

**P L A N N I N G   C O M M I T T E E   R E P O R T**

**Agenda Item 5.4**

**8 April 2008**

**1-89 HOBSONS ROAD, KENSINGTON  
PLANNING SCHEME AMENDMENT C131**

**Division**      Sustainability and Regulatory Services

**Presenter**     David Mayes, Manager Strategic Planning and Sustainability

**Purpose**

1.    The Planning Committee, at its meeting on 4 December 2007 resolved to seek endorsement of a Planning Scheme Amendment to rezone the Hobsons Road Precinct together with a Site Development Plan to guide the future re-development of the precinct..
2.    The purpose of this report is to present the Planning committee with the draft Site development Plan which defines the preferred the built form, road layout and open space outcomes for the development of precinct and to approve the exhibition of Melbourne Planning Scheme Amendment C131 which is based on the draft Site Development Plan.

**Recommendation from Management**

3.    That the Planning Committee recommend that Council:
  - 3.1.    resolve to abandon Melbourne Planning Scheme Amendment C58;
  - 3.2.    adopt the recommendations of the Hobsons Road Precinct Built Form Review 2008; and
  - 3.3.    seek authorisation from the Minister for Planning to exhibit Melbourne Planning Scheme Amendment C131 in the form at Attachment 1.

**Hobsons Road Precinct Built Form Review 2008**

4.    The Hobsons Road Precinct is five hectares of land at 1-89 Hobsons Road, Kensington located between the Kensington Banks Estate, Kensington Road and the Maribyrnong River and comprising six lots owned by five separate owners. A Location Plan is at Attachment 2.
5.    In February 2008 Council appointed planning consultants, The Planning Group to do the Hobsons Road Precinct Built Form Review 2008 and prepare a Site Development Plan as the basis for planning scheme controls to guide re-development of the site. The report is at Attachment 3.
6.    There are conflicting constraints on the re-development of this precinct. Whilst the multiple ownerships of the site will tend drive a piecemeal re-development approach, the major flood mitigation civil works required as part of re-development will tend to drive a coordinated or comprehensive re-development of the site.
7.    The proposed planning controls take account of these conflicting constraints and provide a framework for assessing proposals for the re-development of the site based on best practice urban design principles particularly in integrating the re-developed precinct with the adjoining Kensington Banks neighbourhood and with the Maribyrnong River and banks.

## Key Site Development Constraints

### Flood Mitigation

8. The site is within the 1:100 year flood zone. Melbourne Water must approve the flood mitigation works and they have advised that the entire site will need to be raised 2.8 metres and that Hobsons Road would need to be raised to 2.4 metres along its entire length. They also advised that a bund wall to provide flood protection is not an appropriate alternative solution for this site.
9. Melbourne Water will also require a 30 metre setback from the top of the Maribyrnong Riverbank along the entire river frontage of the precinct for floodplain management. No buildings or works, including fencing will be allowed within this setback.

### Easements

10. A carriageway easement exists on 1-30 Hobsons Road providing access to land adjacent to the riverside public open space, owned by VicTrack and to No 41 Hobsons Road.
11. A drainage easement exists in the land at 1-39 Hobsons Road.
12. SPI Powernet is the vested authority for the 10 metre wide easement under the high voltage powerlines parallel with the rail line. No buildings or works may be constructed within the easement but uses such as paths, roads, car parking or landscaping may be allowed. SPI have also indicated they are likely to impose an additional building setback beyond the easement.

### Built Form

13. The scale of the existing buildings to the north side of Hobsons Road is predominately two and three storeys and establishes a low rise character of the neighbourhood along Hobsons Road.
14. The *Maribyrnong River Valley Design Guidelines 2008* define a low rise built form, setbacks and active frontages along the river frontage of the site.

### Heritage

15. There are eight heritage buildings on the site under the Heritage Overlay (HO239). Filling the land however as required by Melbourne Water will require demolition of all buildings.

### Existing Uses

16. Marathon Foods intend to remain in the precinct manufacturing small goods. They have recently upgraded the plant and may expand onto 65 Hobsons Road which is currently vacant.
17. There are a mix of other uses including stabling horses, a community church, and offices of various professional consulting businesses.

### Contaminated Soil

18. A report by Connolly Environmental concluded that there was evidence of soil contamination and recommended a full soil analysis and clean up of the soil prior to redevelopment.

### Recommended Precinct Re-Development Principles

19. The key features of the proposed Site Development Plan and Planning Scheme Amendment are:

**Land Use**

20. Change the Precinct from industrial uses to a mix of compatible residential and commercial uses.
21. Provide for a civic focus such as a café / convenience shop abutting the River and near the power line easement and railway line, serving both the local community and users of the regional walking and cycle trails and parkland along the River and the rail line.
22. Develop a mixed use or commercial office building on land at the north-west corner of Kensington Road and Hobsons Road.

**Building Form**

23. Ensure the built form on Hobsons Road is consistent with the existing Kensington Banks with buildings being no higher than 10.5 metres.
24. Ensure that the built form along the river frontage open space is generally no higher than 10.5 metres (3 residential storeys) and consistent with the design guidelines of the *Maribyrnong River Valley Design Guideline 2008*.
25. Encourage a higher built form up to 22 metres adjacent the railway line for both commercial offices and dwellings. Ensure that the building consists of a continuous building mass to create an acoustic barrier to noise from the rail line.
26. Ensure that the built form through the central part of the precinct is generally no higher than 18 metres (5 residential storeys).
27. Encourage a gateway building at the corner of Kensington Road and Hobsons Road up to a height of 22 metres.
28. Ensure active frontages along all existing and new street frontages and to the river frontage. All built form should be highly articulated and designed to minimise mass, scale and building bulk.

**Publicly Accessible Open Space**

29. Ensure that the 30 metres buildings setback from the Maribyrnong River set aside as a flood retention basin is used only for open space and without permanent structures that would impede flood flows and storage. The area of open space should be accessible to the public.
30. Provide appropriate landscaping of the flood retention basin which is predominately open in character with indigenous plantings and pockets of small trees.

**Walking and Bicycle Access to the River from Kensington Banks and the subject site**

31. Connect the river, the subject site and Kensington Banks with pedestrian, bicycle and vehicle links by the extension of Balmer Street, Bateman Road and Kirk Street to the River.
32. Link pedestrian and bicycle paths through the subject site to the regional Maribyrnong River path.

**View corridors through to the river from Kensington Banks Access Corridor**

33. Reconnect Kensington Banks to the river by extending Balmer Street, Bateman Road and Kirk Street to the River to provide permeability and visual connections.

### **Traffic and Car parking**

34. Ensure that traffic generated from the subject land circulates effectively through the precinct.
35. Ensure that traffic generated from the precinct predominately uses Kensington Road to access/egress the area.
36. Provide adequate off-street car parking.

### **Flood Mitigation**

37. Ensure that people and property are protected from major flood events by requiring the development to be above the 1:100 flood level and provided for flood plain management along the river frontage.

### **Environmental Sustainability**

38. Ensure than new development meets environmental sustainable principles including access to solar energy and light, reuse of water, sustainable heating and cooling systems, pedestrian and bicycle travel, and energy efficient microclimates.

### **Heritage**

39. Record the architectural and historic character of the heritage buildings presently on the land.
40. Retain the chimney of the former glue factory at 1-39 Hobsons Road if possible.

### **Planning Scheme Mechanism**

41. In light of the analysis of the Precinct, and to effectively facilitate the transition of the Hobsons Road Precinct to a mixed use precinct, it is recommended that a planning scheme amendment is initiated that will:
  - 41.1. Apply the Mixed Use Zone to the Precinct except for the land within 30 metres of the river bank.
  - 41.2. Apply the Urban Floodway Zone to the land within private ownership within 30 metres of the River Bank.
  - 41.3. Apply the Incorporated Plan Overlay - Schedule 2 to all privately owned land.
  - 41.4. Apply the Environmental Audit Overlay to the land included in the Mixed Use Zone.
  - 41.5. Include the Built Form Review in the Melbourne Planning Scheme as a Reference Document.
42. The Incorporated Plan Overlay (IPO) has been selected as the main mechanism to implement the Site Development Plan. The IPO will be used to implement the Site Development Plan (consisting of built form principles and a map) to ensure that the future use and development of the land is carried out in accordance with the plan. The Site Development Plan will become part of the Planning Scheme and may only be changed by a planning scheme amendment

43. The IPO will:
  - 43.1. Provide statutory force to the approved plan;
  - 43.2. Ensure that permits granted are in conformity with the Site Development Plan; and
  - 43.3. Remove notice requirements and third party review rights from planning permit applications from proposals that are consistent with the Site Development Plan.
44. Marathon Foods will be impacted by the proposed rezoning of the precinct and the introduction of a Site Development Plan. Marathon Foods will become a non-conforming use under the Mixed Use Zone but may lawfully continue to operate. A permit will be required for any future buildings and works on the Marathon Foods site. The implications of the proposal must be taken into account before deciding on the permit application.
45. Representatives of Marathon Foods have indicated that it is likely the business will continue to operate in its present location and may expand onto the vacant land at No 65 Hobsons Road.

### **Melbourne Planning Scheme Amendments C58 and C131**

46. Amendment C58 was placed on exhibition by notice of the amendment published in the Government Gazette on 6 December 2007. Council has been advised by the Department of Planning and Community Development that re-notification of the amendment is not an appropriate process and that Council will need to request a new authorisation from the Minister for Planning. Council must therefore abandon Amendment C58 by formal resolution and advise the Minister for Planning accordingly.
47. In line with the Departments advice, Council must therefore abandon Amendment C58 by formal resolution and advise the Minister for Planning accordingly.
48. Amendment C131 has been prepared to replace Amendment C58. The purpose of the amendment is to guide the preferred form and height of development of the overall precinct and to maximise the opportunities for linking Kensington Banks with the Maribyrnong River. A copy of the amendment documents are at Attachment 1 to this report.
49. If Council resolves to commence exhibition of the Amendment C131 and the Minister for Planning authorises the amendment, the public exhibition phase will be for at least one month. The exhibition of the amendment will provide the community, the current landowners and relevant authorities with the opportunity to comment.
50. Council will formally consider all submissions received and will resolve how to proceed with Amendment C131.

### **Time Frame**

51. Council is not confined by any statutory timeframes in its consideration of either the Hobsons Road Built Form Review 2008. However, statutory timeframes apply once the amendment is placed on public exhibition in that Council has two years from the start of exhibition to adopt it before it lapses.

### **Relation to Council Policy**

52. Under *Melbourne 2030*, the Hobsons Road site could be considered a “strategic development site” as it could accommodate over 10 dwellings (although it is not ideally located to shopping and public transport facilities).

53. The *Municipal Strategic Statement* supports the conversion of industrial land uses on Hobsons Road to a mix of industrial and commercial land uses. However it also raises the possibility of uses other than commercial uses including residential uses:

*“Investigate opportunities for the future use of land along the Maribyrnong River on Hobsons Road, adjacent to Kensington Banks for a mix of commercial, recreation and residential uses that is more compatible with the surrounding Kensington Banks development and within the Maribyrnong River corridor.”*

54. The *Municipal Strategic Statement* also seeks to ensure that scale and built form of any development on the land is compatible with the prevailing built form of Kensington Banks.
55. A range of other policies in the Melbourne Planning Scheme give guidance on built form issues, notably the Heritage and the Urban Design Outside the Capital City Zone Policies. The Hobsons Road Built Form Review 2008 supplements the existing guidance.
56. Council endorsed the “*City West Plan*” in July 2003 which is a strategic framework plan for the City West End Corridor. The Plan established strategic directions to guide more detailed planning policies and controls for the Corridor. The Plan recommended a land use strategy to re-zone the Hobsons Road site to mixed use to encourage a shift of land use to residential with restaurant/leisure/retails and low scale commercial. In response to this strategy, the Melbourne Ports Corporation have requested that sensitive residential uses be carefully planned to protect the operation of the Dynon Road rail/freight yards.
57. A further Council policy to be considered is the “*Kensington Action Plan*” adopted by Council in October 2005. The Action Plan includes objectives to “*ensure that new development responds to the character of established residential areas and meets the needs of future residents*” and “*to provide and enhance a linked network of open spaces to meet neighbourhood, local and regional needs*”.
58. In addition to the “*Kensington Action Plan*”, the Council in September 2007 endorsed the “*Maribyrnong River Valley Vision, Design Guidelines*”- a joint project with Councils fronting the Maribyrnong River and the then department of Sustainability and Environment. These guidelines describe a vision and broad objectives for the Maribyrnong River Valley and articulate design objectives and guidelines for the built form and landscape of the river valley.

### **Previous Consultation**

59. Consultation was undertaken with Councillors and the Kensington Association in October 2002 in relation to a previous Planning Scheme amendment request. Consultation was also undertaken with the local community on May and July 2003 during the development of the previous built form study. Participants nominated the following key features they would like to see in a proposed re-development of the site:
- 59.1. Scale-similar to Kensington Banks.
- 59.2. Permeability-new development should facilitate connections to the river and pedestrian movements through the site.
- 59.3. Impacts-new development should not negatively impact on Kensington Banks, particularly traffic, overshadowing or noise.
- 59.4. Mixed Uses-new developments should comprise a mix of residential uses and compatible commercial uses.

60. The exhibition phase of Melbourne Planning Scheme Amendment C131 will provide the community, the current landowners and relevant authorities with the opportunity to comment on proposed rezoning, overlays and the Site Development Plan for the site.

#### **Finance**

61. There are no immediate direct financial implications associated with the recommendations contained in this report.

#### **Legal**

62. Division 1 of Part 3 of the *Planning and Environment Act 1987* sets out the relevant provisions in relation to planning scheme amendments.

#### **Sustainability**

63. The amendment has the potential to create many positive benefits for the local community. However some of the impacts of the development are unknown until further details of the proposed development are provided eg number of dwellings and traffic movements.
64. The proposal will facilitate the removal of existing industrial uses that creates some noise pollution and odour. The environmental qualities of the built form will be the subject of further assessment if the amendment proceeds. The proposal should enhance access to the Maribyrnong River and increase available open space. It would also provide additional pedestrian and cycling links.
65. The proposal includes some commercial uses, these (combined with a more active river frontage precinct) could contribute positively to a more engaged community in the local area. A small amount of employment can be expected to be created by cafe and convenience store or other commercial development anticipated within the development.

#### **Background**

66. Until 1999 the subject land was within an Industrial Zone. The new format Melbourne Planning Scheme rezoned this land to Business 3 Zone. The Municipal Strategic Statement at that time (City Plan 99) stated that to reconcile the new residential growth with old industrial uses, industrial uses along the Maribyrnong River were no longer appropriate. It also envisaged a shift of land use of the site to commercial, recreational and which would result in fewer amenity impacts on the neighbouring residential estate.
67. The City of Melbourne was first approached regarding the options for redevelopment of part of the land in July 2000 and discussions commenced in relation to the whole of the land in June 2002.
68. A formal request to amend the planning scheme was lodged on 28 January 2003. The proposal sought to rezone the land at 1-89 Hobsons Road to the Mixed Use Zone and apply a Development Plan Overlay (DPO) and an Environmental Audit Overlay (EAO). The proposal was for a staged development for predominantly residential and some commercial uses. (800-1,000 dwellings were proposed.) It was proposed that the site be filled to address flooding. Council considered the amendment request on 26 February 2004 and resolved not to proceed.
69. In February 2003, to assist the Council in its consideration of the future development of the site, the Planning, Development and Services Committee resolved to initiate the Kensington Community Action Plan and the Hobsons Road Built Form Review. The Hobsons Road Built Form Review developed a series of preferred heights for the site. Consultation during the development of the Hobsons Road Built Form Review indicated concerns over building heights – especially in relation to high rise development.
70. The Council considered the amendment request and resolved not to proceed.

71. In November 2005, the proponent requested the re-zoning to Mixed Use Zone and development of the site (1-89 Hobsons Road) be reinitiated. In March 2006, officers were advised by the owner of Marathon Foods that the company did not intend to relocate from their current premises and that they would be objecting to the rezoning. As a result, the rezoning of the land to Mixed Use Zone was not supported.
  72. In June 2006, a planning permit was issued to Marathon Foods to allow expansion of their cool storage facility on their site at 65-69 Hobsons Road.
  73. In December 2006, the Planning Committee responded to a Notice of Motion and resolved to commence the statutory process to re-zone the land at 1-89 Hobsons Road to Mixed Use Zone with overlay controls to ensure that public access is provided from Hobsons Road to the riverbank and that appropriate measures be taken to protect the amenity of future residents from industrial activities.
  74. In August 2007, the Council requested authorisation to prepare a planning scheme amendment (Amendment C58) and was granted authorisation to exhibit by the Minister for Planning on 14 November 2007.
  75. Exhibition of Amendment C58 commenced on 6 December 2007. The amendment proposed to:
    - 75.1. Rezone the land at 1-89 Hobsons Road, Kensington from part Business 3 Zone and part Public Use Zone (Transport) to the Mixed Use Zone;
    - 75.2. Introduce a schedule to the Design and Development Overlay (DDO57) over the land; and
    - 75.3. Introduce an Environmental Audit Overlay (EAO) over the land.
  76. Council, at its meeting on 4 December 2007 resolved to put the exhibition of the amendment on hold to enable a study to be undertaken of the built form parameters, appropriate road layout and open space requirements for the site.
  77. This study has been completed and forms the basis of this report and Melbourne Planning Scheme Amendment C131.
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**Attachments:**

1. Request to Minister
2. Locality Plan
3. Consultants Report

**FINANCE ATTACHMENT**

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**1-89 HOBSONS ROAD, KENSINGTON PLANNING SCHEME AMENDMENT C131**

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There are no immediate direct financial implications associated with the recommendations contained in this report.

**Joe Groher**  
Manager Financial Services

**LEGAL ATTACHMENT**

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**1-89 HOBSONS ROAD, KENSINGTON PLANNING SCHEME AMENDMENT C131**

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Division 1 of Part 3 of the *Planning and Environment Act 1987* (“the Act”) covers planning scheme amendments. Section 9 of the Act provides that the Minister may authorise the preparation of an amendment to a planning scheme.

The division sets out the relevant provisions in relation the exhibition and notification of proposed Planning Scheme amendments as well as the process for public submissions and the consideration of those submissions by the planning authority or an appointed panel.

A decision to abandon a scheme amendment, as envisaged in the management recommendation, must be made by Council and cannot be made by a delegated person or Committee.

**Kim Wood**  
Manager Legal Services