

# Government Land Standing Advisory Committee

## Tranche 15 Report

### 1136 – 1138 Nepean Highway, Highett

24 May 2018

<b>1 Summary and recommendations</b> .....	<b>1</b>
1.1 The site .....	1
1.2 Issues raised in submissions.....	2
1.3 Committee conclusion .....	2
1.4 Recommendations .....	3
<b>2 Process issues for this site</b> .....	<b>4</b>
2.1 Process summary .....	4
2.2 Process issues.....	5
<b>3 Site constraints and opportunities</b> .....	<b>6</b>
3.1 Zoning context.....	6
3.2 Physical constraints.....	6
3.3 Strategic context .....	7
<b>4 Issues with the proposed changes</b> .....	<b>10</b>
4.1 What zone is suitable .....	10
4.2 What overlays are suitable .....	11
4.3 Development Plan Overlay controls .....	12
4.4 Other matters related to controls.....	33
4.5 The principal of sharing benefit .....	33
4.6 Vesting of assets with Council.....	34
4.7 Ongoing community engagement.....	35
<b>Appendix A: About the Government Land Standing Advisory Committee</b> .....	<b>36</b>
<b>Appendix B: List of Submitters</b> .....	<b>37</b>
<b>Appendix C: Document list</b> .....	<b>38</b>
<b>Appendix D: Design and Development Overlay Schedule 12 – Committee’s Preferred Version</b> .....	<b>39</b>
<b>Appendix E: Development Plan Overlay Schedule 7 – Committee’s Preferred Version</b> .....	<b>48</b>

## List of Tables

Table 1:	Existing and proposed controls .....	2
Table 2:	Proposal summary.....	4
Table 3:	Exhibited planning scheme changes .....	4
Table 4:	Committee process .....	4
Table 5:	Assessment against Planning Practice Note 78 Criteria.....	10
Table 6:	Comparison of Building Heights .....	24

## List of Figures

Figure 1:	Site location .....	1
Figure 2:	Current zoning.....	6
Figure 3:	Proposed zoning.....	6
Figure 4:	Highett Structure Plan .....	9
Figure 5:	Site remediation staging plan .....	14
Figure 6:	Concept Plan from DPO7.....	19

## List of Abbreviations

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AS	Australian Standard
DCPO	Development Contributions Plan Overlay
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
DTF	Department of Treasury and Finance
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority
GLSAC	Government Land Standing Advisory Committee
GRZ	General Residential Zone
HO11	Heritage Overlay – Schedule 11
MOU	Memorandum of Understanding
TfV	Transport for Victoria

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## About this report

On 29 October 2017, the Minister for Planning referred 1136 – 1138 Nepean Highway, Highett to the Government Land Standing Advisory Committee as Tranche 15.

This is the report under Section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for 1136 – 1138 Nepean Highway, Highett.

The Minister for Planning also requested that the Committee consider *“the infrastructure requirements needed to support the redevelopment of the site and the need for methods for delivering potential social housing on the site.”*



Mandy Elliott, Chair



Cazz Redding, Member

24 May 2018

# 1 Summary and recommendations

## 1.1 The site

Figure 1: Site location



1136 – 1138 Nepean Highway, Highett is located approximately 18 kilometres south-east of the Melbourne CBD. The site is located on the western side of the Nepean Highway, and has a total area of 6.33 hectares. The site's frontage is 147.27 metres long. The site is bound by:

- Sir William Fry Reserve to the south
- Frankston Railway line to the west
- Low density residential development to the north
- Nepean Highway and the Moorabbin Justice Centre to the east.

The site is predominantly vacant with grass patches and ground shrubs. Several trees are scattered across the site. There are groups of predominantly native trees along the Nepean Highway frontage with a mix of trees towards the View Street frontages and along the railway edge of the site. A historically significant remnant brick chimney is centrally located within the site and is the only remaining structure of the former gasworks. A single vehicle accessway to the Nepean Highway connects to an internal unsealed driveway.

The site was previously used as a gas manufacturing and distribution plant by the Gas and Fuel Corporation. The site has been cleared of its once extensive complex of buildings and associated equipment used in the production and distribution of gas aside from the remnant chimney.

## 1.2 Issues raised in submissions

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

Most submissions addressed heritage, traffic and access, built form, open space, affordable housing and infrastructure contributions.

## 1.3 Committee conclusion

The site owner proposes to rezone the subject land from Residential Growth Zone – Schedule 1 to the Residential Growth Zone – Schedule 2. The Committee agrees that this is an appropriate zone if the land is to be sold.

The proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the *Ministerial Direction on The Form and Content of Planning Schemes*.

**Table 1: Existing and proposed controls**

Current planning scheme controls	Proposed planning scheme controls	Advisory Recommendation	Committee
Residential Growth Zone – Schedule 1	Residential Growth Zone – Schedule 2	Residential Growth Zone – Schedule 2	
Design and Development Overlay – Schedule 12	Retain	Delete from site and amend so that text no longer refers to the site.	
Environmental Audit Overlay	Retain	Retain	
Heritage Overlay – Schedule 11	Retain	Retain	
	New Development Plan Overlay – Schedule 7	Agree (as per Committee’s version)	
Clause 21.05		Amend	

## **1.4 Recommendations**

The Committee recommends that:

**A planning scheme amendment be prepared and approved to:**

- a) Rezone 1136 – 1138 Nepean Highway, Highett from the Residential Growth Zone – Schedule 1 to the Residential Growth Zone – Schedule 2.**
- b) Apply a Development Plan Overlay – Schedule 7 (Committee’s preferred version is attached at Appendix E).**
- c) Amend Design and Development Overlay – Schedule 12 to remove references to the subject land (Committee’s preferred version is attached at Appendix D).**
- d) Amend the Schedule to Clause 52.01 to specify an 11.6 per cent open space contribution for this site.**
- e) Amend Clause 21.05 to update the policy to recognise the proposed development of the Gas and Fuel Land and how this will be facilitated through planning scheme controls.**

## 2 Process issues for this site

### 2.1 Process summary

The following tables set out the details of the process for this matter.

**Table 2: Proposal summary**

Proposal summary	
<b>Tranche</b>	15
<b>Site address</b>	1136 – 1138 Nepean Highway, Highett
<b>Previous use</b>	Former gas manufacturing and distribution plant
<b>Site owner</b>	Department of Treasury and Finance
<b>Council</b>	Kingston City Council
<b>Exhibition</b>	15 January – 27 February 2018
<b>Submissions</b>	29

**Table 3: Exhibited planning scheme changes**

Existing controls	Proposed changes
Residential Growth Zone – Schedule 1	Residential Growth Zone – Schedule 2
Design and Development Overlay – Schedule 12	Retain
Environmental Audit Overlay	Retain
Heritage Overlay – Schedule 11	Retain
	NEW Development Plan Overlay – Schedule 7

**Table 4: Committee process**

Committee process	
<b>Members</b>	Mandy Elliott (Chair) and Cazz Redding
<b>Information session</b>	7 February 2018, Best Western Plus Buckingham Hotel, Highett
<b>Hearing</b>	20 – 21 March 2018, Kingston City Council
<b>Site inspections</b>	Unaccompanied, 21 March 2018

## Committee process

### Appearances

Department of Treasury and Finance, represented by Jane Sharp of Counsel, who called the following experts:

- Henry Turnbull of Traffix Group in Traffic Engineering
- Robert Kelderman of Contour in Planning

Bayside City Council

Kingston City Council, represented by Matthew Beazley of Russell Kennedy Lawyers, who called the following experts:

- Andrew Clarke of Matrix Planning in Planning
- Terry Hardingham of O'Brien Traffic in Traffic
- Kate Kerkin of K2 Planning in Community Infrastructure Assessment

EPA Victoria

Dr Robert Hoskin

Hallmarc Highett Pty Ltd

Michael Doensen

Carleene de Somerville

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<b>Date of this Report</b>	24 May 2018
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## 2.2 Process issues

### (i) Further information request

On 22 March 2018, the Committee requested further information from the site owner, Kingston City Council and Bayside City Council. The information was provided to the Committee on 9 April 2018.



## 3 Site constraints and opportunities

### 3.1 Zoning context

Figures 2 and 3 show the current and proposed zonings.

Figure 2: Current zoning

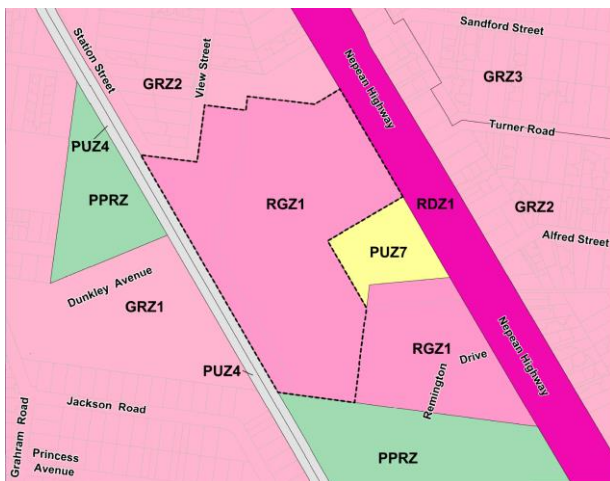
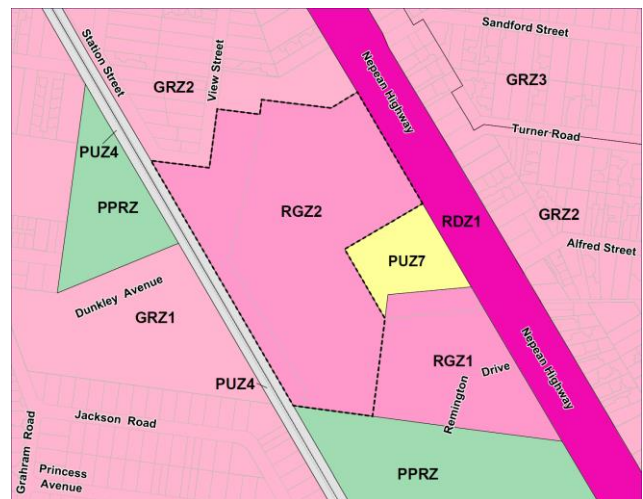


Figure 3: Proposed zoning



### 3.2 Physical constraints

#### (i) History of the site

The exhibited Planning report provides the following historical overview of the site:

*Since the gas manufacturing and distribution plant ceased operation in 1969, the site has been extensively altered. Most of the infrastructure associated with the production of gas, most notably the gasometers and production areas have been demolished in the past three decades. The original owners of the land – the Gas and Fuel Corporation – retained the site and redeveloped it as a gas sales, information and administration centre, known as the ‘Highett Gas Technology Business Centre’.*

*Several large new buildings were constructed throughout the 1970s and 1980s and the site was used as a business park rather than a production facility. This use ceased eventually and the majority of buildings were removed. The site has since remained unused. Although the site has ceased gas production, there is still gas infrastructure located throughout the site including:*

- Existing gas transmission and distribution assets
- Three regulators.

*Due to the historical use of the land, some contamination has previously been present on site. However, the land has also been the subject of remediation works to address contamination issues.*

**(ii) Environmental assessment**

There are a number of trees and scattered shrubbery on site. Council submit that there are trees on the site that are worthy of retention, particularly those fronting Nepean Highway.

The site has had a number of contamination assessments undertaken and this is discussed in section 4 of the report. The site is covered by an Environmental Audit Overlay (EAO).

**(iii) Heritage**

A heritage citation was prepared in 2001 as part of a broader heritage study and this recommended that the chimney on the site be protected by a heritage overlay. At that time there were more features extant (mostly brick buildings) that were not included in the heritage overlay. These features have since been demolished.

The historic remnant chimney and its curtilage for a radius of 5 metres is included in the Heritage Overlay (HO11).

**(iv) Access**

Access to the site is currently available from a service road off Nepean Highway and a gate entry from William Fry Reserve. There is currently no access to the site from either Station Street or View Street. A number of bus routes on the Nepean Highway currently service the site. The Highett Railway Station is located approximately 500 metres to the north-west and Southland Railway Station is located 500 metres to the south.

### **3.3 Strategic context**

**(i) Plan Melbourne**

Plan Melbourne 2017-2050 Metropolitan Planning Strategy 2017 DELWP (commonly known as *Plan Melbourne*) was introduced into the State Planning Policy Framework of all planning schemes on 31 March 2017.

*Plan Melbourne* recognises the potential for surplus government land in contributing to the reactivation of land and proceeds of sale to be redirected by Government. *Plan Melbourne* states:

*Government land is an important resource for delivering services to Victorians, including places to live, work and learn. The government regularly reviews its land assets to ensure that they are being used efficiently. Land that is considered to be underutilised or surplus can then be considered for community or other government purposes or be disposed of. Any proceeds can then be reinvested into other important infrastructure. More efficient use of land owned by government can help facilitate Plan Melbourne outcomes and deliver social, economic and environmental benefits.*

**(ii) Highett Structure Plan**

The Highett Structure Plan was adopted by Council in May 2006 and is a reference document in the Kingston Planning Scheme. The Highett Structure Plan sets out prescriptive development guidelines for desired built form and design outcomes for the site.

A key principle of the Highett Structure Plan is to reinforce the development opportunities that exist on vacant and underutilised land in Highett, with respect to the precinct's urban quality and proximity to transport and activity centres. The site is in an area designated as *Increased Density Highway West* as shown in Figure 4.

The preferred uses identified are:

- *residential apartments of various sizes and formats to reflect an increasing demand for smaller dwellings, while also accommodating for larger apartment types*
- *supportive community uses compatible with the Moorabbin Courthouse and residential activities (such as kindergarten)*
- *local cafe—within and servicing residential buildings, not as freestanding or drive-through facilities*
- *basic convenience retail uses – that serve the convenience needs of residents and employees within the precinct, and which do not undermine the respective roles of Highett Shopping Centre or of Southland.*

Recommended built form, scale, height and massing are identified as:

- *a maximum building height of up to 17 metres adjacent to the Sir William Fry Reserve*
- *opportunity for a variety of buildings of different form and height varying from 7.5 metres maximum building height adjacent to existing residential areas, up to a maximum building height of 17 metres, in order to provide diversity in the type of accommodation provided.*

Figure 4 Highett Structure Plan



**Highett Structure Plan: Key Plan**

**Highett Structure Plan: Key Planning & Design Elements:**

- |  |   |  |   |
|--|---|--|---|
|  | <b>1</b> Strong Landscape Corridor Along Nepean Highway           |  | <b>18</b> Possible Realignment of Graham Road                   |
|  | <b>2</b> Medium Density Residential Areas                         |  | <b>14</b> Graham Road - Existing                                |
|  | <b>3</b> High Density Residential Areas                           |  | <b>15</b> Overcoming Pedestrian Barriers to Rail and Highway    |
|  | <b>4</b> Improve Access and Reveal Sir William Fry Reserve        |  | <b>16</b> Revealing Lyle Anderson Reserve                       |
|  | <b>5</b> Possible Future Southland Station                        |  | <b>17</b> Highett Road Linked Car Parking Cells                 |
|  | <b>6</b> Upgraded Highett Railway Station                         |  | <b>18</b> Retail/Mixed Use Area                                 |
|  | <b>7</b> Key Corner Built Form Presence                           |  | <b>19</b> Green Corridors through Established Residential Areas |
|  | <b>8</b> Increased Density Highway West                           |  | <b>20</b> Incremental Change                                    |
|  | <b>9</b> CSIRO Site - Medium Density Residential Development      |  | <b>21</b> Existing Southland Shopping Centre                    |
|  | <b>10</b> CSIRO Site - Open Space                                 |  | <b>22</b> Livingston Street Community Hub                       |
|  | <b>11</b> Bay Road Mixed Use Area                                 |  | <b>23</b> Highett Road Streetscape Planting                     |
|  | <b>12</b> Pedestrian/Bicycle Link through Sir William Fry Reserve |  | <b>24</b> Key Vegetation Corridors                              |



**HIGHETT STRUCTURE PLAN**  
 KEY ELEMENTS

Prepared by Hansen Partnership for Bayside & Kingston City Councils  
 Level 5, 138 Exhibition Street, Melbourne VIC 3000. Tel: 03 9594 1200. Email: info@hansenpartnership.com.au  
 Project No. 201604 | Date: 16/05/18 | Scale: 1:7500 | Date Issued: 24/05/18

## 4 Issues with the proposed changes

### 4.1 What zone is suitable

#### (i) Evidence and submissions

The land is currently zoned Residential Growth Zone – Schedule 1 and the proposal is to rezone the land to Residential Growth Zone – Schedule 2.

There were no submissions questioning the proposed zoning of the land and there was general agreement this is a suitable site for higher density residential development.

Discussion about the appropriateness of Schedule 2 to the Residential Growth Zone, which places a maximum height of 26 metres over the site, are dealt with under built form issues in Section 4.3.8 of the report.

#### (ii) Discussion

An assessment of the site against Planning Practice Note 78 - Applying the Residential Zones confirms that the Residential Growth Zone is the most appropriate residential zone for the site.

**Table 5: Assessment against Planning Practice Note 78 Criteria**

Criteria derived from Practice Note 78	Advisory Committee (AC) Conclusion on Criteria	Zone supported by Practice Note based on AC Conclusion		
		NRZ	GRZ	RGZ
Is there identified neighbourhood character to be retained?	No	-	-	✓
Is the site identified as an area for growth and change?	Yes	-	-	✓
Are there existing landscape or environmental character/ constraints?	No	-	-	✓
Is the risk associated with known hazard high or low?	Moderate	-	✓	✓
What is the existing or desired level of development activity?	High	-	-	✓
Is this a brownfield or urban renewal site or area?	Yes	-	-	✓
Is there an adopted housing and development strategy?	Yes (current zone)	-	-	✓
Is the site identified in Activities Area structure plan/policy?	No	-	-	✓
If not in an Activities Area, is it redevelopment of commercial or industrial land?	NA	-	-	-
Is there good access to employment options?	Yes	-	-	✓
Is there good access to local shopping?	Yes	-	-	✓
Is there good access to local community services?	Yes	-	-	✓

Criteria derived from Practice Note 78	Advisory Committee (AC) Conclusion on Criteria	Zone supported by Practice Note based on AC Conclusion		
Is there good access to transport choice?	Yes	-	✓	✓
		0	2	12

**(iii) Conclusion**

The Committee concludes that the Residential Growth Zone is the most appropriate zone for the land.

**4.2 What overlays are suitable**

**4.2.1 Design and Development Overlay**

**(i) Evidence and submissions**

Design and Development Overlay – Schedule 12 (DDO12) currently applies to the site and is proposed to be removed. DDO12 provides an outline for a development plan to guide the development of the site in a coordinated fashion. It includes specific guidelines for the ‘Increased Density Highway West’ area to facilitate preferred development outcomes for the site and surrounds.

The Overlay divides the affected areas into precincts (H1- H6), each of which has specific desirable outcomes in terms of building height and setbacks. The subject site is located in H6b-H6e which stipulates a preferred height requirement of 3 storeys for a depth of 15 metres along Nepean Highway and 4 storeys for the remaining precinct.

Mr Clarke on behalf of Council, provided expert planning evidence which found that many of the Design Objectives for the Increased Density Highway West in DDO12 have not been picked up in Development Plan Overlay - Schedule 7 (DPO7). Mr Clarke made a number of recommended changes to DPO7 to incorporate these Design Objectives into DPO7.

Council and the site owner were both supportive of these changes.

**(ii) Discussion**

The Committee agrees that it is appropriate to translate the relevant DDO12 controls across to DPO7 as proposed by Mr Clarke.

The Committee notes that no amendment to the ordinance for DDO12 was proposed to remove references to the site and no map showing the area of DDO12 to be deleted was exhibited.

In the interests of streamlining the Kingston Planning Scheme and avoiding potentially conflicting controls, the redundant ordinance in DDO12 should be removed and a map showing the area of DDO12 to be deleted should be prepared.

The Committee has prepared a recommended DDO12 identifying ordinance to be removed and changes required to the plan.

**(iii) Conclusion**

The Committee concludes that the DDO12 should be amended to include the Design Objectives for the Increased Density Highway West currently in DDO12.

**(iv) Recommendation**

The Committee recommends:

- **Amend Design and Development Overlay – Schedule 12 to remove references to the subject land in line with the Committee’s preferred version attached in Appendix D.**

**4.2.2 Environmental Audit Overlay and Heritage Overlay – Schedule 11**

**(i) Discussion**

The EAO and HO11 currently apply to the site and are proposed to be retained.

HO11 relates to the historic chimney on the site. No submissions raised issues with the retention of this overlay, although some submitters questioned the heritage merits of the chimney.

An Environment Audit Overlay covers the whole of the site and is proposed to be retained. The EPA submitted that the EAO should remain across the whole site at this time, a position supported by the site owner and Council. The Committee supports this approach as discussed in Section 4.3.2 of this report.

**(ii) Conclusion**

The Committee concludes that the Environmental Audit Overlay and Heritage Overlay – Schedule 11 should be retained on the site.

**4.3 Development Plan Overlay controls**

**4.3.1 Inclusion of objectives**

**(i) Discussion**

The Committee determined that it would be of benefit to include some objectives for the DPO to ensure the site is developed to meet certain requirements. The Committee based the objectives upon the Highett Structure Plan, Precinct 3: Increased Density – Highway West objectives. The objectives include:

- Provide a substantial amount of residential dwellings of various sizes and formats.
- Ensure new streets, pedestrian and cycling paths connect to the adjoining street network and open space areas west, north and south.
- Retain the historic chimney as a feature of the development.
- Achieve innovative contemporary design and built form based on the best current architectural design practice and sustainability principles.

- Achieve high quality landscape treatments (including main road boulevard planting, canopy tree planting, screen planting, extensive tree plantings and theme plantings in appropriate locations).
- Design traffic management to minimise impacts on adjoining residential areas.

**(ii) Conclusion**

The Committee concludes that the Development Plan Overlay Schedule should be amended to include objectives as shown in Appendix E – Committee’s version of the DPO Schedule.

**4.3.2 Contamination**

**(i) Evidence and submissions**

The site owner provided detailed information regarding the historical nature of the site being a former gasworks site and its history is documented in the environmental audit reports submitted. The site operated as a gas manufacturing facility from 1939 to 1969. In the late 1970s, the gasworks buildings were mostly demolished.

In the mid-1970s, the State Government decided to retain what is now Sir William Fry Reserve for parkland purposes. Around that time, the western portion of the Gasworks site across the railway line (within the City of Bayside) was redeveloped for public housing.

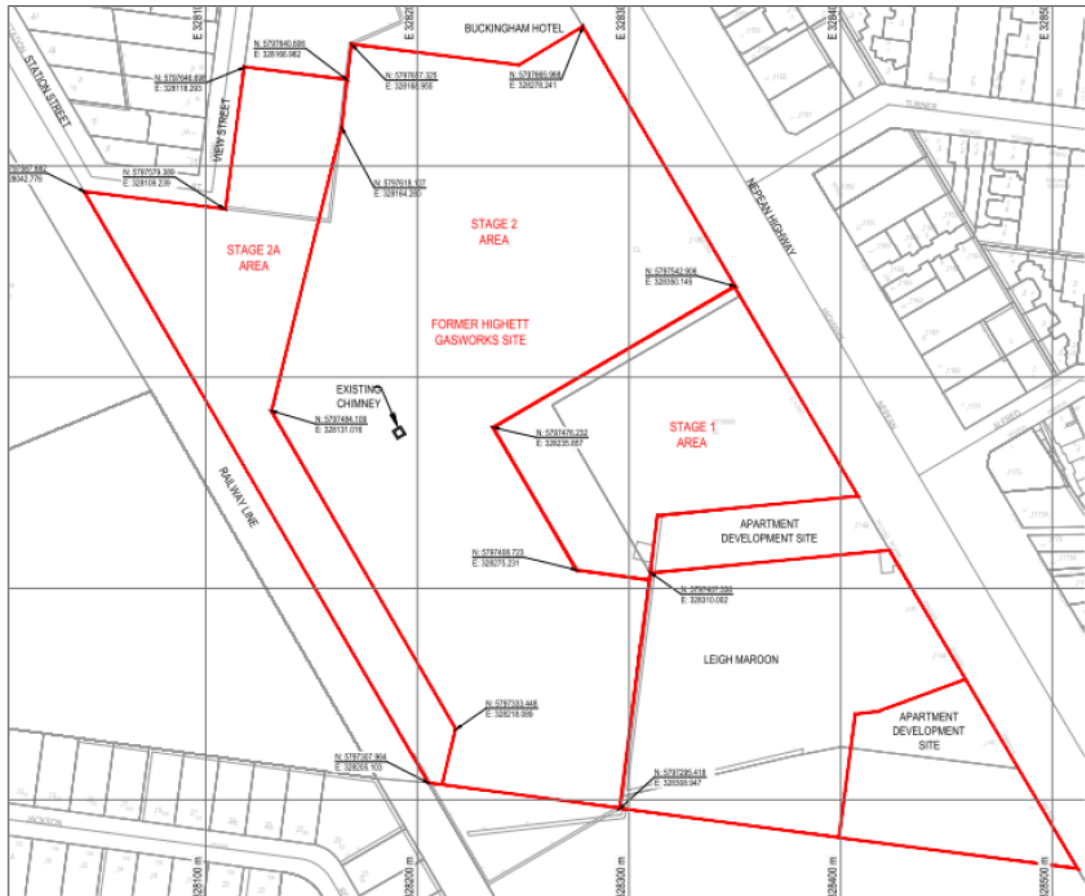
In the early 1980s, a partial remediation of the site was undertaken prior to the site being redeveloped as the Scientific Services Department and Training Centre.

In the late 1990s, following the privatisation of the gas and Fuel Corp of Victoria, the site was transferred to the site owner with the intention of it being managed and remediated pending sale.

Remediation of the site has proceeded in stages. That staging is shown in Figure 4 below.



Figure 5: Site remediation staging plan<sup>1</sup>



Remediation of Stage 1 (the Moorabbin Courthouse site) and Stage 2 (Gasworks site) was completed between 2005 and 2009. A statement of environmental audit has been issued in respect of the Stage 2 land identifying it as being suitable for a range of residential, open space and commercial uses, subject to conditions.

In 2007-2008, the Stage 1 land was developed as the Moorabbin Courthouse.

The Stage 2A land could not be fully remediated at the time due to the presence of active gas pipeline infrastructure. The issued Statement of Environmental Audit for Stage 2A states that the land is not suitable for any use. The site owner explained that relocation of the infrastructure has recently completed and the full remediation and associated new Statement of Environmental audit of Stage 2A is scheduled to be completed in mid-2019.

The EPA submitted suggested changes to the DPO schedule to ensure accurate representation of both the contaminated condition of the site and the requirements of the relevant environmental audit reports within the Kingston Planning Scheme. The EPA also reinforced the requirement to retain the EAO across the site until such time as the planning

<sup>1</sup> Image source: Parsons Brinckerhoff Australia Pty Ltd, Environmental Audit Report Stages 2 and 2A, 1136-1138 Nepean Highway Highett, (CARMS #37308-2), Figure 1 (pdf. p. 12), [http://apps.epa.vic.gov.au/EnvAuditFiles/53X/37308-2/37308-2\\_a.pdf](http://apps.epa.vic.gov.au/EnvAuditFiles/53X/37308-2/37308-2_a.pdf)

authority determines that the land is not potentially contaminated land or a Certificate of Environmental Audit has been issued.

The site owner submitted a revised DPO schedule (Document 14) that incorporates EPA's recommended word changes to the DPO schedule.

Council clarified in its submission that the EAO continues to apply irrespective of a Statement of Environmental Audit having been issued.

## **(ii) Discussion**

The Committee notes that the site owner and Council agree to the changes proposed by EPA to the DPO schedule. The Committee accepts the proposed word additions.

## **(iii) Conclusion**

The Committee concludes that the DPO Schedule be amended to reflect matters raised by the EPA.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

### **4.3.3 Tree protection**

#### **(i) Evidence and submissions**

Council submit that there are trees on the site that are worthy of retention. As part of Council's submission, Council's Senior Vegetation Management Officer (at Annexure B of Council's submission, Document 3) recommended the retention of the following:

- the row of Spotted Gums adjacent to the Nepean Highway frontage
- the Red Ironbark and Tuart located outside of the building footprint of apartment towers G and F3
- the mature Drooping She-oak located to the west boundary of the site.

Council suggest that the *"mature native trees along the Nepean Highway frontage provide a high level of amenity to the area and contribute to a reasonably intact treed frontage to the Nepean Highway extending from the subject site to Southland at the Bay Road Nepean Highway intersection"*. Behind the Spotted Gums are a row of mature Red Ironbark trees and Tuart trees. All of these trees have been planted. Council notes that the Spotted Gums are in good health with an expected Useful Life Expectancy of more than 20 years. Council states:

*The retention of these trees would also be consistent with the Highett Structure Plan's objective of creating a native boulevard, particularly between Bay and Highett Roads, based on the landscape character of Sir William Fry Reserve and incorporating the major development sites west of the highway.*

#### **(ii) Discussion**

The Committee agrees that there are some large trees that are worthy of retention, although was not provided with an Arboricultural assessment. The DPO Schedule provides

for an assessment of any significant flora and fauna on the site to be undertaken as part of the landscape masterplan for the site.

The matter was discussed during the course of the Hearings and the site owner and Council agreed that retention of the large trees where possible would be a good outcome. The parties agreed that including a need for an Arboricultural assessment and protection of trees in accordance with the *AS 4970-2009 Protection of Trees on Development Sites* would be of benefit.

The Committee has included words in the DPO schedule to ensure protection of trees worthy of retention as part of the landscape masterplan.

### **(iii) Conclusion**

The Committee concludes that the DPO Schedule should be amended to:

- require protection of trees to be in accordance with *AS 4970-2009 Protection of Trees on Development Sites*
- require the retention of existing trees along the frontage to Nepean Highway and View Street.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

#### **4.3.4 Heritage chimney**

##### **(i) Evidence and submissions**

Heritage Overlay – Schedule 11 (HO11) currently applies to part of the land within the subject site and relates to a remnant chimney from the previous gas works located at the centre of the site and a curtilage around the chimney of a radius of five metres from the chimney base. The chimney is approximately 32 metres in height and is the only structure of the former gasworks remaining.

The site owner stated that the chimney is to be retained, remediated and integrated as the centrepiece of the open space network and masterplan. The concept plan in the exhibited DPO7 shows the chimney located in a roundabout.

Council submit that the roundabout location does not appear consistent with the statement in the supporting documentation to protect, remediate and integrate the chimney as the centrepiece of the open space network. Council suggest the chimney be situated within an open space area, not a roundabout.

Council seeks a section 173 Agreement which requires the chimney to be fully restored and made fully safe prior to occupation of the site and a guarantee of chimney repair and ongoing maintenance.

##### **(ii) Discussion**

The Committee agrees with the position of both Council and the site owner that the DPO reflect the integrity and ongoing maintenance be undertaken of the chimney and included within a section 173 Agreement as part of a future permit.

The Committee determined that two conditions should apply: one about the chimney needing to be structurally sound and the other about the ongoing repair and maintenance of the chimney, rather than combining these two matters.

The Committee agrees with the site owner and Council that the matters of structural integrity and ongoing maintenance of the heritage chimney be matters within the section 173 Agreement (Clause 2 of the DPO7). Parties agree on this.

The Committee also agrees with Council that the chimney be within an open space area rather than a roundabout and this should be reflected in a revised concept plan.

### **(iii) Conclusion**

The Committee concludes that the Development Plan Overlay should be amended to:

- require the heritage chimney be made structurally sound prior to the occupation of the site.
- make the developer responsible for the ongoing maintenance of the heritage chimney.
- show the location of open space.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

### **4.3.5 Linkage to Remington Drive**

#### **(i) Submissions**

Mr Cicero, on behalf of his client Hallmarc Highett Pty Ltd<sup>2</sup> submitted that the connection shown on the Concept Plan with Remington Drive, which runs through and belongs to his client, is "*premature and indeed presumptuous*" as there have been no detailed discussion on the terms and conditions of such access across the road. He said:

*...Our client strongly opposes any changes to the planning provisions affecting the Gasworks site unless and until the owner of the site has reached an agreement with it in relation to access through its land.*

The site owner noted condition 30 on the Hallmarc permit issued by VCAT requires:

*The Remington Drive road reserve must be constructed as per Council's standards and to the satisfaction of the Responsible Authority.*

Council submitted that upon completion of the Hallmarc development, Remington Drive was intended to be vested with Council and after the Hearing provided the Committee with a copy of the relevant planning permit for the Hallmarc site (KP09 735) which refers to a Link Road shown on the endorsed plans (now Remington Drive) and includes as a condition:

*w. The provision of a public road which is provided either in a staged or completed configuration ...*

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<sup>2</sup> Submission 5

## **(ii) Discussion**

Based on the evidence presented, it is clear to the Committee that the intention that Remington Drive provide access to the subject land has been part of overall strategic planning for the area for some time. This accessway is shown on the endorsed plans for the Hallmarc site and is described in condition 30 of the permit.

The Committee understands that the exact arrangements must be negotiated for access to this road with Council and Hallmarc at some stage in the future. That is a detailed matter to be resolved upon completion of the Hallmarc development. There is no question that access to the site from Remington Drive has always been intended.

The Committee notes Mr Turnbull's evidence which indicates the part of Remington Road that has been constructed is:

*... consistent with a Level 2 Access Street under the provision of Clause 56.06-8 of the Planning Scheme, and is suitable to accommodate up to 3,000 vehicles per day two-way.*

From a strategic planning perspective, it is entirely appropriate to show the intended linkage with Remington Drive on the concept plan and include words describing the linkage opportunity in DPO7.

## **(iii) Conclusion**

The Committee concludes that it is appropriate to describe and show the potential Remington Drive linkage with the site in DPO7.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

### **4.3.6 Movement network**

#### **(i) Evidence and submissions**

The issue is whether the movement network that has been included in the concept plan is appropriate to form the basis of a future Development Plan.

Council called Mr Turnbull on traffic evidence who was generally supportive of the proposed plan. His expert evidence included the opinions that:

- *It would be sensitive to provide for a pedestrian/cycle connection along the western boundary of the site between Sir William Fry Reserve and Station Street and DPO7 Figure 1 could be amended to show this link.*
- *It is clear it is Council's intent to take over Remington Drive as a public road once it is complete and it should connect through the site as flagged in DDO12 which applied before the Hallmarc permit was issued.*
- *A development of the envisaged size should have two primary road connections (including one from an emergency vehicle perspective) and the primary access to Nepean Highway should be signalised.*

Mr Hardingham, traffic expert for the site owner, said:

*In regards to pedestrian and bicycle connections, a more robust assessment of the surrounding area should be undertaken and in particular, the likely benefits of providing a link to Southland over Bay Road as contemplated by the Highett Structure Plan.*

The site owner submitted it proposed to:

*Restrict vehicle access to Station and View Streets to protect residential amenity.*

Both Mr Hardingham and Mr Turnbull when cross examined highlighted the opportunity for a local road connection to Station Street and View Street. They both shared the view that there is nothing in their expert opinions and analysis of the site and proposal that would indicate View Street or Station Street or their intersections further north with Highett Road did not have the capacity to absorb a local road connection from the site.

Council said that its traffic engineers advise that the Frankston Railway Line south of Caulfield to Frankston is identified as a Strategic Cycling Corridor by Transport for Victoria (TfV). It submitted:

*It is imperative that an adequate reservation be made adjacent to the railway line to accommodate a suitable bicycle path.*

## (ii) Discussion

The proposed network on the Concept Plan (attached to the DPO schedule) shows a defined road link that loops between Remington Drive and Nepean Highway. No other roads are shown on the Concept Plan.

It also shows various pedestrian linkages through the site including a north south pedestrian/bicycle linkage between View Street and Remington Drive and a potential pedestrian link over the railway line at the north west of the site.

**Figure 6: Concept Plan from DPO7**



When compared with the built form elements of the Concept Plan, the Committee sees that the road network seems very resolved.

Under the DPO, any Development Plan must be generally in accordance with the DPO or it cannot be approved. A planning scheme amendment needs to be undertaken to change the DPO, if it has a resolved Concept Plan and there is a desire to depart from that Concept Plan.

The Committee is concerned the Concept Plan locks in the loop road as the access road and the location of key pedestrian routes through the site as this may be premature.

When asked why View Street / Station Street were not considered suitable for vehicular access to the site, the site owner said that the planners for the site had made the decision based on minimising amenity impacts to the existing residents in View Street and Station Street. The Committee, through its questions to Council and the site owner, notes that community consultation was not undertaken to come to this conclusion. No traffic work was commissioned by the site owner for the site to aid them in developing the road arrangements for the site.

The Committee notes that the Highett Structure Plan envisages vehicular access to and from this site should be exclusively through Nepean Highway to minimize impacts on existing residents.

These reasons are not robust enough to justify the movement network shown in the concept plan. This is a very large site which will generate significant vehicular, pedestrian and bicycle movements. It is appropriate that a movement network be comprehensively developed through the development planning process that responds to the ultimate design of the site and provides the least impact for the community as a whole – both the existing residents to the north of the site, and the new residents on the land and the Hallmarc development to the east.

The Committee considers not enough design work has been undertaken to resolve the movement network through the site at this point in time.

The movement network shown on the Concept Plan does not:

- Provide for the option of vehicular access via View or Station Streets which both experts considered was viable and desirable.
- Provide the opportunity for a road network through the site that doesn't conform to the 'loop road' design.
- Facilitate a permeable development, as pedestrian links appear restricted to View Street and Remington Drive which is not in accordance with the expectations for this site set out in the Highett Structure Plan and written in other parts of the DPO which envisage links to Highett Activity Centre, Southland, William Fry Reserve and Lyle Anderson Reserve as a minimum.
- Identify the potential for a bike path in accordance with TfV's strategic plan.

The concept plan should be amended to highlight expectations and opportunities rather than a specific movement network.

The Committee considers that it is reasonable that dedicated pedestrian and bicycle routes be counted towards the open space contribution for the site.

### **(iii) Conclusion**

The Committee concludes that the Concept Plan should be amended to retain flexibility in the movement network that will be developed. This should include:

- potential points of primary and secondary vehicular access
- potential pedestrian and bicycle routes through the site linking to key destinations in the surrounding area
- potential future links and buffers that should be provided for them
- provision for a dedicated bike path adjacent to the railway line.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E. The Committee has included notes below the Concept Plan to this effect.

### **4.3.7 Open Space**

#### **(i) Evidence and submissions**

Numerous submissions from community members highlighted the importance of providing open space on this site. Whilst many suggested that amounts of between 40 per cent and all of the site be used for open space, there was also strong support for the amount proposed through the amendment.

Council's initial submission<sup>3</sup> to the Committee documented a Memorandum of Understanding (MOU) dated 29 April 2011 between Council and the site owner that specifies that 2,200 square metres of open space be provided on the site, which would be additional to the current open space requirement for the development of the site. This is to offset open space lost with the relocation of gas infrastructure.

Ms Pike's expert evidence for Council stated:

*... in judging the open space requirements of the Gasworks site, it is not a question of delivering an aggregate quantum of open space, rather, it is about ensuring the provision of open space to meet two needs.*

- 1. Local liveability and good urban design – through high quality public realm and open spaces delivered on site that respond to the needs of the local community.*
- 2. Access to higher order formal active sports and recreation facilities.*

Ms Pike recommended:

*... an 8 per cent contribution rate for open space at the Gasworks site.*

*[She] also recommends that the types of local/neighbourhood open spaces provided include:*

- *one local level playground*
- *up to two neighbourhood level open spaces which are accessible to people of all abilities and of high amenity*

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<sup>3</sup> Submission 25



- *active transport corridors on site that are integrated with regional open space networks and transport corridors.*

*[She] also recommends contributions are also (sic) made that will be used for upgrading surrounding contributory open spaces (eg. Sir William G Fry Reserve) and active open spaces (Highett Reserve) that will be used by future residents.*

This recommendation was submitted as Council's position.

Council advised that Amendment C153 is currently with the Minister for Planning awaiting approval. This Amendment proposes to introduce an 8 per cent open space requirement for strategic redevelopment sites such as this one.

The site owner did not provide any submissions on the quantum of open space that should be provided, however did highlight what was expected from this site in terms of contributions for open space, affordable housing and community infrastructure was significant.

Council submitted that the concept plan for the DPO7 should include the indicative locations of open space.

## **(ii) Discussion**

It is outside the scope of the Committee's Terms of Reference to recommend that the whole site be used for public purposes such as open space.

### **Quantum of open space**

There is some confusion in the Committee's mind as to what is expected by parties in terms of open space provision. DPO7 currently requires:

*Provision of 2,200sqm Public Open Space on the land in addition to a public open space contribution made under Section 18 of the Subdivision Act 1988 or under the Planning Scheme, whichever applies.*

2,200 square metres equals approximately 3.6 per cent of the subject site.

Council's Public Open Space Review<sup>4</sup> nominates an 8 per cent contribution in Activity Centres and on Strategic Redevelopment Sites and is being implemented through proposed Amendment C153 to the Kingston Planning Scheme.

If, at the time of the approval of the Development Plan, proposed Amendment C153 is approved, the open space obligation for this site would then be 11.6 per cent of the land under the current drafting of this control.

Council position is that an 8 per cent contribution should be made on site plus additional contributions to upgrades to contributory open spaces (such as William Fry Reserve) and

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<sup>4</sup> Public Open Space Contributions Review, SGS Economics and Planning, 2017: <https://www.kingston.vic.gov.au/files/assets/public/strategic-planning/amendment-c153/kingston-final-report-170608.pdf>

active open spaces (such as Highett Reserve) which are unspecified based on the evidence of Ms Pike.

The Public Open Space Contributions Review,<sup>5</sup> which was prepared by Ms Pike's company, concludes a maximum 8 per cent contribution is appropriate for Strategic Redevelopment Sites and Activity Centres and this forms the basis of Amendment C153. The Committee has not been provided with any justification as to why this site should provide a higher amount of open space than other similar areas in Kingston and has concerns about the equity of this.

The Committee notes:

- The site owner did not raise any concerns about the proposed wording in DPO7 which would allow for an 11.6 per cent contribution if Amendment C153 is approved.
- The current MOU requires a contribution of 2,200 square metres plus the current open space requirement.
- Provision of open space was a high community priority.

The Committee thinks there is support that there be an 8 per cent open space requirement plus an additional contribution of 3.6 per cent as envisaged in the MOU and the proposed DPO7. Specifying the quantum in the planning scheme provides certainty for developers and the community.

#### **Form and location of open space**

No evidence was submitted to indicate where the open space should be located in the development, although Council did submit it should be shown. At this stage the Committee does not think adequate design work has been undertaken to show the locations of open space on the site and it is pre-emptive to put this information into the concept plan, with the exception of nominating an open space area around the heritage chimney, as outlined in Chapter 4.3.4.

Whilst the MOU of 2011 specifies that 2,200 square metres of open space be provided on site, the Committee considers that Ms Pike's analysis of the open spaces that should be provided on site provides more guidance and is based on up to date analysis of open space requirements for the area and site.

For these reasons the Committee concludes that rather than identifying locations of open space on the concept plan, the DPO7 should include a list of the type of open space that should be provided in the development, as indicated by Ms Pike's analysis.

#### **Clause 52.01**

The Committee considers that the schedule to Clause 52.01 is the appropriate place in the planning scheme to include requirements for quantum of open space. The Clause 52.01 schedule should be amended to include an 11.6 per cent open space requirement for this site.

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<sup>5</sup> Ibid

### (iii) Conclusion

The Committee concludes that the Development Plan Overlay should be amended to:

- specify the type of open spaces to be provided or upgraded on and offsite and that the contribution should be a combination of land on site and cash in lieu as negotiated with the Responsible Authority.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

### (iv) Recommendation

The Committee recommends:

- **Amend the Schedule to Clause 52.01 to specify an 11.6 per cent open space contribution for this site.**

#### 4.3.8 Built form

The following table sets out the building heights across the various controls proposed and discussed at the Hearing.

**Table 6: Comparison of Building Heights**

Controls	Building Heights	Type
DDO12 (existing)	Between 3 storeys (11m) and 5 storeys (17m)	Discretionary
RGZ1 (existing)	Maximum 13.5m	Discretionary
RGZ2 (proposed)	Maximum 26m	Mandatory
DPO7 (proposed)	Between 2 storeys and 8 storeys	Discretionary

### (i) Evidence and submissions

The site owner contends that:

- The site is large, underutilised, has been declared surplus and is ready for redevelopment.
- Non-sensitive interfaces allow it to be transitioned into more intensive built form without unreasonable amenity impacts.
- A range of residential dwellings can be accommodated between 2 to 8 storeys with a transition to lower built forms towards the site boundaries.

The exhibited Planning Report states that according to the Architectural Investigation Report, a diversity of residential dwellings can be accommodated on the land based on the road and open space network shown in the Concept Plans and the preferred heights in the proposed Development Plan Overlay.

The site owner also referred to the Hallmarc development as a precedent for taller built form in the area. The Hallmarc development includes eight buildings over three stages and each exceed the five storey height limit of six storeys specified in DDO12.

The site owner called Mr Rob Kelderman to give evidence on planning. He considered the proposed heights to be appropriate and stated in his evidence that:

*Subject to detailed design and siting, development up to 8 storeys on this part of the subject land would sit comfortably with the approved conditions and applicable building height requirements on the adjacent Hallmarc site, the existing apartment development at 1142 Nepean Highway, Highett, and the rear of the Moorabbin Justice Centre, as well as the building heights elsewhere on the subject land that are shown on the Concept Plan ...*

Council is of the view that the increase in height to 26 metres can be accommodated on certain parts of the subject site, provided that the sensitive interfaces along View Street and Station Street are appropriately managed and high quality urban design and public realm outcomes are achieved.

Council submitted that the proposed interface height of three storeys for development along View Street and Station Street should be reduced to two storeys. Council called Andrew Clarke of Matrix Planning who gave evidence that there should be a mandatory height limit of two storeys at the View and Station Streets interface, given that the Highett Structure Plan provides the strategic basis for a 7.5 metre height limit.

Mr Clarke noted that there is a general opportunity on this site to provide for high density residential development and pointed out that the site is:

*... bordered by a train line and Nepean Highway (which provide distance buffers to existing residential development beyond), a non-residential community facility (court house) and existing and proposed high density residential development to the south fronting Nepean Highway already of 5 – 6 storeys in height.*

A number of residents were concerned about the proposed heights of up to eight storeys on the site, which would be allowed under the proposed Schedule 2 to the Residential Growth Zone mainly because this will set an unwanted precedent for Kingston. Mr Screen<sup>6</sup> submitted:

*Whilst there are existing 6 storey developments already along that section of the Nepean Highway, and 10 storey under development, the increase in that many apartments is not required and unnecessary and I would suggest to leave the overall height controls as they are at 6 storeys. All of this was taken into consideration in the Highett Structure Plan and Review in 2017.*

The Residential Growth Zone does not include a height limit for buildings. One of the purposes of the Residential Growth Zone is:

*To provide housing at increased densities in buildings up to and including four storey buildings.*

However, this is not a mandatory requirement, and the control anticipates buildings higher than four storeys through a requirement that Clause 58 of the scheme be met for buildings

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<sup>6</sup> Submission 8.

of five or more storeys. Under the current RGZ1, buildings may be constructed that are higher than eight storeys if they are granted a planning permit.

The proposed schedule puts a maximum, mandatory, height control of 26 metres over the land. This aligns with the proposed control in the DPO.

The Schedule has the effect of setting a mandatory maximum height for the site.

Bayside City Council submitted that the DPO should include a requirement to ensure development respects the scale of, and provides a transition to, the lower scale residential buildings on Dunkley Avenue (to the west of the site on the other side of the railway line).

## **(ii) Discussion**

The Committee is comfortable with the proposed maximum building height of eight storeys (26 metres) and agrees with Council that a transition towards View and Station Street is appropriate. The Committee is of the view that the interface height for development with frontages to View Street or Station Street should be three storeys in line with buildings to the north located in the GRZ. In addressing the views of various submitters, the Committee sees benefit in ensuring that the maintenance of a human scale at street level and clear articulation of scale are incorporated into the DPO.

DPO7 as exhibited has minimal design guidelines to direct the form of new development on the site, especially in the context that many of the new buildings developed on site will be higher density apartment buildings.

Clause 58 will apply to this development, however this is a tool used to assess individual buildings. The Committee considers that DPO7 should be strengthened to include urban design guidelines that recognise the importance of creating an urban form that is not overwhelming to people travelling through the site. DPO7 has been amended to include the following requirements:

- High quality architectural frontages with a sense of articulation, streetscape scale and rhythm that contributes to the significance of Nepean Highway and the internal road network.
- Active street frontages to contribute to street life and safety through passive surveillance.
- Building massing transitioning to reduced heights and increased setbacks along sensitive interfaces along View Street and Station Street with increased heights at the centre of the site.

The height guideline for the western edge of the site is 6 storeys. The Committee does not consider there is a need for a further graduation down to the west of the site to protect the amenity of Dunkley Avenue properties as submitted given the distance between the rear of the buildings on Dunkley Avenue and the development envelope on the site which is at least 30 metres and there is a railway line in between.

## **(iii) Conclusion**

The Committee concludes that the Development Plan Overlay should be amended to:

- make the interface height for development fronting View Street and Station Street 3 storeys instead of 2 storeys
- strengthen controls for street wall height of buildings and interface treatments.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

#### **4.3.9 Social and affordable housing**

##### **(i) Evidence and submissions**

The site owner provided detailed submission on policies relating to social housing and how they relate to the subject land. The Government's overarching strategy to address housing affordability is set out in its policy, *Homes for Victorians*. Strategy 2.4 in *Homes for Victorians* is to increase the supply of social and affordable housing through an inclusionary housing pilot program. The strategy explains:<sup>7</sup>

*To make the best of what we have, the Government will undertake an Inclusionary Housing pilot on surplus government land, delivering up to 100 new social housing homes. It's a new and innovative way to think about housing. Surplus government land is often located in areas with good access to jobs and transport. But as this land is no longer required for government needs, it can be put to market for housing. To make sure Victorians in need aren't being left behind, the Government is prepared to discount the price of this land, in return for a proportion of social housing.*

The Government has selected six sites for inclusion in the pilot program. This site is not one of them.

The site owner submitted that the sites that have been included in the Inclusionary Housing pilot do not propose planning controls that mandate provision of affordable or social housing. Rather, the provision of affordable and social housing on those sites is to be separately agreed, on commercial terms, with the future developers of those sites. In return for providing social housing on those sites, the Government may discount the price of the land. In other words, the Inclusionary Housing pilot involves construction of social housing by the private sector. The site owner submits that Inclusionary Housing does not involve gifting of housing.

The site owner submits that, as things currently stand, inclusion of a mandatory requirement for affordable housing would be uncertain and unworkable. Further, they state the Inclusionary Housing Pilot Program addresses the State government's commitment to social and affordable housing on surplus government owned sites at this time.

Council called evidence on community infrastructure requirements from Dr Kerkin. In her report, Dr Kerkin addresses the issue of affordable housing in the proposed planning controls and makes the following findings:

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<sup>7</sup> *Homes for Victorians: Affordability, access and choice*, State of Victoria, 2017, section 2.4, p. 23.

*There is little evidence that increased housing diversity and higher density dwellings have contributed to improved housing affordability in the areas adjacent to the Site.*

*Despite significant increases in housing diversity in recent years there have also been significant increases in housing costs.*

*There is evidence of high levels of housing stress in the areas adjacent to the Site.*

*There is evidence of a particular need for affordable rental housing in the area.*

*The Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017 affirms the use of Section 173 for voluntary affordable housing agreements.*

Council acknowledges and supports these findings and requests the Committee to support these findings. Council seeks a section 173 Agreement requiring the provision of 5 per cent of dwelling stock in the form of affordable housing together with a delivery mechanism, staging and location of such provision as a permit condition requirement.

Mr Clarke, planning expert for Council, states *“Plan Melbourne identifies surplus Government land is an opportunity to accommodate affordable housing. The subject site represents a perfect opportunity to pilot the provision of affordable housing on surplus Government land consistent with Action 25 of its Implementation Plan, (p.30).”*

The site owner submits that amendment to the exhibited DPO7 requiring imposition of a permit condition requiring a section 173 Agreement to be entered into for the provision of 5 per cent affordable housing on the site is not voluntary on behalf of the site owner and is premature until a robust statutory framework is established.

## **(ii) Discussion**

The Committee notes that the Minister for Planning asked the Committee to consider the *“infrastructure requirements needed to support the redevelopment of the site, and the need for methods for delivering potential social housing on the site”*.

The Committee agrees with the site owner that the fact that affordable housing requirements were not included in the proposed controls for the sites which are included in the Inclusionary Housing pilot (IHP) reflects the Government’s clear view that a sufficient framework for mandating those outcomes (as opposed to encouraging them on a voluntary basis) does not yet exist. The Committee also agrees with the site owner that entering into agreements for the provision of 5 per cent affordable housing on the site is not voluntary on behalf of the site owner and is premature until a robust statutory framework is established by the State government. This site has not been chosen by the Government as one of the IHP sites.

Notwithstanding the above, the parties did agree that the DPO Schedule make reference to the need to provide for affordable housing and the DPO Schedule has been amended to reflect this without specifying how much. The Committee also has included the requirement

for preparation of a Dwelling Diversity Report, based upon the Social Housing Standing Advisory Committee’s recommendation in the Flemington report.

The Dwelling Diversity Report will demonstrate how the development will achieve an appropriate level of dwelling diversity and will identify the affordable housing contribution to be made by the development, its location and staging. The delivery mechanism should also be identified as part of the report. This is one method that may assist in identifying the social and affordable housing needs for the site.

The site owner submitted that one of the strategies is for the government to establish an IHP with social or affordable housing to be provided across six sites and the Committee notes this.

### **(iii) Conclusion**

The Committee concludes that the Development Plan Overlay should be amended to include the preparation of a Dwelling Diversity Report.

The Committee’s preferred version of the DPO Schedule showing these changes is attached at Appendix E.

#### **4.3.10 Provision of community infrastructure**

##### **(i) Evidence and submissions**

Council called Dr Kate Kerkin to address issues of provision of community infrastructure in the DPO Schedule. Dr Kerkin’s evidence is to not recommend the provision of community infrastructure on the subject site in the DPO Schedule, particularly due to existing barriers limiting access to the site.

Dr Kerkin identified gaps in community infrastructure for Highett and the municipality and makes the following findings:

- *There is a need for an additional 1,328 sqm of community facility floor space to support the needs of the Site community by 2036.*
- *This facility space will be needed to accommodate services such as kindergartens, maternal and child health services, playgroup spaces, occasional child care, library services and general community meeting spaces.*
- *Existing community facilities do not have the capacity to accommodate these additional services.*
- *The current best practice approach to planning community facilities at the City of Kingston is through the development of integrated community facilities.*
- *There is currently no integrated community facility in the areas adjacent to the Site, including the suburbs of Highett and Cheltenham.*

Council supports these findings and requests the Committee to support these findings noting that Council seeks a section 173 Agreement requiring contributions towards community infrastructure as a permit condition requirement.



The site owner submits that it is not clear from Council’s submissions as to what form Council is seeking that the monetary contribution be made, how it will be implemented and how much it is. They state this has made it almost impossible for the site owner to properly assess and respond to Council’s position.

The site owner submits that:

*... monetary contributions required by planning, either via scheme amendments, or planning permits, must satisfy tests of need, nexus, equity and accountability.<sup>8</sup>*

*In addition, as is always the case, planning scheme amendments must have a sound strategic basis, make proper use of available statutory planning tools, and be supported by accurate and sufficient evidence.<sup>9</sup>*

*DTF submits that there is insufficient information to support an infrastructure contribution for the land at this point in time on the basis that:*

- *Council has no existing plan or Council approved plan for what infrastructure will be provided through money provided through contributions under the DPO7;*
- *Council has no approved Development Contributions Plan or Infrastructure Contributions Plan;*
- *Dr Kerkin’s evidence does not, in a sufficiently certain way, determine what infrastructure would be provided if funds are collected, or where the money will be spent;<sup>10</sup>*
- *aspects of Dr Kerkin’s evidence are not sufficiently robust or transparent to justify the imposition of a financial contribution, for example:*
  - *her assessment of existing facilities capacity and cost of providing new facilities is based on meetings with four Kingston staff and two Bayside staff, but no details of those meetings or data relied on is provided;<sup>11</sup>*
  - *her assessment does not factor in existing supply of privately operated community facilities, even though she acknowledges “there is a high level of provision” of those facilities in the vicinity of the site;<sup>i</sup>*
  - *her assessment appears to discount the possibility of the provision of community infrastructure on the site (works-in-kind) despite the site being located on Nepean Highway, in an activity centre, well-connected to public transport and the surrounding area and with proposed new traffic and pedestrian access to Nepean Highway and north to View Street; ...*

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<sup>8</sup> Standard Development Contributions Advisory Committee, Report 1, ‘Setting the Framework’, 17 December 2012 (“**SDAC Report 1, 2012**”). See also, *Dennis Family Corporation v Casey CC* [2006] VCAT 2372.

<sup>9</sup> Planning Practice Note 46, *Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments*, May 2017.

<sup>10</sup> See Evidence Statement of Dr Kerkin, p. 51 which goes no further than to state: “Given these facts, the preferred response would be for a financial contribution from the development of the Site towards the cost of constructing a new integrated community facility preferably within the Highett or Cheltenham area.

<sup>11</sup> Evidence statement of Dr Kerkin.

## **(ii) Discussion**

The Committee notes that although much discussion around community infrastructure requirements for the subject site occurred at the Hearings, the parties do agree that a contribution is required towards community infrastructure in general. The differences in opinion are based upon how the community infrastructure contribution would be implemented and how much monetary contribution this should or should not be.

The Committee agrees with the site owner that it is premature to determine the details at this stage, however does agree that the DPO Schedule needs to reflect the need for a contribution towards community infrastructure, whether it occur on the subject site or within the broader Highett area should be up to Council.

The Committee includes the following discussion to put on the record its position in regard to methods to collect community infrastructure contributions in general. The Committee and parties were able to have a robust discussion which is relevant to future GLSAC sites.

The site owner put the position forward to the Committee that the Development Contributions Plan Overlay is the appropriate tool to use and as one doesn't apply, then it could be argued that no contribution should be required. The Committee finds this a problematic position for the site owner to put forward on such a large strategic redevelopment site.

In a perfect world, a Development Contributions Plan Overlay may have been prepared for the site, but the Committee appreciates how difficult it is for largely developed, suburban Council's to prepare this sort of planning tool and successfully implement it into the planning scheme. Indeed, since the hearing, the Infrastructure Contributions Plan Overlay has been gazetted and introduced in the Victoria Planning Provisions specifically to make it less onerous on Council's such as Kingston to collect contributions towards infrastructure.

Notwithstanding the above, the Committee is satisfied that a Section 173 agreement is an appropriate tool by which to secure the infrastructure contributions to be made by this site.

## **(iii) Conclusion**

The Committee concludes that there should be a contribution towards community infrastructure required to meet the demands of the future residential population of the site. This should be reflected in the DPO schedule as agreed by the site owner and Council.

### **4.3.11 Drainage**

#### **(i) Evidence and submissions**

Council submits that its requirement in the DPO Schedule for an Integrated Water Management Plan to be provided for the subject site is an appropriate and important measure to be undertaken for the future development of the site.

Council notes that Melbourne Water has previously indicated that 2400 cubic metres of flood storage would be required to be provided on the site. Council reiterated that further work needs to be done by the site owner to provide appropriate connectivity through the site which can incorporate a suitable retarding basin and provide appropriate public open space areas.

The site owner did not make submissions on drainage or water treatment / infrastructure requirements for the site.

**(ii) Discussion**

The Committee notes that Council’s proposed wording for an Integrated Water Management Plan to be included in the DPO Schedule was generally agreed by the site owner and was not a contested issue. This includes demonstrating how the site achieves water sensitive urban design, responding to 1:100 year flood levels in its design, how flows over the site will be retained and restricting flows under the railway line and ensuring plans for the capture and reuse of rainwater storage from all dwellings, including consideration of large scale capture for re-use on open space areas.

**(iii) Conclusion**

The Committee agrees with Council that an Integrated Water Management Plan be incorporated into the DPO Schedule.

The Committee’s preferred version of the DPO Schedule showing these changes is attached at Appendix E.

**4.3.12 Acoustic management**

**(i) Evidence and submissions**

Mr Clarke, for Council, submitted that potential noise sources identified as the railway and Nepean Highway are a potential issue (confirmed by the Architectural Investigation Report prepared by CHT Architects for the site owner) and therefore an acoustic report should be a requirement in DPO7.

**(ii) Discussion**

The Council is concerned about ensuring the protection of future residents on the site from noise from the railway line and Nepean Highway.

The Committee agrees that protection of residents against the impacts of noise is an important issue and notes that Clause 55.04-8 and Clause 58.04-3 set out the following noise impact objectives:

- To contain noise sources in developments that may affect existing dwellings
- To protect residents from external and internal noise sources.

Clause 55.04-8 applies to two or more dwellings on a lot, and Clause 58.04-3 applies to all apartment developments of more than four storeys, which will be the bulk of development across the site.

The Committee is satisfied that these requirements are adequate to ensure that acoustic impacts are considered as part of the planning process for the site.

**(iii) Conclusion**

The Committee concludes that an acoustic report is not necessary as Clause 54 (ResCode) and Clause 58 (Better Apartment Guidelines) include this requirement.

#### **4.3.13 General drafting issues**

##### **(i) Issue and discussion**

Some minor amendments are required to DPO7 to ensure it is in accordance with the Ministerial Direction on the Form and Content of Planning Schemes, and the DELWP templates that have been issued.

Several recommendations have been made to the Concept Plan throughout this report. In addition to these, the concept plan should be amended to include a proper legend.

These changes have been applied to and identified in the Committee preferred version of DPO7.

##### **(ii) Conclusion**

The Committee concludes that the DPO should be amended to align with the wording and formatting specified in the *Ministerial Direction on the Form and Content of Planning Schemes, May 2017*.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

#### **4.4 Other matters related to controls**

##### **4.4.1 Municipal Strategic Statement**

##### **(i) Issue and discussion**

Changes to Clause 21.05 – Residential Land Use are proposed to update the policy to recognise the proposed development of the Gas and Fuel Land and how this will be facilitated through planning scheme controls.

##### **(ii) Conclusion**

The Committee concludes that the proposed changes to Clause 21.05 Residential Land Use are appropriate.

##### **(iii) Recommendation**

The Committee recommends the following:

- **Amend Clause 21.05 to update the policy to recognise the proposed development of the Gas and Fuel Land and how this will be facilitated through planning scheme controls.**

#### **4.5 The principal of sharing benefit**

##### **(i) Evidence and submissions**

The question of whether the benefit of the sale of this parcel of land should be directed to the wider community (through the generation of sales revenue) or the local community was discussed.

The site owner submitted:

*significant public value has already been provided from the former Gasworks site in the form of dedication of land for William Fry Reserve, the public housing estate land west of the railway line and the Moorabbin Courthouse.*

In verbal submissions the site owner put forward the idea that the sale of land from this site will provide a community benefit to the wider Victorian community in the form of revenue, and that further contributions in the form of open space, affordable housing and community infrastructure for the local community would undermine this benefit.

This position was tested by Council and the Dr Hoskin at the Hearing. Dr Hoskin said:

*It is not a matter of maximising the profit of the Government, but getting the balance right between the profit of the Government and the benefit of the local community.*

## **(ii) Discussion**

The Committee does not agree with the view put forward by the site owner.

Surplus government land should make the same contribution in the form of development and community infrastructure, affordable housing and open space provision for the local community as would be expected from any developer of land. The Committee considers this approach aligns wholly with the objectives of planning in Victoria outlined in Section 4 of the *Planning and Environment Act 1987*.

## **(iii) Conclusion**

The Committee concludes that Government land should make the same contributions in the form of development and community infrastructure, affordable housing and open space for the local community as would be expected from any developer of land.

## **4.6 Vesting of assets with Council**

### **(i) Discussion**

Discussions at the Hearing indicated that the intention was that community assets including internal roads, bike and pedestrian pathways, public open space and the heritage chimney would be vested in Council upon completion of the development to become public community assets.

The Committee considers that this should be specified in the DPO control to make it clear to any future developer that the vesting of these assets is expected as part of the development.

### **(ii) Conclusion**

The Committee concludes that the Development Plan Overlay should be amended to indicate that the movement network, open space and heritage chimney will be vested with Council upon completion of the development.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

## **4.7 Ongoing community engagement**

### **(i) Evidence and submissions**

Mr Clarke, for Council, points out that the effect of changing from a DDO to a DPO is that it removes third party notice, decision and review rights. He states (p.31):

*This is of some concern given that proposed height controls are discretionary, the concept plan is vague and no draft of the development plan has been exhibited.*

Mr Clarke suggests an informal public notice process for the development plan in the DPO7 or to strengthen the provisions proximate to their location. In this case Mr Clarke considers the most sensitive receptors are the residents to the immediate north of the site in View Street and Station Street.

### **(ii) Discussion**

The Committee agrees with Mr Clarke that the most sensitive receptors are the residents to the immediate north of the site in View Street and Station Street and during the course of the Hearing it was noted that residents have not had extensive engagement regarding the proposed development plan for the site, including built form, potential for vehicle and pedestrian/bicycle access.

The Committee concludes that a requirement for a Community Engagement Strategy should be included in the DPO Schedule. The Community Engagement Strategy would:

- establish 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
- include consultation on the circulation and movement networks
- include a requirement that the development plan be made available for public inspection prior to its consideration by the responsible authority.

### **(iii) Conclusion**

The Committee concludes that the Development Plan should be amended to require the preparation of a Community Engagement Strategy to the satisfaction of the Responsible Authority and Council prior to the preparation of a Development Plan.

The Committee's preferred version of the DPO Schedule showing these changes is attached at Appendix E.

## Appendix A: About the Government Land Standing Advisory Committee

The Government Land Planning Service (formerly the Fast Track Government Land Service) is a 2015 initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned by the Victorian Government. The Government Land Standing Advisory Committee (the Committee) was appointed under Part 7, section 151 of the *Planning and Environment Act 1987* in July 2015.

A revised Terms of Reference for the Committee was approved in April 2018.

The Committee consists of:

- Chair: Lester Townsend
- Deputy Chairs: Trevor McCullough and Mandy Elliott
- Members: Gordon Anderson, Elissa Bell, Alan Chuck, Jenny Fraser, Prue Mansfield, Jane Monk, Rachael O'Neill, John Ostroff, Tania Quick, Cazz Redding and Lynn Sweeney.

The Committee is assisted by Ms Emily To, Project Officer with Planning Panels Victoria.

The Committee's Terms of Reference state that the purpose of the Advisory Committee is to:

- a) advise the Minister for Planning on the suitability of new changes to planning provisions for land owned, proposed to be acquired or to land required to facilitate the delivery of priority projects by the Victorian Government, and*
- b) provide a timely, transparent and consultative process to facilitate proposed changes to land owned or proposed to be acquired; or to support delivery of priority projects by the Victorian Government.*

The Advisory Committee must produce a written report for the Minister for Planning providing:

- a) an assessment of the appropriateness of any changes of planning provisions in the context of the relevant planning scheme and State and Local Planning Policy Frameworks,*
- b) consideration of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes,*
- c) an assessment of whether planning scheme amendments could be prepared and adopted for each proposal, including the recommended planning provisions,*
- d) an assessment of submissions to the Advisory Committee,*
- e) any other relevant matters raised during the hearing(s),*
- f) a list of persons who made submissions considered by the Advisory Committee,*
- g) a list of persons consulted or heard,*
- h) endorsement by the Chair or the Deputy Chair.*

## Appendix B: List of Submitters

No.	Submitter
1	Daniel Czech
2	Joe Rao
3	Chloe McDougall
4	Jennifer Saynor-Locke
5	Hallmarc Highett Pty Ltd
6	Eugene Kontos
7	Carleene de Somerville
8	Derek Screen
9	Susan Murray
10	BioChimera
11	Merilyn Case
12	Esther Anna Weichman
13	Lucy Anne Danchin-Foy
14	Judith Richardson
15	Ruth Kweitel
16	Dr Robert Hoskin
17	Kenneth Michael Henderson
18	Bayside City Council
19	Leon & Mona Bogers
20	Kay Judge
21	Andy Evans
22	Douglas Alan Judge
23	Rosemary Cousin
24	Kathryn Spode
25	Kingston City Council
26	Cristian Silver
27	Michael Doensen
28	Carleene de Somerville
29	Environment Protection Authority



## Appendix C: Document list

Documents Presented to Hearing (No.)	Description	Presented By
1	DTF written submission	DTF, Jane Sharpe
2	DTF folder of submissions	DTF, Jane Sharpe
3	Outline of submission	Kingston City Council
4	Annexure A and B	Kingston City Council
5	Community facility construction costs	Kingston City Council
6	EPA submission	EPA
7	Copy of VicRoads email	Kingston City Council
8	Copy of emails exchanged between Kingston City Council, VicRoads and Terry Hardingham regarding traffic	Kingston City Council
9	Email with Civil Design requirements for Developments – Integrated Stormwater Management report	Kingston City Council
10	Melbourne Water letter	Kingston City Council
11	Hallmarc Highett Pty Ltd submission	Hallmarc
12	Written submission	Michael Doensen
13	Written submission	Carleene de Somerville
14	DPO with Council preferred changes	DTF

## Appendix D: Design and Development Overlay Schedule 12 – Committee’s Preferred Version

### SCHEDULE 12 TO THE DESIGN AND DEVELOPMENT OVERLAY

20/01/2011

C99

Shown on the planning scheme map as **DDO12**

#### HIGHETT ACTIVITY CENTRE

##### 1.0 Design objectives – General

All buildings should achieve a high standard of building design and articulation.

DD/MM/YYYY  
proposed CX

##### Highett Road

- To revitalise the Highett Activity Centre as an attractive, vibrant and well used ‘Main Street’ and community focal point by implementing the objectives of the *Highett Structure Plan, 2006*.
- To achieve an acceptable balance between the opportunities for increased built form, bulk and height, and maintaining a reasonable level of residential amenity.
- To ensure the built form and building siting respects the dominant street patterns.
- To achieve high quality, well designed new buildings, works and additions that are compatible with the existing architectural and streetscape character of Highett Activity Centre.
- To ensure that active frontages are achieved.
- To protect and enhance the visual amenity of the Highett Activity Centre including sunlight to pedestrian areas.
- To encourage the appropriate redesign of car parking areas to compliment the streetscape of the Highett Activity Centre.

##### Preferred Medium Density Residential Areas

- To encourage apartment style residential development of up to three storeys in height on consolidated lots in residential areas close to the Highett Activity Centre.
- To retain the amenity of existing low density residential development by ensuring that adequate side and rear setbacks are provided to taller buildings to allow screen planting and a landscape setting, and to prevent unreasonably overlooking, overshadowing and visual bulk.
- To encourage car parking to be provided within buildings rather than at ground level, to maximise the opportunity to use ground level open space for landscaping, and communal and private open space.
- To encourage consolidation of land that facilitates the creation of viable development sites capable of achieving the outcomes promoted by the Scheme and the *Highett Structure Plan, May 2006*.

##### Increased Density Highway West

- To ensure integrated development of the whole Increased Density Highway West Precinct.
- To encourage the use of contemporary architecture combined with innovative urban design principles.

- To ensure buildings within Precinct H6 (Increased Density Highway West) address Nepean Highway, any new network of streets established and open space areas throughout and adjoining the precinct to provide for surveillance.
- To achieve residential development within Precinct H6 (Increased Density Highway West) that provides a mixture of building heights sizes and formats and varying built forms and layouts to provide visual interest.
- To ensure that building heights increase to a maximum furthest from established residential areas to the north to minimise visual impact from surrounding residential areas.
- To encourage a transition of building heights across Precinct H6 (Increased Density Highway West) from 7.5 metres adjacent to established residential areas up to a maximum building height of 17 metres near the south-east corner of the precinct.
- ~~▪ To protect historic features of Precinct H6 (Increased Density Highway West) by ensuring that adequate setbacks, scale and height are provided to taller buildings to ensure views are not compromised and development responds to the significance of the site.~~
- To create treed boulevards and high quality landscape treatment along new network or public streets and open spaces.
- To achieve development of circulation networks that focus on providing strong linkages within the Increased Density Highway West precinct with the Lyle Anderson Reserve west of the Railway line, the Highett Activity Centre, the Sir William Fry Reserve south of the precinct and Southland Principal Activity Centre.
- To achieve development that provides accessible, safe, attractive and functional private and public open space opportunities, which are well connected and integrated within a permeable urban environment.
- To provide solar access in mid winter to key boulevards within the precinct to contribute to a comfortable, pedestrian friendly urban environment.
- To facilitate the enjoyment of public urban spaces, streetscapes, pedestrian and bicycle paths by ensuring that these areas are not excessively overshadowed or affected by wind tunnelling from new buildings and works.
- To encourage consolidation of land that facilitates the creation of viable development sites capable of achieving the outcomes promoted by the Scheme and the *Highett Structure Plan, May 2006* for land within this precinct.
- To discourage the fragmentation of sites other than in association with a development proposal that achieves the outcomes promoted by this Scheme and the *Highett Structure Plan, May 2006* for the precinct.
- Buildings with unique architectural or design features that substantially contributes to the overall building form and appearance as identified by the *Highett Structure Plan, May 2006*, must:
  - Substantially contribute to the overall building form and appearance by forming part of a distinctive architectural design feature;
  - Be based on contemporary architectural and innovative urban design elements;
  - Be located where higher built form outcomes are identified in the *Highett Structure Plan, May 2006*;
  - Not cast additional overshadowing upon adjacent and nearby properties and public spaces at 12 noon on 22 June.

## 2.0 Buildings and works

### DD/MM/YYYY Proposed CX Permit Requirements

A permit is not required for buildings and works associated with environmental audit and site remediation.

~~A permit for buildings, works and subdivision must not be granted prior to approval (by the responsible authority) of an outline development plan for the whole Increased Density Highway West Precinct which shows:~~

- ~~▪ The proposed use of each part of the land.~~
- ~~▪ A loop road connecting the Nepean Highway south of the Moorabbin Courthouse with the Nepean Highway north of the Courthouse.~~
- ~~▪ Open space.~~
- ~~▪ Stormwater drainage infrastructure.~~

~~unless the responsible authority is satisfied that the application is in accordance with the design objectives of this Clause and the Highett Structure Plan, May 2006.~~

~~Any application to develop land must be accompanied by a drainage strategy showing existing and proposed stormwater drainage scheme and a drainage report that shows how:~~

- ~~▪ Stormwater from a 1:100 year event will be retarded and the rate of discharge from the development site into the existing drainage scheme underneath the railway line determined by the responsible drainage authorities;~~
- ~~▪ Road layout and other site design will accommodate overland flows;~~
- ~~▪ The approved drainage strategy and overland flows from the Moorabbin Courthouse development have been considered;~~
- ~~▪ The natural contours of the land have been considered and the likely impact that they will have to any drainage strategy developed;~~
- ~~▪ It is proposed to detain stormwater pending release;~~
- ~~▪ Stormwater re-use.~~

~~The drainage report and strategy must be developed in accordance with all landowners within the Increased Density Highway West Precinct, the City of Kingston, Bayside City Council and Melbourne Water.~~

## Height

### Areas H1, H2, H3 and H4

Buildings and works must not exceed the maximum building height set out in the Table to this Schedule for Areas H1, H2, H3 and H4.

A permit cannot be granted to vary the maximum building height set out in the Table to this Schedule for Areas H1, H2, H3 and H4.

### Areas H5 and H6

Buildings and works should not exceed the maximum building height set out in the Table to this Schedule for Areas H5 and H6.

A permit may be granted to exceed the height limit if the additional height is necessary to achieve the design objectives. The development must continue to comply with the design objectives and design standards for that area.

## Landscape Design

Landscape design must:

- Provide canopy trees and native and indigenous plantings;

- Provide landscape treatments to soften the urban built form environment; and
- Create private and public open space areas/links to established public open spaces areas within the surrounding area that are accessible, safe, attractive and functional for all users.

### Setbacks

Buildings and works must be constructed in accordance with the setback requirements in the Table to this Schedule.

A permit cannot be granted to vary any of the setback requirements in the Table to this Schedule unless otherwise specifically stated in the Table to this Schedule.

**Table to Schedule 12**

HEIGHT CONTROL AREA AS SHOWN ON THE PLAN TO SCHEDULE 12	MAXIMUM BUILDING HEIGHT	DESIGN STANDARD
<p><b>DDO12 - H1</b></p> <p>Northwest and southwest corners of Nepean Highway and Highett Road</p>	<p>4 storeys (14 metres) subject to site consolidation</p>	<p>New development on the northwest corner must be setback to not intrude on viewlines into the centre from Nepean Highway and further east.</p> <p>Development on the north west corner must respect the scale of, and provides a transition down to, adjoining lower scale residential buildings.</p> <p>Setbacks of new development on the southwest corner from street frontages on the southern side of Highett Road are not required.</p> <p>New development must present a gateway to the commercial area and reinforce Highett Road as a Neighbourhood Activity Centre. Ground floors must comprise active commercial uses.</p> <p>The scale of development on these gateway sites should take advantage of the opportunities of consolidated sites but maintain a comfortable relationship with the surrounding low scale and pedestrian oriented built form character of the shopping centre. It should not unreasonably overshadow Highett Road and streets in the precinct.</p> <p>The quality of architecture should be high to respond to its visibility from Nepean Highway.</p>
<p><b>DDO12 - H2</b></p> <p>Corner of Railway Parade and Highett Road</p>	<p>3 storeys (11 metres)</p>	<p>New development on consolidated land should reinforce the prominence of the corner.</p> <p>A consistency of building height, built form and a strong urban edge to Highett Road should be provided with a strong urban edge and zero front setbacks.</p>

HEIGHT CONTROL AREA AS SHOWN ON THE PLAN TO SCHEDULE 12	MAXIMUM BUILDING HEIGHT	DESIGN STANDARD
<p><b>DDO12 - H3</b></p> <p>Highett Road (north &amp; south)</p>	<p>3 storeys (11 metres)</p>	<p>Any 3rd storey must be setback a minimum of 8 metres from the frontage and appear as a two storey building form from Highett Road.</p> <p>This setback may be reduced where the building height is reduced and it can demonstrate sunlight access to the street and public spaces.</p> <p>Any 3rd storey must be setback 4 metres from the rear boundary to respect the scale of, and provide adequate setback to, adjoining lower residential buildings.</p> <p>A feeling of openness and intimate scale for pedestrians should be maintained.</p> <p>The scale of development should have a comfortable relationship with the low-scale, built form character of the Highett Activity Centre.</p>
<p><b>DDO12 - H4</b></p> <p>Civic Plaza south of the Highett Road shops, between Station Street, the railway line and incorporating the Highett Library and the RSL</p>	<p>3 storeys (11 metres)</p>	<p>An attractive and active pedestrian environment should be provided.</p> <p>Development should not overshadow the Square. Lower building forms with a maximum height of 2 storeys should be provided along the edges of the Square and Highett Road.</p> <p>New buildings around the Square should provide a transition from 2 storeys along the edges of the Square and Highett Road to higher 3 storey built forms. Any 3rd storey must be setback a minimum of 8 metres from the street frontages.</p>
<p><b>DDO12 - H5</b></p> <ul style="list-style-type: none"> <li>▪ View and Station Streets south of Highett Road;</li> <li>▪ the residentially zoned properties fronting the east and west side of Nepean Hwy north of Bay Road and south of Wickham road;</li> <li>▪ the immediate residential areas north and south of the Highett Shopping Centre; and</li> <li>▪ the residential area north of Highett Road and south of Wickham Road.</li> </ul>	<p>3 storeys (11 metres)</p>	<p>On sites of 1,000sqm or less and with a frontage of 20 meters or less buildings and works should not exceed a maximum height of 7.5 metres (comprising 2 storeys).</p> <p>On sites (comprising one or more lots) of greater than 1,000sqm and with a frontage of greater than 20 metres buildings and works should not exceed a maximum height of 11.0 metres (comprising 3 storeys). The preference is for residential apartment style developments on larger consolidated lots, rather than villa units or townhouses.</p> <p>Where sites are consolidated new development must be setback a minimum of 6 metres from the front property boundary.</p> <p>New development must be setback from side and rear boundaries to provide greater side and rear setbacks than the standards of</p>

HEIGHT CONTROL AREA AS SHOWN ON THE PLAN TO SCHEDULE 12	MAXIMUM BUILDING HEIGHT	DESIGN STANDARD
		<p>Clause 55 of this Scheme. Setbacks are to provide for substantial landscaping and to preserve the amenity of adjoining residences.</p> <p>Car parking spaces be provided primarily within new developments rather than at ground level, in order to maximize the opportunity to use ground level areas for landscaping, and communal open space.</p>
<p><b>DDO12 - H6</b></p> <p><a href="#">Increased Density Highway West</a></p> <p><del>Former Gas and Fuel land and adjoining two industrial properties to its south.</del></p>	<p><b>DDO12 - H6 (a)</b></p> <p>3 storeys (11 metres)</p>	<p>Development must respect the scale of, and provides a transition to, adjoining lower scale residential buildings and proposed higher scale residential buildings within the precinct.</p> <p>Development must be setback to provide for a landscaped and tree-lined new network of streets.</p> <p>High quality architecture must respond to and address the new and existing network of public streets, and open and public spaces.</p>
	<p><b>DDO12 - H6 (b)</b></p> <p>3 storeys (11 metres) for a depth of 15 metres along Nepean Highway</p> <p>4 storeys (14 metres) for the remaining precinct</p>	<p>The scale of development must have a comfortable relationship with the lower-scale, built form of adjoining development.</p> <p>Development must setback to provide for a landscaped and tree-lined new network of streets.</p> <p>High quality architecture must respond to its visibility from Nepean Highway and makes a positive contribution to Nepean Highway.</p>
	<p><del><b>DDO12 - H6 (c)</b></del></p> <p><del>4 storeys (14 metres)</del></p>	<p><del>Development must be setback to provide for a landscaped and tree-lined new network of streets.</del></p> <p><del>Development must respect the scale of, and provides a transition to, lower scale residential buildings and proposed higher scale residential buildings within the precinct.</del></p> <p><del>High quality architecture must respond to and addresses the new and existing network of public streets, and open and public spaces.</del></p> <p><del>The scale of development should take advantage of the opportunities of an uninhibited site but must not restrict views to and should maintain a comfortable relationship with the historic features within the precinct.</del></p> <p><del>New buildings must provide a transition from 2 storeys to higher storey built forms. Any 4th</del></p>

HEIGHT CONTROL AREA AS SHOWN ON THE PLAN TO SCHEDULE 12	MAXIMUM BUILDING HEIGHT	DESIGN STANDARD
	<p><del>DDO12 - H6 (d)</del></p> <p>4 storeys (14 metres)</p>	<p><del>or higher storey must be setback from the street frontages to minimise its visual bulk.</del></p> <p><del>Development must be setback to provide for a landscaped and tree-lined new network of streets.</del></p> <p><del>Development must respect the scale of, and provides a transition to, adjoining lower scale buildings and proposed higher scale residential buildings within the precinct.</del></p> <p><del>High quality architecture must respond to and addresses the new and existing network of public streets, and open and public spaces.</del></p> <p><del>New buildings to provide a transition from 3 storeys to higher storey built forms. Any 4th or higher storey must be setback from the street frontages to minimise its visual bulk.</del></p> <p><del>The scale of development should take advantage of the opportunities of an uninhibited site but must not restrict views to and should maintain a comfortable relationship with the historic features within the precinct.</del></p>
	<p>DDO12 - H6 (ec)</p> <p>5 storeys (17 metres)</p>	<p>Development must be setback to provide for a landscaped and tree-lined new network of streets.</p> <p>High quality architecture must respond to and addresses the new network of public streets, open and public spaces and Sir William Fry Reserve.</p> <p>High quality architecture must respond to its visibility from Nepean Highway and make a positive contribution to Nepean Highway.</p> <p>New buildings to provide a transition from 4 storeys to higher storey built forms. Any 5<sup>th</sup> or higher storey must be setback from the street frontages to minimise its visual bulk.</p> <p>Development must provide a transition to adjoining lower scale residential buildings within the precinct.</p>

Building height is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the exception of architectural features and building services.

### 3.0 Subdivision

DD/MM/YY  
YY

[No content](#)

Proposed  
CX



~~A permit for buildings, works and subdivision must not be granted prior to approval (by the responsible authority) of an outline development plan for the whole Increased Density Highway West Precinct which shows:~~

- ~~▪ The proposed use of each part of the land.~~
- ~~▪ A loop road connecting the Nepean Highway south of the Moorabbin Courthouse with the Nepean Highway north of the Courthouse.~~
- ~~▪ Open space.~~
- ~~▪ Stormwater drainage infrastructure.~~

~~unless the responsible authority is satisfied that the application is in accordance with the design objectives of this Clause and the Highett Structure Plan, May 2006.~~

~~Subdivision within the Increased Density Highway West Precinct must be consistent with the integrated development of the whole precinct and the overall design objectives of this Clause.~~

#### **4.0 Decision guidelines**

20/11/2008  
C73

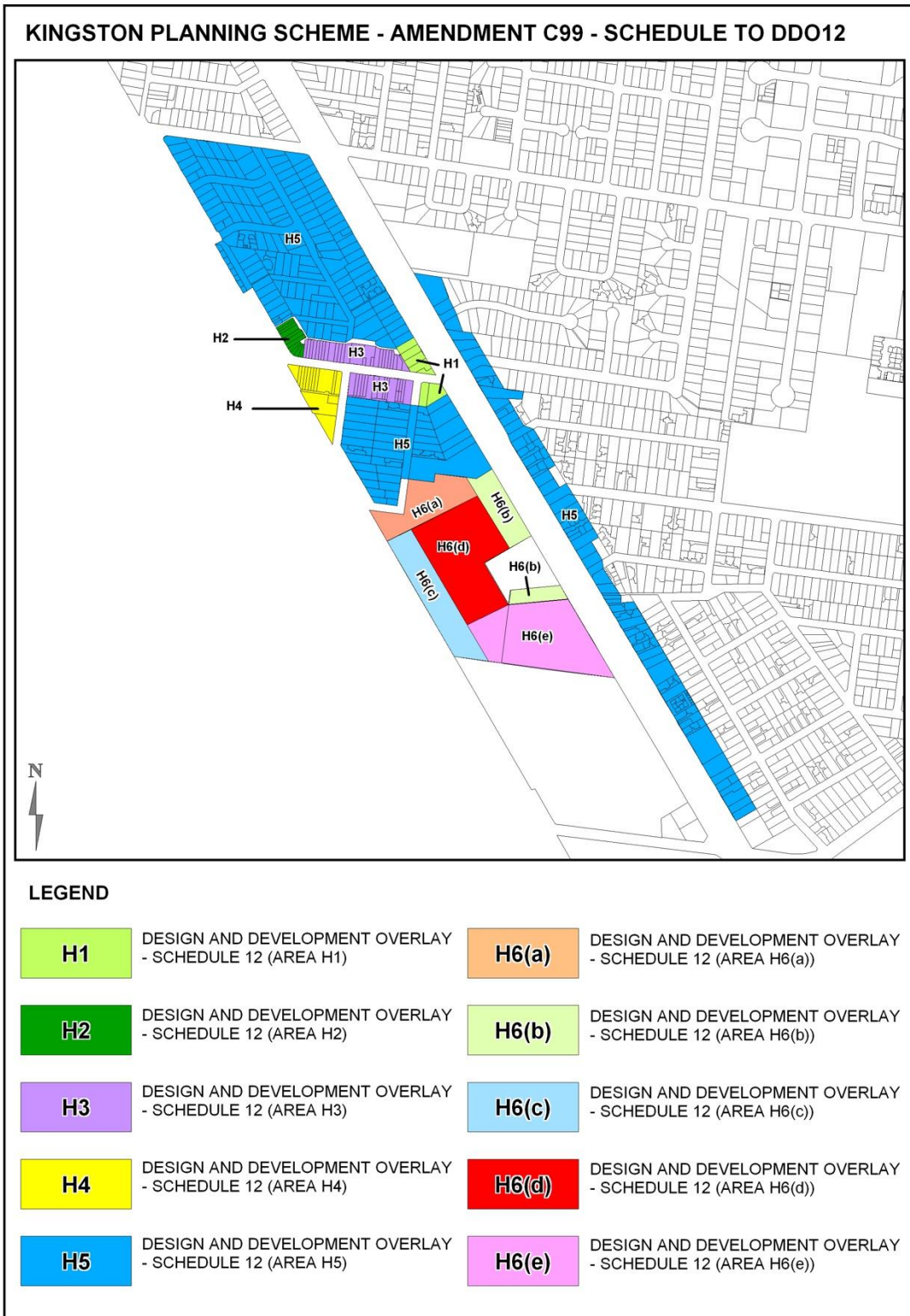
Before deciding on this application, the responsible authority must consider:

- The site analysis and urban context report.
- The visibility of the building form and height on the scale and character of Highett Road.
- Whether opportunities exist to avoid the building being visually obtrusive by the use of alternative building designs and staggered building forms.
- On a corner site, the architectural style and detail of the building, and whether it will make a positive statement as a corner element.
- The amenity impacts on any adjoining land in a Residential 1 Zone, particularly with respect to overshadowing, privacy and visual bulk.
- The use of materials, finishes and colour.
- The visual impact of any balcony or roof deck and associated access when viewed from the street and surrounding area.
- Whether the third and fourth storeys are visually intrusive when viewed from the street and surrounding area.
- Whether the subdivision is associated with a development proposal that supports the objectives promoted by this Scheme and does not result in fragmentation of sites.
- Whether the proposed buildings achieve the desired mix of building heights, sizes, formats and layouts throughout Precinct H6.
- Whether appropriate surveillance of open space links and open space and public areas is achieved through building design and placement.
- The impact of new development on historic features and views to historic features.
- The ability for new development within Precinct H6 to integrate with adjoining built forms.
- The visual impact and integration of new development within Precinct H6 when viewed from the surrounding area.

#### **5.0 Reference Documents**

20/01/2011  
C99

*Highett Structure Plan, May 2006*



[Amend this map to show only the parts of H6a, H6b and H6e that aren't covered by the proposed DPO.](#)  
[Amend this map to delete H6c and H6d.](#)

## Appendix E: Development Plan Overlay Schedule 7 – Committee’s Preferred Version

### SCHEDULE 7 TO ~~THE~~ CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

...  
CXX

Shown on the planning scheme map as **DPO7**

#### FORMER GAS AND FUEL LAND – STRATEGIC REDEVELOPMENT AND RESIDENTIAL OPPORTUNITY SITE

This schedule applies to land located at 1136-1138 Nepean Highway, Highett.

#### 1.0 Requirement before a permit is granted

...  
CXX

A permit may be granted to use or subdivide land or to construct a building or to construct or carry out works that is not generally in accordance with the development plan for the following:

~~A permit may be granted before a development plan has been prepared for:~~

- ~~Bulk excavation, site preparation and retention works including piling, footings, ground beams and ground slab, m~~Minor buildings and works and any works required to satisfy environmental clean up or audit requirements.
- Earthworks and site preparation works that are carried out in accordance with a Construction Management Plan 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.
- ~~Subdivision of the land into superlots or to realign property boundaries, or create a road.~~
- To create or remove easements.

Before granting a permit the Responsible Authority must be satisfied that the permit will not prejudice the future use and development of the land in accordance with this Schedule. ~~an integrated manner.~~

#### 2.0 Conditions and requirements for permits

...  
CXX

The following conditions and requirements apply to permits.

Where relevant, a permit for the development subdivision of land must contain a condition which requires the owner of the land to enter into an agreement with the Responsible Authority and Kingston City Council pursuant to Section 173 of the *Planning and Environment Act 1987* to provide for the following matters to the satisfaction of the Responsible Authority in consultation with Kingston City Council:

- The heritage cChimney (HO11) must ~~to~~ be made structurally sound ~~fully safe~~ prior to occupation of the site.
- ~~and a guarantee of chimney~~ The ongoing repair and ~~ongoing~~ maintenance of the heritage chimney (HO11).
- ~~Provision for extension of Remington Road to create a loop road connecting the Nepean Highway south of the Moorabbin Courthouse with the Nepean Highway north of the Courthouse.~~
- A contribution of 11.6 per cent of the land for open space, provision of active pedestrian and cycling paths across the land and upgrades to contributory surrounding open spaces and active open spaces. Provision of 2,200sqm Public Open Space on the land, in addition to a public open space contribution made under section 18 of the Subdivision Act 1988 or under the Planning Scheme, whichever applies.

- A contribution towards community infrastructure required to meet the demands of the future residential population of the site.
- The vesting of the movement network, open space network and heritage chimney with Kingston City Council upon completion of development.

The owner must pay the Responsible Authority's reasonable costs associated with the preparation, registration and enforcement of the agreement.

A permit for the subdivision, use or development of land must contain conditions to ensure that residual contamination is managed through including:

- A condition that land uses must align with suitable land uses identified under any Statement of Environment Audit issued under Part IXD of the Environment Protection Act 1970.
- Translation of any conditions specified in any State Environment Audit issued under Part IXD of the Environment Protection Act 1970.

### 3.0 Requirements for development plan

...  
CXX

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

#### Development plan components

~~The development plan should be generally in accordance with the concept plan provided in Figure 1 of this schedule.~~

A Development Plan must include the following requirements:

~~The development plan should show or make provision for the following:~~

#### **Gas and Fuel land objectives**

The Development Plan must demonstrate how it responds to the following objectives for the land:

- Provide a substantial amount of residential dwellings of various sizes and formats.
- Ensure new streets, pedestrian and cycling paths connect to the adjoining street network and open space areas west, north and south.
- Retain the historic chimney as a feature of the development.
- Achieve innovative contemporary design and built form based on the best current architectural design practice and sustainability principles.
- Achieve high quality landscape treatments (including main road boulevard planting, canopy tree planting, screen planting, extensive tree plantings and theme plantings in appropriate locations).
- Design traffic management to minimise impacts on adjoining residential areas.

#### Land Use and Open Space

The Development Plan must show or make provision for:

- ~~Provide a~~ A range of dwelling types to cater for a variety of housing needs.
- Affordable housing.
- Open space integrated into the site which includes:
  - One local level playground
  - Up to two neighbourhood level open spaces which are accessible to people of all abilities and of high amenity
  - Active transport corridors on site that are integrated with the regional open space network and transport corridors.
- Existing trees identified in an Arboricultural report to be retained along the frontage to Nepean Highway and View Street

- Management of amenity impacts from non-residential uses on adjoining properties, [Nepean Highway, and the Melbourne – Stony Point Rail Corridor](#) to ensure the reasonable amenity of future residential occupiers within the site.

### Subdivision

#### The Development Plan must show:

- Indicative lot layout, roads and pedestrian connections and public open space.
- [Any proposed staging of Stages for development including staging of infrastructure and open space delivery.](#) ~~including the provision of connection to Remington Drive and Nepean Highway.~~

### Heritage

#### The Development Plan must show or make provision for:

- Retention of the [heritage cChimney \(HO11\) and adequate curtilage \(5 metres from base\)](#) on site and its placement within ~~the public realm~~ [open space](#).
- Adequate setbacks, scale and height ~~of are provided to taller~~ buildings to ensure views are available to the [heritage cChimney](#) from Nepean Highway and Sir William Fry Reserve.

### Built form

#### The Development Plan must show or include:

- [Urban design guidelines](#) ~~The design philosophy~~ for the [land including but not limited to:](#)
- [High quality architectural frontages with a sense of articulation, streetscape scale and rhythm that contributes to the significance of Nepean Highway and the internal road network. From our report](#)
- [Active street frontages to contribute to street life and safety through passive surveillance. From our report](#)
- [Building massing transitioning to reduced heights and increased setbacks along sensitive interfaces along View Street and Station Street with increased heights at the centre of the site.](#)
- Building orientation and location, indicative uses within each building, car parking areas, public roads, vehicle access locations, pedestrian and bike paths and areas and locations of private and public open space.
- The preferred design and interface treatments to public open spaces [within and adjacent to the land.](#) ~~including Sir William Fry Reserve.~~  
~~... site and indicative architectural themes,~~
- ~~including~~ landscaping [of road reserves](#),
- Treatment of car parking areas and orientation of garages so that they do not dominate the street or any public open space,
- ~~The method by which buildings address Nepean Highway.~~
- ~~Any above ground multi level car parking sleeved and concealed by active frontages where facing primary streets and open space.~~

### Height and setbacks

- Building envelopes including maximum building heights (in storeys) and setbacks [generally in accordance with the Concept Plan at Figure 1.](#)
- [Street wall heights of buildings to avoid impacts of canyoning and create a ‘human scaled’ street environment.](#)
- Development setbacks from internal streets to provide for a landscaped and tree-lined network of streets.
- [Development](#) ~~and a~~ setbacks to provide a landscaped frontage to Nepean Highway.
- ~~Respect for the amenity of the adjoining interface with View Street / Station Street, by providing for a maximum of 2 storey built form along this interface.~~
- ~~Taller buildings across the balance of the site up to 8 storeys in height.~~

- ~~Building envelopes should provide for~~ Reasonable amenity to public urban spaces, streetscapes and pedestrian and bicycle paths by minimising overshadowing and wind tunnelling effects, ~~by ensuring that these areas are not excessively overshadowed or affected by unreasonable wind tunnelling from new buildings.~~

### Circulation and Pedestrian/ bicycle/ vehicle movement

The Development Plan must show or make provision for:

- The internal road and path network for pedestrians, bicycles and vehicles, generally in accordance with the Concept Plan in Figure 1 and considering:
  - The primary access and egress from the land for vehicles should be from Nepean Highway.
  - A right of way to the land is provided through Remington Drive to link the land with Nepean Highway
  - A future pedestrian link across the railway line to link with Lyle Anderson Park should be allowed for
  - Public transport infrastructure should be easy to access.
- A high level of ~~Creation of increased local~~ permeability through ~~provision of new pedestrian/cycle pathways and new local street networks through the~~ site that provides linkages to Nepean Highway, William Fry Reserve, the rail corridor, a future pedestrian link across the railway line to the north west of the land and Highett Shopping Centre via Station Street and View Street.
- ~~Facilitate ease of access to adjacent public transport infrastructure.~~

### **Required documents, plans and reports**

Prior to the preparation of a Development Plan the following strategy must be prepared to the satisfaction of the Responsible Authority in consultation with Council.

#### 1. A Community Engagement Strategy 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.
- Includes consultation on the circulation and movement networks.
- Includes a requirement that the development plan be made available for public inspection prior to its consideration by the Responsible Authority.

The Development Plan ~~must should~~ include the following documents, plans and reports to the satisfaction of the Responsible Authority in consultation with Council, where relevant:

1. An Urban context and site analysis prepared in accordance with Clause 55.01 or Clause 58.01 that includes but is not limited to: ~~General~~
  - Existing conditions showing surrounding land uses and development, adjoining roads and pedestrian links public transport routes, topography, vistas to the historic chimney, infrastructure provision
  - A site analysis and design response.
2. An Integrated Transport and Traffic Management Plan ~~and Car Parking Report~~ which includes:
  - Identification of roads, pedestrian, cyclist and vehicle access locations, including communal or public car parking areas internal to the site as well as broad details of any proposed intersection treatments.
  - Specification of road, bicycle and footpath path dimensions, using cross sections where appropriate.

- Pedestrian  ~~/ and~~ cycling linkages to key destinations outside the land including [Highett Shopping Centre](#), ~~between Station Street, the site and~~ Sir William Fry Reserve [and Nepean Highway](#).
  - [Provision for a future linkage across the railway line to connect with Lyle Anderson Reserve.](#)
  - [Provision for a bicycle path along the rail corridor.](#)
  - Traffic and car parking management measures, as appropriate.
  - ~~Provides for~~ Effective and lockable bicycle storage facilities within components of the residential development.
3. A **Landscape Masterplan** which provides:
- An assessment of any significant flora and fauna on the site.
  - Identification of the existing ~~vegetation-trees~~ to be retained and removed ~~and how vegetation to be retained will be protected and incorporated into the design of the development.~~
  - [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.](#)
  - Key landscape design principles to be applied to public and private realm areas including considering species selection throughout road reserves, along the site's key internal and external interfaces and within proposed communal and public open spaces and car parking areas.
4. **A Dwelling Diversity Report** that:
- [Demonstrates how the development will achieve an appropriate level of dwelling diversity](#)
  - [Identifies the affordable housing contribution to be made by the development, its location and staging. The delivery mechanism should also be identified.](#)
5. **Environmentally Sustainable Development Guidelines** which [includes](#):
- [Environmentally Sustainable Design Principles to be incorporated into the development including integrated water management, energy efficiency and generation, climate responsive design, waste minimisation and improvements to urban ecology.](#)
  - ~~Require the introduction of water sensitive urban design principles for managing storm water discharge.~~
  - ~~Require, where appropriate, the use of rain water tanks to collect rainwater for reuse for communal open space, private gardens and other landscaped areas.~~
  - ~~Provide for the use of energy efficient lighting and water heating systems.~~
6. An ~~Drainage Strategy Report~~ **Integrated Water Management Plan** which ~~shows how~~:
- [Demonstrates the application of Australian best practice to achieve water sensitive urban design \(WSUD\) and potable water conservation objectives. All treatment measures to achieve stormwater quality management requirements are to be provided within the development site, unless with the agreement of the Responsible Authority.](#)
  - [Responds to designated 1:100 year flood levels \(where applicable\) including heights of floor levels and access into basement car parks.](#)
  - [Retains flows to restrict discharge under the railway line.](#)
  - [Plans for road layout and other site design that will accommodate overland flows and Water Sensitive Urban Design treatments.](#)
  - [Demonstrates the approved drainage strategy and overland flows from the Moorabbin Courthouse, and No's 1140 and 1146 Nepean Highway have been considered.](#)
  - [Plans for the capture and reuse of rainwater storage from all dwellings, including consideration of large scale capture for re-use on open space areas.](#)

- ~~Stormwater from a 1:100 year event will be retarded and the rate of discharge from the development site will be limited to an acceptable flow rate (as determined by the responsible authority).~~
- ~~Road layout and other site design will accommodate overland flows. The approved drainage strategy and overland flows from the Moorabbin Courthouse have been considered.~~
- ~~The natural contours of the land have been considered and the likely impact that they will have to any drainage strategy developed.~~
- ~~Stormwater reuse has been incorporated.~~

7. A **Social Impact Assessment Report** which:

- [Provides an assessment of the adequacy of existing social and community infrastructure to serve the land](#)
- [Details any additional social and community infrastructure to be provided](#)
- [Identifies the community infrastructure contribution to be made by the development.](#)



**Figure 1 – Concept Plan**

The plan needs to be amended to show:



- Border, Scale, Title of Plan
  - Legend to show all elements (i.e. linkages need a key)
  - Replace the up to 2 storey envelope to up to 3 storeys at the interface with View Street.
  - Replace the up to 6 storey envelope to the south of View Street to up to 3 storeys and retain the notations showing opportunity for a future link over the railway at this location.
  - Delete the internal road network and show linkages that must be provided more conceptually than the current plan (View Street, Station Street, Nepean Highway, William Fry Reserve, link over railway line south of View Street, rail corridor). The problem with the existing road network is it hasn't been properly tested and as such provides a constraint to the land at this stage of the process.
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