be provided in the Kambrook and Guineas Car parks should offset most of the loss of car parks and would be adequate for most events. Mr Montebello countered that commercial arrangements may affect the availability of the car spaces in these car parks and cars will be directed on to the street, or to the centre of the racecourse. It is not only the number of car spaces provided, but where they are provided. He argued that a car parking management plan for both the C60 and racecourse land, in the form of a Section 173 agreement, to minimise the spill over of car parking into residential streets and into the centre of the racecourse. This car parking management plan could require that the Kambrook and Guineas car parks be filled before the centre is used for car parking. He argued that this would result in less frequent use of the centre of the racecourse for car parking.

8.1.4 Discussion

The question to be addressed is whether the MRC will be able to meet the demand for parking associated with the Racecourse and event uses once the development occurs and the member car parks that it currently relies on will be lost. The Panel notes that the Members Car Parks No 1 and No 2, and the Tabaret Carpark are currently zoned Mixed Use and could be closed at any time. This land has been used as a car park due to demand for parking on race and event days, not because it has any legal tie to the racecourse (to the Panel's knowledge). The Panel also notes that these car parks are for MRC members on race days and so the impact on these days is on MRC members only, not the general public. The use of the car parks for members only may also explain why the centre of the racecourse is used for existing race days, even when Members Car Parks No 1 and No 2 are not full and why there is such heavy existing use of on street parking.

When there are no events or race meetings, there will be sufficient off-street car parking to meet demand. There will be some weekday impact on parking provision near Caulfield Station for commuters and Monash staff and students when the Monash and MRC lease arrangements end, however these are private lease issues between Monash University and the MRC.

On most race days there will be sufficient off-street parking to meet demand by utilising the Kambrook and Guineas Carparks for members parking. The loss of car spaces on these days only affect MRC members as non-members will continue to park either in the street or in the centre of the racecourse. The number of car spaces available for members on most race days appears in the Panel's view sufficient to meet the demand, based on car park surveys tabled. This is because most events and race meetings general a demand of 1000 cars or less and the Guineas and Kambrook car parks combined can supply up to 1352 spaces on non race days, and 924 spaces on race days.

Many of the non-racing events in 2006/2007 listed in the Cardno Grogan Richards report were small and demand for these type of events could be accommodated by the proposed Kambrook Road and Guineas car parking spaces, with a small spill-over into the centre of the racecourse where the off-street demand exceeds 924.

The centre of the racecourse will continue to be required for the Spring Carnival (3 days), all major events (at present 18 days), and some of the smaller race days irrespective of the loss of the 3 MRC car parks. There is insufficient evidence to conclude whether is sufficient parking in the Guineas and Kambrook car parks to accommodate Monash examinations, although these events were not mentioned as major events in the various submissions.

Evidence from Mr Hunt, and the submission of several residents, demonstrates that many people who attend the major events and race meetings choose to park in the streets rather than the centre, even though there may be spare car parking capacity in the centre of the racecourse. The Panel appreciates the community concerns over the pressure this places on parking in the streets around the racecourse. However, the Panel believes that this is an existing situation and is a traffic management issue as well as a parking issue. These issues indicate a need for Council to address the parking restrictions in the streets surrounding the racecourse on race meetings and event days, including to the west of Kambrook Road. The Panel notes that the racecourse and the Amendment site are adjacent to Caulfield station and bus and tram stops, and that improving pedestrian access to public transport is an important element in increasing the use of public transport by people attending MRC events.

Based on the evidence presented to the Panel it is clear that there will be more reliance on the Kambrook and Guineas Carparks. The use of the Centre of the racecourse and the proposal in the 2007 MRC Master Plan to upgrade the Kambrook and Guineas Car Parks, are important components in offsetting the loss of Members Car Parks No 1 and No 2 and the Tabaret Carpark. The Panel acknowledges that the Guineas Car Park is on Crown Land and note the concerns raised by Mr Sherry, Ms Forge, Mr Campbell and others that future developments relating to the provision of car parking should occur on freehold land owned by the MRC rather than Crown land. The loss of car parks will put additional pressure on the use of the Crown land that forms part of the racecourse, however this issue is beyond the scope of this report. The decision on the appropriate use of the Crown land under reservation is a matter for the relevant Minister to address not a matter to be addressed by the planning scheme and Planning and Environment Act. The Planning Scheme simply requires a use to provide parking to meet its needs.

8.1.5 Conclusions and Recommendations

The Panel concludes that the MRC is able to sufficiently accommodate the demand for carparking associated with the Racecourse uses despite the loss of the Members Car Parks No 1 and No 2 and the Tabaret Carpark through use of other land forming part of the racecourse.

The Panel recommends Council continue to pursue improved on and off street parking and traffic arrangements with the MRC for events at the Caulfield Racecourse to reduce the impact of parking and access issues. This should include a review of on street parking restrictions and traffic circulation.

8.2 Are the proposed rates for parking appropriate?

8.2.1 What is the issue?

The parking rates proposed in the exhibited version of Schedule 2 to the Priority Development Zone for retail, office, supermarket and shop were less than required under Clause 52.06 of the planning scheme and are different to the parking rates in place for the Monash Western Precinct in Schedule 1 of the Priority Development Zone.

8.2.2 Policy Context

Clause 21.12 (Transport) of the Glen Eira planning scheme includes strategies to encourage the co-location and sharing of car parking facilities where appropriate, and the provision of access and car parking appropriate to the special needs of the elderly, and the disabled. These strategies are implemented through policy to provide adequate car parking to satisfy demand generated considering the proximity of public transport and nearby on and off street car parking.

The Phoenix Precinct Policy (Clause 22.06) recognises the limited capacity of the Precinct to absorb additional traffic and car parking. It encourages greater use of public transport and pedestrian and cycling activity, and development only where the car parking demand resulting from the development is adequately catered for on-site, or where impractical then adequately off-site. The policy also encourages shared parking, and requires that the development minimise any adverse impacts on amenity of adjoining residential areas, including car parking.

Clause 52.06 (Car Parking) sets out the number of car spaces required for uses not covered by other clauses, and this includes a requirement for 2 car spaces per residential dwellings for developments of four or more storeys. However, it is more common to use Clause 55.03-11 of ResCode to determine car parking requirements for residential dwellings.

Section 7.0 of the Priority Development Zone Schedule 1 outlines parking requirements associated with the Monash University Caulfield Campus - Western Precinct Development area. For each 100 square metres of floor area the car parking rates in the Monash Western Precinct are 2.18 for retail, 2.0 for office and 5.5 for supermarket. However, these rates were approved based on a commitment in the development to reduced car usage.

The Priority Development Panel (PDP07-27) report supported a reduction in rates given the existing public transport hub and stated "*The PDP nevertheless notes the strategic support for a reduction from the Clause 52.06 rates, given the*

proximity of the site to a range of public transport facilities and services. Furthermore, the PDP emphasises the need to focus on broader issues of access to the precinct, and in particular on transport modes other than private vehicles, if Melbourne 2030 objectives are to be achieved”.

8.2.3 Evidence and submissions

Council submitted that the car parking rates should be based on the rates in Schedule 1 of the Priority Development Zone (the Monash Western Precinct) as they are physically proximate, and also part of the Phoenix Precinct. Mr Montebello argued that having a difference in rate within the Precinct would be inequitable. Mr Hardingham agreed that the rates should be consistent with Schedule 1 and argued for residential dwellings the parking provisions in Clause 55.03-11 to be applied, and Clause 22.09 applied for student accommodation. Mr Fairlie (traffic expert for Monash University) agreed that the parking rates in Schedule 1 of the PDZ, along with Clause 55.03-11 rates for residential dwellings should be applied to the MRC land. Ms Quigley considered that the existing parking restrictions ensure there is limited scope for on-street parking in the Precinct.

Mr Montebello argued that it is not unreasonable to “expect the MRC to provide for car parking associated with the demand that it generates or at least to make some meaningful contribution to such car parking”.

The written submission of VicRoads was that the precinct has the potential to either become an area where public transport use is high and is a low attractor of private vehicles, or become a convenient source of parking for commuters if there was an over-supply of affordable parking. Their submission supported the use of reduced parking rates (as originally indicated in Section 8.0 of Schedule 2 to the PDZ), as a mechanism for managing potential traffic impacts.

Mr Hunt and Mr Fairlie agreed that there was potential for sharing of car parking spaces between different uses – for example between different commercial uses.

There were several submissions from residents about the potential impact of the new development on parking in the street, and the car parking requirements in Schedule 2. Mr Sherry argued that the car parking requirement is inadequate and challenged the basis for the estimates of car parking demand in the TTM Consulting and Cardno Grogan Richards reports. Ms McNeilage also objected to the proposed rates arguing that there are already significant parking problems on race and event days. Mr Campbell submitted that car parking arising from the development should be contained within the Precinct, and car parking arising from MRC race meetings and events should occur within the boundaries of MRC land.

MRC and Council agreed the proposed parking rates to be listed in Schedule 2 to the Priority Development Zone for office, retail. These should be consistent with the Monash rates and are as follows:

USE	PROPOSED PARKING RATE
Retail premises (not including Supermarket)	2.18 to each 100 square metres of leasable floor area
Office	2.0 to each 100 square metres of net floor area
Supermarket	5.5 to each 100 square metres of leasable floor area

8.2.4 Discussion

Given the context in the previous section on the impact of the loss of Members Car Parks No 1 and No. 2 and the Tabaret Car Park any extra pressure on parking from the new development will exacerbate issues on racing and major event days. While the ability to use the centre of the racecourse on these days for parking and the future development of alternative car parking areas is acknowledged, the Panel supports the assertion by Council that it is reasonable to assume that the development provide for car parking associated with the demand it generates.

The parking rates for retail, office and supermarket in Schedule 2 of the Priority Development Zone, agreed to by Council and the MRC, appear to provide a basis to achieve this. The Panel considers it appropriate that the detail regarding the quality and location of the provision of parking will be resolved when the Development Plan is submitted for consideration. Schedule 2 requires that the Development Plan must include the number and layout of all car parking spaces, as well as include a Car Parking Management Plan (CPMP). The CPMP must show the overall operation of the car-park and an analysis of the impact of displacement of members' car parking on the amenity of the area.

The Panel considers that the analysis of the impact of displacement of members' car parking on the amenity is a significant issues for Council in the consideration of the Development Plan, and the expectation of the panel is that the development does not have an overall increase in impact on the amenity of the area – both adjacent to the racecourse, and in the areas that people typically park for major events at the racecourse.

8.3 Conclusions and recommendations

Having considered this issue the Panel finds that:

- The C60 development should meet the demand generated by the development, allowing for sharing of spaces between different uses where appropriate. The Panel finds that the parking rates for office, retail and entertainment, agreed between the Council and MRC, are consistent with the rates used for the Monash site and are appropriate.

The Panel recommends that:

- **The rates agreed by Council and the MRC as detailed in the revised schedule tabled on 18 May 2010 to the Panel be adopted as the standard parking rates to be used in Sub Clause 8.0 of the Priority Development Zone Schedule.**
- **The car parking requirements for residential dwellings should accord with the provisions of Clause 55.03-11, and the car parking requirements for student accommodation be in accordance with Clause 22.09.**

9. Open Space Provision

9.1 Can the amendment be serviced by existing open space?

9.1.1 What is the issue?

Glen Eira Planning Scheme Clause 21.13 (Open Space) states:

“The Australian Research Centre for Urban Ecology has rated Melbourne suburbs for their open space. Glen Eira has the second lowest amount of public open space in metropolitan Melbourne (as measured by square metres of open space per resident). Only Stonnington has a lower amount. Glen Eira has only 26.33 square metres of public open space per resident.

Increasing levels of multi unit residential development has lead to declining levels of private open space on residential lots in Glen Eira. This places increased pressure on Glen Eira’s public open space network.

Current challenges within Glen Eira include the need to improve the amount and quality of open space (in specific parts of the municipality) (funding of such improvements) provision of a bicycle path/lineal path network linking adjoining municipalities, and investigation into the demand, cost, and possible location of a multi purpose recreation facility”.

The C60 site is within 300m of Caulfield Park, which has excellent active recreation facilities. It is also adjacent to the centre of the Caulfield Racecourse which is a very large area reserved for racing and public open space, and is currently used for a combination of active and passive recreation. The relative location of these reserves and the Amendment site is shown in Figure 9-1.



Figure 9-1 Location of existing and proposed open space

9.1.2 Policy context of the issue

Clause 12.05-2 – A great Place to be – aims to provide more open space, improve the quality and distribution of open space, and ensure long-term protection of public open space.

The MSS provides details on the municipal profile and states that Glen Eira is a middle-ring municipality that is ethnically, economically and socially diverse. The age profile has 21.4% people at least 70 years old (compared to the metropolitan average of 15%), but this is expected to decrease over the next ten to twenty years. There is a relative large number of young family households and elderly lone person households (especially in Caulfield). These demographics result in Glen Eira having a significantly higher proportion of one and two person households than the metropolitan average, along with a higher demand for small dwellings and public open space.

The most recent open space strategy is the 1998 Glen Eira Long Term Open Space Strategy and is understood to be the basis of the open space requirements in Clause 52.01.

Clause 21.13 aims to improve the amount, distribution and quality of open space. One of the strategies outlined to achieve this is that public open space contributions are sought via Section 18 of the Subdivision Act 1988 or Clause 52.01 of the planning scheme. This clause seeks to “Ensure that if land is

subdivided, a public open space contribution is sought which reflects the impact that the subdivision has on Glen Eira's open space network".

A 2009 Joint Communiqué between Council and MRC on use of public open space in the centre of the Caulfield Racecourse Reserve provides a basis for a common understanding that horse training will continue for some time at the racecourse, however the MRC and Council supports initiatives to relocate training. After training has been relocated both parties agree that land in the south-east corner of the racecourse will be identified as a public park subject to approval by the Trustees. Importantly there is agreement that the centre of the reserve be maintained as passive public open space, with landscaping and amenity improvements expected in 2009-2010. The community will be encouraged to use this area as passive open space subject to the regulations of the MRC and restrictions during race meetings, training and major events.

Phoenix Precinct Policy for Precinct Area 4 (Caulfield Racecourse) encourages public access to the public open space in the centre of the racecourse.

Theme 3 - Open Space, Recreation and Leisure – of the Glen Eira City Council Draft Annual Budget 2010-2011 lists a strategic objective "To enhance the recreation, leisure and sporting facilities in Glen Eira so as to improve community well being" and a strategy of "Advocating for the Crown Land which hosts the Caulfield Racecourse to be available for active and passive recreation".

9.1.3 Evidence and submissions

Council and the MRC agreed that there is an adequate amount of open space within walking distance of the Amendment site, although Council submitted Caulfield Park is at capacity, and there are access and amenity limitations on the use of the centre of the racecourse. This issue was also raised by many of the submitters who argued that the amount of open space was insufficient in the area around the racecourse, access to the centre of the Racecourse was limited to certain times of the day and not inviting, and that Caulfield Park was overused.

Mr Morris in his opening submission provided details of the land exchange of the Crown land used as the Tabaret Carpark and some freehold land owned by the MRC. This will result in the creation of a new reserve in Booran Road adjacent to the vehicle access to the centre of the racecourse. This land will be landscaped and made available to the public on once the land exchange is finalised. It may also provide the opportunity to create improved pedestrian access to the centre of the racecourse, which would significantly improve amenity for those accessing the reserve.

Mr Sheppard believed that the existing and proposed reserves (in particular Caulfield Park, the centre of the racecourse, and the proposed Booran Road reserve) will meet the major public open space needs generated by the proposed development. He argued that these reserves will be complemented by “small scale, urban, passive open spaces within the Amendment land, primarily within the existing and proposed road reserves”. He added that it may be appropriate that additional small urban spaces are developed within the Amendment land, however this is a matter that is best considered at the Development Plan stage.

Mr Montebello in his closing submission stated that Council has been lobbying South-East Water to transfer the land over the Booran Road Reservoir in Glenhuntly to Council for open space purposes. This land is immediately south of the Caulfield Racecourse and is approximately 1.5km from the C60 site. The process is underway and will take some time but he believed that it would proceed. However, it would require significant public expenditure to make it suitable for public open space.

He also acknowledged the concerns of some submitters that council is seeking to request a financial rather than land contribution for open space. He argued that this is not an uncommon occurrence and quoted the example of the Doncaster Hill Principal Activity Centre Redevelopment where a 5% monetary contribution was required. He suggested that if land were to be provided it would be largely limited to the residents and workers of the development rather than serving a truly public purpose. He argued that, although the development was not required to provide public open space, there would still be publicly space available in the public realm in the form of urban plaza's, passive open space within road reserves, or similar.

In Mr Morris's closing submission he noted that the Joint Communiqué between Council and the MRC provides for an eventual surrender of some of the land covered by stables and creation of a Public Park reservation that will remain part of the Caulfield Racecourse Reserve. As part of their submission the MRC also provided plans to landscape the centre of the racecourse to improve its amenity as public open space.

9.1.4 Discussion

Caulfield Park is an excellent reserve that provides a range of active public open space options, although there is a very heavy reliance on this reserve – particularly for active recreation. The centre of racecourse is potentially a valuable passive open space, but at present there are significant access issues, and as a result it is under-utilised. These are existing public open space issues and the Panel believes that are issues that need to be addressed regardless of

C60 amendment proposal. The Panel endorses the agreement outlined in the Joint Communiqué between Council and the MRC to pursue improvements to the landscaping and amenity of the centre of the racecourse in the short- to medium-term.

The proposed improvements to the landscaping of the centre of the racecourse, and the new reserves to be established provide a significant opportunity to leverage a big increase in the amount of public open space in the area, and also access and amenity of the centre of the racecourse. There is also potential for the proposed Booran Road reserve to provide improved access to centre of the racecourse.

The Panel supports council's vision for the provision of more open space in the region over time, and the use of a financial contribution to facilitate the provision of this open space (namely Booran Road/Glenhuntly Road corner).

These improvements to the pool of open space surrounding the Amendment site provide a sound basis for moving forward with the Amendment.

The Panel also acknowledges the desire of Council and many residents that the centre of the racecourse to be available and accessible as public open space on as many days as possible. On the days where there are no race meetings or major events the use of the centre of the racecourse as public open space becomes an issue of managing the transition from the use as a car park to a useable and amenable open space, and largely outside the scope of this reports as they are existing management issues. The MRC should work with the Council to reduce the impact of car parking on the landscape and amenity of the centre racecourse so as to be available to the public as open space and that the number of days where the area is affected by damage caused by cars is kept to a minimum.

9.1.5 Findings

Having considered this issue the Panel concludes that:

- the size and location of existing reserves are adequate, however the centre of the racecourse has limitations with respect to access and is under-utilised;
- the plans by the Council and the MRC to make additional land available as public open space will improve this situation over time. The Panel supports the proposal by council to pursue the acquisition of the water reserve on Glenhuntly Road and develop as public open space;
- additional money will be required by Council to make this land ready for use as public open space. Therefore the requirement for a financial public open space contribution is related to cost of improving existing reserves and is supported.

9.2 What is the appropriate open space contribution if taken as a monetary contribution?

9.2.1 What is the issue?

Having determined that a financial rather than land contribution should be made toward open space, the next question is how much contribution should be made.

Clause 52.01 states that a subdivision should include a “contribution to the council for public open space in an amount specified in the schedule to this clause”. The schedule to Clause 52.01 applies to any residential subdivision and is determined according to a formula that takes into account matters such as the number of lots, the size of lots and number of bedrooms, the amount of private open space provided, the location of the development, and how far the development is from existing reserves. While the exact details of the development is not known at this stage it is likely that applying this Clause would result in a contribution of between 4.5% and 5% of land developed into residential dwellings.

9.2.2 Policy context

According to the 2008 SGS Economics and Planning report *Public Open Space Contributions and Subdivision* prepared for Moreland City Council, the open space contribution required by inner and middle ring municipalities ranges from 0.25% and 8.00% depending on whether the subdivision is commercial, industrial or residential.

There have several VCAT rulings on challenges to local government open space requirements. These rulings are that councils can specify in a schedule to Clause 52.01 of their planning scheme specific open space contributions that differ from Section 18 of the Subdivision Act 1988, and may even exceed 5 %. Also, the Court of Appeal decision of *Maroondah City Council v Fletcher* [2009] that the Section 18 of the Subdivision Act 1988 establishes that the open space requirement should be consistent clearly based on an assessment of need. The open space contribution and assessment of need should also be consistent with local open space policy. However, the conditions in which subdivisions are exempt and the nature of the contribution in Section 18 of the Subdivision Act are valid. All residential, commercial and industrial subdivisions are required to make and open space contribution unless exempt.

Recent findings have also established that contributions should be used to facilitate both the active and passive recreation needs of the occupants (*Stokoe Pty Ltd v Melbourne City Council* [2000] VCAT 2621). In *Peter Herbert and*

Associates Pty Ltd v City of Stonnington 17 AATR; 31 it was found that open space requirement contributions do not need to be for the acquisition of new open space, but can be used for capital works or improvements to existing open spaces.

Two VCAT rulings (Herbert, Williams v Nillumbik SC [2002] VCAT 1566; and Stokoe Pty Ltd v Melbourne City Council [2000] VCAT 2621) established that financial open space contributions are not intended for general maintenance, but it is reasonable to consider improvements to municipal open space.

The 1998 Urban Design Framework provided for a modal interchange area between Caulfield Station and the C60 site. The MRC Master Plan also showed a connection from the Plaza to Caulfield Station. There is a clear nexus here to provide a better public plaza on the C60 land.

9.2.3 Evidence and submissions

Council stated that the focus of municipalities is typically not on purchasing land (which is too expensive), but rather on improvement of the existing areas to make them more durable, drought-proof and capable of intensive use.

Mr Montebello and Mr Morris agreed that the drafting of the clause relating to open space should provide for the contribution to be triggered upon the occupation of buildings and land rather than upon subdivision. Mr Morris suggested the following wording:

“Prior to the occupation of buildings on land, or at some other time as is agreed with Council, the owner must make a monetary public open space contribution to Council as follows:

- *5% of the site value of the land which is contained within the Mixed use Precinct and the Smith Street Precinct; and*
- *4% of the site value of the land which is contained within the Residential Precinct”.*

9.2.4 Discussion

The public open space contribution agreed by Council and MRC is consistent with practice in other middle-ring municipalities. The wording of Section 18 of the Subdivision Act, Clause 52.01, and the Schedule to 52.01, suggests that where an open space contribution is made it should be for improvements to open space, rather than for maintenance. The Panel therefore supports the proposed wording for the open space clause proposed by Council. The Panel does note that the wording of the Priority Development Zone to make specific requirements on open space may require an addition to the schedule to Clause

52.01 that open space requirements for the Caulfield Village area is addressed in the zone provision.

9.2.5 Recommendation

Having considered this issue the Panel recommend that:

Change Sub Clause 9.0 of the Priority Development Zone (Requirement for a Legal Agreement for Infrastructure) to include the proposed alternative provision for open space:

Prior to the occupation of buildings on land, or at some other time as is agreed with Council, the owner must make a monetary public open space contribution to Council as follows:

- *5% of the site value of the land which is contained within the Mixed Use Precinct and the Smith Street Precinct; and*
- *4% of the site value of the land which is contained within the Residential Precinct*

10. Urban Design Concept and implementation

10.1 What are the issues?

The amendment relies on an Incorporated Plan to guide the implementation of the Priority Development zone. This particularly relates to defining when a planning permit is not needed based on built form and design parameters. As stated in Chapter 5 the Panel supports the general amendment concept that third party review rights can be limited where general direction is given and amenity issues can be reasonably addressed.

For those submitters who did not object outright to the progression of Amendment C60, as discussed in Chapter 5, there appeared general agreement to the broad concept of development proposed.

This included the notion of residential development near existing residential development in Bond and Heyworth Streets and Kambrook Road, with mixed use in graduating higher built form to the east toward Caulfield Station.

The main elements of disagreement about the exhibited amendment was from local residents who submitted the design parameters affecting their nearby properties were too broad and did not adequately protect existing residential amenity and character of the area.

As a result of exhibition, Council proposed a number of changes to specific design parameters to address concerns of residents and its own expert's opinion. A number of these changes were agreed to by the proponent (MRC). Before the hearing and during the course of the hearing a number of annotated changes were put to the Panel by Council and the MRC identifying proposed changes and either agreement or disagreement to these changes between the parties.

The Panels discussion of these issues firstly addresses if the overall concept for development is appropriate. The Panel then discuss whether the design and built form provisions are acceptable for the:

- Residential precinct;
- Mixed use precinct;
- Smith Street precinct.

In this chapter the Panel does not summarise the evidence and submission put to the Panel as a separate chapter, but rather address the specific issues raised and opinions, where relevant voiced about the issue.

10.2 Overall concept

The overall concept and general sense of objectives for the Incorporated Plan were agreed between the MRC and Council.

Many resident submissions commented that higher development would be “out of character” with the area. The Panel finds the development plan provides for heights that abut the existing residential area that can respect existing neighbourhood character. The Panel discusses specific issues in subsequent chapters below. In stating this the Panel is mindful that the area is already identified as part of the Phoenix policy area where the emphasis on development should be to establish new development rather than respecting existing character.

The Panel’s assessment of character has been to ensure that new development that immediately abuts existing residential areas in Heywood, Bond, Kambrook and Normanby Road can be integrated.

Further east, the Panel finds less need to respect existing character or identify what is or is not “in character”. The area has long been identified for redevelopment and the overarching priority must be to maximise the potential of the site as a Major Activity Centre where there are not immediate issues of residential amenity.

To this extent the Panel’s findings below seek to address amenity impacts where the Panel sees genuine need and allow design issues to be addressed on their merits having regard to the decision criteria proposed by Council. In the eastern sections of the site, where higher built form is proposed the Panel finds that higher built form does not necessarily mean it will be “out of character” as the character is yet to be defined. The Panel does agree that new development should be set a new benchmark for quality design and that height should not necessarily mean bulk. Careful design, particularly of the eastern Smith Street precinct will need to be assessed at the development plan stage. The Panel is generally satisfied however, that the zone, policy and Incorporated Plan provisions provide sufficient direction to enable this.

Based on the Panel’s findings that the overall concept is also supportable, the Panel also agrees that the general objectives and concept of the Incorporated Plan are acceptable, subject to a number of issues being resolved as the Panel discusses in the remainder of this chapter.

Overall objectives – specific issues

Section 3 of the Incorporated Plan includes a number of plan objectives. The Panel endorses these in general. As a result of exhibition, Council included a number of suggested improvements to these objectives. Most were supported by the MRC. The Panel identifies three minor points of difference.

1. The overall objective to “create contiguous fine grain active frontage and provide ample fenestration above ground floor level throughout the area” was a new objective to which the MRC objected.

The Panel finds this objective is unnecessary and unachievable for every development in the Incorporated Plan area. A similar objective is contained in the Mixed use and Smith Street precincts. In the residential precinct continuous ground floor “active” frontage may not be possible or desirable. The Panel also notes that clause 19.03 will continue to apply as will the decision guidelines of Clause 11 of the proposed PDZ schedule. These provide adequate guidance regarding active frontage and urban design treatment to the street.

2. Council requested a new objective be placed in the “Mixed Use precinct objectives” to state:

· *To encourage mixed use development above (MRC added ground floor) with accommodation providing the interface between the mixed use precinct and the residential precinct within the mixed use precinct.”*

The MRC accepted the additional objective but questioned why “offices” could not also be at upper level.

The Panel finds the objective is unnecessary and potentially will lead to unnecessary debate over whether office at upper level can interface with the adjoining residential precinct. The site is already zoned Mixed use that allows office development. The amendment is to facilitate a mixed use development. It is logical that some parts of the development will be commercial and that some of this commercial development will interface with the residential precinct.

The Panel therefore does not support this addition, as proposed by Council to the Incorporated Plan.

3. In the Smith Street Precinct objectives, Council proposed altering the access objective to state that the main vehicular site access be from Station Street only, rather than Normanby and Station Street.

As already discussed in Chapter 7 it was agreed by the MRC and Council that access points need to be further addressed in individual development plans and the integrated transport plan. This also needs to include more consultation with VicRoads where access is sought from Normanby Road as a Category 1 Road. The Panel is also somewhat confused by Council's request to have access from Station Street in preference to Normanby Road, when in other discussion and submission put to the Panel Council indicated that Station Street had an important pedestrian and vehicle promenade effect to be maintained.

The Panel recommends the objective be removed and the issue of site access points be addressed firstly in the integrated transport plan and then on a site by site basis as recommended in Chapter 7.

10.3 Networks

10.3.1 Design Guidelines

A number of changes were proposed and disputed in "04 – Networks". The Panel has already made findings about the network issues of the amendment in Chapter 7. The Panel finds that this section of the Incorporated Plan will require updating to reflect the Panel's findings and recommendations of Chapter 7.

In summary the Panel finds much of the other changes proposed by Council as a result of exhibition are unnecessary or add to possible confusion in interpretation. The Panel's review of the exhibited document is that it provides adequate response to networks provided some amendment is made as the Panel recommended in Chapter 7 and one additional change noted below.

The Panel therefore does not support the various changes proposed by Council or the MRC after exhibition for the networks section of the Incorporated Plan other than that the exhibited dot point relating to Station Street be deleted and replaced with one similar to that proposed by Council to state, to the effect of:

"Maintain Station Street as a main through route for both vehicles and pedestrians through the area."

10.4 Residential Precinct

10.4.1 Residential Precinct - Design Guidelines

The Panel generally supports the Residential Precinct guideline text to the Incorporated Plan as exhibited and with the additions and alterations agreed between the MRC and Council.

Specific issues of contention are:

1. Council proposes an additional "Building height, setback and scale" guideline to state:

"Buildings will not turn their side to any street".

The MRC noted it did not agree with this statement but a modified statement could be acceptable.

The Panel is not clear what Council intends by this statement other than general good design principles to provide active interface to the street that the general objectives of Section 3 of the guidelines provide as well as ResCode, Clause 19.03 and the Higher Density Residential Development Guidelines. The Panel sees no reason for it to be included as a specific point. There may well need to be a "side" to a development. This does not mean it cannot provide a good presentation to the street.

The Panel sees the addition as unnecessary and unsupportable.

2. Carparking guideline

Council proposed to add an additional guideline that carparking be provided either in a basement or above ground in a structure. The MRC object to this stating it is a residential area.

The Panel finds there may well be instances where it is appropriate and more in keeping with the character of the surrounding area for parking to be provided in a more suburban manner of an at grade driveway with garage or carport. Not all development in the residential precinct may be apartment form. Some may and would be appropriate to be townhouses that may include driveway access with at grade car parking.

The ultimate design of these spaces will still need to address general design parameters that will include how the development presents to the street.

The Panel therefore does not support this additional dot point. A more general dot point may be appropriate to the effect of:

“On site carparking should not dominate the street frontage of any development”

This is a matter that may be further considered by Council in consultation with the MRC. The Panel makes no formal recommendation to include such a dot point.

10.4.2 Residential Precinct – height and setback diagram

What are the issues?

Both Council and the MRC proposed changes to this diagram as a result of further work and submissions made to the exhibition of the amendment. Specific elements included an additional 3m or 1 storey height proposed by the MRC for land abutting the west side of Bond Street, south of the pedestrian access.

Council also proposed a number of additional design guideline notations onto the diagram including requirements for additional landscape setbacks to existing adjoining residential properties and design notations such as “ensuring preferred height provides for pitched roofs”.

A number of residents also questioned if adequate setbacks were provided to the existing residential interface and whether the proposed heights, as exhibited were appropriate to the interface with Kambrook Road, Bond Street and Heywood Street. Residents also questioned how the heights could be increased after exhibition without further consultation with the residents.

Discussion

Before discussing the issues in detail, the Panel finds it important to address the purpose of the diagrams and indeed, the Incorporated Plan. The document is to provide more specific decision guidelines or direction to decision making in the application or consent process. This is important given the number of approvals that may not include third parties.

The Priority Development zone requires that a planning permit is not required where the height or setback requirements of the Incorporated Plan are met.

Firstly, the Panel finds the diagrams in the Incorporated Plan should be clarified to be called “height and setback” diagrams, to provide clearer correlation between the zone provisions and the Incorporated Plan as the tool to direct when a permit is triggered.

Then the diagrams should only identify relevant height and setbacks that will direct when a permit (and therefore third party involvement) will be required. Other matters of design guideline should be in the text or separate diagram of the Incorporated Plan.

Having said this, the Panel does not see a need for much of the additional text proposed by Council. Comments such as “Ensure development is articulated, modulated and has fenestration and uses colours and materials so that it does not read as large cascading masses” proposed by Council is unnecessary and cumbersome. The zone already requires Clause 52.35 – (relating to residential development of 4 or more storeys) and Clause 22.06 as guiding policy.

The Panel does note, however, that part of the residential precinct is to accommodate development of only 3 storeys and should have regard to ResCode. Whilst this may be implicit, it may be useful to add a reference to ResCode in the decision guidelines of the zone. Alternatively the Incorporated Plan can make reference to ResCode and the Design Guidelines for higher density development. This is the Panel’s preference.

This then requires each assessment to consider site analysis and neighbourhood character, which relate much to the matters raised by Council in its suggested additions to the height and setback diagrams.

This enables a site responsive approach to new development. The Panel sees no reason why specific directions such as providing for pitched roofs should be a requirement. The Panel’s inspections of the area that whilst pitched roofs exist, they do not form a dominating or distinctive character form that needs to be retained.

The Panel therefore recommends that a notation be added to the text of the Incorporated Plan – Residential Precinct Guidelines to the effect that:

“These guidelines should be read in conjunction with the relevant provisions of Guidelines for Higher Density Residential Development – 2004, or the Objectives of ResCode as relevant to the development proposed.”

Corner Heywood and Normanby Road

One exception to this is general discussion about notations is at the south east corner of Normanby Road and Heywood Street where Council proposes a notation to either “Ensure that the development does not turn its side to either street”.

The Panel finds this comment is useful, but one that is better added to the design guidelines rather than a notation on the plan. The Panel also finds it could be broadened to note that there is a need to address the transition from

the residential form to the north west to the gateway to the Caulfield Village at this point. This can enable a more site responsive assessment of setbacks and design treatment than the proposed additional 3 metre landscape setback for this site proposed by Council.

Three metre setback to 3 Bond Street

Council proposed that a 3 metre setback should be provided to the northern side boundary of the amendment land where it interfaces 3 Bond Street. The Panel finds this is excessive and unnecessary. The Panel agrees that the amenity of 3 Bond Street needs to be protected, but do not see that this needs to require a 3 metre setback for all building, particularly south of this property. A note on the plan that the interface must accord with the relevant height and setback requirements of ResCode can ensure that relevant amenity impacts are met.

The Panel notes that a 3 metre setback is provided to the laneway between Bond and Kambrook Road. This was exhibited and accepted by residents so the Panel do not propose to remove it. However, the Panel make a similar observation that, it too, in its view, seems an unnecessary extension over what is required by ResCode. The Panel accepts there may be other design imperatives such as providing a wider laneway aspect that may be useful and therefore will retain it and recommend it be extended through to Kambrook Road as was agreed between the MRC and Council and as requested by Ms Ireton who owns the property directly north of this section of laneway.

Five or Six Storeys to south west of Bond Street

The MRC proposed to extend the height allowable without a permit at the south west corner of its site with Bond Street, north of Station Street. This was exhibited as 63m AHD (5 Storeys). The MRC proposes now to allow 6 Storeys or 66m AHD. This was based on evidence of Mr Sheppard that the view lines to the area were limited.

The proposed adjoining development to the north and west is 4 storeys with three storeys proposed to the interface with Heywood Street to the north east. The Panel sees the addition of another storey here without a planning permit too great a change in current character expectations, particularly when this was not exhibited to the community. Accommodation of 5 storeys can act as a transition between the agreed 4 storeys to the west and proposed 5 – 6 storeys to the east. Any addition over this height can be addressed as a planning permit process where adjoining properties, particularly those near the site to the south and south west can have normal third party review rights.

Setback of upper storey to pedestrian access

Mr Dodgshun submitted levels above 2 storey should be setback where they abut the proposed east – west pedestrian laneway from Kambrook Road to Bond Street. Whilst this as a design outcome may be an appropriate design guideline, the Panel find that it is unnecessary and inappropriate for it to be prescribed as part of the Incorporated Plan. Generally speaking, the Panel finds that podium or upper level setbacks should only be required in the Incorporated Plan where they seek to provide a specific design or amenity outcome to integrate with the existing residential area. That is where the setback is to an existing residential street, such as Bond, Heywood, Kambrook Road, or the north west section of Normanby Road, or a direct existing residential interface (such as 70 Kambrook Road).

Other upper level setbacks can and should be addressed on their design merits having regard to ResCode or design guidelines for higher density development as relevant.

Interface to 70 Kambrook Road and 2 – 4 Station Street.

The Panel has already addressed the access issues to these sites in Chapter 7.

It was noted by both Council and the MRC at the hearing that the height and setback diagram does not adequately address the residential interface to 70 Kambrook Road. The Panel agrees.

Mr Sheppard provided some suggestions to address this and this included a hand notated cross section. The Panel is not confident that the exact notations he proposed are relevant to the siting of the house at 70 Kambrook Road or the property at 2 – 4 Station Street, but agree with the principle that the application of ResCode principles should apply. For 70 Kambrook Road the Panel finds this should be modelled on protecting its amenity to accord with the amenity standards detailed in Clause 55.04 of the planning scheme. The Panel finds it reasonable that if these standards are not met a planning permit is triggered allowing third party review rights.

The interface to 2 – 4 Station Street will require more detailed consideration given its existing building to boundary and current development form as a service station. From the Panel's inspections this includes a brick wall on the north and eastern boundaries with the amendment land. The application of ResCode standards to this current development scenario are not logical. The Panel is aware that this service station is zoned Residential 1 and has recently changed ownership so therefore may also be redeveloped. This may however, capitalise on the existence of the boundary walls.

The Panel recommends the diagram be amended require ResCode standards be met where the amendment land abuts 70 Kambrook Road. However, the Panel considers this a more site responsive consideration will be required to 2 – 4 Station Street. Based on its current use and building form the Panel is satisfied that no specific setback is required as a permit trigger. The Panel therefore recommends the residential precinct plan remain as exhibited for this interface to 2 – 4 Station Street. As the Panel recommended, an amendment will be required to the mixed use precinct height and setback plan.

The Panel accepts other minor notation and clarification of the plan as proposed by the MRC and as noted in Figure 10.1 below.

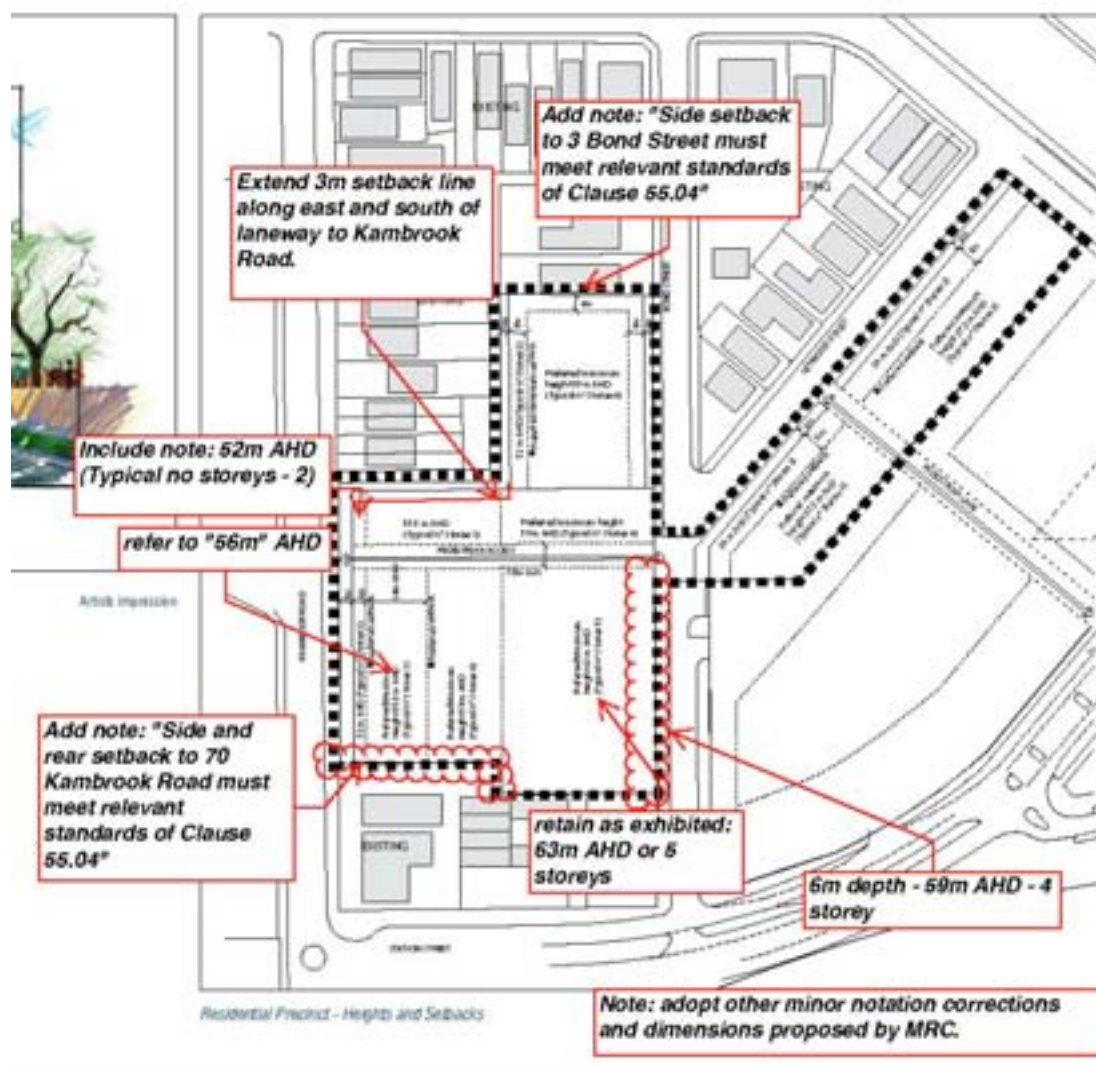


Figure 10-1 Amended Residential Precinct - Height and Setback diagram

10.5 Mixed Use Precinct

10.5.1 What are the issues?

As with the Residential Precinct both Council and the MRC proposed a number of changes. The Panel considers many of these unnecessary as the broader design guidelines and decision guidelines of the Priority Development Zone (which includes reference to Clause 52.35) will apply.

The Panel reiterates, as with the residential precinct that the height and setback diagram should only establish the triggers for a permit, not add general design directions.

10.5.2 Design Guidelines

The Panel does not comment on all the issues raised in the mark up copies submitted by Council and the MRC as the Panel consider many of these to be minor matters of style or preference that can be resolved between the parties prior to adoption. As with the residential guidelines, the Panel finds that many of the comments or additions proposed by Council, whilst not wrong, are not necessarily helpful. The document needs to be clear and concise. The Panel questions the value of adding comments such as "outdoor dining on both sides of the Boulevard will be encouraged". This is implicit in the zone use provisions and the general design sought for the area. The Incorporated Plan should provide specific design directions needed. Adding unnecessary comments can potentially distract from the important design directions. A general review of unnecessary comments should be undertaken prior to approval of the amendment.

The Panel addresses matters that it finds require particular resolution or adjudication between the parties. The Panel does not repeat previous discussion regarding the pedestrian / shared accessway that the Panel addressed in Chapter 7. Consequential changes however will need to be made to the Incorporated Plan to accord with the Panel's recommendations in this chapter.

Glazing of shop facades

The exhibited Incorporated Plan requires 50% of shop fronts at ground floor to be full transparent, glazed facades. Council submits this should be altered to 80%, but the MRC submitted this was impractical.

The principle of providing generally active, glazed frontage was not disputed, only the tool by which it is tested. It was apparent that the MRC's representatives interpreted the 80% as the whole shopfront, but Mr Montebello

corrected that his view was that Council intended it be 80% of the shopfront width.

The Panel finds 50% of the whole shopfront provides a better measure, as this requires a benchmark for the whole shop front, not simply if the width includes glazing, but only for a small height.

Again the Panel notes that the general provisions of Clause 19.03 and the Activity Centre Guidelines provide guidelines for these matters and the Panel questions if any prescriptive benchmark is necessary or workable. Indeed by setting a benchmark, it leads to a baseline assessment, rather than objective based assessment, with an argument that the benchmark and therefore the objective has been met, although the actual design outcome may be poor.

However, given the desire of Council to use a benchmark and the general agreement of this by the MRC the Panel accepts it may provide a benchmark tool. The Panel recommends that it should be based on "50% of the shopfront facade".

10.5.3 Building Heights

The MRC proposes to increase the height of allowable building without a planning permit for some areas. The Panel notes that these are the triggers before a development plan consent (that is only contested between Council and the developer), becomes a planning permit where third parties may be involved. In either event, if a dispute exists between Council and the developer, the matter may be reviewed by VCAT if requested. The only questions are whether third parties are involved and what design objectives are sought.

The purpose of requiring a permit, rather than a development plan consent therefore needs to be considered. The Panel finds the relevant matters to consider are the proximity of existing residential areas and therefore possible residential amenity issues as well as transition in character from existing residential development to expected more intensive built form. The Panel also notes that there are specific issues relating to 3 Normanby Road. The following findings are general and assume consolidation of 3 Normanby Road into the developable land. If the site is not in contiguous ownership with the MRC land then specific design directions the Panel recommends elsewhere in this report will need to apply.

The Panel makes the following findings:

- Given the mixed use nature of this land, and its general separation from existing residential properties, the Panel agree the amenity impacts and need to maintain existing character in much of this area is limited.

- The site at the north west corner of Bond and Station Street, however, should be retained as 64.5m AHD, or modified to 65m AHD with notation 5 Storey for similar reasons to that identified in the residential precinct for the land immediately to the north of this site.
- The land between Bond, Station and the Boulevard, south of the Pedestrian laneway may increase in height to 6 and 8 storeys with altered AHD heights provided the text to the guideline interpretation retains comment that there is still a need to address pedestrian amenity and interface to Station Street. The Panel sees no reason to 'require' a 4 storey podium to Station Street, however, design of this interface still needs to address pedestrian amenity. The Panel is satisfied that general design directions of the planning scheme can address this.
- North of the Pedestrian laneway a transition of 3 to 6 and then 8 storeys from Heywood Street to The Boulevard is appropriate (setting aside interface issues to 3 Normanby Road that are discussed in Chapter 10.5.6).

10.5.4 Podium levels

The exhibited amendment includes no podium or lower height to street requirements for the interface south of the pedestrian lane, abutting the Boulevard or to Normanby Road. As a result of exhibition, the MRC proposed to include a 4 storey podium level for part of the developable area south of the Pedestrian laneway, to Station Street, but increase the height of the podium north of the Pedestrian laneway from 3 storey to 4 storey.

Council submits that a podium levels should be provided to all street interfaces including Station Street and Normanby Road and that the podium level should be 3 – 4 storeys.

Whilst the Panel agree with the need to provide for pedestrian amenity and that a podium is the most logical way to achieve this, the Panel are not confident that prescribing a setback of 6 metres provides a good design outcome. The exact design, height and setback of podiums should be sufficiently flexible to address individual building design. The Panel is concerned that prescribing a podium height and setback may lead to scenarios where best design is compromised by meeting (for example) a 6 metre setback so as to avoid a need for a planning permit, when the decision to be made should only be a design assessment by the responsible authority, having regard to objectives and guidelines of the zone, Incorporated Plan and relevant other guidelines and policies.

The height and setback diagrams determine permit triggers. The Panel finds that whilst there may be value in detailing where podiums are a preferred

design outcome in the Mixed Use and Smith Street precincts, they should be on a separate diagram that is not linked to permit triggers.

The Panel therefore recommends that the podium setback to the Boulevard and the pedestrian laneway be removed from the height and setback diagram as a permit trigger.

Podium in Normanby Road

The Panel finds one location where a podium level should form a permit trigger is along Normanby Road, between the Boulevard and Heywood Street. Putting aside the issues with Lot A (3 Normanby Road), this interface will link the residential form to the north west and the defined height and setback of the residential precinct of 3 storeys. The Panel finds to have a building height of 6 – 8 storeys to this street edge is too strong an edge when there is a transition to the residential area required. In this location The Panel finds merit in prescribing the podium setback into the height and setback diagrams so that any height over this will require a planning permit and third party review. Given the proximity to existing residential form the Panel finds this appropriate. A podium of 4 storeys for a depth of 6 metres is a suitable benchmark.

Council submitted the north western section of the Normanby Road interface should be a landscape interface. The Panel does not see this is necessary or an efficient use of space given the mixed use intent of this land. Building height and podium levels can provide a sufficient transition to the residential area to the north west.

10.5.5 Car parking

The exhibited document had a general requirement that stated:

- *Car parking is to be provided by integrated on site provision with supplementary on street car parking provided on the Boulevard and Station Street*

Council submitted this should be deleted and replaced with a number of more specific requirements, similar to that in the residential precinct.

The Panel finds the exhibited wording to be sufficient to enable each development plan to be assessed on its merits, and importantly that coordination of car parking design be considered. The Panel does agree the addition of a guideline for a loading bay is useful and should be added as noted in agreement between Council and the MRC.

10.5.6 Interface to 3 Normanby Road

Background

The Perring family live at 3 Normanby Road. The house has been in the Perring family ownership since it was constructed in 1910. The house is isolated from any other residential property being surrounded by grass car park area owned by the MRC. This surrounding land has been acquired by the MRC over a number of years. The Panel has viewed aerial photography dating from 1945 demonstrating that even then, the land to the east and south of the Perring property was a grass open area.

It is the Panel's understanding that the Perrings have consistently resisted offers by the racing club to purchase their land and, over time, have seen their property affected by a number of amendments that have altered the potential development opportunities but also the potential amenity impacts to their land. These include Amendment L36 (1999 – rezoned land to mixed use), Amendment C14 (2002 – Phoenix Policy introduction) and in 2007 a permit to alter the carpark used for Members that adjoins their land.

Whilst the potential for development adjoining their land has existed since the approval of Amendment L36 to mixed use, Amendment C60 will enable development that accords with the Priority Development Zone and the Incorporated Plan building height and design provisions to occur without planning permit review opportunities by the Perrings. This includes more intensive built form, of 6 – 8 storeys around the Perring property on the basis that this land has been previously identified as mixed use and can facilitate a larger building footprint.

The other residential interfaces to the MRC land, affected by the Priority Development Zone are within the Residential precinct and may see development of 3 – 5 storeys adjacent to their properties with setbacks generally to accord or exceed the normal ResCode provisions.

The Perring's request that development abutting their property be restricted to two storeys and that the non residential uses be sited south of the pedestrian laneway, away from their property.

Whilst the Perring family continue to own their property as a separate entity to the surrounding MRC land the interface to their property will need to be addressed. The question remains as to what form of interface treatment should be expected. Should the Perring family be entitled to expect abutting development to meet ResCode provisions, as they would if they lived in a conventional residential environment?

Discussion

The treatment of the Perring property interface has been a challenging issue for the Panel to address. On the one hand is a metropolitan significant project that can create significant new population and employment opportunities in an ideal activity centre location being potentially compromised by a single land holding. On the other hand is a family, particularly Mrs Lee Perring who (to the Panel's knowledge) has lived at the property her entire life and has accommodated her lifestyle over continuous changes around property over her life-time.

Putting aside the emotional stress and personal impacts of site consolidation on the Perring family, it makes logical planning sense to consolidate 3 Normanby road into the surrounding land develop it as a contiguous parcel. Not only does this enable more development, it can facilitate more intensive, larger footprints without any need to address residential interface issues.

There remains a balance that needs to be struck between protecting the rights of the individual Perring family, against the community benefit that can ultimately be gained by enabling the mixed use area to develop to its full capacity.

As Mr Morris submitted there are forceful means by which the planning system can require the consolidation of the Perring property into the MRC land, via mechanisms such as the Public Acquisition overlay. These, to date, have not been sought, and it is the Panel's hope that a reasonable contractual arrangement will in due course be met between the Perring family and the MRC that will enable the eventual purchase and consolidation of the land as part of the redevelopment site without the need for such tools.

The Amendment will remove the opportunity for the Perring family to participate in the permit process for development that meets height and setback provisions of the Incorporated Plan. They will maintain rights to view the development plan that may impact their site and make comment on any development plan to Council only.

The exhibited building heights and setbacks provide for up to 5 storeys around their property without a planning permit.

The exhibited amendment also includes "Lot A guidelines" that, in addition to this height restriction without a permit, states that development abutting 3 Normanby Road should not exceed 2 storeys be setback "*generally in accordance with Clause 56¹⁵... unless otherwise agreed by the owner of Lot A*". The guidelines

¹⁵ Note: the Panel have assumed this is a typographical error and should refer to clause 54 and 55.

also require all development to address the reasonable amenity of the existing dwelling on Lot A, particularly issues of overshadowing, overlooking and solar access to private open space. The Panel finds it is not clear if these guidelines are to be read as part of the height guidelines that if not met, trigger a planning permit.

As a result of exhibition MRC proposed alterations to enable 6 storeys to the west of the Perring property and 8 storeys on and to the east (and retention of the Lot A Guidelines). This land to the east comprises approximately 15 metres between Lot A and the Boulevard, or 24 metres including the Lot A frontage. Within this the Incorporated Plan also requires the first 6 metres to The Boulevard to be only 4 storeys. This leaves approximately 9 – 10 metres of land east of the Perring property to accommodate 8 levels of development.

The Council did not object to the additional height proposed by the MRC, only the need to maintain a podium level of 3 – 4 storeys to face Normanby Road and the Boulevard.

Our reading of the alterations are that there is, in theory, potential to construct 8 storeys to the east and 6 storeys to the west of the Perring property without a planning permit. A development plan would still be required, with the Lot A guidelines needing to be considered.

The Panel finds the prospect of constructing 8 storeys directly east of the Perring property without conventional opportunities for third party notice to address “material detriment” as required by the planning scheme, to be too great. The Panel also questions if there is sufficient land east of the property to construct an 8 storey building when also accommodating a 4 storey podium to the Boulevard.

The Panel therefore finds that the height and setback provisions should be amended to state that until the Perring property is consolidated into the development site, building over 4 storeys at this north east section of the Mixed Use area should continue to require a planning permit so as enable the interface issues to the Perring property to be adequately addressed, including review rights.

The Panel does accept that the land to the west may accommodate development up to 6 storeys without a planning permit. This land is larger in footprint, so can address interface issues more easily.

The Panel recognises that this does limit the development of the mixed use area, but only to the extent that it will require a planning permit, and therefore afford the owners of 3 Normanby Road third party review rights, until such time that the property is in contiguous ownership with the MRC land.

The Panel further recommends that this height restriction be noted on the plan so that it is clear that if the height is not met, a permit is triggered. The Panel accepts the other setback guidelines can be 'guidelines' that form part of the assessment of the development plan. The 4 storey height restriction should extend for a width of at least 3 metres west of the Perring family house. The Panel notes the diagram forming part of the Incorporated Plan suggests the house is located nearer the eastern side boundary, however, this conflicts with aerial photography and site inspection that suggests the house is only 1.2 – 1.5 m from the western side boundary. The house and title boundary needs to be correctly notated on the final adopted plan.

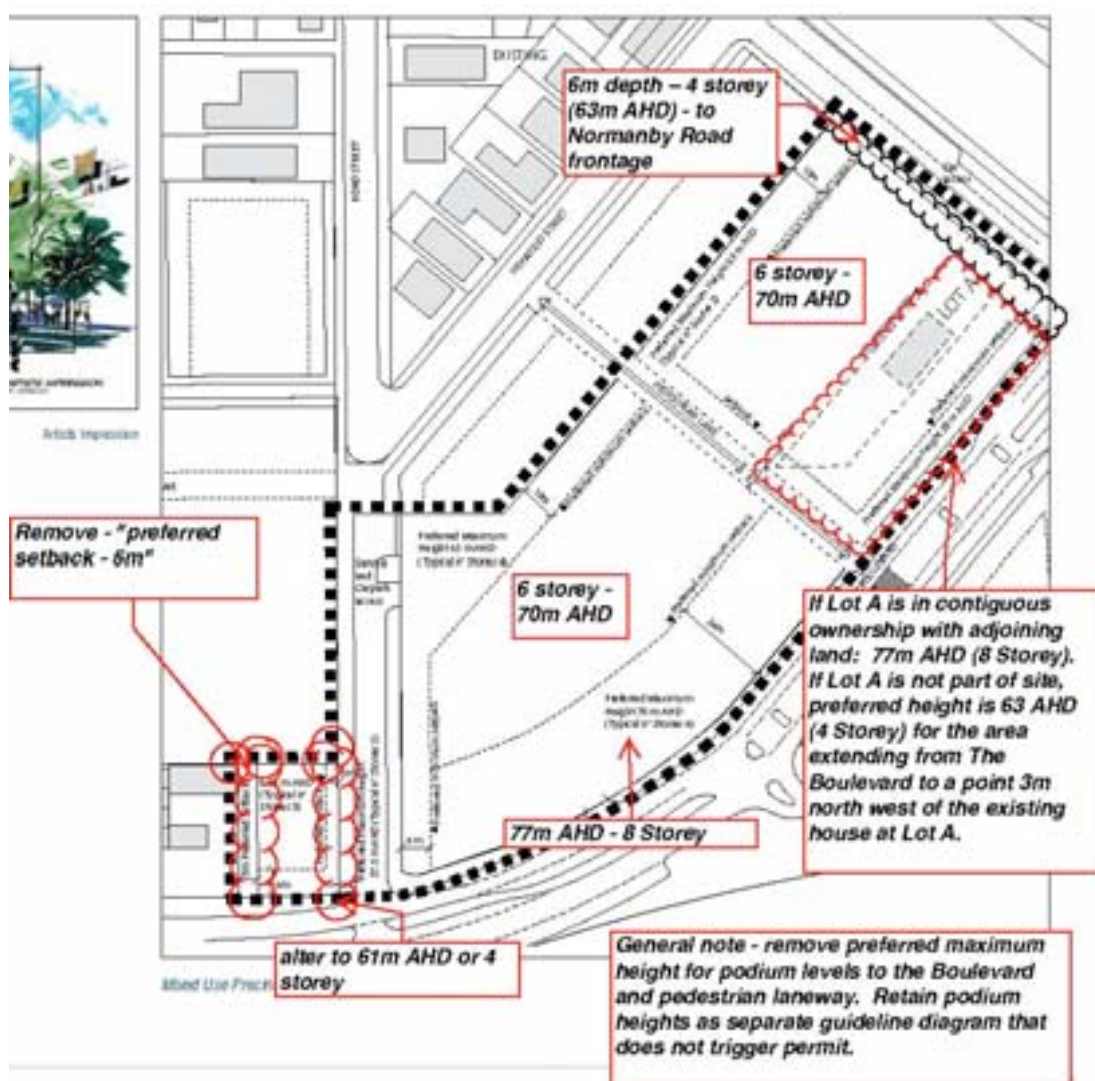


Figure 10-2 Amended Mixed Use Precinct - Height and Setback Diagram

10.6 Smith Street Precinct

10.6.1 What are the issues?

As with the Residential and Mixed Use Precincts both Council and the MRC proposed a number of changes.

The Panel reiterates that the height and setback diagram should only establish the triggers for a permit, not add general design directions. The Panel also reiterates the comments they made in previous sections regarding whether all the changes and detail proposed for the Incorporated Plan is necessary. The Panel again recommends that the document be reviewed prior to adoption for clarity of purpose.

The Panel again also does not comment on all the issues raised in the mark up copies submitted by Council and the MRC but address matters that the Panel find require particular resolution or adjudication between the parties.

10.6.2 Design Guidelines

The Panel reiterates their findings of Section 10.4 in relation to the need for glazed facades and carparking. The Panel recommends that it should be based on "50% of the shopfront facade". The Panel notes that the exhibited version of the document makes no comment on carparking design. The Panel recommends a comment be included into the Smith Street precinct, similar to the mixed use precinct that carparking should be considered as part for the integrated design of development, without making specific direction regarding its location or design.

The significant difference between this precinct and the others is that there are no immediate or even proximate residences to the developable land. Therefore the amenity impacts of development are to public areas to Normanby Road, Station Street, Smith Street and the Boulevard to which Council has primary responsibility as public land manager.

Therefore the Panel considers the need to debate design elements such as height, podium height and setbacks are matters that only need to be debated between Council and the developer in the same way that controls would apply in a Business zone or Activity Centre zone. This is reflected in the Panel's findings below.

Pedestrian interface and balconies

Council has requested an additional guideline that balconies overlooking the boulevard "must be wholly contained within the property boundary". The

MRC state it should be “preferably” within the property boundary. It also questioned this inclusion in the mixed use precinct but in this location did not offer alternative wording. As this part of the Incorporated Plan is to provide guidelines, the Panel finds the reference should be to “preferably”. Overhang of balconies into public space will remain a matter of discretion for Council and/ or VicRoads as public land managers.

The Council proposes additional words to require verandahs to all street interfaces and that both Normanby Road and Station Street frontage be designed to be pedestrian friendly.

The Panel agrees that both Normanby Road and Station Street should be pedestrian friendly, as they will attract many pedestrians accessing the station and the development. However, given the possible design scenarios for the site, the Panel does not see that “deep cantilevered verandahs” should be prescribed to all street frontages. Verandahs will need to be addressed according to design outcomes, and should be provided where retail frontage is proposed, notably to Smith Street and the Boulevard. Depending upon final design they may or may not be appropriate to Station street and Normanby road. This can be addressed at detailed design stage having regard to the various existing polices and guidelines that affect development of development over 4 storeys and in activity centres.

10.6.3 Building Heights

The MRC proposes to increase the height of allowable building without a planning permit from the exhibited 10 storeys to 12 storeys between the Boulevard and Smith Street. It then proposes to remove the 12 storey height restriction east of Smith street, with no preferred height limit.

A number of residents were alarmed that this may lead to a building at the east end of the site of 20 or more storeys high. The question remains for the Panel however, as to what is the amenity impact of this that would require resident involvement, including third party review rights through a planning permit process.

The concerns raised by residents included the impact of tall buildings to the Caulfield station to the south east, overshadowing of Station Street and part of the Caulfield Racecourse land and loss of views from the train as it travels north west from the station.

In the context of activity centre planning, the Panel finds these are all matters that can be addressed reasonably by Council without maintenance of third party review rights.

The Panel makes no findings on what is the ultimately preferred height of a building east of Smith Street, only that the height should be determined by more detailed design, not a need to maintain a prescribed height so as to address neighbourhood character or protect immediate residential amenity.

The Panel notes that a number of residents questioned the capacity to address good design, referring to poor quality building designs at Monash University. The Panel also notes that some of the older buildings at Monash university are poor design outcomes. However, the Panel is comfortable that the current planning provisions, in the proposed zone, Incorporated Plan and existing policy and decision guidelines that affect development are far more sophisticated than would have existed when these buildings were constructed. Indeed the Panel notes that much of Monash university is in a public use zone and the buildings may not have been assessed at all under the planning scheme.

The Panel also notes that height need not mean bulk. There are contemporary examples of higher built form that do not result in significant bulk or clumsy form. What will be important is that the assessment of building design for the Smith Street precinct consider how the design of proposed buildings creates an architectural legacy that is worthy of its potential landmark location.

10.6.4 Podium levels

As with the mixed use area Council submits that a podium levels should be provided to all street interfaces including Station Street and Normanby Road and that the podium level should be 3 – 4 storeys.

The MRC submitted they should not be required to Normanby Road or Station Street, although the Panel notes that the documents tabled by the MRC continue to show a podium to abut Station Street, west of Smith Street.

As with the mixed use area the Panel sees a particular need for podiums to the likely “shopping” streets of the Boulevard and Smith Street.

The Panel also sees a design rationale to provide podium level to Station Street on both sides of Smith Street. This would ensure a stronger pedestrian interface to Station Street, although the Panel acknowledges that there may be other tools to address pedestrian interface to Station Street than through use of 6 metre deep podiums.

The Panel finds the design debates for the land east of the Boulevard should be only between Council and the developer, regardless of whether a podium is provided or not. If a dispute remains between these two, then the development plan can still be referred to review by VCAT via Section 149 of the Planning and Environment Act.

The Panel finds the design guidelines of the Incorporated Plan should clearly state the design intention is to establish pedestrian friendly interfaces to all streets through use of podiums or other design treatments to all street frontages (being the Boulevard, Smith Street, Normanby Road) and Station Street. This may include a separate diagram illustrating where podiums are preferred, but not part of a diagram that defines permit triggers.

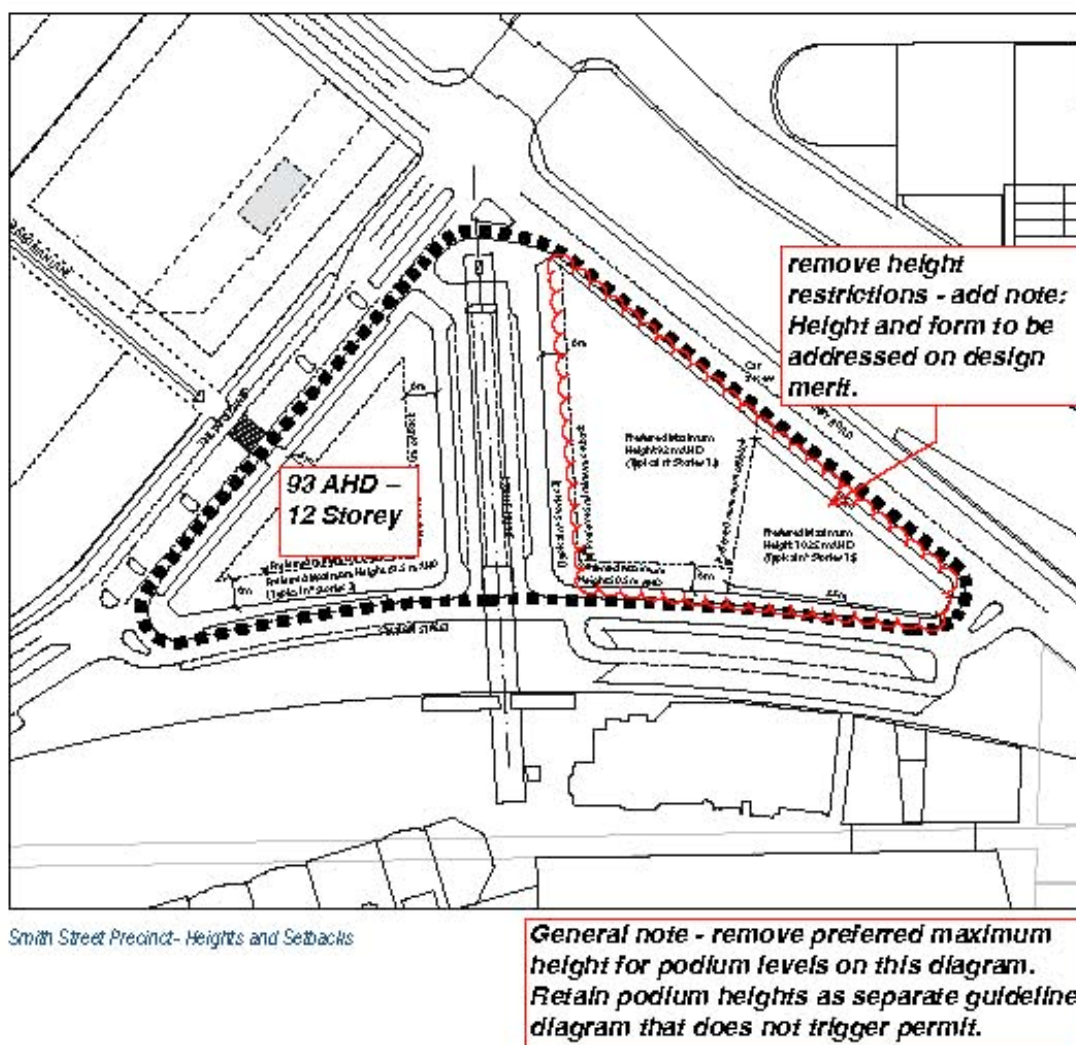


Figure 10-3 Amended Smith Street Precinct - Height and Setback Diagram

10.7 Document presentation and illustrations

10.7.1 What is the issue?

Throughout the Incorporated Plan are illustrations of possible development outcomes. These are intended to illustrate one possible outcome of the guidelines and requirements of the Incorporated Plan. Council submitted that a number of these illustrations should be redrawn as they were not indicative of preferred design outcomes or did not illustrate a correct interpretation of the

Incorporated Plan. A number of residents were also concerned at the designs shown in the drawings as being too tall or imposing. The Panel noted that in some instances it appeared residents had trouble interpreting what the diagrams represented or created a sense that the illustration was exactly what would be the outcome.

The MRC submitted the illustrations should be retained for information, but with a note to state "Artist impressions are not intended to form a controlling element of this Incorporated Plan".

10.7.2 Discussion

The use of the illustrations in the Incorporated Plan provides 'colour and movement' to the presentation of the document. However, given the status of the Incorporated Plan as a tool that must be relied on in the interpretation of the planning scheme, there is a danger that the diagrams, even if marked as 'not a controlling element' will continue to be relied upon in interpretation of the controls of the document.

The document includes five illustrations, some of which already no longer represent the agreed design outcomes for the site. This includes the illustration on page 8 of a "view south down The Boulevard". This shows centre parking in the street, a view of the racecourse that appears out of context and built form of approximately only 4 storeys on the west side of the street.

The Panel finds there is potential that confusion and debate will continue over whether design guidelines and objectives of the Incorporated Plan are met if development plan outcomes do not accord with illustrations, however, 'indicative' they may seek to be. This was evidenced to the Panel by the literal interpretation a number of residents took to the use of the diagrams and other illustrative documents put to the Panel hearing.

The MRC may find it useful to include illustrations in marketing information and similar promotional tools, however, the Incorporated Plan is a statutory document that forms part of the planning scheme. If the illustration or diagram does not aid the interpretation of the statutory provision then it has no use in the planning scheme. Indeed the Panel finds it may hinder the correct interpretation of the planning scheme.

The Panel also notes that the Incorporated Plan should be a document that is easy by planners, designers and other users. The Panel recommends that the MRC and Council review the formatting of the document to a more simplified, A4, working format.

The important diagrams are:

- the Precinct Plan;
- identification of Incorporated Plan boundary;
- road and parking diagram;
- pedestrian circulation; and
- the three height and setback diagrams.

Other diagrams and photos are superfluous and potentially misleading in the document interpretation.

Each of the interpretation diagrams (e.g. height and setback diagrams) can be in A4 page format to enable the detail of the plans to be read and interpreted easily.

During the hearing, Mr Montebello tabled an alteration to the Priority Development Zone schedule, section 4.0 to clarify how to link the zone schedule to the Incorporated Plan. This was accepted by the MRC and the Panel agrees it clarifies the wording. The Panel therefore recommends this alteration be made.

Finally, the Panel notes that throughout the precinct diagrams heights refer to number of "stories". The correct spelling is "storeys" and should be corrected.

10.8 Recommendations

The Panel makes the following recommendations about the built form and design provisions of the Incorporated Plan

The following changes should be made to the Incorporated Plan.

- **Delete the dot point within "03 – Plan Objectives - Smith Street"**
To provide main vehicular site access from Station Street and Normanby Streets"
- **In section "04 – Networks" maintain wording similar to that exhibited but with alteration to the design guideline dot point starting "Station Street will be redeveloped..." to replace this dot point with words to the effect of:**
"Maintain Station Street as a main through route for both vehicles and pedestrians through the area."
- **In section 06 – Residential Precinct Guidelines:**
 - **Add a new guideline to the effect of:**
"Development at the south east corner of Heywood Street and Normanby Road should provide a gateway and transition from

residential development to the north west to Caulfield Village and address both street frontages."

- Add a general notation within the guidelines to the effect of:
"These guidelines should be read in conjunction with the relevant provisions of Guidelines for Higher Density Residential Development – 2004, or the Objectives of ResCode as relevant to the development proposed"
- Label the diagram forming part of 06 – Residential Precinct Guidelines "Height and Setback Diagram" and amend it in accordance with the notated plan in Figure 10.1 to this Panel Report.
- In section 07 – Mixed Use Precinct Guidelines:
 - The reference to ground floor retail development to include at least 50% glazed facades, be amended to refer to "50% of shopfront façade should be fully transparent, glazing".
 - Guideline text referring to podium levels should include a need to provide reduce building height, or podium form where development interfaces with Normanby Road, Bond Street and the Boulevard. The guideline text should also refer to the need to consider pedestrian interface to Station Street through use of podium or other design treatment, but not prescribe such a form in the height and setback diagram.
 - Guideline text to state "Balconies overlooking the Boulevard, Station Street, Normanby Road and Bond Street at upper level are strongly encouraged" should conclude with words "... and should be preferably contained within the property boundary".
 - Retain the exhibited guideline "Carparking is to be provided by integrated on site provision with supplementary on street car parking provided on the Boulevard and Station Street"; and do not include specific additional guideline proposed by Council to require parking to be in basements or buildings.
 - Amend the "Lot A Guidelines" to clarify these are guidelines, not permit triggers to be utilised if Lot A is not in contiguous ownership with adjoining land and should refer to Clause 55 of the planning scheme, not clause 56.
- The diagram forming part of 07 – Mixed Use Precinct Guidelines be labelled "Height and Setback Diagram" and amended in accordance with the notated plan in Figure 10.2 to this Panel Report.
- In section 08 – Smith Street Precinct Guidelines:
 - The reference to ground floor retail development to include at least 50% glazed facades, be amended to refer to "50% of shopfront façade should be fully transparent glazing".

- Guideline text to state “Balconies overlooking the Boulevard are strongly encouraged” should also include reference to other street interfaces. The guideline should conclude with words “... and should be preferably contained within the property boundary”.
- Include a guideline for carparking, to state “Carparking is to be provided by integrated on site provision with supplementary on street car parking provided on the Boulevard, Normanby Road and Station Street”
- Include clearer direction to podium requirements or “preferred location for podiums” diagram, separate to the height and setback diagram that defines permit triggers. Direction for podiums should be based on priority to provision pedestrian interface, with particular attention to retail frontage areas.
- The diagram forming part of 08 – Smith Street Precinct Guidelines be labelled “Height and Setback Diagram” and amended in accordance with the notated plan in Figure 10.3 to this Panel Report.
- The illustrations or “artist impressions” of the Incorporated Plan should be removed.
- Correct references to “stories” with “storeys” on all relevant plans.
- Correct the title and house alignment of Lot A to accord with its actual position.
- Other minor word changes as put to the Panel and agreed between the MRC and Council, as noted in the ‘mark – up’ version presented to the Panel on 20 May 2010, be adopted. These however, should be reviewed prior to adoption for clarity of wording and need. Additional guidelines should only be included where they add specific direction and do not simply duplicate general design objectives already provided for in the planning scheme and relevant reference documents.

The Panel also recommends Council and the MRC review the format of the Incorporated Plan prior to approval to create an A4 format document that is more easy to use on a regular basis for statutory interpretation. This should include consideration to adding a scale (and north point) on the plans as an interpretation aid.

The Panel recommends the Priority Development Zone schedule be amended as follows:

- Alter Section 4.0 of the schedule to clarify when a permit for buildings and works is required to state:
 - *A permit is not required to construct a building or construct or carry out works if the buildings or works are in accordance with a development plan for the land approved under this Schedule*

and do not exceed the preferred maximum heights or encroach in to the preferred setbacks set out in the Incorporated Plan.

The Panel finds the following specific changes should not be made to exhibited documents as proposed by Council:

- Do not include design guidelines into “height and setback diagrams”
- Do not include superfluous design guidelines that are already addressed by policy and design reference documents.
- Do not include the additional objective in “03 Plan Objectives – Mixed use Precinct” proposed by Council to state:

To encourage mixed use development above with accommodation providing the interface between the mixed use precinct and the residential precinct within the mixed use precinct.”
- In section 06 – Residential Precinct Guidelines:
 - Do not include the additional dot point “buildings will not turn their side to any street”.
 - Do not include the additional dot point titled ‘carparking’ as proposed by Council after exhibition.

11. Statutory Implementation

11.1 Priority Development Zone issues

From submissions made there were a number of specific issues arising from the proposed amendment wording. The Panel has determined in Chapter 5 that the fundamental premise of the Priority Development Zone is accepted.

Some issues, including provision of open space, shop floor area limits, road requirements and design and built form triggers are addressed in chapters above. This chapter addresses other specific amendment wording issues.

Council tabled an updated version of the Priority Development Schedule with proposed changes from exhibition, prior to the hearing and a further update on the first day of hearing, 18 May, 2010. Changes the Panel discusses in this chapter and alterations from the exhibited schedule are based on this amended version tabled by Council on 18 May, 2010.

A number of the changes proposed by Council are technical or administrative in nature. The Panel supports these changes. The Panel only discusses issues they have identified where there is dispute or concern that the changes are significantly different from the exhibited amendment.

Particular issues the Panel identified include:

- Should student accommodation be an as of right, or permit required use in the zone?
- What infrastructure requirements should be in the schedule?
- Are there any other wording changes required to the zone schedule or relevant local policies?

11.1.1 Student Accommodation

What is the issue?

The exhibited PDZ schedule includes dwelling as a use that does not require a planning permit. Council proposes to add other accommodation uses (other than Camping and caravan park, Corrective institution, Host Farm) as uses that do not require a planning permit, into all areas of the zone, but with a restriction that in the residential precinct, student accommodation use will require a planning permit.

The MRC agree with the intent of the change, but argue that student accommodation should be a permit required use across the whole zone so as to ensure that the use does not dominate the area and to trigger the student accommodation policy at Clause 22.09.

On the other hand, Monash University argued that student accommodation should be an as of right use, across the entire zone, as the entire Phoenix Precinct is identified in the existing student housing policy as the preferred location for student accommodation.

No other submitter specifically addressed the proposed changes to accommodation, however the Panel notes that resident submitters raised general concern at the number of changes proposed to the amendment after exhibition. Some residents also expressed concern that student housing caused greater amenity issues and should require a planning permit for use. The Panel addresses the use changes proposed in context of these concerns.

Evidence and Submission

Ms Quigley submitted on behalf of Monash University that student accommodation should form one of the as of right uses in the zone as it was consistent with the purpose of the zone and provisions of Council's MSS that identified the Phoenix precinct as a preferred location for student accommodation.

In contrast Mr Finanzio submitted on behalf of the MRC that the primary objective of the amendment was not to extend the influence of the university over a greater area of land, but introduce uses that will complement the university's presence. To allow student accommodation without a permit raised a risk that the area would be dominated by student accommodation, thereby failing a key objective of the amendment to broaden the uses in the activity centre.

Mr Finanzio also submitted there was a technical need for the use to require a permit, so as to trigger the provisions of the Student Accommodation local policy, Clause 22.09.

Council submitted the use should require a permit in the residential precinct where there were greater issues of amenity to address and direct interface with existing residential areas, but not in the Mixed Use or Smith Street precinct.

Findings

In short, The Panel agrees with Council regarding where student accommodation should require a planning permit. The objectives of the zone include to integrate and complement the activity centre and university uses to

the north east. The Panel therefore finds that student accommodation is a directly relevant and appropriate use to the area.

The question in the Panel's mind is what purpose there is to requiring a permit for use. The Panel finds that in the residential precinct where there are more sensitive issues of interface to existing residential areas, there is a need to address the more intensive impacts of student accommodation use on the existing residential area and capacity of streets such as Bond and Heywood Streets. There are logical amenity issues to address in a permit for use in this area.

Within the Mixed Use and Smith Street precinct, there are fewer amenity issues to address. As Mr Jebb indicated in examination, whether student accommodation can sit next to higher value accommodation could be addressed through design. The Panel wonders what matters would need to be addressed in considering a permit for use of student accommodation in these mixed use areas. The Panel finds the use is consistent with the zone purpose. There is a risk that the use may dominate over other accommodation uses, but as with other forms of use, it is difficult, and generally considered inappropriate for the planning scheme to define how much of a particular form of use is appropriate. In the same way that planning for 'shops' does not seek to define how many bakeries or butchers should occur in one area so that one form of retailing dominates over another. The Panel finds it concerning that the MRC suggested that too much student accommodation may inhibit the market desirability to accommodate more expensive accommodation in the area, particularly when affordable housing has been previously identified as an important component of area (as discussed elsewhere in this report).

The only other use issue is assessing the intensity and management of the use. Clause 22.09 – Student accommodation requires matters of management to be addressed for permits for development as well as use. Given the intent of the mixed use and Smith Street precincts to be more intensive built form and generally mixed use in nature, the Panel finds they are areas where student accommodation should form part of uses that do not require a permit, similar to motel, office and food and drink premises, all of which can be intensive in use, but appropriate to mixed uses areas.

The Panel finds clause 22.09 will still be triggered in consideration of 'development' of student accommodation, regardless of whether a permit for use is required. If there is any doubt about this, a simple addition can be made to the preamble of Clause 22.09 to state that it applies to use permits and development plans.

This then enables the normal matters of student accommodation management to be addressed by the responsible authority.

The Panel does note that the wording alteration proposed by Council will enable a range of accommodation uses across all three precincts, but with “student accommodation” being a permit required use in the residential precinct. The Panel’s reading of the wording is that this will enable some other uses, notably “motel” to establish in the residential precinct without a use or development permit. The Panel finds this to be a significant shift from the exhibited amendment that only enabled a dwelling without a permit.

The Panel notes that residential aged care and residential village or retirement village will also become non permit require uses. However this is consistent with the state amendment regarding residential aged care facilities to all schemes made via Amendment VC50 in December 2008 and the general concepts, exhibited for the site that have included options for retirement accommodation in the residential precinct.

Given the more sensitive interface of the residential precinct, the Panel finds the wording of the provision should be reviewed to ensure that it is only dwelling and retirement accommodation (both self contained and aged care facilities) that do not require a planning permit, not other more intensive residential buildings such as student accommodation, motel and short stay accommodation.

11.1.2 Legal agreement for infrastructure

Issues and Submission

Clause 9.0 of the schedule makes two requirements on the developer. One is to provide a monetary contribution toward open space. The Panel has addressed this in Chapter 9.

The second requirement is to enter an agreement that states:

- *the Owners will provide all works, services and facilities constituting the infrastructure and development as outlined in the development plan to be approved by the responsible authority by an agreed date, to the satisfaction of the responsible authority. The agreement may provide that works can be carried out on a stage to stage basis where works directly relate to the stage being developed*

On opening submission, Council made no direct comment on this paragraph, only noting that the heading of the provision should be altered to read “Requirement for a legal agreement”. This was agreed by the MRC and the Panel accepts this as a technical correction.

Council in its closing submission recommended that the paragraph be amended to specify more clearly the likely works or funding required for projects. In this it listed a number of projects including:

- *The reconfiguration of The Boulevard, Normanby Road, Underpass signalised intersection;*
- *The construction of The Boulevard;*
- *All works required to close of any roads, which are subsequently closed by Council to facilitate the development of the land.*
- *The construction of the intersection of The Boulevard with Station Street;*
- *The signalization (including pedestrian signals) of the intersection between The Boulevard and Station Street;*
- *Improvement of linkages between the site and the railway station across Normanby Street;*
- *The reconfiguration of the "Y" intersection between Normanby and Station Street*
- *The reconfiguration of the laneway in the south western part of the MRC site prior to closure of the existing laneway;*
- *The improvement of the intersection between Kambrook Road and Station Street to:*
 - *increase the capacity of the intersection and specifically, the right turn movement through the intersection; and at the same time;*
 - *ensure that pedestrians with a safe crossing point across Kambrook Road.*
- *Any roadworks required on the adjoining road network which are required as a result of a detailed traffic report informing the Traffic Management Plan carried out as part of the Development Plan approval.*

Alternatively, Mr Montebello submitted the matters of agreement could be removed from the amendment, but the amendment not approved until a voluntary agreement was entered into with the developer to provide for necessary contribution toward infrastructure.

Mr Montebello explained that Council's key concern with the exhibited provision was that there was no limitation on the current landowner to contribute to works, prior to subdividing the land or the land being sold into separate ownerships. While the land remains in one ownership the exhibited provision can work. However, if the land is sold or subdivided to multiple owners it will make such an agreement unworkable.

Mr Montebello submitted that Council considers the obligation should rest with the initial (i.e. MRC) owner and the initial owner (MRC) can then determine through its various contracts and legal arrangements who will be responsible for what.

Mr Morris stated the MRC accepted a need to contribute toward infrastructure, although he questioned if some of the matters raised by Council were directly relevant to the development of the land and therefore matters that should be borne by the MRC. The Panel's understanding of Mr Morris's verbal comments in closing was that the MRC did not consider it their responsibility to address pedestrian access at the south east corner of its area, being the intersection of Normanby and Station Street.

He also stated that if the alternative approach were taken, the amendment should not be held up awaiting signature to a voluntary agreement between the MRC and Council.

Discussion and findings

The exhibited amendment requires the agreement to be entered into with the owner, prior to the approval of the development plan. The Panel agrees there is a concern that the land may be split into various ownerships prior to a development plan being approved, and therefore how the agreement is approved and implemented may become complex, to the point of being unworkable.

In this regard the Panel agrees with the intent of Council's submission to require the MRC as current owner to enter an agreement to provide for infrastructure required as a result of the amendment. The Panel finds this should include pedestrian and civic improvements at the intersection of Normanby Road and Station Street. This intersection forms part of the Incorporated Plan area and was identified for improvements in the urban design response that formed part for the exhibited amendment and supporting material. Submissions and findings the Panel has already made about inter-connection with the station highlights that this will be a key pedestrian and vehicle entry to the site and is a public piece of land that could be better utilised as a civic space.

The Panel finds that relevant elements that should be included in an agreement are:

- the reconfiguration of The Boulevard, Normanby Road, Underpass signalised intersection in accordance with the integrated transport plan;
- the construction of The Boulevard;

- the reconfiguration of the laneway in the south western part of the MRC site prior to closure of the existing laneway;
- all works required to close any roads which are subsequently closed by Council to facilitate the development of the land.
- the construction of the intersection of The Boulevard with Station Street with any need to signalise this intersection in accordance with the integrated transport plan;
- the reconfiguration of the "Y" intersection between Normanby and Station Street to provide:
 - safe pedestrian crossing between the Incorporated Plan area and the station.
 - improved civic space.
- the improvement of the intersection between Kambrook Road and Station Street to:
 - increase the capacity of the intersection and specifically, the right turn movement through the intersection; and at the same time;
 - ensure that pedestrians with a safe crossing point across Kambrook Road.
- any roadworks and pedestrian improvements required on the adjoining road network which are required as a result of a detailed traffic report and comments of the Department of Transport informing the Traffic Management Plan carried out as part of the Development Plan approval.

The Panel finds these matters could be specified in the zone schedule with a exhibited preamble. However, this still leaves open the possibility that the MRC may need or choose to sell part of the development land prior to the development plan being approved and these infrastructure items needing to be costed and delivered via multiple owners without a clear Development Contributions Plan.

Alternatively, a voluntary agreement, entered into prior to the approval of the amendment could ensure that the current owner (the MRC) has responsibilities to either fulfil the infrastructure requirements or transfer these to future owners.

Such a voluntary agreement could be general at this stage to the effect of:

It (the owner) shall not make any application for a planning permit for the subdivision of the subject land or sell any land forming part of the Priority Development Zone (schedule 2) unless and until either:

- *A Development Contribution Plan applying to the subject land is incorporated into the Planning Scheme; or*

- *The Owner enters into a further Section 173 Agreement, under which it agrees to either provide all works, services and facilities constituting the infrastructure and development as outlined in the development plan to be approved by the responsible authority by an agreed date, to the satisfaction of the responsible authority. The agreement may provide:*
 - *That works can be carried out on a stage basis where works directly relate to the stage to the satisfaction of the Council.*
 - *That monetary contribution be paid to Council in lieu of works to an amount to the satisfaction of the responsible authority.*

This more general requirement would then require an agreement for infrastructure to be entered into between the MRC and Council prior to the MRC selling any of its land, but this agreement could then be more tailored to the outcomes of the development plan and integrated transport plan.

This more general agreement would need to be entered into prior to the amendment being approved as a voluntary agreement. The Panel agrees with Council that this needs to be done prior to amendment approval to ensure that the agreement will run with the zone provisions and is the only time at which a trigger exists to enter the agreement without a risk of the land being sold or subdivided once the land is rezoned.

The Panel does not see that entering such a general agreement would be unnecessarily onerous or complicated. It is a simple over-arching agreement to require the owner (MRC) to enter a more specific agreement when more details about infrastructure is known, but ensures that this agreement is with the one landowner.

The Panel therefore recommends that a voluntary agreement to achieve aims of suggested wording above be entered into between the MRC and Council prior to approval of the amendment. If this cannot be achieved, then a more detailed revision of Clause 9.0 listing works as detailed above should be added to the schedule. The Panel maintains, however, their view that this still leaves risk that the land may be sold or subdivided prior to the agreement being made and more complex infrastructure costings and agreement arrangement will need to be determined.

11.2 Local Policy 22.06 – Phoenix Precinct

The exhibited changes to the policy were generally accepted by parties, other than general resident objection to the strategic intent of the amendment that the Panel has addressed in previous chapters.

A number of changes were proposed to the local policy after exhibition. As with the changes to the zone schedule the Panel generally support these changes where they are technical or correct anomalies in exhibited wording.

Council and the MRC both agreed there was a need for the policy to separate decision guidelines for the residential areas not affected by the Incorporated Plan from those areas that did form part of the Incorporated Plan.

The Panel supports the need for this change to reflect the existing policy that affects residential areas east of Kambrook Road, but are not affected by the Incorporated Plan.

11.3 Recommendations

From the matters regarding statutory implementation not elsewhere addressed in the report the Panel makes the following recommendations

Prior to approval of the amendment the MRC and Glen Eira City Council enter a voluntary agreement to require the MRC to enter into further agreement prior to selling any of its land to provide all works, services and facilities constituting the infrastructure and development as outlined in the development plan to be approved by the responsible authority by an agreed date, to the satisfaction of the responsible authority. The agreement may provide:

- **That works can be carried out on a stage basis where works directly relate to the stage to the satisfaction of the Council.**
- **That monetary contribution be paid to Council in lieu of works to an amount to the satisfaction of the responsible authority.**

Amend the exhibited Priority Development Zone – Schedule 2 as follows:

- **Amend the use table to enable Student accommodation as a Section 1 non permit required use in the Mixed Use and Smith Street precincts. In doing so ensure that other residential building uses, notably motel, backpackers lodge, boarding house and hostel do not become Section 1 uses in the Residential precinct.**
- **Adopt other corrections and alterations as detailed in the amended schedule tabled by Council to the Panel on 18 May, 2010.**

Amend the exhibited Local Policy 22.06 Phoenix Precinct policy to incorporate changes proposed by Council in its revised local policy circulated prior to the Panel hearing (Panel version) dated 1 May 2010, but updated to include decision guidelines relevant for existing residential areas in Precinct 1 that are not part of the Incorporated Plan, similar to decision guidelines in precinct 1 (residential precinct) of the existing local policy forming part of the Glen Eira planning scheme.

Amend the preamble to Local Policy 22.09 to refer either specifically to development approvals in the Phoenix precinct, or “development plans”.

12. Provision of Affordable Housing

12.1 What are the issues?

The matter of the provision of affordable housing in conjunction with the development of the MRC land predates the Amendment C60 Panel. One of the recommendations of the Priority Development Panel established to advise the Minister for Planning in relation to the Melbourne Racing Club land (January 2008), was:

“Council and MRC should be encouraged to pursue and promote opportunities for affordable housing within the precinct.”

The matter was raised again in both submissions to the Amendment C60 Panel and in evidence presented at the Panel hearing. Both the Council and the proponent agreed that this was a desirable outcome, although there was some difference of opinion regarding what the term ‘affordable housing’ might mean, and how it could be provided within the Caulfield Village.

Given this background, issues the Panel has considered are:

- What is ‘affordable housing’?
- Does the development need to specifically identify and quantify the provision of affordable housing?

12.1.1 What is ‘affordable housing’?

In the Melbourne 2030 Strategy (October 2002) the definition of ‘affordable housing’ in the Glossary is:

“Well located housing, appropriate to the needs of a given household, where the cost (whether mortgage repayment or rent) is no more than 30 per cent of that household’s income.”

The Glossary to Melbourne 2030 goes on to define ‘social housing’ as:

“Non-profit housing owned and managed for the primary purpose of meeting social objectives such as affordable rents, responsible management, security of tenure and good location in relation to employment services. The term encompasses public housing and includes housing owned or managed by the community.”

There are several means of providing affordable housing. These include:

- Offering financial incentives to business and community organisations to build and rent dwellings to low and moderate income households at 20 per cent below-market rates for 10 years. The Federal Government National Rental Affordability Scheme (NRAS) seeks to address the shortage of affordable rental housing by offering financial incentives such as these.
- Allowing the private market to provide less expensive housing than the norm for an area, through smaller dwellings at more intensive densities thereby.

12.2 Evidence and Submissions

Despite the Priority Development Panel's recommendation regarding affordable housing, no provision was made for this in the Schedule 2 to the Priority Development Zone, as exhibited.

In a written submission about the amendment the Department of Sustainability and Environment stated:

"On behalf of the Minister the Department of Sustainability and Environment has considered the amendment and has the following comments and conditions:

1. ...
2. *DSE requests provision is made to include "Affordable Housing" within the residential area of the Incorporated Plan. The Minister for Environment and Climate Change, in giving principle approval, to a proposed land exchange... strongly indicated that he wanted to ensure a public benefit from a social aspect was maintained as part of the proposed exchange." (21st December 2009)*

In response to submissions about the amendment the MRC produced a document: 'Caulfield Village Public Exhibition Submissions Summary and Responses' (January 2010). In this it stated:

"The MRC have indicated their willingness to the Minister to consider the inclusion of affordable accommodation in Caulfield Village."

The MRC further stated that:

"The most suitable way to manage this would be ... for Council to form a view as to the management and administration of the affordable accommodation"

The statement continues:

"We would recommend a cap of 5% of residential units supplied ..."

The officer report to the Glen Eira Council meeting (17 March 2010) noted the submission of DSE and stated:

"The provision of affordable housing is supported although, the percentage of affordable housing to be provided (as suggested by the MRC) has not been justified. The PDZ Schedule needs to include a requirement for affordable housing for it to be enforceable".

The revised Schedule 2 to the Priority Development Zone, presented to the Panel at the Panel hearing by Council included an additional note in the schedule as follows:

Under:

"11.0 Decision Guidelines

Before deciding on an application for a permit or the approval of a Development Plan, in addition to the decision guidelines in Clause 65, the Responsible Authority must consider, as appropriate...

add as an additional bullet point 8

"The provision of affordable housing"

Mr Morris in his closing remarks, stated that the MRC had reviewed the NRAS scheme and was happy to consider this but that it would be inappropriate to mandate such a scheme in the development since it may well change in scope or nature.

He also stated that another means of providing 'affordable housing' is to increase the yield of housing (reduce the land cost component), and/or to reduce the size of dwellings (reduce the construction cost component).

Mr Morris believes that an 'aspirational objective' in the Incorporated Plan could be *"to provide housing on the land that responds to the needs of affordable housing and the DSE submission"*.

He believes that it is not practical to go beyond an *aspiration* to make this a *mandatory* requirement in the Incorporated Plan.

In responding to this in his closing address, Mr Montebello stated:

"Council submits that affordable housing does not mean relatively affordable housing. It is a term that is intended to refer to housing for the

less advantaged members of the community. In this regard, prior commitments should be honoured"

12.3 Discussion and Findings

From the definitions above, 'affordable housing' can be seen as a quantifiable outcome, in terms of rent cost, which can be provided through a (government) subsidised program or (private sector) market forces.

The Panel reads the intent of the Minister for Environment and Climate Change (expressed in the DSE submission) is for affordable housing to be provided as a subsidised and managed form of 'social housing', rather than high density, low cost housing which Mr Montebello referred to as '*relatively affordable housing*'.

The Panel is of the view that the MRC acknowledged the social housing focus of affordable housing in discussions with DSE and on this basis DSE stated in their submission of 21 December 2009:

"The incorporation of affordable housing in the MRC's proposed development was considered to meet this requirement."

The Panel acknowledges the importance of the provision of affordable housing in the Caulfield Village Precinct as raised by DSE and supported by both Council and the MRC. The Panel also notes the mechanisms (such as the current NRAS scheme) to provide housing with affordable rents, responsible management and security of tenure in well located areas such as the Caulfield Village Precinct.

It is not for the Panel to direct any specific program be pursued or to quantify the amount of affordable housing to be provided. However, it is important the expectations of DSE in its land transfer and the obligations of the MRC are met. The Panel's difficulty is that there are limited means through the planning scheme to achieve this and note that there may be more persuasive means for DSE to direct this through land transfer agreements.

Having said this the Panel does consider the amendment should reinforce the commitments to affordable housing. Some strengthening of Schedule 2 by including after the dot point "*The provision of affordable housing*" with the addition of the words "*in the form of social housing as defined in the Melbourne 2030 Strategy*" would clarify the intent to provide affordable housing, as opposed to relatively affordable housing.

The Panel also finds that mention of affordable housing should be made in the Incorporated Plan in Part 03 Plan Objectives, The Residential Precinct, to include an additional bullet point "*To provide affordable housing in the form of a social housing program*".

Whilst a recommended "...cap of 5% of the residential units supplied..." has been suggested by the MRC, the Panel considers any final figure should be indicative of DSE's expectations rather than a mandated proportion. Ultimately the amount of affordable housing provided will be determined by the availability of government funding and the mix of residential units. For these reasons the Panel finds that no cap should be specified.

12.4 Recommendations

Alter the exhibited Priority Zone Schedule to add an additional dot point to Sub section 11.0 to state.

- *"The provision of affordable housing in the form of social housing as defined in the Melbourne 2030 Metropolitan Planning Strategy"*

Amend the exhibited Incorporated Plan to include in Part 03 an additional dot point in the overall objectives to state.

- **"To provide affordable housing in the form of a social housing program"**

13. Contaminated Land

13.1 What is the issue?

The officer report to Glen Eira Council in March 2010 identified that MRC land in Kambrook Road and Bond Street, proposed to be used for residential purposes in the development abuts a motor vehicle repair and former petrol station premises (2 - 4 Station Street Caulfield North).

The land at 2 – 4 Station Street is zoned Residential 1 and has been recently sold. Being a recently closed service station the land may be considered contaminated. Ministerial Direction No. 1 *Potentially Contaminated Land* is therefore relevant. The land is indicated below:

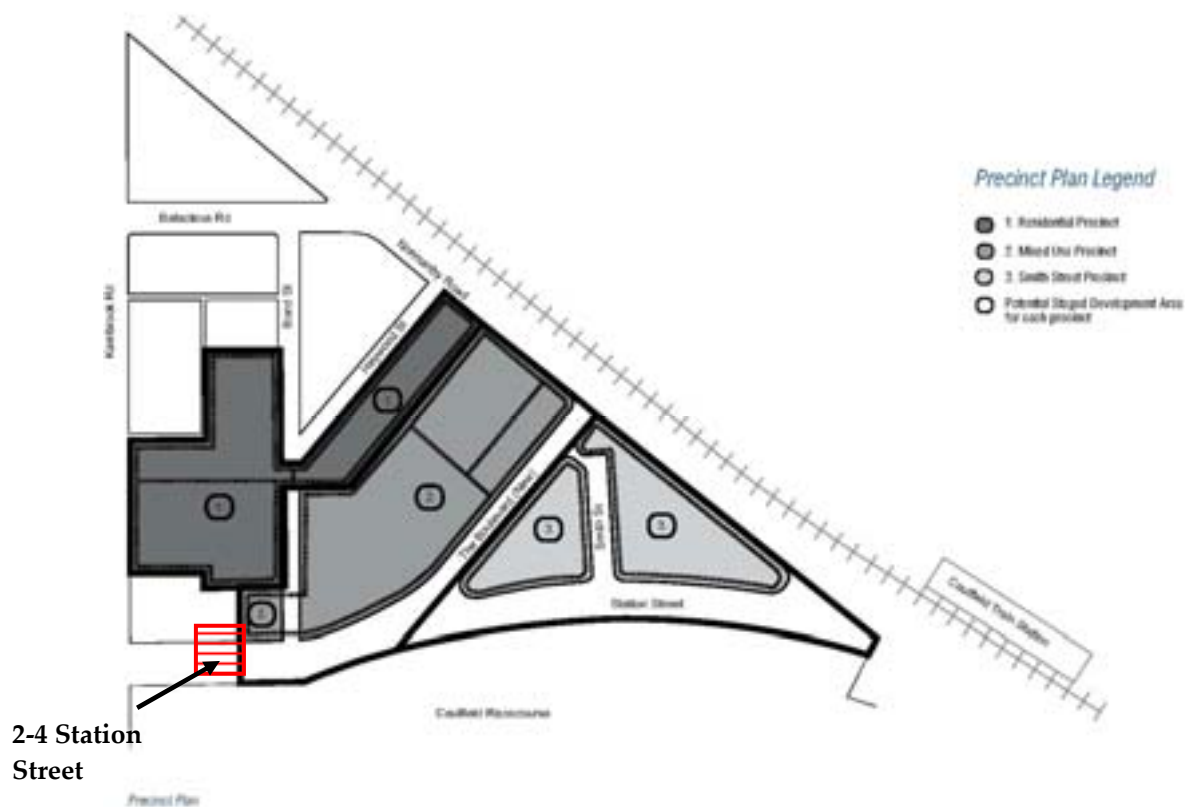


Figure 13-1 Location of Potentially Contaminated Land

13.2 Evidence and Submission

The issue of the contaminated land was raised in a number of submissions and evidence by Council. Prior to the Panel hearing the Council indicated in a letter to the MRC that before it adopts an amendment, it will need to be satisfied that

the environmental conditions of the land are or will be suitable for the proposed use. Council indicated in the letter that at the very least, some form of preliminary environmental assessment will be required before works commence.

In response the MRC stated it has no reason to believe that the land in question has been used in the past for industry or mining or storage of chemicals.

Since no report or further information has been submitted, Council has recommended to the Panel that a further Clause be included into Schedule 2 to the Priority Development Zone. The clause would require information to be provided which satisfies the Council that the environmental conditions of the land are or will be suitable for the proposed use, before the approval of the Development Plan or the issue of a permit.

The suggested inclusion to Schedule 2 is as follows:

“If the development plan applies to land abutting 2-4 Station Street Caulfield North, a site assessment of the land abutting 2-4 Station Street, by a suitably qualified environmental professional including:

- *detail of the nature of the previous and existing land use/activities on the land*
- *an assessment of the potential level and nature of contamination on the land*
- *advice on whether the environmental condition of the land is suitable for the*
- *proposed use/s and whether an environmental audit of all, or part, of the land is recommended, having regard to the Potentially Contaminated Land General Practice Note June 2005, DSE.”*

In response, Mr Morris for the MRC stated that the MRC agrees to the inclusion of the additional Clause in Schedule 2 relating to an environmental assessment of potential contaminated land.

13.3 Recommendation

Add an additional clause to Schedule 2 to the Priority Development Zone, Section 6 Development Plan, as detailed in the revised zone schedule tabled by Council on 18 May 2010 to the Panel hearing, as detailed above.

14. Heritage

14.1 What are the issues?

Although there is no Heritage Overlay on the Amendment site, there are two nearby sites which have some heritage significance. These are:

- 1 Bond Street (which is one property removed from Precinct 1. Residential Precinct) is subject to Heritage Overlay provisions in the Glen Eira Planning Scheme and listed in the Caulfield Conservation Study; and
- Caulfield Railway Station (which is diagonally opposite Precinct 3. Smith Street Precinct) is listed on the Victorian Heritage Register and Government Buildings Register.

The Precinct Plan below shows the location of these properties.

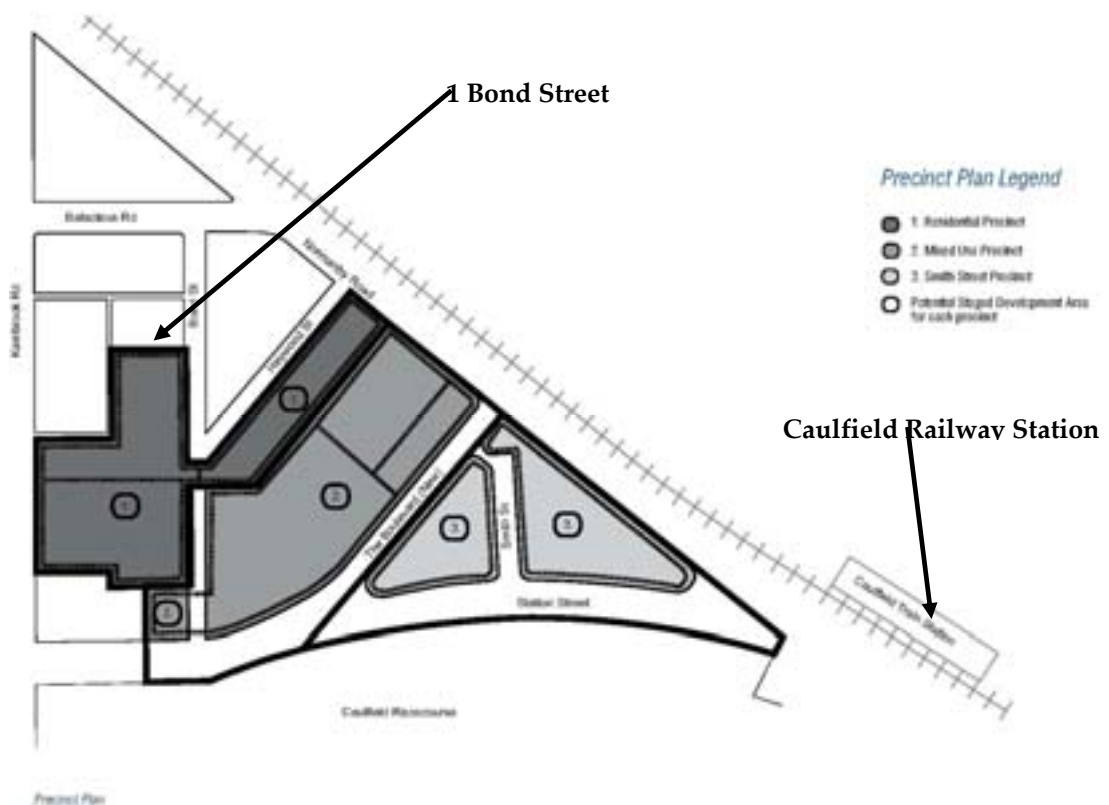


Figure 14-1 Location of nearby heritage sites

The Council officer report about submissions and some written submissions questioned if the amendment adequately addressed the impact of development to these heritage places. In particular, submissions raised that the development

of intensive form in the Smith Street precinct would impact the heritage views and setting of the Caulfield Station.

The Panel identifies the issue to be whether the Incorporated Plan needs to provide specific guidance in relation to the interface of the development with these heritage listed properties.

14.2 Evidence and Discussion

During the hearing Council Officers provided documentation in relation to the two heritage properties. Summary information from the documentation is provided below:

- **1 Bond Street** is a single fronted late Victorian Villa with substantial timber stables located at the rear. The house was built in 1887 and named 'Grace Darling' in 1910 after the winner of the 1885 Caulfield Cup. The property 'Grace Darling' is considered in the Caulfield Conservation Study to be of regional importance for its stables and pitched laneway;
- **Caulfield Railway Station Complex** was constructed in 1913-14. It is listed on the Victorian Heritage Register as a complex of architectural and aesthetic importance as an imposing Federation Free Style complex. The Victorian Heritage Register notes that the retention of the original station detail provides insights into social attitudes and railway practices immediately preceding the First World War and during a boom period in the history of Caulfield.

Comment was also made during the hearing that the laneways that traverse the MRC carpark land are part of the character and heritage of the area. These laneways are not protected by any heritage overlay and apart from anecdotal comment by residents no evidence was provided to the Panel that they have specific heritage significance. The Panel notes the character of the laneways, but also note their heritage significance is already diminished by the demolition of dwellings that would have originally abutted these lanes. The Panel has addressed the access and use of lanes as part of the character of the area in Chapters 7 and 10 of this report. The Panel makes no further comment on a need to protect the heritage significance of the laneways as part of the area.

14.2.1 1 Bond Street

The amendment land abuts 3 Bond Street. Council's urban designer, Mr Dodgshun, gave evidence that the interface between the proposed residential precinct and 3 Bond Street needed to be sympathetic to the garden setting of this property. He suggested that this be achieved through a notation on the Incorporated Plan *Residential Precinct – Heights and Setbacks* (May 2010 version p11):

“Set building back from boundary at all levels ... and provide opportunities to side boundary at interface at 3 Bond St”

In response to this the MRC stated that this treatment was:

“Not justified, but (this is a) ResCode acceptable compromise”.

Mr Sheppard, providing urban design evidence for the MRC stated that the development outlined in the Incorporated Plan was not inconsistent with the heritage values on the 1 Bond Street site.

Discussion and Findings

Whether the suggested change to the Incorporated Plan (May 2010 version P11) may impact on the amenity of the property at 3 Bond Street (and to a lesser extent 1 Bond Street) the amendment is discussed in Chapter 10.4.1.

From a heritage viewpoint the Panel concludes that the substance of the Heritage Overlay on 1 Bond Street, will not be adversely impacted by the *Residential Precinct – Heights and Setbacks* either in the original Incorporated Plan (May 2008 P11) or revised versions put to the Panel at the hearing.

14.2.2 Caulfield Railway Station Complex

The advice of Council’s Heritage Advisor about the impact of the proposed development in the Smith Street Precinct on the heritage status of the Caulfield Railway Station Complex is that:

“A 15 storey building without a podium structure will be potentially bulky and may overwhelm the railway station complex.”

Mr Dodgshun, Urban Designer’s evidence on behalf of Glen Eira Council agreed with this comment and suggested that this be achieved through a notation on the Incorporated Plan *Residential Precinct – Heights and Setbacks* (May 2010 version p16):

“Provide podium of 3-4 storeys facing Normanby Rd...”

Mr Biacsi’s town planning evidence for the MRC disagreed with this approach. He stated that it was overly prescriptive and could jeopardise both the best design outcome and economic outcome for the Precinct.

Mr Sheppard’s Urban Design evidence for the MRC agreed that the interface of the Normanby Road/Station Street site with Caulfield Station was a sensitive area and that the built form should have regard to Caulfield Station. He said that whilst ‘a podium response’ may be appropriate, that it was unnecessary to prescribe this particular design solution.

Mention was also made of the Incorporated Plan *Smith St Precinct Guidelines* (May 2008, p14) which states:

“The Height and Setback Plan (for the Smith St Precinct) indicates a preferred podium style outcome for larger scaled buildings with setbacks to the taller build elements in the primary activated pedestrian spaces.”

The Normanby Road/Station Street area, adjacent to Caulfield Station could be regarded as such a space.

Another treatment suggested for the sensitive interface of the Normanby Road/Station Street site with Caulfield Station was the proposed landscaped ‘Forecourt Plaza’ at the conjunction of Normanby Road and Station Street, as noted in the Caulfield Village Urban Design Statement (July 2008, p 18, notation 11).

Mr Morris in summing up for the MRC raised the issues of what is appropriate for land not subject to a Heritage Overlay (i.e. the Triangle) adjacent to land with a Heritage Overlay (i.e. the Station). This he said was compounded in Caulfield Village where State Government policy encourages intensive development adjacent to public transport.

His conclusion was that the development should be sympathetic like many examples in the ‘Melbourne Model’ where heritage buildings are retained alongside intensive, but sensitive development.

Discussion and Findings

The Panel notes that the heritage status of the Caulfield Station in the Victorian Heritage Register and the need for a sensitive interface is acknowledged by both the Council and the proponent.

The heritage building in question is not a ‘passive’ neighbour but a very active transport node of key significance to both the design outcome and the economic outcome for the Precinct.

In relation to the interface of the Normanby Road/Station Street site with Caulfield Station, the main issue the Panel has considered is whether further detail is required in the Incorporated Plan or whether enough guidance exists to ensure that the Development Plan promotes a sympathetic and practical interface.

The Panel finds that given both the significance of the heritage listing and the key functional importance of the Caulfield Station as a ‘gateway site’ and transport node, the issue will essentially be a design response. The Panel also

notes the recent plans proposed by the State government to construct new buildings north of the station in a contemporary format.

The specifics of a preferred design response are best addressed at the Development Plan stage.

In finding this the Panel is by no means diminishing the significance of this interface and its implications for the heritage building, rather it is recognising this as a complex site with heritage, urban design, pedestrian, and public transport issues to be specifically resolved.

The Panel therefore finds that the amendment be adopted as exhibited as it relates to the interface of both 1 Bond Street.

The Panel also finds the amendment does not require specific prescription to address the heritage interface to Caulfield Station. Other design issues and changes to the Incorporated Plan to address the pedestrian interface of the station to the amendment land are addressed in Chapters 7 and 10.

15. Other Issues

15.1 Ecologically Sustainable Development

15.1.1 What is the issue?

The MRC Master Plan included a report by *Sustainable Development Consultants Pty Ltd* that outlined how Ecologically Sustainable Development (ESD) principles would be applied the Incorporated Plan. This included principles covering energy efficiency, water use and efficiency, water sensitive urban design, materials selection, indoor environmental quality, and social and cultural education. In effect this report establishes ESD objectives for the proposed development.

Sub Clause 6.0 of Schedule 2 of the Priority Development Zone states that a development plan submitted to the responsible authority for approval under the Schedule must include additional supporting plans such as an Environmental Management Plan (EMP), and a Drainage Management Plan (DMP). The DMP must show or include as appropriate:

- *A drainage system of a design that ensures that the quantity of stormwater discharged from the site is appropriately managed and does not exceed the current rate of discharge.*
- *The incorporation of water sensitive urban design principles that address the quality of stormwater leaving the site and entering Council's drainage system.*

The EMP must show or include as appropriate:

- *A statement of the ESD targets proposed for the development of the site covered by this schedule and what key design initiatives will be incorporated to achieve these targets.*
- *An outline of the proposed management systems to ensure that the development can be set up and managed effectively to achieve and maintain the ESD performance targets identified for the site.*

15.1.2 Evidence and Submission

A number of submissions questioned if the physical infrastructure of the area could accommodate the proposed development. Mr Donlen also made verbal submission to the hearing that the ESD objectives were too vague and should be

quantified. Mr Donlen argued that the objectives in the Incorporated Plan and in Schedule 2 of the PDZ are too vague and that there was a need to clarify and quantify ESD targets. He recommended that a target be included such as 3 star GreenStar rating for buildings, or no net increase in stormwater emissions.

A submission by Ms Perring included photos of significant flooding that occurred under the railway underpass at the intersection of Normanby Road and Smith Street. Her mother, Mrs Perring, claimed that concrete had been poured down the drainage pits some time ago and this had affected their capacity during large storm events.

In the summary of council referrals provided by Council to the panel, the Manger of Works stated that the development will add excessive strain on barrel drains in the area, and the Manager of Infrastructure Assets called for the design of a drainage system to ensure that the peak flows to the council trunk drains are maintained at or less than the current development levels.

The Council submissions included a request that Schedule 2 of the Priority Development Zone be amended to add a further dot point to the EMP that it must show or include as appropriate "An explanation of the ecologically sustainable development (ESD) principles adopted for the proposed development".

15.1.3 Discussion

Throughout the hearing the issue of assessing the detail at the amendment stage or at the Development Plan stage has been raised several times, especially with respect to design outcomes. As discussed elsewhere in this report the Panel believes that the detailed design (including ecological sustainability principles) is best assessed at the Development Plan stage when more details about the development design are available. At this stage ESD principles will be contained in the associated Environment Management Plan and Drainage Management Plan.

The Panel considers that the requirements under Sub Clause 6.0 in the schedule to the Priority Development Zone to provide an explanation of the ESD principles adopted for the proposed development, a statement of the ESD targets proposed for the development and the key design initiatives incorporated to achieve these targets, and an outline of the management systems to ensure the targets are achieved and maintained, are adequate for consideration by Council.

The Panel also considers that the requirements under Sub Clause 6.0 to provide a Drainage Management Plan that includes a drainage system that ensures the quantity of storm water discharged from the site is appropriately managed, and

the incorporation of water sensitive urban design principles, is adequate for consideration by Council.

The Panel notes that the MRC seeks to remove the words “and does not exceed the current rate of discharge” on dot point 1 of the DMP. The Panel acknowledges that this provides greater scope for a range of design solutions and agree that these words be removed. However, the Panel emphasises the ‘sustainability’ element of ESD and the Panel’s expectation is that the EMP includes best practice management systems that lead to sustainable outcomes, and that the DMP includes a drainage system design that does not place greater pressure on the storm water and drainage system.

15.1.4 Conclusions and recommendations

Change the Priority Development Zone Schedule 2 in Sub Clause 6.0 to include the dot point suggested by Council in its revised version as tabled at the hearing on 18 May 2010 as follows:

- *The Environmental Management Plan must show or include as appropriate:*
 - *An explanation of the Ecologically Sustainable Development (ESD) principles adopted for the proposed development.*

15.2 Landscape Design

15.2.1 What is the issue?

A number of written submissions raised concern that the development may result in the loss of existing trees on the MRC land. Others also expressed concern as to how avenue planting could be established, citing the poor establishment of Elm trees along Station Street.

15.2.2 Discussion and Findings

There are a number of existing trees on site. None of these are currently protected by the planning scheme.

Many are of significant size and from the Panel’s inspection are anecdotally of varying quality and health. The Priority Zone schedule that forms part of the amendment requires that as part of the development plan a landscape plan be prepared.

The Panel is satisfied that the provisions of the exhibited amendment provide appropriate consideration of existing and proposed landscaping of the site,

including identification and protection of trees both on site and in existing street reservations.

The Panel also notes that it is in the interests of the developer to retain and capitalise on existing large trees where possible as a design feature of the site.

The Panel finds no need to alter the amendment to address submissions about this issue.

15.3 Construction timeline and management

15.3.1 What is the issue?

Some written submissions questioned how construction management would be addressed and queried the timeline for staging of the development. Concerns related to noise and general amenity impacts associated with disruption to normal living environments during construction.

15.3.2 Discussion and Findings

In response to these issues, Council has proposed a number of changes to the exhibited Priority Zone schedule. In summary these require the submission of both a construction management plan and a staging plan as part of the first development plan approval for the site.

This construction management plan requires consideration of how any interruptions to traffic flow and car parking will be addressed.

The MRC made no specific comment or objection to the inclusion of these additional clauses into the schedule.

The Panel is satisfied that these additions to the schedule are appropriate. Whilst any construction and redevelopment of the land will cause disruption to the surrounding area, this is not reason to abandon the amendment. The Panel finds the important issue is to ensure that construction and staging seek to minimise the inconvenience to surrounding residents from both construction noise and altered or temporary traffic conditions.

The Panel therefore supports the changes proposed by Council in relation to the PDZ schedule for construction management and staging. The Panel does note that wording of these sections may need final review and refinement as part of the adoption and approval process.

Appendix 1 List of submissions

	NAME AND ADDRESS
1	Brian Williams, Gas Distribution Jemena Limited
2	Antoinette Siarabalos
3	Gerald Sherry
4	Stan Sackson
5	I Butler & J Orford
6	C & G Hammond
7	R Di Paola
8	V & C Perry
9	S Rucli
10	A & N Howells
11	M & S Exton
12	Darren Woodward South East Water Limited
13	Emile Kyriacou Department of Sustainability and Environment
14	R Jagger & K Buckingham
15	J L, R & M Perring
16	David Pitt Office of the Vice-President (Finance) and CFO Monash University,
17	P Ireton
18	M Healy
19	N & T McNeilage
20	H Freedman
21	Alan Salter
22	C & G Nisbet
23	P Schlesinger
24	Brian Discombe Victoria Amateur Turf Club Trading as Melbourne Racing Club
25	G & A Stakula
26	K Kesoglidis
27	R Weatherley & S Dougan
28	Murray Ness Hellier McFarland - Cityplan

29	J Donlen
30	J & J Steward
31	Glen Eira Residents Association
32	P Johnston
33	B Hatfield
34	E & M Light
35	J Lang
36	C Close
37	P O'Sullivan
38	C Danby
39	S & J Wertheim
40	M Cramphorn
41	J Hoey & J Siede
42	L Di Marco
43	T Farrell
44	S Clarke
45	R & V Jennings
46	Chadstone Shopping Centre c/o Colonial First Global Asset Management
47	C & S Foley
48	K Healy
49	M Landau
50	J McLaren
51	E & G Volchok
52	C Close
53	Malvern Central Shopping Centre c/o AMP Capital Investors
54	Goran Stakula
55	Mrs Cheryl Forge
56	Vic Roads
57	J. Dethridge
58	Department of Transport
59	Margarette Duke
60	Roslyn Gold
61	Peter Busby
62	Mary Milne
63	John Pinzone

64	M Knight
65	Mr Peter Brohier*
66	Mr David Wilde*
67	Mr Adrian Anderson*

- These submissions were made to Council after the Directions hearing to the Amendment. As such they were not formally reviewed by Council, but Council advised it accepted the Panel considering all submissions received.