

G 39 12 October 1988 3073

Planning and Environment Act 1987

KEW PLANNING SCHEME

Notice of Amendment

Amendment L1

The Minister for Planning and Environment has prepared Amendment L1 to the Kew Planning Scheme.

The amendment proposes to rezone an area of land on the north side of Wills Street, Kew, from an Existing Public Purposes (Hospital) Reservation, to a Residential C Zone. The land forms part of the Willsmere Hospital complex.

A copy of the amendment can be inspected free of charge, during office hours at the Ministry for Planning and Environment, Ground Floor, The Oldfleet Buildings, 477 Collins Street, Melbourne; City of Kew, Municipal Offices, Charles Street, Kew.

Submissions about the amendment must be sent to the Minister for Planning and Environment, Attention: Planning Co-ordination Branch, PO Box 2240T, Melbourne, 3001, by 14 November 1988.

GEOFF COOK

Assistant Manager

Planning Co-ordination Branch

Reference:

KEW MUNICIPAL LIBRARY



K00899712

CITY OF BOROONDARA LIBRARIES
KEW LIBRARY

The Town Clerk
City of Kew
PO Box 42
KEW 3101

Ministry for
Planning and
Environment
Victoria

Olderfleet Buildings
477 Collins Street
Melbourne
Victoria 3000

PO Box 2240T
Melbourne 3001

Telephone (03) 628 5111

CITY OF KEW

13 OCT 1988

Copy to Councilors

Attention: Mr J Waugh

10 OCT 1988

Dear Sir/Madam

mp.1.10oc.2

KEW PLANNING SCHEME
AMENDMENT L1

Under Section 17 of the Planning and Environment Act 1987, I enclose a copy of :

- . the above amendment
- . the explanatory report

Under Section 18 of the Act you must make these documents available for inspection by any person, free of charge during office hours until the amendment is approved or lapses.

A notice of the amendment will appear in the Government Gazette on 12 October 1988. A copy of this notice is also enclosed so that your office can inform people of the closing date for submissions and where they must be sent.

If you have any questions about this matter, please telephone Rob Gluyas on 890 1190.

Yours sincerely

RES LH 711.58 KEW
Kew (Vic.) City Council.
Kew planning scheme amendment L1.
AN:00899712 BN:214740

205200

G COOK
ASSISTANT MANAGER
PLANNING CO-ORDINATION BRANCH

Enc.

LHC
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711.58
KEW



PLANNING AND ENVIRONMENT ACT 1987

KEW PLANNING SCHEME

NOTICE OF AMENDMENT

AMENDMENT L1

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The amendment proposes to rezone an area of land on the north side of Wills Street, Kew, from an Existing Public Purposes (Hospital) Reservation, to a Residential C Zone. The land forms part of the Willsmere Hospital complex.

A copy of the amendment can be inspected free of charge, during office hours at the Ministry for Planning and Environment, Ground Floor, The Olderfleet Buildings, 477 Collins Street, Melbourne; City of Kew, Municipal Offices, Charles Stret, Kew.

Submissions about the amendment must be sent to the Minister for Planning and Environment, Attention: Planning Co-Ordination Branch, PO Box 2240T, Melbourne, 3001, by 14 November 1988.

GEOFF COOK
ASSISTANT MANAGER
PLANNING CO-ORDINATION BRANCH

KEW MUNICIPAL LIBRARY



000899712

PLANNING AND ENVIRONMENT ACT 1987

KEW PLANNING SCHEME

AMENDMENT L1

EXPLANATORY REPORT

The amendment proposes the rezoning of approximately 1.8 hectares of land on the north side of Wills Street, Kew. The land is currently in an Existing Public Purposes (Hospital) Reservation and the proposed zone is a Residential C Zone. The land is surplus to the requirements of the Victorian Government and is scheduled for disposal.

The land is developed with 20 detached houses which are part of the Willsmere Hospital complex. It is intended to remove these houses and resubdivide the land into lots each with an average area of approximately 800 square metres.

The rezoning of land is generally in conformity with the adjoining areas to the south and east of the subject land and, together with the zone provisions, is unlikely to have significant effect on the environment.

Rezoning will also be subject to an agreement pursuant to Section 173 of the Act between Council and the Victorian Government Major Project Unit.

Such agreement will ensure that:

- . the minimum lot size shall be 700 square metres;
- . the land shall only be used for detached houses;
- . vehicular access shall only be from Wills Street;
- . the historic avenue of oak trees adjoining to the north of the subject land shall be protected.

EXHIBITION COPY

KEW PLANNING SCHEME
AMENDMENT L1

The Planning Authority for this amendment is the Minister for Planning and Environment.

LOCAL SECTION

The Local Section is amended as follows -

Map 46 is amended in accordance with the map forming part of this amendment.

MINISTRY FOR PLANNING AND ENVIRONMENT

KEW PLANNING SCHEME

AMENDMENT L1

EXHIBITED MAPS

This is a detailed street map of a residential area in New York City. The map shows a grid of streets including Boulevard, Redmond, Barry, Fellows, Wills, Princess, and Street. A long, narrow strip of land along Wills Street is highlighted in blue. The map includes property lines, lot numbers, and various labels such as 'NEW CHILDREN'S COTTAGES' and 'WILLSMERE'. The highlighted area appears to be a specific project or development site.

REFER TO PLANNING SCHEME MAP NO. 46

RESIDENTIAL C

EXHIBITED MAP

AMENDMENT L1

DRAFT SEC. 173 AGREEMENT

BETWEEN KEW CITY COUNCIL

AND THE URBAN LAND AUTHORITY

THIS AGREEMENT is made the
B E T W E E N:

day of

1988

THE MAYOR COUNCILLORS AND
CITIZENS OF THE CITY OF KEW
("the Council")

of the one part

and

THE URBAN LAND AUTHORITY
("the Authority")

of the other part

W H E R E A S:

- A. It is anticipated that the Authority will become the owner of the land outlined in orange on Plan "A" attached hereto, being part of the Crown land temporarily reserved for Mental Hospital purposes by Order in Council of 1896 published in the Government Gazette of 1896 P.1018, and Order in Council of 1935, published in the Government Gazette of 1935, P.1094 (Rs.7734), ("the land", which term shall include any part of the land).
- B. The land is affected by the provisions of the Kew Planning Scheme ("the Scheme") in relation to which the Council is the Responsible Authority.
- C. The land is reserved under the provisions of the Scheme for Hospital Purposes.
- D. The Minister for Planning and Environment being the Planning Authority pursuant to the provisions of the Planning and Environment Act 1987 ("the Act") has prepared Amendment No. _____ under which it is proposed that the land be included in a Residential C Zone.
- E. Grafted oak trees (*Quercus Canariensis*) ("the trees") are located on the land and the land immediately abutting the same to the north and the Authority agrees that the trees, so far as it is reasonably possible to do so, should be preserved for historic reasons and that restrictions should be placed upon the use of the land for Residential Purposes as set out in this Agreement.

- F. The Council and the Authority have agreed that without restricting or limiting their respective powers to enter into this Agreement, this Agreement insofar as it can be so treated, shall be an Agreement under Section 173 of the Act.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement unless inconsistent with the context or subject matter -
 "Amendment" means Amendment RL _____ of the Scheme as is referred to in Recital D hereof;
 "Owner" means the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the land or any part thereof.

2. This Agreement is conditional upon -
 - (a) The Authority becoming the owner of the land.
 - (b) Notice of approval of the Amendment being published in the Government Gazette pursuant to the provisions of Section 36 of the Act.

3. The Authority, with the intent that its covenants hereunder shall run with the land HEREBY COVENANTS AND AGREES with the Council as follows -
 - (i) Notwithstanding the provisions of Clause 7(1)(c) of the Scheme the land shall not be subdivided into lots of less than 700 square metres in area;
 - (ii) Notwithstanding the uses otherwise permitted within the Residential C Zone in the Scheme it will not use or cause or permit to be used any lot on any subdivision of the land other than for the purposes of a detached house or for dual occupancy and uses ancillary thereto (including a tennis court);
 - (iii) Save with the permission of the Responsible Authority it will not nor will it cause or allow its servants or any agents to fell lop ring-bark or uproot any of the trees except as hereinafter provided namely -
 - (a) any of the trees or part thereof which are dead or dying or have become dangerous may be felled lopped ring-barked or uprooted to abate any actual or potential hazard which may cause injury to any person or property,

- (b) any of the trees in relation to which notice have been given pursuant to the Forests Act 1958, the Country Fire Authority Act 1958 or the Local Government Act 1958 may be destroyed.
 - (c) any of the trees may be destroyed felled lopped or otherwise affected if it is necessary to do so in the exercise of powers conferred by Act of Parliament or Regulations thereunder upon any public authority (other than the Authority) government department or municipal council.
 - (iv) Notwithstanding the provisions of sub-paragraph (iii) hereof, no works or excavating or trenching for pipes services or filling or any purpose whatsoever shall be carried out beneath the canopy of any of the trees unless required under or in pursuance of any Act or Acts of Parliament and Regulations thereunder or by any public authority (other than the Authority) government department or municipal council.
 - (v) Vehicular access to the land or to any lot on any subdivision of the land shall only be from Wills Street.
3. If any provision of this Agreement is not valid it shall not affect the validity of the other provisions of this Agreement but shall be read down or severed so as to leave the other provisions of this Agreement in effect.
4. The Authority agrees to do all things necessary to enable the Council to enter a Memorandum of this Agreement on any Certificate or Certificates of Title to the land in accordance with Section 181 of the Act including signing any further Agreement, acknowledgement or document to enable the said Memorandum to be registered under that Section.
5. The Authority and the Council covenant and agree to do all things necessary including the signing of such further Agreement or other document that may be required to ensure that each of their covenants and agreements hereunder are carried out and effected.
6. The Authority agrees to pay to the Council on demand the reasonable legal administrative and other costs and fees incurred by the Council for or in connection with the preparation execution lodging and enforcement of this Agreement.

7. Any Notice required to be given to the Authority shall be deemed to be given if forwarded by pre-paid post to it at its address in this Agreement, and any Notice required to be given to any other owner of the land or any part thereof shall be deemed to be given if forwarded by pre-paid post to such owner at the land or such relevant part and any such Notice shall be deemed to have been received by the recipient on the second next business day after posting at a registered post box.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year hereinbefore written.

THE CORPORATE SEAL of THE MAYOR)
COUNCILLORS AND CITIZENS OF THE)
CITY OF KEW was hereunto affixed)
 in the presence of:

_____ Mayor
 _____ Councillor
 _____ Chief Executive Officer

SIGNED SEALED AND DELIVERED by)
RICHARD WILLIAM PARKER for and on)
 behalf of the URBAN LAND AUTHORITY)
 in the presence of:)

VICTORIA GOVERNMENT
G A Z E T T E
No. S 2 Thursday 12 January 1989
By Authority Jean Gordon Government Printer Melbourne

SPECIAL

Planning and Environment Act 1987
KEW PLANNING SCHEME
Notice of Approval of Amendment
Amendment L1

The Minister for Planning and Environment has approved Amendment L1 to the Kew Planning Scheme.

The amendment comes into operation on the date this notice is published in the *Government Gazette*.

The amendment rezones land in Wills Street, Kew from Existing Public Purposes Reservation (Hospital) to Residential C zone.

A copy of the amendment can be inspected, free of charge, during office hours, at the offices of the City of Kew, Charles Street, Kew, and at the Ministry for Planning and Environment, 477 Collins Street, Melbourne.

GEOFF CODE, Manager
Planning Co-ordination Branch

Gazette Services

The *Victoria Government Gazette* (VGG) is published by VGPO for the State of Victoria and is produced in three editions.

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By Authority Jean Gordon Government Printer Melbourne

Price Code 1

**THIS IS THE AGREEMENT REFERRED
TO IN S.C. 15 AND PARAGRAPH 2
OF THE VENDOR'S STATEMENT AND MARKED "A".**

AGREEMENT

S.173, PLANNING AND ENVIRONMENT ACT 1987

THIS AGREEMENT is made on 2 May 1990 by CITY OF KEW ("the City") and NAURU PHOSPHATE ROYALTIES TRUST of 80 Collins Street, Melbourne ("the Purchaser")

WHEREAS

1. The Purchaser has purchased the land described on Plan "A" attached hereto being Crown Allotment 61H Parish of Boroondara ("the land") under a Contract of Sale dated 24 April 1990 from the Minister for Property and Services.
2. The Contract is due for completion on 4 May 1990 or earlier by agreement when the Purchaser will become entitled to vacant possession of and to be granted the land in fee simple.
3. The land is affected by the provisions of the Kew Planning Scheme ("the Scheme").
4. The City is the responsible authority for the purposes of the Planning and Environment Act 1987 ("the Act") in relation to the Scheme.
5. Grafted oak trees (*Quercus canariensis*) and elms (*Ulmus procera*) ("the trees") are located on land immediately abutting the land to the north and shown on Plan "B" attached hereto and the City and the Purchaser agree that the trees should be preserved for historic reasons so far as it is reasonably possible to do so and that restrictions should be placed upon the use of the land for that purpose.
6. The Purchaser has agreed to enter into this agreement with the City under section 173 of the Act.

NOW THIS AGREEMENT WITNESSES -

7. The Purchaser for himself and his successors in title with the intent that the covenants hereunder shall bind and run with the land HEREBY COVENANTS AND AGREES with the City as follows -

7. NOT CHARGEABLE WITH STAMP DUTY notwithstanding the provisions of Clause 7(1)(c) of the Scheme not to subdivide the land into lots of less than 700 square metres in area;
22 21 MAY 1990 notwithstanding the uses otherwise permitted within the Residential C Zone in the Scheme not to use or cause or permit to be used any lot on any subdivision of the land other than for the purposes of a detached house or for dual occupancy and uses ancillary thereto (including a tennis court);

7.3 save with the permission of the City not to cause or allow:

7.3.1 any tree on or overhanging the land to be altered pruned injured destroyed or removed except where the Purchaser reasonably believes there is an immediate and actual hazard which may cause injury to any person or property;

7.3.2 any development of the land under the canopy of the trees, including any paving or construction of any buildings, including fences, swimming pools, tennis courts, garages and other outbuildings;

7.3.3 the construction or carrying out of any works, including any excavation or alteration in the level of the soil under the canopy or cutting of trenches or laying of any services;

7.3.4 the use of the land under the canopy of the trees which may result in the compaction of soil, including the storage of materials, vehicular access or parking of vehicles;

7.3.5 the washing or spreading of any chemicals which may be detrimental to the trees into the soil under the canopy of the trees.

7.4 For the purposes of sub-clause 7.3, "canopy" means the land contained within the drip-lines of the trees.

7.5 Notwithstanding anything in sub-clause 7.3 hereof, permission of the City will not be required if any activity or use mentioned in that sub-clause is required under or in pursuance of any Act of Parliament and Regulations thereunder or by any public authority, government department or municipal corporation.

7.6 The City agrees that in determining whether or not to grant permission under sub-clause 7.3 hereof it shall take into account -

7.6.1 that the trees are of historic interest and the objective is to retain and enhance the trees, protect them against any activity which may impair their health, natural beauty or importance as part of an avenue of trees for present and future generations; and

7.6.2 any report which may be obtained from a suitably qualified or experienced person on the existing condition of the trees and how they may be affected by the granting of permission under sub-clause 7.3 hereof for the buildings works or other developments or the proposed usage.

7.7 Vehicular access to the land or to any lot in any subdivision of the land shall only be from Wills Street.

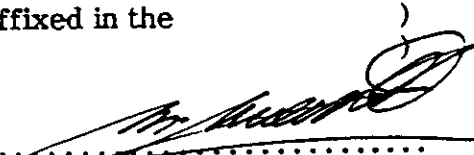
8. If any provision of this Agreement is not valid it shall not affect the validity of the other provisions of this Agreement but shall be read down or severed so as to leave the other provisions of this Agreement in effect.

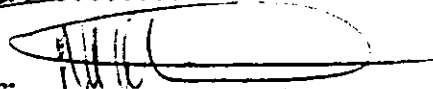
9. The Purchaser agrees to do all things necessary to enable a Memorandum of this Agreement to be entered on the relevant Crown Grant or Certificate or Certificates of Title to the land in accordance with Section 181 of the Act including signing any further Agreement, acknowledgement or document to enable the said Memorandum to be registered under that Section.

10. The Purchaser and the City covenant and agree to do all things necessary including the signing of such further Agreement or other documents that may be required to ensure that each of their covenants and agreements hereunder are carried out and effected.
11. Any Notice required to be given to the Purchaser and any Notice required to be given to any other owner of the land or any part thereof shall be deemed to be given if forwarded by pre-paid post to the Purchaser or such owner at the land or such relevant part and any such Notice shall be deemed to have been received on the day after posting when it would be delivered in the ordinary course of post.
12. The City and the Purchaser agree that for the purpose of section 176 of the Act this Agreement comes into effect and is binding on them from the date it is made.

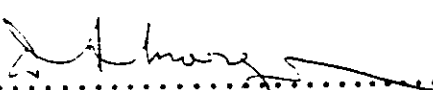
The City and the Purchaser acknowledge their acceptance of this Agreement.

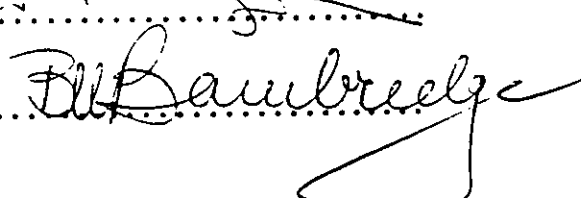
THE CORPORATE SEAL of CITY OF KEW)
was hereunto affixed in the)
presence of:

Mayor: 

Chief Executive Officer: 

THE COMMON SEAL of THE NAURU)
PHOSPHATE ROYALTIES TRUST was)
affixed hereto in the presence of:

Trustee: 

Secretary: 

CERTIFICATION OF SURVEYOR

I, **PETER ABRAMS**, being duly sworn, depose and say that the foregoing is a true and correct copy of the original plan as filed in my office, and that the same is a true and correct copy of the original plan as filed in my office, and that the same is a true and correct copy of the original plan as filed in my office.

Subscribed and sworn to before me this 27th day of May, 1990, at the County of Bourke, Parish of Bourke, State of New South Wales.

Date 27-5-1990
Examined L.C. HOWARD 20-2-1990

Surveyor General
27-2-1990

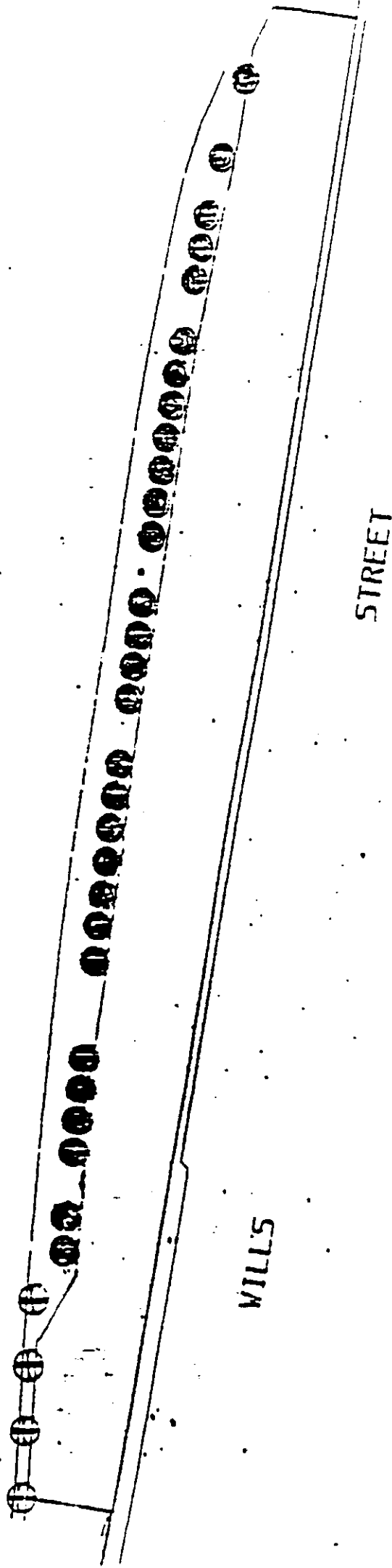
**DIVISION OF
SURVEY AND MAPPING**
DEPARTMENT OF PROPERTY AND UTILITIES

PLAN OF CROWN ALLOTMENTS

COUNTY OF BOURKE
PARISH OF BOURKE

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PLAN 3



WILLS STREET

⊗ Quercus canariensis (grafted)

⊗ Ulmus procera