

Planning and Environment Act 1987

Social Housing Renewal Standing Advisory Committee

New Street, Brighton

Report No. 7

18 December 2017

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Report pursuant to section 151 of the Act

Social Housing Renewal Standing Advisory Committee

Report No. 7 – New Street, Brighton

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Sarah Carlisle, Chair



Deb Butcher, Member



Peter Edwards, Member



Ann Keddie, Member



Peter McEwan, Member

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List of Abbreviations

ABS	Australian Bureau of Statistics
DDO	Design and Development Overlay
DDO2	Design and Development Overlay Schedule 2 to the Bayside Planning Scheme
DELWP	Department of Environment, Land, Water and Planning
DHHS	Department of Health and Human Services
DPO3	draft Development Plan Overlay Schedule 3 to the Bayside Planning Scheme
IPO	Incorporated Plan Overlay
LPPF	Local Planning Policy Framework
NBRAG	the North Brighton Residents Action Group
PPN	Planning Practice Note
SBO	Special Building Overlay
SPPF	State Planning Policy Framework
The Committee	Social Housing Renewal Standing Advisory Committee
The Common Issues Report	Social Housing Renewal Standing Advisory Committee Common Issues Report No. 1 dated 10 November 2017
VPP	Victoria Planning Provisions

1 Executive Summary

Draft Amendment C157 to the Bayside Planning Scheme seeks to facilitate the redevelopment of the New Street Public Housing Estate in Brighton, which currently contains 127 social housing dwellings. Documents exhibited with the draft Amendment suggest an indicative dwelling yield of 310 dwellings (140 social housing and 170 private).

Submitters expressed concern about the relatively low proportion of social housing proposed, the sale of public land for private development, and the social impacts on the Estate residents, particularly the disruption and potential dislocation they would experience as a result of having to relocate from their homes.

Submitters raised issues about the intensity of development proposed, and the impacts on the surrounding area in terms of traffic, visual bulk, overshadowing, overlooking and the like. Submitters felt that the densities proposed are inappropriate given the site's location outside an activity centre, and in a low rise residential neighbourhood.

Submitters (including Council) considered that the Mixed Use Zone is inappropriate for the site, and were very concerned about the loss of third party statutory notice and appeal rights with the introduction of the Development Plan Overlay.

The Common Issues Report finds that the Social Housing Renewal Program proposals are consistent with key State policy, including *Homes for Victorians* and *Plan Melbourne 2017*. This applies equally to the Brighton site.

On balance, the Committee finds that the proposal is appropriate in the local policy context. Although the site is not in an activity centre or an area specifically designated for residential growth, there is local policy support for renewal of existing public housing stock in Bayside, and providing higher density housing on large sites in well serviced locations.

The Committee is satisfied that the site is large enough to accommodate a more intensive form of development that is capable of respecting neighbourhood character, and successfully integrating with the surrounding area. However, significant changes need to be made to the exhibited draft Amendment, to ensure appropriate outcomes can be achieved.

The Committee recommends that heights be significantly reduced, and setbacks increased. Heights and setbacks should be mandatory, to provide the community with a degree of certainty about future development on the site. Additional massing controls are needed to ensure built form is appropriately broken up, and responds appropriately to the site's context.

Further requirements are needed relating to landscaping, tree retention and tree replacement, including building envelopes designed to accommodate new large canopy trees at suitable breaks along the boundaries, which will assist in breaking up the built form and provide additional screening of the development.

The Mixed Use Zone is not appropriate for the Brighton site. The Committee recommends that the Residential Growth Zone be applied, with a mandatory six storey height limit specified in a tailored schedule. While not perfect, the Development Plan Overlay is, on balance, the appropriate tool to guide future development of the site, subject to a significant

re-write. Language must be tightened to provide additional certainty, and a community engagement strategy must be required in relation to the Development Plan.

The Common Issues Report discusses a range of issues common to all sites considered by the Committee. It makes several recommendations, including:

- a significant restructure and re-write of the Development Plan Overlay schedules
- differential parking rates for social and private housing
- development contributions in relation to the private dwelling component of the redevelopments
- making the Minister for Planning the responsible authority for each site.

These recommendations apply equally to the Brighton Estate. In addition, there are several matters of detail that need to be addressed, and which have been included in the Committee's recommended version of Schedule 3 to the Development Plan Overlay.

For the reasons expressed in this report, the Committee recommends that the Minister for Planning:

- 1. Approve draft Amendment C157 to the Bayside Planning Scheme, subject to the following changes:**
 - a) Apply the Residential Growth Zone to the site, with a tailored schedule to provide a mandatory six storey height limit.**
 - b) Amend the Development Plan Overlay Schedule 3 in accordance with the Committee's recommended version contained in Appendix D of this report.**
- 2. If Recommendation 1(a) is not adopted, amend Clause 22.06 of the Bayside Planning Scheme (Neighbourhood Character Policy) so that it does not apply to the site.**
- 3. Adopt each of the recommendations from the Common Issues Report in respect of draft Amendment C157 to the Bayside Planning Scheme.**

2 Background

This Report should be read in conjunction with the Social Housing Renewal Standing Advisory Committee, Common Issues Report No. 1 (the Common Issues Report).

2.1 Proposal summary

The redevelopment of the New Street Estate in Brighton will be facilitated by draft Planning Scheme Amendment C157 to the Bayside Planning Scheme. Table 1 provides a summary of the proposal.

Table 1: Proposal summary

Proposal summary	
Site reference	New Street Estate, Brighton
Site address	Between New/Rusden Street and Brickwood Street, Brighton
Site owner	Director of Housing
Council	Bayside City Council
Notice	11 September – 16 October 2017
Submissions	126 submissions were received (refer Appendix A)

The existing zoning for the precinct is shown in Figure 1.

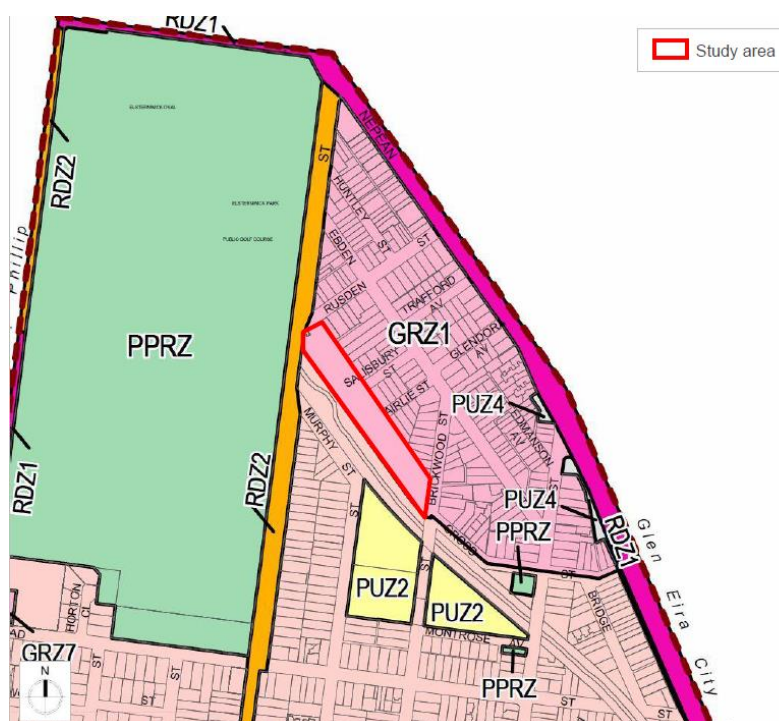


Figure 1: Existing zoning¹

¹ Town Planning Report, Message Consultants, page 12

The proposed planning scheme changes are summarised in Table 2.

Table 2: Proposed planning scheme changes

Existing controls	Proposed changes
New Street, Brighton	
General Residential Zone – Schedule 1	Mixed Use Zone – Schedule 2
Design and Development Overlay Schedule 2	Remove
Development Contributions Plan Overlay Schedule 1	Retain
Special Building Overlay	Retain
	Development Plan Overlay – Schedule 3
	Parking Overlay – Schedule 1
Bayside City Council is the Responsible Authority	Minister for Planning is the Responsible Authority

Existing dwelling numbers and indicative dwelling yields are summarised in Table 3. The indicative dwelling yields are based on the exhibited documentation, which included heights of up to nine storeys. Through the course of the Hearing, DHHS revised the heights down to a mixture of three, four and six storeys. Final dwelling yields will therefore be less than indicated in Table 3, and will depend on the final design.

Table 3: Existing and indicative dwelling yields²

	Existing (public)	Proposed (social)	Proposed (private)	Total proposed
New Street Estate, Brighton	127 in walk-ups	140	170	310

The Committee process is summarised in Table 4.

Table 4: Committee process

Committee process	
Members	Sarah Carlisle (Chair), Deb Butcher, Peter Edwards, Peter McEwan and Ann Keddie
Briefings	10 April 2017
Directions Hearing	19 October 2017
Hearing	8, 13, 14, 15, 16 and 17 November 2017
Site inspections	26 October 2017

² Compiled from *Traffic Engineering Assessment Report*, Traffix Group, page 7

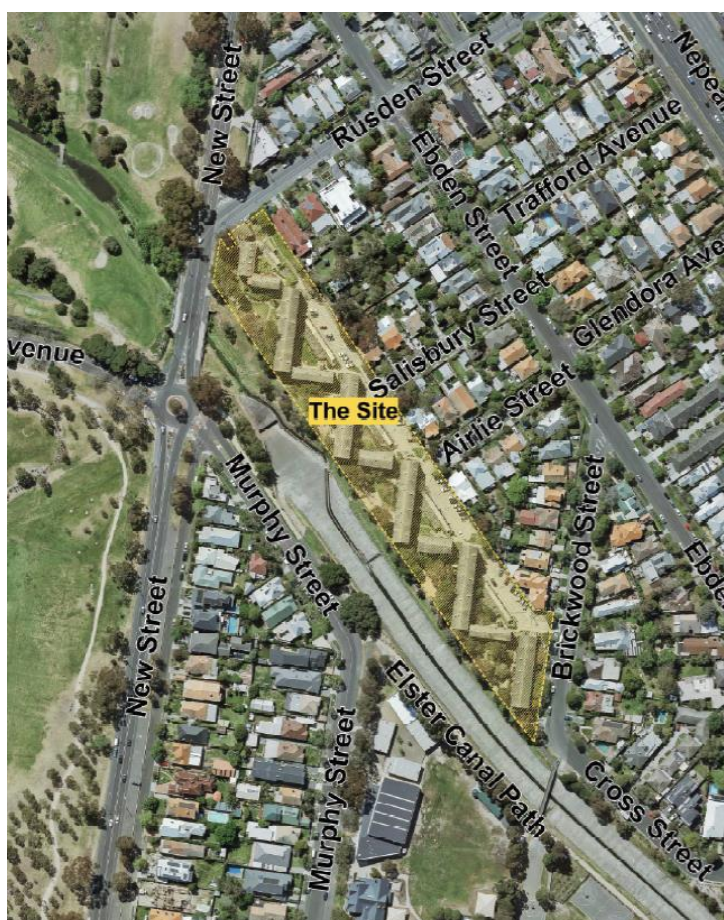
2.2 Site and surrounds

The Brighton Estate is located in Melbourne's south, approximately eight kilometres from the Central Business District of Melbourne. The site is rectangular in shape and covers an area of approximately 1.4 hectares. It is bounded by New Street and Rusden Street to the north west, Elster Creek to the southwest and Brickwood Street to the southeast. Figure 2 below illustrates the site and its surrounds.

The Estate currently contains a number of three and four storey walk-up unit blocks comprising 127 dwellings, surface car parking and communal open spaces. There are numerous mature trees scattered throughout the site, which have been identified as having varying retention values.

The immediate area to the northeast comprises privately owned residential properties that are predominately single storey. The site is bounded to the southeast by Elster Creek, on the other side of which is Murphy Street. Murphy Street contains predominately single storey residential properties, and Elsternwick Primary School. The Elsternwick Public Golf Course is located to the west of the site, on the opposite side of New Street. Residential properties are also located to the east, in Brickwood and Cross Streets.

Figure 2: Site location³



³ DELWP Information Sheet, page 1

2.3 Notification

Direct notices were sent by the Department of Environment, Land, Water and Planning (DELWP) in the week commencing 11 September 2017 to:

- 852 owners and occupiers within the City of Bayside
- four known community groups identified by Bayside Council
- prescribed Ministers and servicing authorities.

Notices were placed in Caulfield Glen Eira/Port Phillip Leader and the Bayside Leader newspapers in the week of the 11 September 2017.

The public notification resulted in 126 submissions being received.

2.4 Procedural issues

The draft Amendment documentation released for public consultation included a Development Plan Overlay Schedule 3 (DPO3) dated 11 September 2017, which provided for heights ranging from three to nine storeys.

On 31 October 2017, DHHS circulated a revised DPO3 dated 31 October 2017 (Document 3), incorporating common changes that DHHS had agreed through the course of hearings for the Flemington, Heidelberg West, Brunswick West and Northcote sites (for example, the inclusion of an Acoustic Report as part of the Development Plan).

On 10 November 2017, after the Hearing had commenced, DHHS tabled a further revised DPO3 dated 11 September 2017 (Document 8). This version was produced in response to submissions and expert evidence, and after discussions with Bayside City Council. It reduced the building heights to a mixture of three, four and six storeys, increased some of the setbacks, provided for a shared path along Elster Creek and altered the internal connections through the site (among other things). It included changes requested by Council, some of which were agreed by DHHS and some of which were not.

The North Brighton Residents Action Group (NBRAG) and Submitter 94 called for the Hearing to be suspended, to allow the amended documents to be reconsidered by the Minister for Planning, and sent out for fresh public consultation. Both were concerned that the community had not been involved in the discussions between DHHS and Council that led to the production of Document 8, and had not been given sufficient opportunity to examine and appreciate the ramifications of the various changes. They submitted that proceeding without a full re-exhibition could amount to a denial of procedural fairness.

The Committee did not consider that the changes made to the DPO3 justified suspension and/or re-commencement of the process. Importantly, the changes made to the DPO3 reduced, rather than increased, the potential impacts of the development on third parties. For these reasons, the Committee determined not to suspend the Hearing or direct re-notification of the revised DPO3.

One of the purposes of the Committee process is to provide a transparent and consultative forum in which the issues raised in submissions can be fully explored and tested. This often results in proposed planning controls evolving iteratively through the process. In this case, submitters representing the interests of Estate residents, neighbours and other potentially

affected third parties did so very effectively, and the Committee is confident that the Hearing provided an opportunity for the issues to be fully and properly ventilated.

2.5 Planning framework

The State Planning Policy Framework (SPPF) and associated policy documents including Homes for Victorians and Plan Melbourne 2017 are discussed at Chapter 2.1 and 2.2 of the Common Issues Report.

In terms of local policy, DHHS drew the Committee's attention to **Clause 21.03 (Settlement and Housing)** of the LPPF, which indicates that the municipality is facing forecast population increases, a trend towards smaller household sizes, an ageing population, a demand for a greater variety of housing types, and a need for more affordable housing. Objectives and strategies in Clause 21.03 include:

- ensuring a diversity of housing to meet the needs of the community over time
- enhancing the range of accommodation options for older people and the availability of affordable housing
- directing new medium density housing to activity centres and residential opportunity areas
- in activity centres:
 - encouraging redevelopment of larger sites for higher density residential dwellings
 - encouraging the more efficient use of built form through the consolidation of sites and construction of basement car parks.

Clause 21.03 encourages the application of the Development Plan Overlay to large new residential developments to simplify the development approvals process while still managing the form of development.

The Residential Strategic Framework Plan in Council's Municipal Strategic Statement (Map 2 in Clause 21.01) identifies part of the site (which appears to correlate with a 400 metre radius from the Elsternwick Activity Centre) within a 'future moderate residential growth area'. The remainder of the site is within a minimal residential growth area.

Other relevant parts of the LPPF include:

- **Clause 21.06 (Built Environment and Heritage)**, which highlights the high value placed on residential character and the environment (particularly vegetation), and the need to provide certainty in relation to the preferred future character for residential areas.
- **Clause 22.06 (Neighbourhood Character Policy)**, which highlights the need for development in residential areas to respond to neighbourhood character. Clause 22.06 sets out a number of objectives, design responses and things to avoid, to preserve and respect the character of the various neighbourhood character precincts, including Precinct A2 (in which the site is located).

The Bayside Housing Strategy (September 2012) is a reference document under Clause 21.03 of the Planning Scheme. The Housing Strategy analyses current and future housing needs across the municipality, and outlines the key challenges in managing housing growth. It calls

for (among other things) increased housing diversity and affordable housing, the protection of neighbourhood character, and an adequate supply of social housing in Bayside. The Housing Strategy has informed the recent application of residential zones across the municipality, including the General Residential Zone to the site and surrounding area.

3 Common issues

The Brighton submissions raised some new matters relating to the common issues raised in earlier hearings. This Chapter addresses those new matters, using the headings from the Common Issues Report (although the numbering is different).

3.1 Is the DPO the correct planning tool?

See Chapter 3.1 of the Common Issues Report.

Many submitters challenged the use of the DPO for the Brighton site. The site has a significant interface with directly abutting residential development, and neighbours submitted that the redevelopment of the site will inevitably have significant third party impacts. Relying on Planning Practice Note 23 *Applying the Incorporated Plan and Development Plan Overlays* (PPN23), they submitted that the Incorporated Plan Overlay (IPO) is the preferable tool for this site, because it preserves third party rights and provides more certainty in relation to built form.

According to PPN23, the IPO should be used for sites like Brighton. However, the IPO has largely fallen out of favour in recent times, primarily due to variations to the plan requiring a further amendment to the planning scheme.

The Committee is satisfied that the DPO, while not perfect, is the appropriate tool to guide the future development of the Brighton site. The design is not sufficiently resolved to justify locking in a particular outcome with an IPO. The DPO allows for further master planning to be undertaken, while preserving the opportunity for design flexibility and innovation at this stage of the design process.

Having said that, the Committee has concerns about the removal of third party rights on a site like Brighton, given its residential context and interfaces. While this is not sufficient reason to recommend against the DPO, the Committee considers that significant changes will need to be made to the DPO3 to provide additional certainty, and to require meaningful ongoing consultation with the community in relation to the Development Plan.

The Committee finds:

- subject to changes to provide greater certainty to the community and to require further community consultation, the DPO is the appropriate tool to guide the future development of the Brighton site, notwithstanding its residential context.

3.2 Structure and content of the DPO schedule

See Chapter 3.3 of the Common Issues Report.

(i) Whether heights and setbacks should be mandatory or discretionary

Submissions from the community called for mandatory heights and setbacks, given the degree of flexibility allowed under the DPO, and the proposed removal of third party rights.

Planning Practice Note 59 *The role of mandatory provisions in planning schemes*, June 2015 (PPN59) advises that mandatory controls should only be applied in exceptional

circumstances, to provide certainty and to ensure a preferred outcome. The Committee considers that there are strong and compelling reasons to apply mandatory controls to the Brighton site. Substantial changes are proposed, even with the reduction in the proposed heights from nine storeys to six (as reflected in Document 8). The site has sensitive interfaces, and there is significant potential for third party interests to be affected.

The Committee considers that it is imperative that the community – in particular the surrounding neighbours – have certainty as to the maximum heights and minimum setbacks for future built form on the site. In the Committee's view this requires mandatory, rather than discretionary controls. In addition, the language in the DPO3 in general needs to be tightened to provide greater certainty.

The Committee finds:

- the heights and setbacks set out in the DPO3 should be mandatory.

(ii) Consultation on the Development Plan

Submitters were very concerned about the removal of third party rights. They do not regard consultation with Council prior to approving the Development Plan as a sufficient or suitable alternative to the statutory rights afforded to them by the Act. They submitted that removing their statutory rights is unfair and undemocratic, and demonstrates an intention on behalf of DHHS to “*ram the redevelopment through*” without regard to the views of, and impacts on, the community.

These concerns were heightened by the proposal to make the Minister for Planning Responsible Authority for the site, rather than Council.

Council submitted that there was insufficient detail before the Committee to justify the removal of third party rights. It submitted that, at the very least, the DPO3 should require 21 days of public comment on a draft Development Plan (or amendment to an approved Development Plan) before it is lodged with the Responsible Authority for approval. Mr Larmour-Reid, who was called by Council to give planning evidence, expressed concern that the DPO offers insufficient opportunities for stakeholder involvement in the approval of the Development Plan, particularly given no draft Development Plan was exhibited with the draft Amendment.

Several submissions highlighted the significant resources of local knowledge residing with both Council and the local community. They noted that the neighbourhood surrounding the Estate is a stable one, in which many neighbours have lived for decades. They highlighted a deep knowledge of the particular challenges associated with living in, and developing land in, the local area (such as flooding and local traffic issues). Submissions pointed to the benefits of tapping into this local knowledge, and engaging with the local community about the future development of the site.

In Chapter 3.3 of the Common Issues Report, the Committee concluded that it would be appropriate to include a requirement in the DPOs for Flemington, Heidelberg West, Northcote and Brunswick West for a community engagement strategy, modelled on the requirements of DPO11 to the Yarra Planning Scheme (which applies to the redevelopment of the Amcor site in Alphington). Bayside Council proposed a slightly more detailed and prescriptive community consultation requirement for Brighton which is reflected in the

further revised DPO3 (Document 8). Mr Larmour-Reid indicated that this pragmatic approach would largely address his concerns about opportunities for stakeholder input.

DHHS does not agree with this approach. It committed to what it described as Phase 4 engagement with the community in relation to the draft Development Plan, but opposed the introduction of consultation requirements in the DPO3. Mr Glossop, who was called by DHHS to give planning evidence, described himself as “*dead against*” adding consultation requirements to the DPO3, because it sets up expectations about statutory rights which don’t apply.

The Committee acknowledges the views of Mr Glossop and DHHS, but considers that, as for the other sites, the Bayside DPO should include a requirement for community consultation prior to the Development Plan being approved. While this will not provide the community with formal statutory rights, it will ensure that the views of the community are sought and taken into account as the Development Plan progresses.

While Council’s proposed Clause 4.0 of the revised DPO3 (Document 8) has merit, the Committee considers that the Bayside DPO should include the same consultation requirements as those recommended for the other sites. This will ensure consistency and fairness between the different communities affected by the various redevelopments.

The Committee finds:

- the DPO3 should include a requirement for a community engagement strategy in line with the Committee’s recommendations for the DPOs for the other sites.

(iii) Housing diversity and affordable housing requirements

Submitters urged the Committee to recommend that the planning controls require a larger proportion of family sized dwellings on the redeveloped Estate.

Many submitters noted that the Estate currently houses a large number of families. They were concerned that existing families would be unable to return, as only seven larger three bedroom social housing units are proposed. They submitted that the site is particularly well suited to families, given the proximity of children’s services, including Elsternwick Primary School. Neighbours submitted that the existing family population on the Estate has delivered huge benefits in terms of community cohesion. Many told the Committee that their children have friends living on the Estate, whom they go to school with, and play with in the Estate grounds and in the surrounding streets.

Council submitted that redeveloping the site with mainly one and two bedroom units will not meet the housing diversity needs of the municipality. It tabled extracts from the Bayside Housing Strategy (Document 39) which show that there is a large proportion of families in Bayside, and that the number of family sized public housing dwellings in the municipality has remained flat (presumably implying an undersupply).

DHHS resisted any prescriptive requirements in the planning controls that dictate the supply of larger family sized dwellings. It indicated that for the social housing component, dwelling size, layout and configuration will be based on existing supply and demand, and is consistent with anticipated demographic changes in the municipality which point toward an increasing number of smaller, older households. DHHS indicated that adjacent smaller units will be

provided with internal connecting doors, allowing them to house larger families. DHHS reiterated the commitment made by the Minister for Housing that all residents of the Estate would be given the opportunity to return to the Estate if they wish. Submitters highlighted the cost and space inefficiency of this approach, as well as security concerns.

The site appears to be ideally suited to housing families with children. There are a number of educational and other children's services in the local area, and it has already been demonstrated that a family based population on the Estate provides significant benefits in terms of the integration of the Estate with the neighbourhood. The Committee considers that DHHS should give consideration to providing family accommodation on the site. However it does not consider that this requires a change to the Amendment documentation.

3.3 Development contributions

See Chapter 5 of the Common Issues Report.

Council submitted that the DPO3 should explicitly contemplate the need for infrastructure upgrades within the area. Council submitted that a Social Infrastructure Assessment should be required as part of the Development Plan, which identifies the likely population and the additional demand that will be created for social services.

As for other sites, DHHS resisted a requirement to contribute to off-site shared infrastructure, submitting that this would impact on DHHS's financial return on the project, which would, in turn, impact its ability to provide additional social housing facilities.

The increase in population proposed for the Brighton site is not as significant as for some other sites (for example Flemington and Heidelberg West). Nevertheless, a development of the size contemplated could well create a need for upgraded or additional infrastructure. As for the other sites, consideration should be given to development contributions, based on a proper analysis of the current and projected population of the Estate, the demand for infrastructure likely to be generated by the development, and the needs of the future Estate residents.

The site is subject to a municipal wide Development Contributions Plan Overlay, which requires a contribution of \$2,000 per residential lot and \$520 per non-residential lot to fund upgrades to the municipality's ageing drainage infrastructure. Development on public land is exempt from the contribution. There is some doubt as to whether a contribution will be required for the private component of the Brighton Estate redevelopment, given DHHS proposes to retain ownership of the whole site during the redevelopment phase, and transfer title to the private apartments directly to purchasers only when the redevelopment is complete. The Committee sees no reason why the private component should not be required to contribute to the Development Contributions Plan.

The Committee finds:

- the DPO3 should require a Social Infrastructure Assessment to be undertaken as part of the Development Plan
- consideration should be given to development contributions in respect of the private component of the redevelopment

- the private component of the redevelopment should be required to contribute to the existing Development Contributions Plan.

3.4 Social impacts

(i) Consultation and engagement

See Chapter 7.1 of the Common Issues Report.

Concerns were raised about the effectiveness of the consultation process. Many in the community clearly felt that DHHS had not taken their views into account, and submitters reported that residents of the Estate felt nervous about expressing views that disagreed with DHHS's plans given their reliance on DHHS for their future housing needs. DHHS reported that aggressive conduct had been directed toward DHHS representatives in the community consultation sessions.

In response to questions from the Committee about whether further consultation and engagement would be useful, NBRAG responded that there is always something to be gained from consulting with the community, provided the consultation is respectful and meaningful, and involves listening to the community and not just informing it about decisions that have already been made.

Provided there is good will from both sides, further consultation should help to rebuild trust between DHHS and the community, and will hopefully result in an outcome that most people feel they can live with. The existing social connections between the Estate residents and the surrounding community are clearly valuable, and the Committee urges both DHHS and the community to work together, positively and with respect, so that equally valuable connections can be built between the Estate and the surrounding community once the redevelopment is complete.

The Committee is particularly encouraged by the views expressed by Mr Holt on the last day of the Hearing regarding NBRAG's willingness to engage with DHHS moving forward. The Committee encourages DHHS to take up the opportunity to rebuild trust with the community, and to reflect on the suggestions from Submitter 107 regarding the methodology for future consultation and community engagement.

The Committee notes DHHS's commitment to continue working with residents of the Estate regarding the relocation process, their future housing needs and their wishes to return.

(ii) Disproportionate number of private dwellings

See Chapter 7.5 of the Common Issues Report.

Submitters were concerned about the limited amount of social housing to be provided on the site. Many submitters, including Council, said that given the critical shortage of social and affordable housing in Bayside, and the length of the social housing waiting list, a 10 per cent uplift was not enough. Most submissions called for a much higher proportion of social housing on the site, many calling for 100 per cent social housing.

Several submitters estimated that a 10 per cent uplift would in fact result in a *net loss* in social housing bedrooms on the Brighton site, because larger three bedroom units are

proposed to be replaced by smaller one and two bedroom units. NBRAG and submitters 107 and 110 estimated that based on the indicative post-redevelopment dwelling mix, there would be a net loss of 94 social housing bedrooms – a 32 per cent reduction of the current supply. As Submitter 107 put it, *“The renewed site will effectively reduce the opportunity for up to 188 people from accessing safe and secure housing”*.

Submitters were concerned that there is no guarantee in the planning controls of an overall increase in the number of social housing dwellings, and that this is instead being left to DHHS’s procurement process. Many submitters felt that this approach lacked transparency.

St Kilda Legal Service submitted that the Committee should not recommend that the draft Amendment be approved until the Parliamentary Inquiry hands down its findings in relation to (among other things) the appropriateness of selling off public land for private development, and the adequacy of the proposed 10 per cent increase.

The Committee acknowledges submitters’ concerns about the proportion of public to private housing being proposed on the site. The concerns are clearly deeply felt, and come from a genuine concern for the wellbeing of some of the most vulnerable people in our community.

The Committee notes Council’s submission that the Terms of Reference do not require the Committee to accept that a 10 per cent uplift in social housing is all that can be reasonably required. Ultimately, however, DHHS is responsible for managing the social housing waiting list, and for providing dwelling numbers, types and sizes that are matched to the demand. It would be inappropriate for the Committee to mandate the provision of a particular amount, or proportion, of social housing on the site.

Council submitted that in the absence of a detailed analysis of the supply and demand for social housing in the municipality, the Committee is unable to find that the draft Amendment is strategically justified. This issue is addressed in Chapters 3.4(iv) and 4.1.

(iii) Other housing options

See Chapter 7.6 of the Common Issues Report.

Opposition to the sale of public land for private development was a strong and consistent theme in the submissions. While the sale of public land for private development is beyond the scope of the Terms of Reference, the Committee considers it appropriate to note that the submissions suggested some interesting alternatives to the sale of public land, including:

- granting 99 year leases, rather than selling off the freehold title to the private component (Submitter 13)
- a community land trust model (St Kilda Community Housing Ltd).

Like the co-housing model suggested at the Heidelberg West Hearing, the Committee considers that the community land trust model offers many benefits that are consistent with the objectives of the Social Housing Renewal Program, including improved social cohesion, integration, tenure equity and sustainability. It would also help address housing affordability issues.

The Committee encourages DHHS to explore opportunities for alternative and innovative forms of social and affordable housing as the procurement process progresses.

(iv) The lack of a social and economic impact assessment

St Kilda Legal Service submitted that the Amendment should not be approved without a proper social impact assessment. It submitted that no analysis has been undertaken of the impacts of relocating the Brighton Estate residents, or removing them from their existing support networks and facilities. Nor has there been any analysis of the adequacy of the proposed yield of social housing on the Estate, or other short, medium and long-term consequences of the proposed redevelopment. St Kilda Legal Service submitted that without this analysis, it is difficult to determine whether the proposal is likely to deliver a net community benefit, and to deliver on planning objectives including fair and orderly planning, protecting public assets for the benefit of the community, and balancing the interests of present and future Victorians.

Council raised similar concerns, submitting that by selling off high value public land in inner suburbs like Brighton, the inevitable consequence would be that future public housing will have to be provided in outer urban areas where land is cheaper. It submitted that these areas are generally not as well serviced in terms of transport and community infrastructure and facilities, and that forcing vulnerable community members out of inner suburban areas will increase marginalisation and disadvantage. It further submitted that the long term economic implications of selling off the land now have not been properly investigated. It submitted that in the absence of an economic opportunity cost analysis, a proper net community benefit analysis cannot be undertaken.

A social impact assessment is an important tool in assisting DHHS to manage the impacts of the project on existing residents of the Estate, particularly in relation to relocation, and in understanding what makes for a successful mixed tenure development.

The Committee does not, however, consider that it is necessary to complete a social and economic impact assessment prior to considering whether the draft Amendment should be approved.

The Estate is in critical need of redevelopment. The Committee is satisfied that key elements of the draft Amendment – the renewal of the existing social housing stock, plus a minimum 10 per cent uplift in the amount of social housing on the site – will deliver community benefit. The project will enable the supply of modern, comfortable and energy efficient dwellings that can be better tailored (in terms of dwelling size) to meet the needs reflected in the social housing waiting list. The provision of additional private housing on a well located and well serviced site will provide additional housing choice and affordability for the Bayside community.

3.5 Minister as Responsible Authority

See Chapter 8 in the Common Issues Report.

Council submitted that, given the State has a pecuniary interest in the sale and redevelopment of the Estate, it would be inappropriate for the Minister to become Responsible Authority for the site. It submitted that *“there is significant risk that any decision by the Minister for Planning is likely to be legally uncertain in the absence of a*

proper forum for independent third party review ... This can only serve to undermine trust in the planning system in the mind of the community”.

Council submitted that the need for streamlined and fast tracked decisions does not justify a change in Responsible Authority status, because the Minister’s fast tracking powers under the Act remain intact if Council was to remain Responsible Authority.

The Committee does not consider that the State’s pecuniary interest in the land creates an inherent conflict of interest. The State’s position in relation to pecuniary interest is quite different to that of a private entity or individual. As DHHS pointed out, any so-called ‘profit’ the State might realise from the project will be directed toward the provision of more social housing for the community. In any event, the Minister is bound by the principles of administrative law, and the Courts provide a legal check against bias or potential conflict of interest.

For the reasons set out in the Common Issues Report, the Committee considers that there is justification for the Minister assuming Responsible Authority status for all of the Social Housing Renewal Program sites. The Brighton site is no different.

The Committee finds:

- as for the other sites, it is appropriate for the Minister for Planning to become Responsible Authority for the Brighton site.

3.6 Recommendation

The Committee recommends:

- 1. Adopt each of the recommendations from the Common Issues Report in respect of draft Amendment C157 to the Bayside Planning Scheme.**

4 Planning issues

The key issues include:

- whether the draft Amendment is strategically justified
- whether the Mixed Use Zone is appropriate
- non-residential uses on the site
- whether the Design and Development Overlay Schedule 2 should be removed
- continued application of the Neighbourhood Character Policy.

4.1 Strategic justification for the draft Amendment

(i) Submissions and evidence

Relying on the evidence of Mr Glossop, DHHS submitted that the draft Amendment is consistent with State and local policy, and would facilitate an increase in housing diversity (in terms of dwellings sizes and tenure) close to jobs, services and transport. Mr Glossop considered that at a local policy level, “the introduction of the controls sought by the amendment will not undermine the broader implementation of the LPPF and will support a number of its objectives”. In closing submissions, DHHS drew the Committee’s attention to specific actions in the Bayside Housing Strategy that support advocating for the redevelopment of current public housing stock in Bayside with mixed tenure, environmentally sustainable developments that meet community need.

Council submitted that the draft Amendment is not strategically justified. Council contended that for the amendment to be strategically justified, it must deliver a positive outcome in terms of social housing, and must ensure an outcome that does not hamper the ability to meet Bayside’s social housing needs into the future. Council submitted that this has not been demonstrated, given the direct and indirect effects of the proposal are likely to include a reduction in the number of social housing bedrooms on the site, a reduction in the amount of land available in Bayside for future social housing, and potentially forcing future social housing tenants into outer suburbs that are less well serviced (see Chapter 3.4).

Council highlighted that the Bayside Housing Strategy seeks to provide “*an adequate supply of social housing dwellings in Bayside*”. The Housing Strategy is a reference document in the Planning Scheme, and Council submitted that it’s ‘adequate supply’ target should be given greater weight than the 10 per cent uplift target in Homes for Victorians (which in Council’s submission is somewhat arbitrary).

Council submitted that no strategic assessment of supply and demand has been done which demonstrates that the Amendment will result in an ‘adequate supply’. It tabled a report prepared by NERA Economic Consulting and Sensing Value titled *Analysis of Social Housing Shortfall in Bayside, Stonnington and Boroondara* (October 2017) (Tab 5 in Document 22), which concluded that even with the proposed 10 per cent uplift in social housing on the site, by 2022 there will be a shortfall of 359 social dwellings in Bayside.

Mr Larmour-Reid (called by Council to give planning evidence) questioned the strategic justification for the amendment, highlighting, as an example, that the amendment documentation was not supported by any economic or social impact analysis to justify the

rezoning of residential land to facilitate higher densities and mixed uses that are more akin to the type of use and development that might be expected in and around activity centres. His evidence was that this analysis should have been done prior to the Amendment being prepared, but a (less acceptable) fall-back position would be to require the analysis prior to approving a Development Plan.

NBRAG, as well as a number of individual submitters, also questioned the strategic support for the proposal. They submitted that there is no support in the Planning Scheme for the zoning and heights that are proposed, or for a reduction in social housing bedrooms on the site. Nor is there any precedent in the municipality for land as far outside of an activity centre as the site, being rezoned for the sorts of densities being sought.

(ii) Discussion

As discussed in Chapter 2 of the Common Issues Report, the Committee considers that there is policy support for the draft Amendment at a State level including via the relevant provisions of the SPPF, the relevant directions of Plan Melbourne, and Homes for Victorians. Although Homes for Victorians is not referenced in the Planning Scheme, it is nevertheless a relevant part of the broader policy context in which the Amendment should be considered.

The Committee does not agree with Council that a further assessment of social housing supply and policy, or an economic and social impact analysis, is required prior to progressing this Amendment. While the Committee acknowledges the findings of the NERA report, it does not consider that the redevelopment of this site needs to resolve the long term supply of social housing in Bayside in order for the Amendment to be strategically justified. The Committee is satisfied that while the project is only part of the solution to Bayside's long term social housing needs, the Amendment will deliver positive social outcomes, and a net community benefit as outlined in Chapter 3.4(iv).

At a local policy level, the Committee acknowledges that the site has not been specifically identified for medium to higher density development. In Bayside, key residential growth areas are typically located in or directly abutting activity centres, although the Committee does note that the site is located partially within a 400 metre radius of the Elsternwick Activity Centre where 'future moderate growth' is identified, as highlighted by Mr Glossop.

It is not surprising that the site hasn't been directly identified for future growth. The Bayside Housing Strategy was prepared before the Social Housing Renewal Program had been adopted by State government, so the potential for the site to be redeveloped would not have been known or explicitly considered by Council at the time.

The Committee is satisfied that there is strategic support for the Amendment, both at a State and local level. The subject site clearly offers the opportunity to respond to State and local policy directions (including in the Bayside Housing Strategy) for the renewal of social housing in a well serviced location. While not directly abutting an activity centre, the site is within walking distance of Elsternwick Activity Centre, and is well serviced by public transport, Elsternwick Primary School, kindergarten and other early years services, and a variety of public open space.

Having said that, the Committee believes a number of changes should be made to the proposed planning controls, to better respond to the range of 'local' issues raised in submissions and in the course of the hearing.

(iii) Findings

The Committee finds:

- there is strategic support for the draft Amendment, subject to changes to various aspects of the proposed planning controls as outlined in this report.

4.2 Appropriateness of the Mixed Use Zone

(i) Submissions and evidence

See Chapter 2 of the Common Issues Report.

Mr Glossop's opinion was that the Mixed Use Zone was the most appropriate for the Brighton site, for two key reasons. It caters for the building heights and densities proposed, and it allows the integration of a limited range of non-residential uses on the site. Mr Glossop recommended that non-residential land uses could be further limited (given the broad range of land uses permissible in the Mixed Use Zone) by additional wording in the DPO3 to ensure that such uses are only small scale and located appropriately.

Council, NBRAG and the majority of submitters took issue with the application of the Mixed Use Zone, saying the limited amount of non-residential floorspace contemplated on the site in no way justifies the application of the Mixed Use Zone. They submitted that the Mixed Use Zone would allow (and encourage) an inappropriate scale of development, and would allow inappropriate land uses (such as industrial uses and larger scale commercial uses). They submitted that limited commercial development could be appropriately accommodated under the existing General Residential Zone in conjunction with the DPO3.

Mr Larmour-Reid indicated that he had considered the General Residential Zone and Residential Growth Zone as alternatives, as they both have the potential to accommodate taller built form. However, Mr Larmour-Reid came to the conclusion that in each case, the purposes of the zone and the land use table might unduly constrain the introduction of non-residential land uses. He preferred the Mixed Use Zone with a schedule specifying a mandatory maximum height control.

(ii) Discussion

As discussed in Chapter 2 of the Common Issues Report, the Committee is of the view that the Mixed Use Zone is appropriate for most of the sites included in the Social Housing Renewal Program, but that the Residential Growth Zone may be more appropriate for smaller sites that are in a predominantly residential context. The Committee considers that Brighton is one such site.

The Residential Growth Zone is residentially focussed, and seeks to encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas, and a diversity of housing types in locations offering good access to services and transport. The Mixed Use Zone, on the other hand,

seeks to provide a range of residential, commercial, industrial and other uses which complement the mixed use function of the locality.

The Committee is not persuaded that the Mixed Use Zone is appropriate for the Brighton site, and does not support its application. Neither the site nor the locality have a mixed use function, and the Committee is not convinced there will be a strong demand for commercial uses on this site – or indeed that such land uses will necessarily be appropriate (discussed further in the following Chapter).

The Committee does not support the retention of the General Residential Zone, relying on the ability to construct new buildings up to the height of an immediately pre-existing building. The Committee believes the retention of the General Residential Zone, even with an amended schedule allowing for greater height (as suggested by Council), will be too limiting for the future redevelopment of the site.

The Committee believes the Residential Growth Zone is the most appropriate ‘fit’ for the site, and will provide the opportunity for some appropriate small scale non-residential uses, such as a café or community space, to locate there. The Committee acknowledges DHHS’s concern that the purposes of the Residential Growth Zone refer to encouraging buildings “up to and including four storeys”. However, the Residential Growth Zone’s default discretionary height of 13.5 metres can be increased through a tailored schedule. Given that the Committee recommends the heights be designated as mandatory in the DPO3 (see Chapter 3.2), it can see no issue with this site being included in the Residential Growth Zone with a mandatory maximum six storey height limit specified in a tailored schedule.

(iii) Findings

The Committee finds:

- the Residential Growth Zone is the appropriate zone to be applied to the site.

4.3 Non-residential uses on the site

(i) Submissions and evidence

Relying on the evidence of Mr Sheppard (who was called by DHHS to give urban design evidence), DHHS submitted that provision should be made for some limited small-scale commercial land uses on the site, such as a small local shop, to meet the needs of residents and assist in the integration of the site with the neighbouring area. Mr Glossop offered a similar view, but only on the basis that non-residential land uses remain confined “*so as to not either produce unreasonable external impacts or to subvert the area’s existing activity centre hierarchy*”. Mr Glossop recommended some changes to the DPO3 to address this concern.

Council submitted that limited non-residential uses would be acceptable in the areas fronting Rusden and New Streets, with some consideration given to a small-scale café in the middle section of the site near the central open space. However, Council submitted that there should be a floorspace limitation on non-residential uses.

(ii) Discussion

The Committee does not consider that the site is an appropriate location for non-residential uses, other than perhaps a small-scale café or community space to service the Estate and its surrounds. While the Committee agrees that any non-residential uses should be limited in scale, the Committee received no submissions or expert evidence as to the appropriate amount of any floorspace cap. In any event, the Committee considers that the DPO3 can manage this issue by requiring that non-residential uses be small scale, to meet the needs of the local community. The Committee considers that the DPO3 should be amended to direct the location of any potential non-residential uses to the Rusden/New Street frontage, to ensure minimal amenity impacts to surrounding residences.

(iii) Findings

The Committee finds:

- if non-residential uses are proposed for the site they should be small-scale in nature and respond to the needs of the local community. This can be appropriately controlled through the DPO3
- any such uses should be located on the Rusden/New Street frontage and be sited and designed to ensure minimal amenity impacts to surrounding residences.

4.4 Removal of the Design and Development Overlay Schedule 2

(i) Submissions and evidence

DHHS submitted that the Design and Development Overlay Schedule 2 (DDO2) should be removed because the proposed DPO3 will include new built form controls to replace the controls included in the DDO2. Mr Glossop, in evidence, referred to the DPO3 as a 'hybrid' between a typical DPO and DDO and did not raise any concern about the removal of the DDO2.

Council and other submitters do not support the removal of the DDO2. Council noted that the DDO2 is typically applied along main roads in inland residential areas within the municipality, and has generally only been removed from areas that have gone through a structure planning process. Council submitted that redevelopment/renewal of the site could still occur if the DDO2 is retained, citing examples of developments having been approved elsewhere in the municipality that exceed the preferred building height of up to 2 storeys specified in the DDO2, including a five storey development in the Commercial 1 Zone in Bay Street (*Resling Pty Ltd v Bayside CC* [2017] VCAT 567).

(ii) Discussion

The Committee does not support the retention of the DDO2 on the site. The Committee agrees with DHHS that the preferable outcome is for the DPO3 to include appropriate new built form controls, in something of a 'hybrid' form as described by Mr Glossop, and that as a result there is no need to retain the DDO2. Indeed, if the DDO2 was to be retained, there could potentially be a tension between the built form outcomes sought by the DPO3 (which would allow up to six storeys) and those sought by the DDO2 (which requires a permit for anything above two storeys).

Having said that, the Committee supports the following Design Objectives in the DDO2 being translated into the revised DPO3, as these objectives remain relevant to the site even with the greater intensity and height proposed:

- *To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.*
- *To maintain a strong landscape character with buildings set within vegetated surrounds.*

(iii) Findings

The Committee finds:

- the DDO2 should be removed from the site
- Design Objectives one and four of the DDO2 should be translated into the Design Objectives of the DPO3.

4.5 Application of the Neighbourhood Character Policy

Mr Glossop's evidence was that given the heights and densities sought to be achieved with the redevelopment, it would be difficult to resolve the inherent conflict between the objectives of the Neighbourhood Character Policy in Clause 22.06 of the LPPF for Precinct A2, and future permit applications. He recommended that the site be removed from Precinct A2. If the Committee's recommendation to apply the Residential Growth Zone is adopted, the conflict will be resolved, as Clause 22.06 does not apply to the Residential Growth Zone. If the Committee's recommended zone is not adopted, then the Planning Scheme should be amended so that Clause 22.06 does not apply to the site.

Neighbourhood character is further discussed in Chapter 5.6.

The Committee finds:

- should the Committee's recommended zone not be supported, Clause 22.06 should be amended to exclude the site.

4.6 Recommendations

The Committee recommends:

- 2. Approve draft Amendment C157 to the Bayside Planning Scheme, subject to the following changes:**
 - a) Apply the Residential Growth Zone to the site, with a tailored schedule to provide a mandatory six storey height limit.**
 - b) Amend the Development Plan Overlay Schedule 3 in accordance with the Committee's recommended version contained in Appendix D of this report.**
- 3. If Recommendation 2(a) is not adopted, amend Clause 22.06 of the Bayside Planning Scheme so that it does not apply to the site.**

5 Urban design and built form

The key issues include:

- appropriateness of the heights and setbacks proposed
- massing
- permeability and connectivity
- appropriateness of podium level car parking
- overshadowing
- neighbourhood character.

5.1 Heights and setbacks

(i) Submissions and evidence

Submitters, including Council, submitted that the proposed heights shown in the exhibited documents (which ranged from three to nine storeys) are out of character with the area, and drew the Committee's attention to the fact that heights in surrounding activity centres are generally significantly lower than what is proposed on the site. Several submitters felt that the proposed heights were driven by a business case, or yields, rather than being a design led process, responding to neighbourhood character and site constraints. Submitters also called for greater certainty through mandatory heights and setbacks.

Mr Sheppard proposed:

- a three storey height limit along the majority of the northeast boundary (which has a direct interface with residential properties)
- a four storey height limit along Brickwood Street, with the upper storey set back an additional two metres
- a maximum of six storeys on the remainder of the site.

Mr Larmour-Reid supported an overall height of only one to two stories greater than the existing built form (ie a five to six storey maximum), stepping down to two to three storeys at the residential interfaces.

NBRAG acknowledged that it may be possible to achieve up to five storeys within the current built form envelope, but they remained fundamentally opposed to six storey development.

Several submitters raised the issue of providing sufficient space in the setbacks along the interfaces for tree retention or replanting of canopy trees. Mr Patrick (who was called by DHHS to give landscape evidence) supported setbacks sufficient to allow for tree planting, including breaks at appropriate intervals to allow for larger canopy trees. Mr Sheppard and Mr Patrick both supported additional planting along the Elster Creek interface, to screen the development from Murphy Street and Elsternwick Park.

Many of the surrounding neighbours had not understood that the ResCode setbacks would apply, and called for the DPO3 to require setbacks to be at least as large as those required under ResCode. ResCode requirements are discussed in detail in Chapter 2.3 of the Common Issues Report.

Mr Sheppard proposed a seven metre setback along Brickwood Street (Interface B), to allow for retention of the existing canopy trees along this interface. DHHS expressed a preference to maintain the proposed setback at 4.5 metres, submitting that the loss of the trees at this interface will be balanced by the requirement for two for one replacement planting, and allowing more space for social housing would be a preferable outcome. DHHS noted that there is currently no planting in the nature strip along the Brickwood Street frontage, and the redevelopment will create a new planting opportunity by removing the four existing vehicle crossovers.

Mr Glossop noted that there is a potential conflict at the north east and south east corners of the site where the site abuts residential neighbours. He pointed out that Interface Treatment A extends to the common boundary in Rusden Street rather than Interface Treatment B, whereas the reverse was true in Brickwood Street. He noted that neither alternative sits comfortably at these edges, and that further consideration should be given to managing these interfaces to ensure the protection of neighbour's amenity and an appropriate scale transition.

NBRAG and others submitted that the proposed three metre setback at Interface C (the direct residential interface) was inadequate for tree planting, overshadowing, overlooking, and neighbourhood character reasons. It argued that if the setback is to be only three metres in this location, then that setback should be used for the private open space of abutting dwellings. Mr Sheppard supported the use of this setback for private open space.

(ii) Discussion

The further revised DPO3 (Document 8) provides for building heights consistent with those proposed by Mr Sheppard. The Committee supports the heights in the further revised DPO3, with one small adjustment. The reduced heights will reduce the visual bulk, are more consistent with context of the development and reduce adverse impacts of potential overshadowing of the proposed central open space area, and the residential properties in Murphy Street. They are also consistent with the scale of current heights along Brickwood Street.

The adjustment required is to extend the precinct boundary of Area 2 all the way through to Rusden Street in the north east corner, and Brickwood Street in the south east corner. The Committee was not persuaded that six storeys should be allowed along the side boundary of the residential property at 31 Rusden Street, or four storeys along the side boundary of the residential property at 63 Brickwood Street. The Committee considers that three storeys is appropriate in these locations, as is the case for the other residential properties in Ebdon, Salisbury, Airlie and Brickwood Streets which share a boundary with the site.

In extending Area 2, further consideration will also need to be given to the interface treatments at the north east and south east corners of the site, as identified by Mr Glossop, to ensure that appropriate street setbacks are provided at those corners, as well as appropriate setbacks to the adjoining residential properties.

Setbacks along Brickwood Street (Interface B) should be sufficient for the location of large canopy trees. While the Committee supports the retention of the existing trees, in light of Mr Patrick's evidence discussed in Chapter 7.2, the Committee does not regard this as

essential. It agrees with DHHS that the removal of four current crossovers provides the opportunity for planting of significant new canopy trees in the nature strip, which would further contribute to the character of Brickwood Street. The Committee considers that a setback of 4.5 metres along Brickwood Street, increased as required to protect existing canopy trees to be retained, is appropriate.

The residential interface (Interface C) is discussed in detail at Chapter 5.3. The Committee is persuaded that in the event that the setback remains at only three metres, then it should be used as private open space at the rear of dwellings.

At Elster Creek (Interface D), setbacks should be sufficient for tree retention and replacement. The Committee considers that three metres is appropriate, increased to allow for retention of existing high and moderate value trees, and with breaks for large canopy trees as proposed by Mr Patrick.

At the New/Rusden Street interface (Interface A), the Committee supports the four metre setback as shown in the further revised DPO3.

(iii) Findings

The Committee finds:

- the heights proposed by Mr Sheppard are appropriate, subject to the adjustment of the precinct boundaries of Area 2 to extend all the way through to Rusden Street and Brickwood Street
- the Concept Plan in the DPO3 needs to be amended to make it clear that at the north east and south east corners of the site, appropriate setbacks must be provided to both the adjoining streets and the neighbouring residential properties
- the setback of 4.5 metres at Brickwood Street (Interface B) is appropriate
- if the setback at Interface C remains at only three metres, then it should be used as private open space at the rear of dwellings
- the setback of 3 metres at Elster Creek (Interface D) is appropriate
- setbacks should be increased where necessary to protect trees to be retained, and increased to 5 to 6 metres at suitable breaks to allow planting of large canopy trees
- the height limits and setbacks should be mandatory (see Chapter 3.2(i)).

5.2 Massing

(i) Submissions and evidence

A number of submitters were concerned that with the maximum height reduced to six storeys, increased massing of buildings on the site could result. Submitters were also concerned about visual bulk of the buildings when viewed from surrounding residential areas, and from Elsternwick Park. Mr Larmour-Reid considered that the long narrow site had the potential for longer built form, and therefore there was a need to break up the buildings to avoid too much mass, particularly when viewed from adjacent residential properties. Mr Glossop also considered it important that the DPO should seek to achieve separate building

forms within the precincts. He suggested a new objective in the DPO3 under Built Form to achieve this.

(ii) Discussion

The built form needs to be suitably broken up to avoid the 'wall' effect. The Committee notes that Mr Glossop's suggestion was incorporated into the revised DPO3 (Document 8) to achieve a greater sense of spaciousness between buildings. The Committee's recommendations for breaks in the setbacks to accommodate large canopy trees will also assist in breaking up the massing of built form.

(iii) Findings

The Committee finds:

- the issue of massing has been appropriately addressed in the Committee's recommended changes to the DPO3.

5.3 Permeability and connectivity

(i) Submissions and evidence

Mr Sheppard considered that opportunities should be explored for better integration and permeability of the site, with more convenient access to the school, and to the bus stop on Rusden Street. He proposed a path along Elster Creek as a safer, more inviting connection than the connection through the centre of the site shown in the Design Framework. A link through the middle of the site would be problematic if it was not at grade due to the location of proposed parking podia across large portions of the site. Mr Sheppard also recommended that the internal connections through the site to the creek should be aligned directly with Salisbury and Airlie Streets, for better permeability and access to the central open space, as well as a more 'normalised' connection pattern.

Several neighbours of the Estate, as well as Council, called for a pedestrian/cycle link along the north-eastern boundary of the site, in the location of the existing connection. Mr Sheppard expressed concerns about this alternative, due to the locations of side and rear fences along the existing residential interface. He considered it desirable to have frontages on both sides of such a connection. He preferred the direct residential interface (Interface C) to be used for private gardens for townhouses along the north-eastern boundary.

Mr Walsh (who was called by DHHS to give traffic evidence) stated that he thought any shared path should be 2.5 metre wide in accordance with Austroads guidelines for a local path, as it is essentially servicing a small catchment. The next level higher is a commuter/regional path, similar to the path along the south side Elster Creek, providing a higher level of service and accommodating a greater number of cyclists and pedestrians. These paths are generally 3 metres wide.

Council suggested that the shared path should be 3 metres wide, and referred to the VicRoads Supplement to the Austroads Guide to Road Design Part 6A – Pedestrian and Cyclist Paths (Tab 9 in Document 22), which states that a wider path is appropriate to allow for overtaking.

(ii) Discussion

The Concept Plan in the exhibited DPO3 did not show a longitudinal pedestrian path through the site connecting New/Rusden and Brickwood Streets. The Committee agrees with submitters and expert evidence that the opportunity to provide an enhanced pedestrian and bicycle connection through the site should be taken. It also agrees that only one such link should be prescribed through the site in the DPO3.

Although the existing path through the site is not particularly inviting, many submitters have stated and the Committee has observed that it does appear to be well used, and provides a direct line of sight from Rusden Street right through the site towards Brickwood Street. Residents of Salisbury and Airlie Streets routinely use this path for more direct access to the Rusden Street bus stop and particularly to the school. It is a significant factor in the healthy level of integration of the Estate into the surrounding neighbourhood.

The Committee prefers a connection from New/Rusden Streets to Brickwood Street along the residential interface (Interface C), over the alternative along Elster Creek. A link along Elster Creek is not direct, would not contribute as much to the integration of the site with the neighbourhood, and does not offer a particularly appealing prospect (unless Melbourne Water intends to re-naturalise the bank of Elster Creek, of which there is currently no indication).

The Committee agrees with evidence of Mr Walsh that a shared path providing local access should have a width of at least 2.5 metres to safely accommodate both pedestrians and bicycles. Sufficient space should also be provided on either side of the path for landscaping.

Issues raised by submitters about overlooking, overshadowing, visual bulk and overland flooding along the north-eastern interface could all be ameliorated with a larger setback along Interface C. The setback needs to be sufficient to enable the location of a well-lit and appropriately landscaped shared pedestrian/bicycle path.

The Committee is mindful of the advice from Mr Sheppard, and suggests that development in this location should front onto the shared path to improve passive surveillance. It does not, however, consider that active frontages on both sides are essential.

(iii) Findings

The Committee finds:

- the Concept Plan should show a shared pedestrian/bicycle path connection along the north-eastern boundary of the site (Interface C), not along Elster Creek (Interface D)
- the setback at Interface C should be a minimum of four metres, sufficient to accommodate a shared local access path of at least 2.5 metres and landscaping
- development on the site should front onto the shared path
- the connections through the site from Salisbury and Airlie Streets should align directly with those streets.

5.4 Appropriateness of podium level car parking

(i) Submissions and evidence

A number of submitters queried why basement car parking was not being pursued. They submitted that podium parking resulted in poor outcomes including impact on tree retention, creation of gradient issues for pedestrian and cycling movement networks, and reducing connections with the surrounding neighbourhood by effectively pushing the development one level up.

Council and other submitters argued for basement car parking, to provide greater dwelling yield within the above-ground building envelope, provide for view lines throughout the site at ground level, and improve internal movement networks.

Mr Larmour-Reid expressed preference for basement parking, and concern about the impact of podia on movement and change of levels across the site. His key concern was the lack of sleeving. This concern was shared by Mr Sheppard, and Submitter 82 (who has urban design qualifications).

Other submitters raised concerns that basement parking may be inappropriate given local flooding conditions. NBRAG pointed out that the revised flood mapping provided in connection with Amendment C153 (Document 48) indicates that all possible entry and exit points to basement parking are affected by flooding.

(ii) Discussion

The Committee is not sure why basement parking is not being pursued. If there are issues with flooding, ground conditions, remediation and the like, these should be explored, but the proposed podium parking has a poor urban design outcome including no sleeving with residential development, removing the development from the ground plane interface one level up and creating gradient issues for movement networks across the site.

The issue of flooding is acknowledged, but this will be managed through the Special Building Overlay. Flood mitigation works are likely to be necessary whether parking is in podia or in basements. Flooding is discussed in greater detail in Chapter 7.3.

If podia are used, then they should be sleeved with dwellings to provide active frontages, particularly on the public realm. This is more important where podia are of more than one level. The impact of single level podia can be ameliorated to some extent through landscaping, the use of materials and articulation, and active frontages at first floor level (immediately above the podia).

The Committee notes that the DPO3 already provides that car parking spaces must be suitably concealed within buildings or behind features such as active podium frontages or located within basement levels. The Committee supports a requirement for sleeving, should basement parking prove infeasible.

(iii) Findings

The Committee finds:

- basement parking is the preferred outcome from an urban design perspective.

5.5 Overshadowing

(i) Submissions and evidence

Submitters expressed concerns about overshadowing of the school, front gardens and rooms in Murphy Street, and rear gardens in Airlie and Salisbury Streets. Some submitters said there should be no overshadowing of the school. Mr Sheppard produced revised shadow diagrams showing the expected levels of overshadowing at the winter solstice as well as the September equinox, based on the revised heights and setbacks that he had recommended (Document 11). The revised shadow diagrams show that at the winter solstice, some front yards in Murphy Street and a small proportion of the school's open space will be overshadowed.

(ii) Discussion

Document 11 demonstrates that front gardens in Murphy Street will only be overshadowed between 9am and 10am at the winter solstice, and not at all at the September equinox. There is minimal overshadowing of other residential properties at the equinox. ResCode provisions will address overshadowing issues at Murphy Street and at Interface C, where overshadowing would be reduced with a recommended increase of the setback to four metres.

It is understood that there could be minimal overshadowing at the winter solstice of a small portion of the school playground area, between 9am and 11am which is outside the period that the open space is most heavily used. The Committee considers that some overshadowing is acceptable at the solstice, particularly given the large playground area at the school. At no point will all (or even a majority) of the school's open space be overshadowed.

With the reduction of maximum heights to six storeys on the site, there would be relatively minor overshadowing of the proposed central public open space at the equinox. Overshadowing requirements in ResCode and the Better Apartment Design Standards will also need to be met (see Chapter 2.3 of the Common Issues Report for more detail).

(iii) Findings

The Committee finds:

- overshadowing issues will be addressed by the reduced heights across the site, the increased setback at Interface C, ResCode and the Better Apartment Design Standards.

5.6 Neighbourhood character

(i) Submissions and evidence

A number of submitters raised a concern that the proposed development does not respect the low scale one to two storey dwellings and garden character of the surrounding area. They submitted that the neighbourhood character should be protected and maintained by appropriate limits on built form, and by including landscaping and tree retention

requirements. Mr Larmour-Reid considered that the proposed development is completely out of context with the surrounding locality.

DHHS acknowledged that the proposal should integrate with the surrounding existing and preferred future neighbourhood character and submitted that the proposed design response is appropriate. In particular, DHHS submitted that the site and the existing buildings form part of the neighbourhood character.

(ii) Discussion

The site is located in Precinct A2 in the Bayside Neighbourhood Character Review 2004. The overall precinct character is one of a unified, fine grain subdivision pattern of pre World War 2 dwellings with pitched roof forms and highly articulated front wall facades. Within the wider precinct there are two small areas covered by Neighbourhood Character Overlay controls.

The Committee notes that the existing development is somewhat out of context with the surrounding area, but accepts DHHS's submission that the existing Estate contributes to, and forms part of, the neighbourhood character. The Committee notes in particular the contribution that the existing gardens and landscaping on the site make to the neighbourhood character.

The Committee agrees with Council that it is not unreasonable that the proposed redevelopment be required to respond to the adjacent neighbourhood character along the interfaces. The Committee also agrees with Mr Larmour-Reid that although neighbourhood character is a relevant consideration, it is just one consideration.

The redevelopment of the site will be required to respond to neighbourhood character under multiple controls, including Clause 55 and the Residential Growth Zone. While the densities proposed on the site are significantly higher than the surrounding residential properties, the opportunity exists for the redevelopment to respond to the predominant character of the precinct through the use of setbacks, and landscaping. The redevelopment also presents an opportunity for a new neighbourhood character to emerge.

The Committee's recommended DPO3 would limit building heights long Brickwood Street to approximately the heights of existing buildings. The Committee agrees with Mr Sheppard that the three storey height limit along Interface C, combined with the amenity provisions of ResCode, would provide appropriate protection of the 'backyard' character in this location. The Committee's recommendations for the translation of some of the Design Objectives from the DDO2 into the DPO3 will also help to ensure that neighbourhood character is respected with the redevelopment of the site. The Committee further notes that the Residential Growth Zone requires development to respect neighbourhood character.

(iii) Findings

The Committee finds:

- the Committee's recommended changes to the DPO3 (including reduced heights, increased setbacks and landscaping requirements) will assist to ensure that the redevelopment contributes to the neighbourhood character.

6 Traffic and parking

The key issues include:

- increase in traffic and its impact on the surrounding road network
- parking rates.

The key access and parking elements shown on the indicative plans and designs exhibited with the draft Amendment consist of:

- a permeable bicycle and footpath network throughout the site
- access to podium level parking utilising the existing access locations at Brickwood Street, Airlie Street and Salisbury Street
- proposed left in left out driveway at Rusden Street
- 251 parking spaces provided in two podium level buildings.

Traffic and parking issues common to all Estates, such as differential parking rates, sustainable transport and car park safety and management, are discussed in Chapter 4 of the Common Issues Report.

6.1 Increase in traffic generation and impacts

(i) Evidence and submissions

The ability of the surrounding road network to absorb the increase in development traffic was a significant concern for the surrounding community.

Several submitters flagged the already congested nature of the nearby road network, and said it would not be capable of accepting additional development traffic without significant delays. Some submitters considered that the traffic and parking surveys conducted by the Traffic Group were not representative as they failed to consider relevant intersections and roads. In particular, submitters stated that the Brickwood Street/Cross Street intersection is congested with traffic and parking during Elsternwick Primary School drop off and pick up times. Submitters suggest that remedial traffic management works and parking restrictions may potentially be required. Several submitters also raised concerns about utilising Rusden Street for site access, suggesting this would be inappropriate and potentially dangerous due to existing traffic conditions.

DHHS called Mr Walsh of Traffic Group to give evidence on traffic and parking issues. He concluded that there are no traffic reasons why the development should not proceed.

Based on the dwelling mix and yields represented in the indicative plans, the redevelopment would generate an additional 915 vehicle movements per day, including 92 vehicle movements – 10 per cent of daily traffic volume – during the AM and PM peak hour periods.

Mr Walsh distributed development traffic across the local road network, based on existing traffic surveys at or near existing site access locations, and the proposed parking distribution across the site. He advised that the development could generate approximately 23 additional vehicle movements in the peak periods at nearby local intersections (92 vehicles per hour in peak hour, distributed evenly over four access points). In his opinion, this level

of traffic is relatively low (on average not more than one vehicle every two to three minutes), and he did not consider that road network improvements would be required.

A summary of traffic changes in key local streets predicted by Mr Walsh is shown in Table 5.

Table 5 Traffic changes in key local streets

Location	Estimated Daily Traffic - Vehicles per day		
	Existing	Post Development	Desirable capacity
Salisbury Street	150	380	1000
Airlie Street	100	330	1000
Brickwood Street	500	730	2000
Ebden Street	1350	1810	3000

Mr Walsh acknowledged the congested nature of the surrounding road network in peak periods, and that motorists exiting the side streets can experience delays. However, his observations of the operation of nearby intersections suggested there is spare capacity to accommodate the additional traffic. He carried out computer modelling of the Ebden Street/Rusden Street intersection which demonstrated that this intersection will continue to perform satisfactorily. He concluded that there would be no material impact on the operation of other nearby intersections.

For the proposed access point at Rusden Street, Mr Walsh suggested a left in-left out arrangement to maintain safety. He acknowledged that further investigations would be required before a site access point in this location was created, including the potential relocation of the bus stop which most likely would need to be moved further east, in front of residential properties with a corresponding loss of on-street parking.

Mr Walsh's opinion was that an access point on Rusden Street is not essential to the development, but it would allow traffic entering and exiting the site to be distributed across four access points rather than three, thereby reducing traffic principally on Salisbury Street.

Mr Walsh observed the Brickwood Street/Cross Street intersection at school pick up time, and noted that traffic and parking congestion dissipated within 30 minutes. He did not consider that specific remedial traffic calming or signage works would be required because of the development. He noted pedestrian safety would be enhanced, as the 90 degree parking spaces associated with the existing Estate at Brickwood Street would be removed, resulting in no cars reversing out of the site across the footpath into Brickwood Street.

Council tabled a traffic and parking assessment peer review by Ratio Consultants (Document 10), which generally supported the findings of Mr Walsh.

(ii) Discussion

The Committee is satisfied that the road network and nearby intersections will continue to perform satisfactorily with the additional development traffic. In particular, Mr Walsh's traffic modelling shows that in peak periods at nearby major local intersections, the

additional traffic on average, will be no more than one vehicle every two to three minutes. As such, additional or remedial traffic management works would not be required.

Some neighbours to the south east of the site were concerned that their road(s) may experience a significant increase in traffic. Mr Walsh explained that based on existing traffic movements, around two-thirds of traffic from the site heads to the north east. Brickwood Street and to a lesser extent Cross Street will experience some increase in traffic, but will still operate below the capacity of a local order road.

In light of the above, the Committee is satisfied that whilst traffic will increase on the surrounding road network, desirable environmental capacities will not be exceeded.

In response to concerns raised by submitters over the lack of accurate survey data, Mr Walsh undertook a 12 hour traffic survey of the Rusden Street/Ebden Street intersection. From this data he concluded that during school drop off and pick up times, turning movements were similar to peak hour periods, though through traffic on Rusden Street was lower. In light of the above the Committee is comfortable that adopted peak periods used for the traffic assessment are 'worst case' scenarios.

Residents were concerned with the proposed vehicle access onto Rusden Street due to the nearby intersection geometry, bus stop and traffic flow. Further investigations would be required to determine if a Rusden Street access point is feasible, including possible relocation of the bus stop and sub-station, and pedestrian access. The Committee is cognisant that abandoning this access point will increase traffic on Salisbury Street and Ebden Street. Subject to the outcomes of the further investigations, the Committee supports the Rusden Street access point in principal, if it turns out to be feasible. It also supports Mr Walsh's suggestion of a left in left out arrangement at this access point, for safety reasons.

(iii) Findings

The Committee finds:

- the existing road network can safely and satisfactorily accommodate the additional traffic likely to be generated by the proposed development. Remedial traffic management works are not required on the surrounding road network
- further investigations are required to determine if the Rusden Street access should proceed
- if the Rusden Street access does proceed, it should be limited to left in left out.

6.2 Parking rates

(i) Evidence and submissions

A summary of the proposed parking overlay rates is shown in Table 6.

Many neighbours of the Estate said that there is already parking overflow from the site onto the surrounding streets (particularly Brickwood Street), and were concerned that the increased densities on the site would make the problem worse.

Council was unsure how the parking rates had been determined and was initially concerned that they may have been ‘retrofitted’ to the site. However, the peer review by Ratio Consultants (Document 10) suggested the parking rates were appropriate.

(ii) Discussion

Mr Walsh acknowledged that there is currently some parking overspill into neighbouring streets from the existing Estate, and the Committee accepts that some neighbours can experience difficulty finding a parking space.

Based on ABS average car ownership data, the site will generate a parking demand for 268 spaces if it was developed in accordance with the indicative design and dwelling mix shown in the Design Framework and background documents. Based on the indicative design, the parking overlay would require 295 spaces to be supplied (as shown in Table 6).

Table 6: Brighton parking supply and demand assessment

Use	No.	ABS		Proposed	
		Av. car ownership	Av. parking demand	Parking rate	Parking supply
Public					
1 bedroom	91	0.3	27	0.6	55
2 bedroom	42	0.6	25	0.6	25
3 bedroom	7	0.7	5	0.6	4
Total	140		57		84
Private					
1 bedroom	58		58	1.0*	58
2 bedroom	96		96	1.0*	96
3 bedroom	16	1.6	26	1.6	26
Total	170		180		180
Total (Public & Private)	310		237		264
Visitors Dwellings (All)	310		31	0.1	31
Total	310		268		295
Design Framework – indicative site parking supply					251

Notes: For example; Public 1 bedroom parking demand (91 x 0.3 (ABS av. car ownership) = 27 spaces), parking supply (91 x 0.6 (proposed parking overlay rate) = 55 spaces)

* The statutory rate of 1 space per 1 and 2 bedroom dwelling applies

The Design Framework plans show 251 spaces in the podia car parks – a shortfall of 44 spaces. This in itself is not fatal to the Amendment. The Design Framework is indicative only, and the development will need to be designed to accommodate the required number of spaces on-site (or, a permit will be required to reduce the parking provision below the rate specified in the overlay). The Committee notes that the agreed reduction in building height is likely to result in a reduction in the total number of dwellings, and therefore in the demand for parking. The Committee is comfortable that the development can be designed in such a way as to accommodate the required number of spaces on the site.

(iii) Findings

The Committee finds:

- the proposed Parking Overlay rates are satisfactory.

7 Other issues

The key issues to be addressed include:

- amount and suitability of proposed open space
- tree retention and replacement
- flooding issues
- cultural heritage
- the ongoing role of the Committee.

7.1 Open space

(i) Evidence and submissions

Submitters expressed concerns about the amount of open space and the suitability of communal open space above podia. Submitter 70 calculated that there would be a 30 per cent reduction in the amount of open space with the redevelopment of the site.

Mr Sheppard's evidence was that based on the Design Framework, the total amount of indicative open space would be in the order of 14,130 square metres, which equates to the total amount of open space currently on the site (Document 7). While the proposed central open space area (shown at 2,150 square metres in the Design Framework) is approximately 1,510 square metres less than the amount of communal open space on the site currently, it is nonetheless well in excess of applicable standards for public open space in a residential subdivision. He noted that in reference to the Bayside Open Space Strategy, the locality is not deficient in open space. Mr Sheppard considered it desirable to consolidate the open space into a more usable and central location on the site so as to contribute to place-making and tree retention.

Mr Patrick expressed concern about the proposed canopy tree planting in communal open spaces on top of podium car parking, as shown in the Design Framework. Although this is increasingly common, in his view it is essential that planters for trees have a minimum depth of 800mm and be a minimum of 5 metres across. The volume of the appropriately irrigated planters should be sufficient to support the likely tree canopy.

(ii) Discussion

The indicative plans in the Design Framework show two areas of at grade public open space. There is a large area in the centre of the site, adjacent to Elster Creek, and a smaller area facing Rusden and New Streets. In addition there are communal open space areas shown above the parking podia between buildings. The Concept Plan in the DPO3 shows only the central open space area adjacent to Elster Creek.

The amount and location of the central open space is supported. It would enjoy good solar access and direct connections to Salisbury and Airlie Streets. The central open space should be large enough to be usable for a range of recreational activities.

The Committee does not oppose communal open space on top of buildings or podia, provided it is appropriately sited with sufficient solar access and protection from wind, irrigated, and capable of accommodating planters that are suitable for smaller to medium

sized trees. The Committee notes that significant ongoing maintenance will be required for these spaces.

(iii) Findings

The Committee finds:

- the indicative location for the main public open space on the Concept Plan is supported
- the central public open space area should be large enough (minimum 2,000 square metres) to accommodate large canopy trees and a range of activities and facilities, such as a communal vegetable garden.

7.2 Tree retention and replacement

(i) Evidence and submissions

Mr Patrick considered that there are relatively few high retention value trees on the site, particularly along Elster Creek. Even trees of moderate value along Brickwood Street were at the latter part of their life and could be considered for replacement in his view. Mr Patrick stressed the need for the preparation of a Tree Management Plan before demolition begins, to ensure that trees identified for retention are adequately protected during demolition works.

Mr Patrick considered that setbacks of five to six metres may be required along interfaces in particular locations to allow for the planting of larger canopy trees.

(ii) Discussion

An Arboricultural Report will determine what trees need to be retained at the Development Plan stage. The DPO3 requires existing trees of high or moderate value to be retained unless they would significantly affect the feasibility of the development. If removed, they will be required to be replaced on a two for one ratio. The Committee considers that this is an appropriate outcome.

The Committee is persuaded by the evidence of Mr Patrick that allowance should be made in interface setbacks for the planting of larger canopy trees. They would assist with the integration of development on this site with adjoining and adjacent established residential landscapes. They would also assist with breaking up of the built form, particularly when seen from Murphy Street across Elster Creek, and from Elsternwick Park.

Opportunities for tree planting in the Elster Creek reserve should be explored with Melbourne Water.

(iii) Findings

The Committee finds:

- the DPO3 strikes an appropriate balance between the value of tree retention to the character and amenity of the area, and the policy which supports the efficient development of the site

- setbacks should be required to be increased where necessary to allow for the retention of high value trees, and at breaks to allow for the planting of large canopy trees to supplement other planting in the interface setbacks.

7.3 Flooding issues

The key issues include:

- whether the draft Amendment sufficiently considers potential flooding issues.

(i) Submissions and evidence

Several submitters were concerned that the redevelopment of the site could increase overland flow and create more severe localised flooding. A number of submissions included photographs and video footage of flooding in the surrounding area, and they questioned whether a major redevelopment was appropriate under these circumstances.

Submitters in Murphy Street were particularly concerned about the potential for more intensive redevelopment of the site to increase flooding impacts in Murphy Street, which is affected by both overland flows of stormwater toward Elster Creek, and the threat of the creek bursting its banks in particularly severe events. Elwood Flood Action Group were concerned about the downstream impacts on properties in Elwood, which are reportedly regularly flooded.

Submitters questioned whether providing basement parking on the site was practical, given all of the proposed access points to the site (and to basement parking) are within the area affected by proposed updated Special Building Overlay (SBO) mapping. Council, on the other hand, believes that basement car parking should be provided, and that flooding issues can be mitigated with an engineering solution.

Neither DHHS nor Council submitted expert evidence regarding storm water or flood management, and no submission was received from Melbourne Water. In response to directions from the Committee about Melbourne Water's views regarding the project, DHHS tabled a letter from Melbourne Water dated 30 October 2017 (Document 15) that indicated that the site is subject to flooding from Elster Creek, and that Melbourne Water *"has no objection, in principle, to the proposed planning scheme amendment. Melbourne Water is able to provide development advice upon receipt of plans showing how the property will be redeveloped, under our role as a determining referral authority for all buildings and works within the Special Building Overlay"*.

(ii) Discussion

Parts of the site are subject to the SBO as it is subject to flooding during 1-in-100 year flood events. The SBO mapping is in the process of being updated, via Amendment C153. If C153 is approved in the form exhibited, significantly more of the site would be impacted, including a strip along the entire north eastern boundary.

The SBO requires any permit application to be referred to Melbourne Water. Melbourne Water manages Elster Creek adjacent to the site.

The proposed updates to the SBO mapping, and the video and photographic evidence provided by submitters, suggests to the Committee that the existing driveways and at grade car parking along the north-eastern boundary of the site operate as an overland flood path during intense storms. If buildings are located in this area, flood waters will potentially be diverted to other parts of the site, or to surrounding properties. While engineering solutions will be required to address this risk, the Committee considers that the risk could be mitigated to some degree if the shared path is located along the north-eastern site boundary (see Chapter 5.3).

Flood mitigation and protection will be appropriately considered as part of the detailed design process. This will require consultation between Melbourne Water, the Responsible Authority, and the architect, drainage and traffic specialists retained by the developer, to realise a safe and functional design which incorporates appropriate stormwater management and flood mitigation measures and ensures that the development will not adversely impact neighbouring properties.

At this stage, the Committee does not consider that it would be appropriate to pre-empt the solution to potential flooding impacts on parking areas, or whether parking should be provided at grade, in podia or at basement level in order to best manage potential flood risk.

While the Panel acknowledges the concerns of neighbours about flood issues, the Committee is confident that an engineering/design solution will be able to be developed. The Committee supports the inclusion in the revised DPO3 (Document 8) of a requirement for a Stormwater and Flood Risk Management Plan, which must address the views of Melbourne Water. Melbourne Water approval will also be required for any permit applications within the SBO affected parts of the site.

(iii) Findings

The Committee finds:

- while localised flooding appears to be a significant issue, the Committee is confident that engineering/design solutions can be found to manage the flood risks.

7.4 Cultural heritage

Due to the proximity of Elster Creek, the site is located within an area of Aboriginal cultural heritage sensitivity as defined in Regulation 23 of the *Aboriginal Heritage Regulations 2007*. Some submitters raised concerns that the draft Amendment does not appear to have had regard to Aboriginal cultural heritage.

The Committee notes that no cultural heritage assessment was exhibited with the draft Amendment documentation for Brighton. This is different to the approach taken to the Northcote site (which is adjacent to Merri Creek), for which a cultural heritage desktop audit was prepared and exhibited along with the amendment documentation.

The Committee questioned DHHS about whether Aboriginal cultural heritage matters had been taken into account in the preparation of the draft Amendment for the Brighton site.

DHHS responded to the effect that if a cultural heritage management plan is required, one would be prepared prior to permits being granted for the redevelopment of the site.

The Committee notes that the Brighton site appears to have been subject to significant ground disturbance over a long period of time. Nevertheless, this does not necessarily mean that objects or places with Aboriginal cultural heritage significance are not present within the site. Care will need to be taken in the redevelopment of the site to ensure that matters of cultural heritage significance are identified and protected as appropriate.

Appendix A: List of submitters

No.	Submitter	No.	Submitter
1	Nigel Hillier	38	Adelheid Scholer
2	Adam Brown	39	Cameron Eldridge
3	Sally Humphris	40	David Sackett
4	Irith Manory	41	Susan Eldridge
5	Maree White	42	Elizabeth Le Fanu
6	Sonia Wagner	43	Esme West
7	Joseph M Zly	44	Stephanie David
8	David Wilmot	45	Shelley Wettenhall
9	Doug Bray	46	Jean-Paul Tingiri
10	Tibor Endrody	47	Vanessa Tingiri
11	Walter Grootendorst	48	Frank Farrugia
12	Emma Chesneau	49	Leonard Roy Dark
13	Roberta Marion Murphy	50	Pam Kay
14	Elwood Floods Action Group	51	Natalie Quinn
15	Dianne Patricia Anderson	52	Mark Van Lieshout
16	Victorian Public Tenants Association	53	Oskar Hakansson
17	Emma Posner	54	Clifford Hayes
18	Lisa Berg	55	Lily Beaver
19	Debra Leung	56	Sandra Muriel Rees
20	Ian Richardson	57	Joanne Beaver
21	Isaac Douglas Hermann	58	Jodi Brady
22	Transport for Victoria	59	Christina Chiodo
23	Mourad Gouel	60	Chris Rusden
24	Katherine Hird	61	Adrian Dubar
25	Paul Telford	62	Ed Vitali
26	Robyn Mitchell And David Mitchell	63	Julianne Tyquin
27	Phillip Geschke	64	Anna Lund
28	DHHS - Community Participation Bayside Peninsula Area Team	65	Fiona Bull
29	Jason Bull	66	Rodney Baillie
30	North Brighton Kindergarten	67	David Macrae
31	Gail Stainton	68	Donna Fisher
32	Darren John Mitchell	69	Richard Allan Pocknee
33	Diane Bussell	70	Albrecht Scholer
34	Judy Farrugia	71	Howard Gerrard
35	Michael Connors	72	Darren Dawson
36	Belinda Chapman	73	Thomas David
37	Graham Chapman	74	Yvette Hobbs

No.	Submitter	No.	Submitter
75	Nathan Farrugia	102	Kirsty Robertson
76	Sarah Strain	103	Thalia Dionysia Kioussis
77	Jason Storer	104	David Grant
78	Melanie Storer	105	Richard Chanter Holt
79	Jennifer Pendergast	106	Elwood Toy Library
80	Emma Hunter	107	Louise Hogan
81	Sandra Davidson	108	Anthony Peter Feigl
82	Anne Barlow	109	Talia Kioussis
83	Elizabeth Stewart	110	Bruce Quig
84	Peter and Anita Frith	111	Jack Simson Mahoney
85	The Community Alliance of Port Phillip	112	Amy Collie
86	Dennis Martin	113	Justin Mottram
87	Frances Joy Vinycomb	114	Lisa Mottram
88	Sarah Scully	115	Nadia Ford
89	St Kilda Community Housing Ltd	116	Scot Thorburn Smallman
90	Lien Tran	117	North Brighton Residents Association
91	Lisa Vallender	118	Bayside City Council
92	Ben Coughlan	119	St Kilda Legal Service
93	Wayne Francis Carroll	120	Elsternwick Primary School
94	Dean Hanneysee	121	Timothy John Wood
95	Dr Kate Shaw	122	Jennifer Bishop
96	Kylie Stanley	123	Allison Hauritz
97	Scott Stanley	124	Anna Hakman
98	Walter Podolakin	125	Andrew Hooper
100	Janice Margaret Smallman	126	Details withheld
101	John Smallman		

Appendix B: Appearances at the Hearing

DELWP, represented by Cassie Hannam (Senior Planner) and Darcy Daniher (Planner).

DHHS, represented by Rory O'Connor of Norton Rose Fulbright, with Luke McDonald (Senior Project Manager) with evidence from:

- Mark Sheppard of David Lock Associates on urban design
- John Glossop of Glossop Town Planning on planning
- Jason Walsh of Traffix Group on traffic
- John Patrick of John Patrick Landscape Architects Pty Ltd in landscape.

City of Bayside, represented by Barnaby McIlrath of Maddocks Lawyers, with Juliana Aya, Acting Manager Urban Strategy, with evidence from:

- James Larmour-Reid of Ethos Urban on planning.

Elwood Flood Action Group, represented by Geoffrey Love.

North Brighton Residents Action Group Inc, represented by Richard Holt, Jack Mahoney, Bruce Quig and Louise Hogan.

St Kilda Community Housing Ltd, represented by Joanne Holl.

St Kilda Legal Service, represented by Robert Forrester of Counsel.

The Community Alliance of Port Phillip (CAPP), represented by Leslie Rosenblatt.

Albrecht Scholer	Jason Bull
Anthony Feigl	Jennifer Bishop
Andrew Hooper	Justin Mottram
Anna Hakman	Lisa Mottram
Anna Lund	Louise Hogan
Anne Barlow	Nadia Ford
Bruce Quig	Richard Holt
David Grant	Roberta Murphy
Dean Hanneysee	Sarah Scully
Doug Bray	Stephanie David
Fiona Bull	Tibor Endrody
Jack Mahoney	

Appendix C: Document list

No.	Date	Description	Presented by
1	1/11/2017	Submission – Part A and Expert Witness Statements from Mr Sheppard on urban design, Mr Glossop on planning, Mr Patrick on arboriculture and Mr Walsh on traffic	Ms Turnbull for DHHS
2	1/11/2017	Submission – Expert Witness Statement from Mr Larmour – Reid on planning	Mr McIlrath for Bayside City Council
3	1/11/2017	Revised DPO Schedule (31 Oct 2017)	Mr O'Connor
4	8/11/2017	Revised DPO3 diagrams & elevations	Mr O'Connor
5	8/11/2017	Notification report	Mr Daniher
6	8/11/2017	Summary of notification	Mr Daniher
7	8/11/2017	Open space areas & survey plan	Mr O'Connor
8	10/11/2017	Revised Schedule 3 to DPO	DHHS (email)
9	13/11/2017	Survey plan	Mr O'Connor
10	13/11/2017	Ratio traffic assessment	Mr McIlrath
11	13/11/2017	Revised shadow drawings	Mr O'Connor
12	13/11/2017	DHHS submission – Part B	Mr O'Connor
13	13/11/2017	DPO11 – Moreland Planning Scheme	Mr O'Connor
14	13/11/2017	Moreland Amendment C92 – Panel Report	Mr O'Connor
15	13/11/2017	Melbourne Water letter re flood level information	Mr O'Connor
16	13/11/2017	DHHS Consultation Summary	Mr O'Connor
17	13/11/2017	SBO Existing & Proposed (Bayside Amendment C153)	Mr O'Connor
18	13/11/2017	Sketch plans from Phase 1 DHHS consultation	Mr O'Connor
19	14/11/2017	'The Conversation' – media article	Mr McIlrath
20	14/11/2017	'Star Weekly' – media article	Mr McIlrath
21	14/11/2017	Submission – Bayside City Council	Mr McIlrath
22	14/11/2017	Folder of documents	Mr McIlrath
23	14/11/2017	Maddocks presentation: DPO in practice	Mr McIlrath
24	14/11/2017	Submission – St Kilda Legal Service	Mr Forrester
25	14/11/2017	Terms of Reference – Parliamentary Enquiry	Mr Forrester
26	14/11/2017	Submission – Elwood Floods Action Group	Mr Love
27	14/11/2017	Submission	Ms Ford
28	15/11/2017	Submission	Mr Feigl
29	16/11/2017	NBRAG submission	Mr Holt
30	16/11/2017	SPPF Clause 15	Mr Mahoney
31	16/11/2017	Bayside Planning Scheme LPPF Clause 21.06	Mr Mahoney
32	16/11/2017	Bayside Planning Scheme Clause 55.03	Mr Mahoney

No.	Date	Description	Presented by
33	16/11/2017	Marked up DPO3 (J Mahoney version)	Mr Mahoney
34	16/11/2017	Submission	Mr Mahoney
35	17/11/2017	Submission	Dr Quig
36	17/11/2017	Submission	Mr Scholer
37	17/11/2017	Open space calculations No. 1	Mr Scholer
38	17/11/2017	Open space calculations No. 2	Mr Scholer
39	17/11/2017	Bayside Housing Strategy background material	Mr McIlrath
40	17/11/2017	Revised flood mapping – land to be deleted from Special Building Overlay	Mr McIlrath
41	17/11/2017	Revised flood mapping – land to be added to Special Building Overlay	Mr McIlrath
42	17/11/2017	Google maps showing laneway	Mr McIlrath
43	17/11/2017	Closing submission	Mr O'Connor
44	17/11/2017	Bayside Housing Strategy extracts	Mr O'Connor
45	17/11/2017	PPN59 – the Role of Mandatory Provisions in Planning Schemes	Mr O'Connor
46	17/11/2017	Information sheet – public housing renewal program summary	Mr O'Connor
47	17/11/2017	Additional comments on revised DPO3	Mr McIlrath
48	17/11/2017	Map showing land being deleted from, retained in and added to SBO	Ms Aya for Bayside City Council

Appendix D: Revised Schedule 3 to Clause 43.04 Development Plan Overlay

SCHEDULE 3 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

--/--
/2017
C157

Shown on the planning scheme map as **DPO3**.

SOCIAL HOUSING RENEWAL - NEW STREET, BRIGHTON

This Schedule applies to land at Allot 6 Sec. 24 at Elsternwick, Parish of Prahran and Lot 1 on TP298184 on New Street, Elsternwick (referred to in this Schedule as 'the site'). Refer to the boundaries shown on the Concept Plan included in this Schedule.

1.0 Requirement before a permit is granted

--/--/2017
C157

A permit may be granted before a Development Plan has been approved for the following:

- The removal or demolition of any building that is carried out in accordance with a Construction Management Plan (CMP) prepared in accordance with this Schedule
- Earthworks and site preparation works that are carried out in accordance with a CMP and Arboricultural Assessment Report prepared and implemented in accordance with *Australian Standard AS 4970-2009 Protection of Trees on Development Sites*, in accordance with this Schedule
- The construction of minor buildings or works that are carried out in accordance with a CMP prepared in accordance with this Schedule
- Consolidation or subdivision of land
- Removal, variation or creation of easements or restrictions.

Before granting a permit the Responsible Authority must be satisfied that the permit will not prejudice the future use and integrated and orderly development of the site in accordance with the Development Plan requirements specified in this Schedule.

2.0 Conditions and requirements for permits

--/--/2017
C157

Prior to the commencement of any permitted demolition, buildings or works, a detailed CMP as relevant to that demolition or those buildings and works must be prepared to the satisfaction of the Responsible Authority. The plan must be prepared in accordance with the requirements of Clause 3.0 of this schedule for a CMP.

3.0 Requirements for development plan

--/--/2017
C157

Prior to the preparation of a Development Plan, a **Resident/Community Engagement Strategy** must be prepared to the satisfaction of the Responsible Authority which establishes the mechanisms by which the residents and the community will be provided with information and opportunities for feedback during the preparation of the Development Plan. The Strategy must include a requirement that the Development Plan be made available for public inspection for 15 business days prior to its consideration by the Responsible Authority.

A Development Plan must include the following requirements.

General

The Development Plan must be prepared to the satisfaction of the Responsible Authority in consultation with Bayside City Council.

The Development Plan must demonstrate the following:

- High quality integrated social and private housing that is socially, economically and environmentally sustainable that delivers high levels of residential amenity and liveability.
- An increase in the number of social housing dwellings that achieves dwelling diversity across the site with a range of one, two and three or more bedroom dwellings, balancing issues of equity in the delivery of social and private housing that is well integrated and is visually indistinguishable.
- Integration of the site with the surrounding area by responding to existing or preferred neighbourhood character, enhancing the public realm and existing networks and delivering 'good neighbour' outcomes.
- Opportunities for legible access and address points for the site, buildings and spaces, including defining private, communal and public open spaces that foster social connections between residents and the wider community, and that prioritise pedestrian and bicycle access within and external to the site.
- Landscaping and public and communal open space that is resilient, well connected and enhances the sense of place, sustainability and liveability of the site and local area, and that meets the needs of both the social and private housing residents.
- Delivery of adaptable buildings and spaces that are accessible and practical for people of all abilities and respond to the future needs of residents.

Land Use

The Development Plan could show or make provision for small scale retail, commercial or community uses to meet the needs of the local community, which are located at ground floor level and with frontage to New Street and/or Rusden Street. The Development Plan must demonstrate that potential amenity impacts of these uses can be appropriately managed.

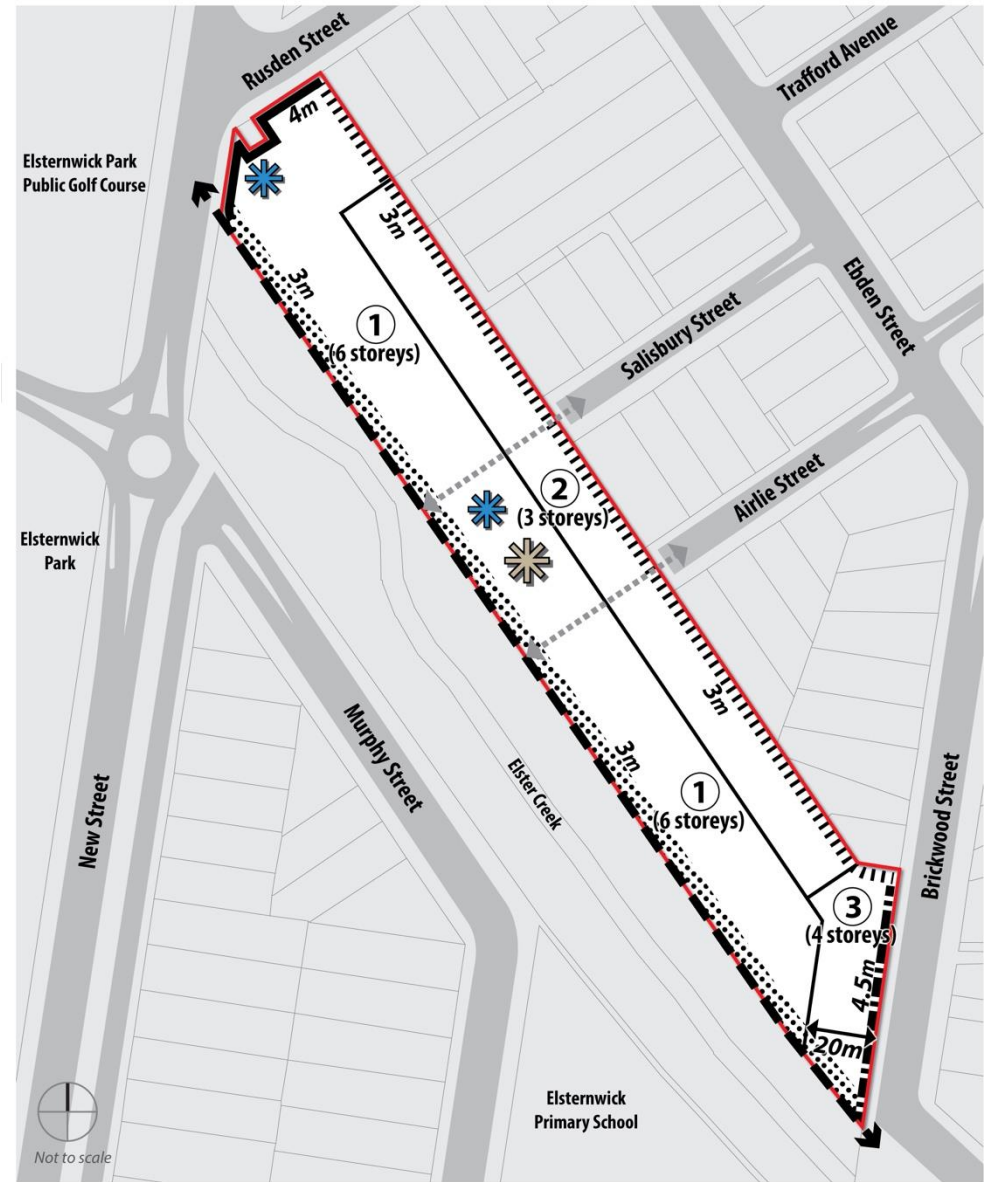
Built Form

The Development Plan must be generally in accordance with the Concept Plan forming part of this schedule, to the satisfaction of the Responsible Authority.

Committee Note 1: Amend the Concept Plan to:

- **state 'Interface Treatments (with associated minimum ground level boundary setbacks)' in the legend**
- **extend the Area 2 boundaries through to Rusden Street and Brickwood Street**
- **add an annotation so that it is clear that at the north east and south east corners of the site, both the street setbacks and Interface C setbacks apply**
- **show a minimum 4 metres setback for Interface C**
- **show a shared pedestrian/cycle path along Interface C**
- **delete the pedestrian path shown along Elster Creek**
- **delete the 'potential small scale retail, commercial or community uses' asterisk adjacent to the central open space area**

Concept Plan



LEGEND

	Site		Area (with associated building height)		Interface Treatment A
	Internal connections		Potential location of new open space area		Interface Treatment B
	Pedestrian path		Potential small scale retail, commercial or community uses		Interface Treatment C
					Interface Treatment D

The Development Plan must show:

- Buildings that do not exceed the 'maximum building height' shown on the Concept Plan.
- Buildings that do not encroach within the minimum setbacks specified below and as shown on the Concept Plan.
- Highest built form adjoining Elster Creek and New Street with a transition downwards towards the north-east boundary and with the lowest built forms at residential interfaces.
- Separate building forms to provide a sense of spaciousness and avoid inappropriate visual dominance of buildings.

Setbacks and Articulation Zones

Committee Note 2: The Committee has deleted the interface treatment diagrams and expressed setback requirements and interface treatments in words below. If diagrams are to be used, they must be re-drawn to be clearer to the reader.

- Buildings that do not encroach within the following building setbacks:
 - **For Interface Treatment A (New and Rusden Streets)**
 - 4m street setback, with an additional 2m articulation zone (see below).
 - **For Interface Treatment B (Brickwood Street)**
 - 4.5m street setback up to 3 storeys
 - an additional 2m setback above three storeys
 - an additional 2m articulation zone for all storeys (see below).
 - **For Interface Treatment C (Direct Residential Interfaces)**
 - 4m boundary setback, increased as required to:
 - accommodate a shared pedestrian/bicycle path at least 2.5m wide and associated landscaping
 - comply with Clause 32.07-9 and the requirements of Clause 55.04 as relevant.
 - **For Interface Treatment D (Elster Creek)**
 - 3m boundary setback, with an additional 2m articulation zone (see below), increased as required to provide for landscaping along the boundary to visually screen the development from Murphy Street.

All setbacks must be increased as required to protect existing trees to be retained or accommodate replacement/new canopy trees.

Articulation zones are to be used for the placement of balconies, open space, architectural features, sunshades and artworks to demonstrate a positive contribution to the overall façade composition.

Other Built Form Requirements

- Architectural and urban design outcomes that:
 - contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties
 - maintain a strong landscape character with buildings set within vegetated surrounds.
- Building envelopes that are adapted to:
 - protect any existing trees to be retained
 - ensure the site layout allows for regular breaks along each boundary that are large enough (minimum 5 to 6 metres) to accommodate new large canopy trees
 - provide a minimum of 2 hours sunlight available to at least 50% of public and communal open space areas on the site between 9.00am and 3.00pm on 21 June

- provide reasonable levels of direct sunlight to the public realm, and surrounding footpaths on 22 September that are commensurate with the proposed use of the spaces and ensure the amenity enjoyed by existing and future residents is not unreasonably compromised
 - provide levels of direct sunlight to adjoining residential properties and any adjoining secluded private open space consistent with the requirements (as relevant) of Clause 55.04.
- Visual bulk of buildings reduced through the placement of balconies and use of discontinuous forms, articulated facades and varied materials, particularly in the articulation zones.
- Active frontages to all publicly accessible areas and adjoining streets through:
 - provision of low and/or transparent fencing and landscaping to allow for passive surveillance
 - avoiding large expanses of blank wall, large service areas, garbage storage areas, car parking and co-located or continuous garage doors along ground floor frontages
 - provision of individual entry doors to ground floor dwellings that have frontages to a road or internal connection
 - building entries along the site boundaries that are highly visible from public pedestrian pathways and open spaces
 - the placement of entries, windows and balconies to facilitate passive surveillance of streets, open space and pedestrian paths.
- Buildings designed to front onto the shared pedestrian/cycle path along Interface C, to provide appropriate surveillance.
- Where non-residential uses are proposed, provision of the following:
 - a minimum 4m floor to floor height
 - an entrance and/or clear glazed window at the street frontages of each individual non-residential use
 - weather protection at the street frontages of the non-residential uses.
- The location of car parking spaces suitably concealed within basement levels, if feasible. If basement car parking is not feasible then car parking should be suitably concealed within buildings or behind buildings or behind features such as active podium frontages.
- The design, provision and layout of car parking should avoid and minimise impacts on medium and high retention value trees along boundaries.
- Cohesive architectural design throughout the site, with the use of high quality, durable and low maintenance materials and colours that blend in with the surrounding environment.
- Appropriate noise attenuation measures to minimise noise impacts on proposed dwellings from New and Rusden Streets and any non-residential uses on or adjoining the site.

Landscape and Open Space

The Development Plan must show:

- A new centrally located public open space area with a minimum area of 2,000m² accessible to all residents, generally located as shown on the Concept Plan and containing existing trees to be retained. This area may form part of the communal open space required under Clause 55.07-2 or Clause 58.03-2.
- Public and communal open spaces which are large enough to accommodate a range of facilities, including community gardening, playgrounds and exercise equipment and that are well-lit to maintain safety of these areas.
- Retention of all trees identified in the required Arboricultural Assessment Report as trees to be retained.

- A tree planting/replacement plan which requires:
 - any high or medium value tree identified in the Arboricultural Assessment Report to be replaced on a two for one ratio
 - replacement trees that provide equivalent amenity value to residents and the public realm
 - additional street trees along the frontages of New, Rusden and Brickwood Streets, subject to agreement from Bayside City Council
 - new canopy trees in the centrally located public open space area, along the shared pedestrian/bicycle path along Interface C, along the Elster Creek, along any internal connections and within any other new open space areas on the site.
- Landscaped buffers and setbacks at residential interfaces and Elster Creek, consisting of existing trees to be retained and/or replacement canopy trees to assist in screening the development.

Circulation

The Development Plan must show:

- Multiple vehicle access points to the site.
- The location of on-site car parking for residents, visitors and workers (if applicable).
- A publicly accessible shared path (pedestrian and cycle) along Interface C providing a connection between Brickwood Street and New Street/Rusden Street, as shown on the Concept Plan.
- Provision for secure bicycle storage for residents and workers (if applicable), end of bicycle trip facilities for workers (if applicable) and short term bicycle parking for visitors. Bicycle parking to be provided at a minimum of:
 - one space per dwelling without a car space
 - one space per five dwellings with a car space
 - one space per 10 dwellings for visitors.

The building footprints and internal connections shown on the Concept Plan are indicative only and further connections within the site and through the building envelopes should also be considered to ensure a highly permeable urban structure.

Required documents, plans and reports

The following documents, plans and reports must form part of any Development Plan (as applicable if the Development Plan is approved in stages) and must be prepared to the satisfaction of the Responsible Authority:

1. A **Planning Report** that demonstrates how the recommendations of the others plans required by this Schedule have been incorporated into the proposed development of the land.
2. A **Site Context Analysis** prepared in accordance with Clause 55.01 or Clause 58.01 of the Planning Scheme that includes, but is not limited to:
 - the urban context and existing conditions showing topography, the surrounding and on site land uses, buildings, noise sources, access points, adjoining roads, cycle and pedestrian network and public transport
 - views to be protected and enhanced, including views of and from the site
 - key land use and development opportunities and constraints.

3. **Preliminary Architectural Plans** that show the distribution and design of built form on the site which must be generally in accordance with the Concept Plan included in this Schedule and must comply with the height and setback requirements of this schedule, including, but not limited to:
 - a design response to the Site Context Analysis in accordance with Clause 55.01 or Clause 58.01 of the Planning Scheme
 - demonstration of compliance with the requirements of Clause 55 and Clause 58 as relevant
 - demolition works
 - building envelopes including maximum building heights, building setbacks to all interfaces, and building depths
 - the proposed built form edge and interface treatments to the adjoining streets, the adjoining residential properties, and the Elster Creek
 - conceptual elevations and cross-sections, indicating level changes across the site
 - shadow diagrams of both existing conditions and proposed shadows, to be prepared at both the September equinox and June solstice at 9am, 12 noon and 3pm, and demonstration of how the overshadowing criteria identified in this Schedule can be met
 - images which show how the proposed built form will be viewed from the surrounding area, particularly adjoining streets and adjoining residential properties and from the south side of the Elster Creek corridor
 - the mix of dwelling types and sizes for each area
 - the mix of land uses, including small scale non-residential uses (if any).
4. An **Integrated Transport and Traffic Management Plan** that addresses, but is not limited to:
 - the range and scale of uses that will be anticipated on the site
 - the estimated population of residents, visitors and workers (if applicable)
 - estimated vehicle trip generation levels resulting from use and development within the site
 - vehicle ingress and egress points and estimated levels of usage
 - the likely impacts of the proposed development on the arterial and local roads and any mitigating works required such as off-site traffic management treatments. Specific consideration is to be given to the potential for traffic conflicts with Elsternwick Primary School, particularly during drop off and pick up times
 - areas for loading and unloading of vehicles and access to those areas
 - Green Travel Plan initiatives that can be adopted to reduce private car usage by residents, visitors and workers (if applicable), including a new resident awareness and education program and opportunities for the provision of a car share program
 - if a new vehicle access point is proposed on Rusden Street, consideration of:
 - the location of the existing bus stop and electrical substation on Rusden Street
 - the impact on bus service provision
 - safety of pedestrians, cyclists and vehicles.
 - provision for an electric vehicle charging space
 - the views of Bayside City Council and Transport for Victoria (including VicRoads and Public Transport Victoria).
5. An **Arboricultural Assessment Report** that addresses, but is not limited to:
 - an assessment of trees on or adjacent to the site, including their retention value

- recommendations for the protection of trees to be retained to conform to *Australian Standard AS 4970-2009 Protection of Trees on Development Sites* to ensure long-term health, including designation of tree protection zones and structural root zones
 - recommendations for tree species to replace the removal of any trees of moderate or high retention value.
6. A **Tree Management Plan** that addresses, but is not limited to:
- identifying trees which are to be retained
 - detailing the methodology for protecting trees identified for retention, including the provision of high visibility tree protection fences at least 1.8 metres tall before construction commences, and measures to protect the trees, including their canopies, during construction.
7. A **Landscape and Open Space Plan** that addresses, but is not limited to:
- existing vegetation to be retained and the appropriate protection zones to allow for their retention
 - consideration of retaining the existing trees within the site along the Brickwood Street frontage, and supplementing and/or replacing them with new large canopy trees either within the site or within the Brickwood Street nature strip
 - a planting theme that complements existing trees to be retained on the site and the surrounding neighbourhood character and that demonstrates water sensitive urban design outcomes
 - new canopy trees and landscaping within the public realm, public and communal open space areas, along the shared pedestrian/cycle path along Interface C, along the Elster Creek boundary and along internal connections
 - landscaping areas within private open spaces
 - street trees along New, Rusden and Brickwood Streets
 - delineation of public, communal and private open spaces and the treatment of these interfaces, which must include provision of low and/or transparent fencing and landscaping to allow for passive surveillance
 - hard and soft landscaping treatments of the public realm and communal open spaces
 - interface treatments between adjoining streets and residential properties, including boundary fences
 - integration of sustainability and water sensitive urban design (WSUD) measures with WSUD measures informed by the Stormwater and Flood Risk Management Plan
 - opportunities for communal gardens
 - maintenance responsibilities.
8. A **Dwelling Diversity Report** that must:
- demonstrate how the development will achieve an appropriate level of dwelling diversity for both the social and the private components across the site
 - include the number and extent of one, two and three bedroom plus dwellings for social and private housing
 - provide for additional initiatives that actively encourage affordable housing opportunities.
9. An **Ecologically Sustainable Development Plan** that demonstrates how development on the site will achieve best practice standards and incorporate innovative initiatives. This Plan is to address energy efficiency, on-site renewable energy systems, resilience to climate related

impacts to water resources, indoor environment quality, stormwater management, innovation and urban ecology. The Plan must ensure that all buildings will be able to achieve a minimum of 5 star rating against the Green Building Council of Australia's Green Star rating system for design (or achieve an equivalent standard using an equivalent rating tool).

10. A **Services and Infrastructure Plan** that addresses, but is not limited to:
 - an assessment of the existing engineering infrastructure servicing the site and its capacity to service the proposed development
 - a description of the proposed provision of all appropriate utility services to the development.
11. A **Stormwater and Flood Risk Management Plan** that addresses, but is not limited to:
 - flood modelling demonstrating the acceptability of the design response to Melbourne Water and other drainage authorities
 - an assessment of the capacity of infrastructure to retard and treat stormwater in accordance with best practice stormwater management principles
 - identification of on-site stormwater retardation and stormwater treatment opportunities
 - the views of Melbourne Water.
12. A **CMP** that details how the development of the land will be managed to ensure the protection of the amenity, access and safety of adjoining residents. The CMP:
 - must be prepared prior to any works, including demolition
 - must address (as relevant): demolition, bulk excavation, management of the construction site, hours of construction, noise, control of dust, public safety, construction vehicle road routes and traffic management (including location of construction vehicle access and worker parking), soiling and cleaning of roadways, discharge of any polluted water and stormwater, security fencing, disposal of site waste, location of cranes, location of site offices, storage of plant and equipment, redirection of any above or underground services and the protection of trees on or adjacent to the site to be retained in accordance with an Arboricultural Assessment Report prepared in accordance with this schedule.
13. An **Environmental Site Assessment** that addresses, but is not limited to:
 - site history and current site uses, including a photographic record of the buildings to be demolished
 - the extent of fill that has occurred on the site, including area, depth and fill material
 - the presence and depth of groundwater at the site
 - underground infrastructure that has contamination source potential
 - the contamination status of soil on the site
 - if intrusive works are likely to occur during redevelopment works, an acid sulphate soil assessment
 - advice on the need for a Site Remediation Strategy.
14. Where the development will be undertaken in stages, a **Staging Plan** that addresses, but is not limited to:
 - the delivery of infrastructure and shared facilities within each stage to ensure the orderly development of the site
 - site management, such as resident amenity, vehicle access and parking, pedestrian access and protection of existing buildings, infrastructure and vegetation

- timeframes for the commencement and completion of each stage and any management of overlap between stages.

15. An **Acoustic Report** that identifies:

- whether the proposed use and development of the site is likely to be affected by noise from nearby uses or abutting roads
- the likely effect of non-residential uses on the site on the amenity of nearby residential uses
- methods to address the issues identified.

16. A **Waste Management Plan** that provides a cohesive approach to waste and recycling collections for the entire development. The Waste Management Plan must:

- identify the location of bin storage areas that are sufficient to cater for waste that will be produced
- specify the type of bins to be used
- show where bins will be stored
- provide details of screening and ventilation of bin storage areas
- identify collection points
- identify responsibility for taking bins out for collection and returning them to the bin storage area
- specify how recycling materials will be managed and collected
- specify bin collection times
- show access routes for waste collection vehicles that do not rely on reversing movements.

The Waste Management Plan should explore:

- a waste management system that diverts organic waste from landfill
- centralised and easily accessible areas located within the development where waste compactors could be stationed for all residents of the development to utilise.

17. A **Social Infrastructure Assessment** to inform potential community facilities, programs and services that may be delivered on-site.

Decision Guidelines

Before deciding on a request to approve or amend a Development Plan, the Responsible Authority must consider as appropriate:

- relevant written comments received in response to the display of the Development Plan in accordance with Clause 3.0 of this Schedule
- the views of:
 - Bayside City Council
 - Office of the Victorian Government Architect
 - Transport for Victoria (including Public Transport Victoria and VicRoads)
 - Department of Education and Training Victoria
 - Melbourne Water
 - other relevant agencies as required.