



**BOROONDARA**

*City of Harmony*

40/401/000/9

RECORDS

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**SPECIAL COUNCIL MEETING**

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**AGENDA**

**MEETING NO. 2/99**

Take notice that a Special Meeting of the Boroondara City Council will be held at the:

**CAMBERWELL OFFICE**

in the Council Chamber

8 Inglesby Road, Camberwell

on **THURSDAY 1 JULY 1999**, commencing at **7.00 PM**

**ORDER OF BUSINESS**

1. Apologies
2. Declaration of Pecuniary Interest of any Councillor
3. Presentation of Officer Reports
  - A. To consider the recommendations of the Panel appointed to report on the new Boroondara Planning Scheme ("**new Scheme**") and any recommendations of Council officers relating to the new Scheme and, subject to consideration of those matters, adopt the new Scheme and submit it to the Minister for Planning for his approval.
  - B. To consider and determine the applications for the planning permits described in the Schedule to this Item made under Division 5 of Part 4 of the **Planning and Environment Act 1987** for the purpose of recommending to the Minister for Planning that those permits be granted (with or without changes) in accordance with section 96G of that Act.

**Close of Meeting**

**Peter Johnstone**

**Chief Executive Officer**

**25/06/99**

**(Date of Issue)**



**SPECIAL COUNCIL MEETING AGENDA  
TABLE OF CONTENTS  
1 JULY 1999**

**03. PRESENTATION OF OFFICER REPORTS**

01.	New Boroondara Planning Scheme	1 to 24
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## **01. NEW BOROONDARA PLANNING SCHEME**

**FILE NO: 40/401/0019**

At the end of 1996, the Planning and Environment (Planning Schemes) Act 1996 was passed, which required all Councils to prepare new Planning Schemes. Council has prepared its new format planning scheme in accordance with this Act. The new planning scheme was on public exhibition from November 1997 until February 1998, and has been the subject of a Panel and Advisory Committee hearing.

The Panel's overall assessment of the new format Boroondara Planning Scheme is that it is a well balanced and forward looking response to the opportunities and challenges facing Council. The Panel has made a number of recommendations with regard to the structure and content of the Planning Scheme itself, as well as on the submissions to the Planning Scheme.

The next stage in the process is the adoption of the new Planning Scheme by Council prior to its submission to the Minister for Planning for approval. Before adopting the new Planning Scheme, Council is required to consider the Panel's recommendations.

This report considers the recommendations of the Panel and Council's response to them. In light of the Panel's comments, and advice from the Department of Infrastructure, some changes to the format of the Planning Scheme are recommended, and these are detailed in the attached report.

On adoption by Council, the new format Boroondara Planning Scheme will be sent to the Minister for Planning for approval.

## RECOMMENDATION

That Council:

- A) Having prepared the Boroondara Planning Scheme in accordance with Section 18 of the Planning and Environment (Planning Schemes) Act 1996;
- B) Having in accordance with Section 12 of the Planning and Environment Act, 1987 had regard to the Minister's Directions and the Victoria Planning Provisions, and taken into account any significant effects which the planning scheme might have on the environment or that the environment might have on use and development envisaged in the planning scheme and taken into account the social and economic effects;
- C) Having in accordance with Section 27 of the Planning and Environment Act, 1987 considered the Panel's report;

Resolves:

- 1. to adopt the Planning Scheme with changes in accordance with Section 29 of the Planning and Environment Act, 1987;
- 2. to determine to recommend to the Minister in accordance with Section 96(G) of the Planning and Environment Act, 1987 that the attached proposed permits be granted under Division 5 of part 4 of that Act;
- 3. to give notice of its intention to recommend to the Minister that the attached proposed permits be granted to the owners and occupiers of land to which the permits would apply in accordance with Section 23 of the Planning and Environment (Planning Schemes Act) 1996;

4. to submit the planning scheme together with the prescribed information to the Minister in accordance with Section 31 of the Planning and Environment Act, 1987;
5. to submit the recommendations that the attached proposed permits be granted and the proposed permits to the Minister in accordance with Section 96H of the Planning and Environment Act, 1987.

**AUTHOR:** ROBYN HELLMAN - STRATEGIC PLANNER  
NIGEL SMUTS - COORDINATOR STRATEGIC PLANNING

**AUTHORISED:** CATHERINE DALE -  
DIRECTOR, PLANNING AND ECONOMIC DEVELOPMENT

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**FILE NO: 40/401/00019**

## **1. Introduction**

At the end of 1996, the Planning and Environment (Planning Schemes) Act 1996 was enacted, which required all Councils to prepare new Planning Schemes. Council has prepared its new format planning scheme in accordance with this Act. The new planning scheme was on public exhibition from November 1997 until February 1998, and has been the subject of a Panel and Advisory Committee (the Panel) hearing.

The new Boroondara Planning Scheme comprises:

- \* **The Municipal Strategic Statement (MSS)** - local vision and policies developed by Council;
- \* **Local Policy** - local policy developed by Council and included in Clause 22;
- \* **Zones and their schedules** - selected from the Victoria Planning Provisions (VPPs) in accordance with local strategic planning requirements;
- \* **Overlays and their schedules** - selected from the VPPs in accordance with local strategic planning requirements; and
- \* **Incorporated Documents** - guidelines developed by Council under its previous and current strategic planning programs.

## **2. The Panel's Overall Assessment of the new format Boroondara Planning Scheme**

Section 27 of the Planning and Environment Act 1987 (the Act) requires Council to consider the Panel's report before deciding whether or not to adopt the Planning Scheme. Under Section 29 of the Act the Planning Scheme can be adopted with or without changes.

The Panel made a number of specific recommendations with regard to the structure and content of the Planning Scheme itself as well as on the submissions to the Planning Scheme. The Panel's recommendations are attached. See Attachment 1.

The Panel's overall assessment of the new format Planning Scheme is that it was a well balanced and forward looking response to the opportunities and challenges facing Council. The Panel Report stated further that:

- \* The process followed by Council demonstrated a unified team effort that clearly had the support of Council's elected representatives and senior management staff.



- \* Council should be commended for the way in which it embraced the rigour of the planning reform process in a positive and proactive manner and produced a good planning scheme.
- \* The Panel was generally very supportive of Council's application of zones, overlays and schedules.

The main changes to the scheme as a result of the Panel process are to the format and structure of the MSS, not its intent or content. A minor review of some of the local provisions and policies has also been undertaken as recommended by the Panel.

The Panel's recommendations and the issues raised have resulted in Council officers undertaking a review of the structure of the MSS, the Clause 22 Policies and the application of some of the Overlays in the Planning Scheme. The Department of Infrastructure has worked closely with Council officers in finalising these changes. These proposed changes are discussed below in response to each of the Panel's recommendations.

### **3. Panel Recommendations with regard to form and content of the Planning Scheme**

This section of the report considers the Panel's recommendations with regard to the form and content of the Planning Scheme as outlined in Attachment 1.

#### **3.1 Recommendation 1 - General Issues**

This recommendation refers to technical changes required as a result of Ministerial Planning Scheme Amendments and directions on the format and content of Planning Schemes. All of the technical amendments to the Planning Scheme recommended by the Panel have been implemented.

#### **3.2 Recommendation 2 - the Municipal Strategic Statement (MSS)**

This recommendation deals with Council's Municipal Strategic Statement (MSS).

The MSS which was developed as a result of the Landplan 2020 project, comprises Clause 21 of the new Boroondara Planning Scheme. The Panel stated in its report that it found that Council's MSS generally furthers the objectives of planning in Victoria and meets the requirements of the planning reform program. The Panel stated further that:

*"The Panel considers that the strategic planning, land use and development objectives of the planning authority are a reasonable response to the characteristics, regional context, development constraints and opportunities of the municipality. With regard to the objectives of planning in Victoria and the objectives of the City of Boroondara itself, the Panel does not consider there to be any important omissions or inconsistencies."*

In the MSS, Council considered local planning issues under eight key strategic areas:

- \* Urban character;
- \* Environment;
- \* Residential land use;
- \* Commercial Sector;
- \* Community;
- \* Recreation and leisure;
- \* Infrastructure; and
- \* Movement.

The Panel supported Council's position that these strategic planning issues addressed the key land use planning issues affecting the municipality. However the Panel suggested changes to the structure and format of the MSS in line with a Department of Infrastructure Practice Note.

The Department of Infrastructure produced a Victoria Planning Provisions Practice Note setting out the preferred format for Municipal Strategic Statements in new planning schemes. This was only made available after the Panel hearing.

The preferred format is logical and enables the MSS to be more easily read and understood. By restructuring the MSS in accordance with the directions set out in the Practice Note, all the recommendation of the Panel have been addressed.

The restructured MSS considers local planning issues under the eight key strategic areas listed previously.

Under each key strategic area the MSS lists a series of **objectives** which describe general aims for future use and development. Under each objective are one or more **strategies** which describe in general terms how the current situation will be moved towards its desired future. For each strategy there are a series of **implementations** which describe the means by which the strategies will be implemented. A copy of the revised MSS has been circulated under separate cover.

### 3.3 Recommendation 3 - Application of the Zones

This recommendation refers to the application of the zones. The zones proposed in the new planning scheme are listed below:

- \* Residential 1 Zone
- \* Residential 2 Zone
- \* Mixed Use Zone
- \* Business 1 Zone
- \* Business 2 Zone
- \* Business 3 Zone
- \* Public Use Zone

- \* Public Park and Recreation Zone
- \* Public Conservation and Resource Zone
- \* Road Zone
- \* Special Use Zone
- \* Comprehensive Development Zone
- \* Urban Floodway Zone

Generally, the Panel was very supportive of Council's application of zones as being a reflection of the strategic intentions set out in the MSS.

The Panel also supported Council's position that generally as educational and health institutions are part of the residential fabric of the City, they should be placed in the Residential 1 Zone. The Panel believed that the exception to this was Scotch College which it recommended be placed in a Special Use Zone. The reasons for this are not clear but appear to be related to the flooding potential of the land. This is discussed in more detail under Section 4 below.

Of the three recommendations relating to the application of zones suggested by the Panel, two relate to actions which would only occur after approval of the planning scheme. These are discussed below.

### **3.3.1 *Application of the Residential 2 Zone***

The first part of the recommendation suggests that the application of the Residential 2 Zone to those areas designated as "Preferred Locations for Medium Density Residential Opportunity" in the Residential Framework Plan, be assessed, following completion of Council's Residential Housing Needs Strategy. It is also suggested that this could occur as an amendment to the new planning scheme, after approval.

The Residential Housing Needs Strategy will consider strategies for the management of residential growth in the City, population projections, housing demand and choice. Work on the Strategy is continuing and will not be completed before approval of the new format Planning Scheme. The Strategy will include an assessment of a range of planning scheme mechanisms, including the potential application of the Residential 2 Zone, in implementing particular aspects of the strategy.

### **3.3.2 *Comprehensive Development 2 Zone (Tower Hotel)***

The second part of the recommendation requires Council to reconsider the application of the Comprehensive Development 2 Zone (Tower Hotel). The Tower Hotel site is located on the eastern side of the junction between Camberwell Road and Burwood Road, East Hawthorn and fronts both Camberwell Road and Burwood Road.

This zone was applied as a translation of the current controls relating to the Tower Hotel site. Most of the site has now been developed. It is recommended that the site should be included in the Business 2 Zone in keeping with adjoining properties, and Council's strategy of applying the Business 2 Zone to encourage offices and mixed commercial development along the Burwood Road/ Camberwell Road Corridor. Development of the site, and that for which a planning permit has recently been approved by Council, is in keeping with this zoning.

### 3.3.3 *Tower Hotel site and the Tooronga Activity Centre*

The third part of the recommendation refers to the application of standard zones to the Tower Hotel site and the Tooronga Activity Centre once the sites are completely developed. The Tower Hotel site has been discussed above.

The Comprehensive Development zone was applied to the Tooronga Activity Centre as a translation of the current controls relating to the site. The current controls were the result of extensive analysis of the options for the site and also subject to extensive public consultation. As the issues relating to the site are complex, any change to the controls should only occur as a result of a process in which all the issues relating to the site can be closely examined. It is not appropriate that the controls be changed as a result of the new planning scheme process.

### 3.4 Recommendation 4 - Use of Overlays

This recommendation refers to Council's use of Overlays in the new Planning Scheme. The new Planning Scheme includes nine overlays which are listed below:

- \* Environmental Significance Overlay
- \* Significant Landscape Overlay
- \* Heritage Overlay
- \* Design and Development Overlay
- \* Development Plan Overlay
- \* Public Acquisition Overlay
- \* Land Subject to Inundation Overlay
- \* Environmental Audit Overlay
- \* City Link Project Overlay

Some of the Panel recommendations were considered appropriate, while others lead to the use of some of the Overlays being reconsidered in consultation with officers from the Department of Infrastructure. This is discussed below.

#### 3.4.1 *Significant Landscape Overlay and the Environmental Significance Overlay*

In its submission to the Panel, Council recommended some changes to the Significant Landscape Overlay and to the Environment Significance Overlay to provide more flexibility and better reflect the landscape and environment values of land along the Yarra River. Council's suggested changes were endorsed by the Panel.

With regard to the Significant Landscape Overlay, the Panel suggested that the terms "Foreground", "Middleground" and "Skyline" referred to in Clause 2 to Schedule 1 to the Significant Landscape Overlay (SLO1) be clarified. This has been achieved by a more simplified objective relating to views (views "of") and more detailed decision guidelines which clarify the assessment process for these different views.

The other changes to the Significant Landscape Overlay are relatively minor. The changes introduce some additional decision guidelines in relation to the design and construction of minor buildings and works (fences, outbuildings, roads and accessways), some refinements to the wording in relation to tree retention and planting, and a reference to a Tree and Vegetation Survey conducted for the River Retreat area.

Minor changes have also been made to the Environmental Significance Overlay which will apply along the length of the Yarra River. Most of these have arisen from Department of Natural Resources and Environment submissions to the new Planning Scheme in relation to weeds. An additional objective and a decision guideline have been inserted to cover the environmental implications of the siting of lot boundaries and building envelopes.

### **3.4.2 *Heritage Overlay***

At the Panel hearing Council recommended mapping and numbering changes to the Heritage Overlay. These changes were endorsed by the Panel.

The Schedule and mapping of the Heritage Overlay has been reviewed in accordance with the suggestions by Heritage Victoria.

### **3.4.3 *Camberwell Junction Design and Development Overlay***

The Panel suggested changes to the Camberwell Junction Design and Development Overlay.

This Overlay was proposed to be the mechanism used to implement the Camberwell Junction Structure Plan, 1993. In the exhibited Scheme, the Camberwell Junction Design and Development Overlay, referred to the Camberwell Junction Structure Plan, 1993, as a document which Council will have regard to in making a decision on a planning permit in the Junction. The suitability of the Design and Development Plan for Camberwell Junction was queried by the Department of Infrastructure, as was the issue of the use of a document which stood outside the Planning Scheme (the Camberwell Junction Structure Plan, 1993).

Generally a Design and Development Overlay is used where there is a need to ensure that a planning permit is required for buildings and works, and, in order to introduce specific requirements relating to the design and built form of new development. As under the proposed zonings for the Junction, all development likely to occur in the Junction would require a planning permit, there is no need to introduce a Design and Development Overlay to trigger the need for a permit.

After discussions with Department of Infrastructure officials it was felt that it would be preferable to include the relevant aspects of the Structure Plan in the planning scheme itself, in the form of a Clause 22 Policy. It was felt that this would have the following advantages:

- \* It would strengthen the status of the Camberwell Junction Structure Plan under the new Planning Scheme.
- \* It would express the Structure Plan in a form consistent with the new Planning Scheme format.
- \* It would make the Planning Scheme easier to use as there would be fewer documents outside the Scheme to refer to.
- \* Any aspect of the Structure Plan which relates to Council's exercise of discretion can be included in a Clause 22 Policy. A Design and Development Overlay is narrower in scope in that it relates to design and built form.

A Clause 22 policy is therefore the preferred mechanism to guide use and development in the Junction and will replace the Camberwell Junction Design and Development Overlay.

#### 3.4.4 *The Toorak Road Mixed Use Design and Development Overlay*

As with the Camberwell Junction area this Overlay has been replaced with a policy.

#### 3.4.5 *The Centreway Design and Development Overlay*

This control was a translation from the current Planning Scheme and concerns a design issue - a setback - relating to a specific site in the Centreway Shopping Centre.

The Panel suggested that instead of the Design and Development Overlay, this requirement be included in the Retail Centres Policy in Clause 22.

The Retail Centres Policy relates to the function and vitality of shopping centres and not to design issues. A specific provision relating to a specific site would be "hidden" if it was included in the Retail Centres Policy. It is therefore considered that the most appropriate and transparent way of including this requirement in the new Planning Scheme would be to retain the Centreway Design and Development Overlay.

#### 3.4.6 *Incorporated Plan Overlay and Development Plan Overlay*

In the exhibited Planning Scheme the Development Plan Overlay was applied to private schools, Monomeath Avenue, the Willsmere area, and Methodist Ladies College (MLC). The application of the Development Plan Overlay to MLC is a translation of current controls and has not been queried by the Panel. The application of the Development Plan Overlay to the other areas is discussed below.

### 3.4.6.1 *Private schools*

Council's Corporate Plan and the Municipal Strategic Statement (MSS) indicate that there is a need for provisions other than the zoning provisions to direct the future development of large institutions and schools. It is considered that the preparation of a master plan will be of benefit to the schools involved, as well as to surrounding residents. The schools will benefit from not experiencing delays every time an application for a permit is lodged, as once the master plan is in place, permit applications will not be subject to public exhibition and associated appeal rights. Residents will benefit from being consulted in the forward planning of the school, and from knowing what to expect with regard to its growth and development in the short to medium term.

The new planning scheme provides two mechanisms to ensure that master plans are prepared. These are the Development Plan Overlay and Incorporated Plan Overlay. As stated above, the exhibited Planning Scheme has applied the Development Plan Overlay to all private schools.

Under the provisions of the Development Plan Overlay, the master plan is prepared to Council's satisfaction. This means that there is no set procedure for approval of the master plan, and no statutory requirement to exhibit the plan to adjoining or potentially affected residents. However, in accordance with its adopted position, Council would undertake exhibition of the plan.

The Incorporated Plan Overlay differs from the Development Plan Overlay in that the master plan is incorporated into the planning scheme. In order to incorporate the plan, an amendment to the planning scheme is required. The amendment process has set procedures under the Act with regard to public consultation, and the community has access to an independent, appointed panel. Final approval of the plan rests with the Minister for Planning.

Greater certainty for all parties is clearly Council's intention and this is reflected in the MSS. At its meeting on 27 July 1998, Council therefore resolved to replace the Development Plan Overlay with the Incorporated Plan Overlay for all private schools. This would not result in a change to the outcome, being the master plan, but in a change to the process to achieve that outcome. All private schools involved were notified of Council's position in order to give them the opportunity to make further submissions and to address the Panel on this issue. The schools were also invited to a workshop where the two controls and their differences were discussed.

While the Panel considered that the use of the Incorporated Plan Overlay has merit, it considered that the issues relating to the application of the Overlay had not been tested and that it was appropriate that interested parties be provided with a fuller opportunity to respond to the issues of concern and detail.

The Panel therefore recommended that the Development Plan Overlay be retained as the mechanism for institutions to prepare masterplans for a period of two years, allowing Council to explore the introduction of the Incorporated Plan Overlay.

There is merit in the Panel's suggestion. Because the exhibited Planning Scheme had included all schools in a Development Plan Overlay, Council was unable to undertake formal exhibition of the Incorporated Plan Overlay (although as mentioned above all parties were informed of Council's decision). Issues relating to the Overlay have not been able to be fully worked through or tested in a public forum. It is therefore proposed that the new Planning Scheme be adopted with the Development Plan Overlay in place, and that Council prepare a planning scheme amendment to introduce the Incorporated Plan Overlay as one of the early amendments to the Scheme. There is no particular reason for the two year time period for the introduction of the Incorporated Plan Overlay as suggested by the Panel. The introduction of the Incorporated Plan Overlay would be determined by the planning scheme amendment and consultation process, rather than an arbitrary timeframe.

#### **3.4.6.2 Other Institutions**

The Panel's recommendation to include the Hawthorn Private Hospital and other institutions in an Incorporated Plan Overlay after approval of the scheme is an action suggested by Council in its report to the Panel and is therefore agreed to.

#### **3.4.6.3 Monomeath Avenue**

The prohibition on subdivision in Monomeath Avenue introduced by Ministerial Amendment to the Planning Scheme, was translated as a Development Plan Overlay (Schedule One to the Development Plan Overlay: Monomeath Development Plan). As it was not intended that the control require the preparation of a master plan, the Development Plan Overlay is not an appropriate mechanism.

Schedule One to the Development Plan Overlay: Monomeath Development Plan, is to be replaced with the Design and Development Plan Overlay as this is a more appropriate means of introducing the control on subdivision the area.

#### **3.4.6.4 Willsmere Area**

Two separate Development Plan Overlay Schedules were exhibited for the Willsmere area; one for the historic building site and the other for the remainder of the Willsmere area. The Panel recommended that the two Schedules be combined.

In preparing the new Planning Scheme, Council used the Development Plan Overlay to translate the controls for the Willsmere area into the new format Planning Scheme. Council officers in conjunction with officers from the Department of Infrastructure have since undertaken a detailed analysis of the current Willsmere controls to assess whether more appropriate controls could be used. This analysis revealed that the current Willsmere controls relate to vegetation protection, built form and landscaping, and heritage values, for all of which the Victoria Planning Provisions have appropriate provisions. It is therefore proposed to replace the Development Plan Overlays for the Willsmere area with the following which address the issues more directly:



- \* A Vegetation Protection Overlay which will control the removal of trees of historical, visual, landscape or botanical significance.
- \* A Design and Development Overlay for the Willsmere residential area which will ensure that the development, use and management of the land is compatible with the existing character and landscape of the area, the adjacent Willsmere Historical Building and Yarra Bend Park.
- \* A separate Design and Development Overlay to apply to the Willsmere Historical Building and surrounds to guide buildings, works and landscaping to a standard appropriate to this special site. Because the requirements relating to the Willsmere Historical Building and surrounds, differ from those relating to the remainder of the Willsmere area, it is not appropriate to include them in one control.
- \* A Heritage Overlay (as exhibited) to protect the heritage significance of the Willsmere Historical Building.

#### **3.4.7 *Environmental Audit Overlay***

A significant influence on the strategic planning for the City has been the restructuring of the manufacturing sector throughout Victoria. The effects of this trend coupled with the high value of land within the City has seen a continued demand for the redevelopment of industrial land for other uses, particularly offices.

The Boroondara Office Supply and Demand Analyses, 1997, concluded that there will be continued strong growth in office employment in the City.

Therefore in line with Council's overall economic goals, there will be a requirement for further office floorspace to match this demand. Consequently, an important part of the strategic planning for the City as reflected in the MSS, has been the zoning of industrial land to the Business 2 and 3 Zones to encourage appropriate office development and facilitate the creation of mixed used corridors comprising office, industry and other uses, particularly along Burwood Road and Camberwell Road. This action is a key strategic initiative of Council and of great benefit to property owners in that it allows a range of uses previously prohibited.

A number of properties currently in a Light Industrial, Reserved Light Industrial, Restricted Light Industrial, Commercial and Industrial, or Extractive Industrial Zone, are to be included in the Business 2 or 3 Zones. These properties could be potentially contaminated because of current or previous use.

Under Ministerial Direction No 1, when there is a planning scheme amendment which for the first time allows a sensitive use on land that could be potentially contaminated, Council has to apply the Environmental Audit Overlay (EAO).

Land which is potentially contaminated is land currently or previously used for:

- \* agriculture;
- \* industry;
- \* mining;
- \* any other activities that may have involved the depositing or discharge of contaminants; or
- \* the storage of chemicals, fuel or other materials that may have caused contamination (if not ancillary to another use of the land).

The Panel agreed with Council's submission that in accordance with Minister's Direction No. 1, all land currently subject to an industrial zoning which is being changed to the Business 2 or 3 Zone (allowing a permit for a sensitive use to be considered for the first time), should be subject to the Environmental Audit Overlay.

However, the Department of Infrastructure has advised that the application of the Environmental Audit Overlay is not necessary for land zoned Business 3.

The effect of the EAO is that before a sensitive use commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:

- \* a Certificate of Environmental Audit must be issued for the land in accordance with section 57AA of the Environment Protection Act 1970, or
- \* an environmental auditor, appointed under the Environment Protection Act 1970, must make a statement in accordance with section 57AA(5)(b) of that Act that the environmental conditions of the land are suitable for the sensitive use.

The requirements of the EAO are only triggered if a sensitive use (residential use, child care centre, pre-school centre or primary school) is contemplated for the site. In other words if land is used for activities such as industry, offices or a shop, and there is no intention of developing it for a sensitive use, the EAO will not take effect.

It was the intention that Council would introduce the EAO by means of a separate planning scheme amendment. However, the Department of Infrastructure has advised that Council cannot proceed with the planning scheme in its current form unless the EAO is in place.

Therefore where land is currently industrially zoned and is to be zoned Business 2, unless information is received to the contrary, Council must assume that it is potentially contaminated and apply the Environmental Audit Overlay. Owners of affected properties were informed of the requirements with regard to the Environmental Audit Overlay and invited to submit evidence to Council if they feel that the Overlay should not apply to their property.

### 3.5 Recommendations 5 to 8 - Technical Recommendations

Recommendations 5 to 8 refer to technical matters which have been reviewed and the new format Planning Scheme amended as necessary.

### 3.6 Recommendation 9 - Local Policies at Clause 22

Council exhibited 14 policies as part of its new format Planning Scheme, reflecting the significant amount of strategic planning work that has been undertaken. These policies are contained within Clause 22 of the Scheme. The Panel was generally supportive of the Clause 22 policies and found that as required in the Victoria Planning Provisions Manual, the policies provide guidance for the assessment of applications and other proposals.

#### 3.6.1 *Clause 22 Policies with minor or no changes*

The following Clause 22 policies were fully supported or supported with minor changes:

- \* *Heritage Policy* - The panel noted that this is one of the few Schemes that has a heritage policy to support the application of the heritage overlay and commended Council for this.
- \* *Institutional Uses Policy*
- \* *Neighbourhood Character Policy*
- \* *Public Open Space Contributions Policy*

As recommended by the Panel, minor changes have been made to refine the wording of the Heritage Policy, Institutional Uses Policy, and Public Open Space Contributions Policy.

In accordance with the Panel recommendation the list of institutions affected by the Institutional Uses Policy has been added to that Policy.

The Panel recommended that Council reconsider the purpose of the Yarra Valley environs Policy having regard to the Overlays in the vicinity of the Yarra River. The purpose of the Yarra Valley Environs Policy relates to the recreational values of the Yarra Valley and Environs which are issues not covered by the Overlays for the land in the vicinity of the Yarra River. It is therefore considered that the Policy is a necessary part of the Planning Scheme.

Although the Panel endorsed the format and content of the Neighbourhood Character Policy, subsequent discussions with Department of Infrastructure Officers have led to the revision of this Policy to strengthen and provide more detail of Council's expectations. Specifically, the key aspects of Residential Urban Character Study, the twenty-one design principles, are now explicitly included in the Policy.

The Policy has also been amended to reflect Council's resolution that where a site analysis is submitted and approved in accordance with the requirements of the Good Design Guide for Medium Density Housing, proposals are only required to respond to thirteen design principles that affect the private domain.

One side effect of this that there is now less need, if any, to incorporate the Residential Urban Character Study in the new Scheme. The explicit reference to the design principles in the local policy achieves the same purpose - maximum statutory strength - in a far more direct and accessible fashion. These principles have, in effect, been extracted from the Residential Urban Character Study and made more obvious to users of the new Scheme.

As such, the Residential Urban Character Study Consultants Report, the Assessment and the Analysis will remain reference documents in the Policy, but need no longer be incorporated for the reasons above. In addition, and for completeness, the Neighbourhood Character Area Statements have also been added as a reference document.

### 3.6.2 *Clause 22 Policies which refer to existing Council policies and guidelines*

Five Clause 22 policies referred to an existing Council policy or set of guidelines as the basis for decisions. These Clause 22 policies are:

- \* *Advertising Signs Policy*
- \* *Car Parking Policy*
- \* *Discretionary Uses in Residential Areas Policy*
- \* *Office Policy*
- \* *Retail Centres Policy*

The Panel suggested that the relevant decision guidelines in these Council policies and guidelines, be extracted and included in the Clause 22 Policy. The guidelines and policies have now been incorporated into the relevant Clause 22 Policy.

### 3.6.3 *Clause 22 Policies where the replacement by provisions in the MSS is recommended*

There are two Clause 22 policies where the Panel felt that the provisions of the policies would be better included as strategies and objectives in the MSS rather than as a separate Clause 22 policy. The Clause 22 policies are:

- \* *Electronic Gaming Machine Policy*
- \* *Gateway and Landmark Policy*

In order to retain its strength as a tool to guide decisions relating to premises with gaming machines, it is felt that the Electronic Gaming Machine Policy is a necessary part of the new Planning Scheme. It is therefore recommended that this Clause 22 Policy be retained as part of the new format Planning Scheme.

With regard to the Gateway and Landmark Policy, the preparation of urban design guidelines for each gateway or landmark and surrounding area is work that is yet to be undertaken by Council. Once this work is undertaken it is anticipated that the guidelines will be introduced into the Planning Scheme through Design and Development Overlays for each Gateway and Landmark. As the current provisions of the Gateway and Landmark Policy are planning goals with associated actions it is appropriate that they be included in the MSS rather than in a stand alone policy.

### **3.6.4** *Clause 22 Policies that the Panel recommends could potentially be deleted*

There are two Clause 22 policies where due to the existence of related legislation, the Panel felt that they should be deleted. The policies are:

- \* *Disability Access Policy*
- \* *Telecommunications Policy* - A Statewide Code of Practice which is being prepared will be incorporated into the Planning Scheme.

With regard to the Disability Access Policy it is agreed with the Panel that the provisions are adequately addressed in related legislation under which Council currently operates.

With regard to the Telecommunications, in a technical sense, it is considered that the impact of the State Government's Code of Practice and Amendment (both now approved) on Council's Telecommunications Policy could well be minimal, if there is an impact at all.

The Code has had the effect of reducing the number of activities where a planning permit might be required. However, it is considered that where a permit is required (for a tower, a large dish, or through an inability to comply the Code), the majority of principles contained in Council's Policy essentially remain valid.

The only area of concern is likely to arise in the area of electro-magnetic radiation. Whilst the Code and amendment embrace the Australian Standard, Council's Policy is effectively neutral on that standard, in favour of the principle of "prudent avoidance". That is, if there are two sites, both of which meet the standard, a carrier should select the site which is less likely to impact on sensitive uses, such as schools, kindergartens and the like.

It may be that the Department will not support a statement in a Policy to this effect, however, it is considered that the principle of "prudent avoidance" is a common sense objective. Therefore it is proposed that the Policy remain.

In addition to the above, all policies have been revised to improve the strategic justification for the policy and provide a clearer link to the MSS.

### 3.7 Recommendation 10 - Incorporated Documents

The Panel required Council to, in conjunction with the Department of Infrastructure, review the list of incorporated and reference documents to the scheme, and delete the following Incorporated Documents from the new Planning Scheme:

- \* City of Boroondara Guidelines for Signs in the City of Boroondara.
- \* City of Boroondara Car Parking Code 1977.
- \* Context Report Willsmere Redevelopment Project November 1988.
- \* City of Boroondara Guidelines for the Siting and Design of Telecommunications Facilities in the City of Boroondara.
- \* Concept Plan - Tower Hotel Comprehensive Development Zone (if the Comprehensive Development Zone will not apply to this site).

As discussed above, the provisions in Guidelines for Signs in the City of Boroondara and the City of Boroondara Car Parking Code, 1997, have now been included in the Clause 22 policy relating to signs and parking. These documents therefore do not need to be listed as Incorporated Documents.

The Context Report Willsmere Redevelopment Project November 1988 need not be incorporated as the area has now been developed.

The document "Concept Plan - Tower Hotel Comprehensive Development Zone" can be removed from the list of incorporated documents because as discussed above, the Comprehensive Development Zone for the Tower Hotel site is to be replaced by the Business 2 Zone.

In addition the following documents will also no longer be incorporated because as discussed above the document has been included in the Planning Scheme in a Clause 22 Policy:

- \* Residential Mixed Use (Tooronga) Zone Urban Design Guidelines
- \* City of Boroondara Residential Urban Character Study 1996.
- \* City of Boroondara Residential Urban Character Assessment 1996.
- \* City of Boroondara Residential Urban Character Analysis 1996.

The following which are currently referred to in the planning scheme were inadvertently left off the list of incorporated documents and should therefore be listed.

- \* Hawthorn Development and Design Guidelines, 1987

### **3.8 Recommendation 11 - Monitoring the Operation and Performance of the Planning Scheme**

The Panel recommended that Council through its MSS indicate how it is proposed to monitor the operation of the new Planning Scheme. An implementation program has been prepared and included in the MSS.

### **3.9 Recommendation of Actions After Adoption**

There are two recommendations from the Panel.

The first relates to the preparation of an amendment to the new scheme which identifies all institutional uses which Council intends placing in a Development Plan Overlay or Incorporated Plan Overlay. As discussed at point 3.2.6 above, this action was one of Council's recommendations to the Panel.

The second recommendation refers to land at 8 Minogue Street, Kew. The owners of the land spent a substantial amount of time at the Panel hearing trying to justify why the property should not be subject to an Urban Floodway Zone as exhibited on the advice of Melbourne Water.

As Melbourne Water is the Floodplain Management Authority its advice in the designation of areas subject to the Land Subject To Inundation Overlay or Urban Floodway Zone has been accepted. If however Melbourne Water determined that the land could be developed, Council would consult with Melbourne Water, the owners of the property and the community in determining the future use and development of the land. (See submission 37 in Attachment 2)

### **3.10 Recommendation of Actions by others**

These recommendations refer to actions to be undertaken by bodies other than Council and include:

The Department of Infrastructure review the VPP issues raised by the Secure our Street, Harold Street Residents Action Group (Submission No. 68 and 68.1 to 68.38)

The Department of Infrastructure pursue a consistent approach to consideration of zoning of institutions, including private schools, investigate whether the provisions of the Residential 1 Zone should be used to give effect to approved Master Plans and investigate the applicability of the use of the Public Use Zone to zone schools, other than private schools.

VicRoads review its proposal to retain the Public Acquisition Overlay for land at 1031 Burke Road, Camberwell and to determine whether the Overlay will be required for road widening purposes in the short or longer term, and then communicate this information to the land owner.

The Department of Infrastructure and Melbourne Water prepare a separate amendment which identifies all land proposed to be included in the Urban Floodway Zone for the municipalities of Boroondara, Manningham, Yarra and Stonnington, and that a separate Panel and Advisory Committee be convened to hear submissions relating to individual submissions and on other issues relating to the specific provisions of the Urban Floodway Zone and the Land Subject to Inundation Overlay.

#### **4. Recommendations 12-58 - Consideration of Submissions**

The Planning Scheme was exhibited for three months from 6 November 1997 to 30 January 1998.

As a result of the exhibition 119 submissions were received. Of this total, 31 comprised one joint submission, and a further 10 comprised a second joint submission. Submissions were received from private individuals, from institutions such as schools, from State Government Authorities such as VicRoads and the PTC, and from private utility companies such as United Energy, CitiPower and GPU Powernet.

Under direction from the Department of Infrastructure, submitters were not able to comment on the inclusion of, or content of, a State standard provision used in the new Planning Scheme.

This section discusses submissions to the new Planning Scheme resulting from the public exhibition. Only those submissions where the Panel did not support Council's recommendation are discussed here. Full detail of all submissions are contained in Attachment 2.

##### **4.1 Recommendation 22 - Submission 13**

The second part of this recommendation refers to the United Energy site at 639 Canterbury Road which Council recommended be placed a Business 2 Zone. The Panel recommended that Council *"review the proposed zoning of the property known as 639 Canterbury Road, Surrey Hills to determine whether it should be placed in the Residential 1 Zone"*.

The property is located on the north side Canterbury Road, east of Union Road, Surrey Hills, within a strip of mixed use development. In accordance with Council's strategy to encourage offices and other commercial development in such areas, the whole strip (including properties on either side of the site) is to be zoned Business 2.

It is therefore not appropriate that this property be zoned Residential 1 as suggested by the Panel and the property should be placed in a Business 2 Zone.

##### **4.2 Recommendation 25 - Submission 64**

This recommendation refers to the submission by Melbourne Water.



The Panel supported all Council's decisions with regard to Melbourne Water's suggested changes to the MSS and Clause 22 Policies. These are discussed in detail under Submission 64 in Attachment 2 to this report.

In its submission, Melbourne Water recommended that Scotch College land, and Greenacres and Kew Golf Clubs be placed in an Urban Floodway Zone. Scotch College had been exhibited in a Residential 1 Zone and the golf courses in a Special Use Zone.

As Melbourne Water is the Floodplain Management Authority its expertise is relied on in determining areas which are subject to flooding and whether the extent of the flooding means that the area should be subject to the Land Subject to Inundation Overlay or the Urban Floodway Zone. In this case Melbourne Water determined that the extent of flooding in respect of the Kew and Greenacres Golf Clubs and Scotch College is such that the Urban Floodway Zone should be applied. Council therefore recommended to the Panel that the properties be placed in an Urban Floodway Zone.

The Panel rejected the Urban Floodway Zone stating that "the Panel considers that there are too many unresolved issues relating to the application of the Urban Floodway Zone in Boroondara and other municipalities for a recommendation in favour of Melbourne Water to be made at this stage. This is not to say that it does not consider their submission to be without merit, and the Panel certainly supports any move to minimise potential for flooding through the proper application of zones and overlays, but this should be through a full and considered strategic assessment."

In the Melbourne Water submission to the City of Stonnington Panel, Melbourne Water acknowledged the difficulty of its position, and this was noted by the Panel.

While the application of the zone is not questioned, the Panel considers that Melbourne Water erred in that it did not inform Council prior to exhibition that the land in question should be placed in an Urban Floodway Zone. Although the issue was debated at Panel, it is acknowledged that "due process" has not been carried out. In addition Melbourne Water will have control over development in that all the land concerned will be subject to the Land Subject to Inundation Overlay.

Although Council has not recommended the application of the Special Use Zone in any other instance, in the case of the Golf Courses, a Special Use Zone would be the only appropriate solution. Strategically, the site forms part of an extensive band of open space along the Yarra River and northern boundary of the City, which extends into adjoining municipalities. Because of this, much of the land adjoining the site is to be zoned Public Park and Recreation Zone and there is therefore no clear underlying zone. It is appropriate that a Special Use Zone ensure that the use of the land is in keeping with surrounding uses. For this reason a Special Use Zone which narrowly limits the use of the site to a golf course and a limited range of sports and recreation facilities is recommended. An appropriate Schedule to the Special Use Zone has been included in the Planning Scheme Ordinance.

In rejecting the application of the Urban Floodway Zone the Panel does not offer any sound reason why the Residential 1 Zone should not be applied to the Scotch College land. The Residential 1 Zone has been applied all other private schools and endorsed by the Panel.

It is Council's position that schools are part of the residential fabric of the City and that this should be reflected in their zoning. Like all other private schools in the City, Scotch College has a residential interface, in addition its size is such that its impacts extend beyond the immediate residential area. Under the Residential 1 Zone the use and development on this site would be assessed to limit their impacts on there surrounds. The impacts of the use would not be considered under a Special Use Zone. It is therefore considered that the site should be included in the Residential 1 Zone.

From the VPP Practice Note regarding the application of the Special Use Zone it is clear that the zone should not be applied to Scotch College. Firstly, the zone, overlays and policies which would apply to the site, would give effect to the desired objectives as articulated in the MSS. Secondly, were the area to be redeveloped, it is clear from the strategic intent of the MSS that residential development would be the preferred use.

#### 4.3 Recommendation 40 - Submission 34

This recommendation refers to the Swinburne University of Technology. Under the exhibited Planning Scheme, the main part of the campus is included in the Public Use Zone, while other properties owned and used by the University were included in the Business 2 Zone. The Panel recommended *"that the properties owned by Swinburne University and used for the purposes of education or associated purposes be placed in the Public Use Zone No 2"*.

It is interesting to note that despite its recommendation, the Panel does support the assessment of Council in this matter, and has also indicated its concern about the manner in which private institutions are treated differently from public institutions under the VPPs.

Under the Public Use Zone any use in keeping with the purpose of the Zone is a Section 1 Use and does not require a planning permit. The development of off shoots of the Swinburne University of Technology should not proceed without Council and the community being able to assess to the impact of the new use or development. This cannot be achieved if the properties are placed in the Public Use Zone.

The VPP Practice Note states that a public land zone is intended to be applied to public land where the surrounding zoning is inappropriate or where there is special reason to separately identify the public land for planning purposes, for example if the public land manager needs to be treated differently because of the special nature of the public land. This is clearly not the case with the off shoots of Swinburne which are generally used as research and development offices or business units.

#### 4.4 Recommendation 31 - Submission 27

This recommendation refers to the Scotch College submission which was discussed above. It should be noted that the Panel supports the use of the Development Plan Overlay for this site.

### 5. **Other Technical Considerations**

#### 5.1 Permits for Site Specific Provisions

In the existing planning scheme there are a number of site specific provisions in the various zones. Most uses associated with these site specific provisions are well-established. In preparing the new planning scheme these rights have been recognised and the conditions associated with the site specific provisions have either been translated into an appropriate zone control including, where appropriate, floor area limits in the schedules to the zone, or where unable to be translated in such a manner, are included in Section 52.03 - Specific Sites and Exclusions.

There are, however, two instances where permits need to be issued to incorporate the specific development controls and conditions that have already been approved by Council as part of the site specific amendment.

These permits, which directly translate all of the approved conditions, need to be adopted at the same time as the new scheme, ready for issuance on the day of its gazettal. At the time of the adoption of the scheme, in accordance with the requirements of the Planning and Environment (Planning Schemes) Act 1996, Council is required to notify the landowners and provide opportunity for comment on the wording of the proposed permits.

The two permits which are proposed to be issued are for:

- \* Villa Maria, 6 Studley Park Road (to confine its use as an office exclusively by the Villa Maria Society).
- \* 431 Burke Road. This was the subject of recently approved Amendment L34. The permit will enable its development in accordance with the site specific requirements of the Amendment.

The landowners of these properties have had pre-notification of this requirement and have been provided copies of the proposed permits requesting preliminary comments on their wording. It is anticipated that these two permits will be supported by the landowners.

## 6. Conclusion

The new Planning Scheme for the City of Boroondara has a sound strategic basis in Landplan 2020 and Council's extensive strategic planning program. The Scheme has evolved over two years and in that time been subject to review which have strengthened and refined its content. Since the Panel hearing, Council officers have worked cooperatively with officers from the Department of Infrastructure to improve the structure of the Scheme from a technical point of view. The Panel has confirmed that the new format Boroondara Planning Scheme is a well balanced and forward response to the opportunities and challenges facing Council.

On this basis it is recommended that Council adopt the new format Boroondara Planning Scheme. On adoption the new format Planning Scheme will be forwarded to the Minister for Planning for approval.

# **ATTACHMENT 1**

## **PANEL RECOMMENDATIONS**

THE PANEL MADE RECOMMENDATIONS WITH REGARD TO THE FORM  
AND CONTENT OF THE PLANNING SCHEME AND THE SUBMISSIONS.

THIS ATTACHEMENT COMPRISES THE FULL LIST OF  
RECOMMENDATIONS AND IS TAKEN DIRECTLY FROM THE PANEL  
REPORT

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## 5. RECOMMENDATIONS

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In developing its recommendations the Panel has indicated which actions need to be undertaken by Council prior to adoption of the Scheme, which actions could be undertaken within the timeframe of its first review and which actions should be undertaken by other parties, eg. Department of Infrastructure. Most of the recommendations or actions in this report are technical in nature and should be undertaken prior to adoption of the scheme.

### 5.1 Before Adoption

The Panel and Advisory Committee recommends that the Boroondara New Format Planning Scheme **BE ADOPTED** with the following modifications prior to its approval by the City of Boroondara and the Minister for Planning and Local Government

1. Amend the planning scheme to include the following:
  - Changes necessary as a result of Amendment V3 and subsequent amendments (including minor formatting and the structure of schedules).
  - Structure and format of local policies under Clause 22 to conform with the Ministerial Direction on Form and Content of Planning Schemes.
  - The name of the planning scheme to be included in the header.
  - The page number to be included in the footer.
  - Corrections to the errors in the designation of land in a Public Zone and the Public Park and Recreation Zone.
2. In relation to the Municipal Strategic Statement:
  - The document titled "City of Boroondara Municipal Strategic Statement, July 1998" be adopted as Council's Municipal Strategic Statement, subject to further recommendations arising from this Panel and Advisory Committee report.
  - The "Summary" of the key strategic areas addressed in the MSS be deleted.
  - The Visions be recast as "Objectives" in direct response to the terminology adopted under Section 12 A(3)(a) of the Planning and Environment Act 1987.
  - The Strategic Objectives be designated as "Strategies" for achieving the Objectives, in direct response to Section 12(A)(3)(b) of the Planning and Environment Act 1987.
  - A clear link between the various planning controls in the planning scheme, including the application of zones, overlays, schedules and policies and their relationship with the adopted planning Objectives and Strategies in the MSS, be included in the document, to include the material under "What Are The Actions?" in accordance with Clause 12(A)(3)(c) of the Planning and Environment Act 1987.

- Distinguish between those land use and planning strategies that will be implemented under the planning scheme and those to be implemented by the Council as a corporate body.
  - An overall strategic framework plan that graphically represents the main strategic directions for the City of Boroondara be included in the MSS, including the functional/strategic linkages beyond the municipal boundaries.
  - The Clause 21 Framework Plan - Commercial in the MSS include the names of the various commercial centres throughout the City, to include highlighting the mixed use corridor along Burwood and Camberwell Roads.
3. Amend the application of the zones as follows:
- Following the completion of the Council's Residential Housing Needs study in 1999, the application of the Residential 2 Zone be further assessed for application to those areas designated as "Preferred Locations for Medium Density Residential Opportunity" in the Framework Plan-Residential in the Municipal Strategic Statement. This could be achieved as a subsequent amendment to the new planning scheme, as approved.
  - Council re-consider the application of the Comprehensive Development 2 Zone (Tower Hotel).
  - Once the Tooronga Activity Centre (Comprehensive Development Zone No 4 and the Comprehensive Development Zone (Tower Hotel) are completely developed, the two sites should revert back to the standard range of Business Zones under the Victoria Planning Provisions.
4. Amend the application of the Overlays as follows:
- The exhibited Significant Landscape Overlay be replaced with the following two overlays:
    - SLO1 - Yarra Bend Park and Yarra Boulevard Special Landscape Area (to apply to the area between the Yarra Boulevard and the Yarra River and the whole of Yarra Bend Park).
    - SLO2 - Yarra Valley Special Landscape Area 9 (to apply to the remaining area).
  - The wording of the Schedules be amended in accordance with the annotations included in the Appendix to the City of Boroondara's Report to the Independent Panel, dated September 1998, which is Appendix 3 to this report.
  - The wording of the exhibited Schedule to the Environmental Significance Overlay be amended in accordance with the annotations included in the Appendix to the City of Boroondara's Report to the Independent Panel, dated September 1998.
  - The terms Foreground, Middleground and Skyline referred to in Clause 2 to Schedule One to the Significant Landscape Overlay (SLO1) be clarified to assist the application of the overlay control.



- The Schedule and mapping in the Heritage Overlay be reviewed in accordance with the various suggestions submitted by Heritage Victoria, forming Appendix 5 to the Department of Infrastructure's Report to the Independent Panel., dated 14 September 1998.
  - The Objectives (Clause 1.0) to Schedule one to the Design and Development Overlay: Camberwell Junction Design and Development Area be strengthened to better address and achieve the design and built form outcomes adopted for this major activity centre in the municipality.
  - The Objectives (Clause 1.0) to Schedule 2 to the Design and Development Overlay: Toorak Road Mixed Use Design and Development Area be expanded upon and amplified to reinforce the design purpose of this overlay as it applies to the subject area.
  - The word "site" be added after the word "building" in the last line of the Schedule.
  - The DDO Centreway Centre Design and Development Area be included in the Retail Centres Policy at Clause 22.12.
  - The inclusion of the Hawthorn Private Hospital and other hospitals and institutions in an Incorporated Plan Overlay be one of the early amendments to the new planning scheme, to be investigated as a matter of urgency.
  - The Schedule One to the Development Plan Overlay: Monomeath Development Plan be replaced with the Design and Development Overlay which may be a more appropriate means of prohibiting further subdivision in the area.
  - The Schedule 3 and Schedule 4 to the Development Plan Overlay: Willsmere Development Plan be included as one Schedule to the DPO.
  - All land being changed to Business 2 or 3 Zone, which introduces the possibility of a "sensitive" land use, should be tested against Ministerial Direction No 1 and all affected parties notified accordingly.
5. Review all schedules and zones to ensure they are consistent with the Minister's direction under Section 7(5) of the Planning and Environment Act 1987.
  6. Nominate the Minister for Planning and Local Government as the authority for issuing planning certificates.
  7. Include full details of the planning scheme map numbers.
  8. Review the planning scheme to ensure that it is consistent with the Victoria Planning Provisions as amended by Amendments V3 and V2 and that all schedules that accompany a clause in the new planning scheme be included in the scheme.
  9. Amend the Local Policies at Clause 22 as follows:
    - The Policy Basis in the Advertising Signs Policy (Clause 22.01) include the strategic justification for the policy and provide a clearer link to the MSS in accordance with the Manual for the VPPs.

- The specific policy provisions and the relevant decision guidelines as incorporated in the “Guidelines for Signs in the City of Boroondara 1996” be extracted from this document and included in this local policy under Clause 22.01 of the new formal Planning Scheme.
- A clearer link between the proposed Car parking Policy (Clause 22.02) and the MSS be included in the policy document and the specific policy provisions of the adopted Boroondara Car Parking Code be incorporated into this local policy under the planning scheme.
- The Disability Access Policy (Clause 22.03) be deleted from the planning scheme.
- The link between the Discretionary Uses in Residential Areas Policy (Clause 22.04) and the MSS should be indicated in the policy and the policy should include the planning provisions and decision guidelines incorporated in the City of Boroondara Discretionary Uses Code (applicable to Residential 1 and 2 Zones) following its preparation and adoption by Council.
- The Electronic Gaming Machine Policy (Clause 22.05) be deleted from the planning scheme.
- The Gateway and Landmark Policy (Clause 22.06) be deleted from the planning scheme.
- Part of the first policy provision in the Institutional Uses Policy (Clause 22.08) should be included in the Objectives section of the policy and reference to the word ‘must’ should be deleted from the policy provisions. In addition, the policy should define the institutions to which the policy will apply.
- The Policy Basis in the Neighbourhood Character Policy (Clause 22.09) be strengthened and the policy clearly show its link to the MSS. The purpose and scope of the policy needs to be clarified also to assist future users of the scheme.
- The word “shall” in the second policy of the Neighbourhood Character Policy (Clause (22.09) should be deleted and the role of the Neighbourhood Character Analysis Booklet clarified into the policy provisions.)
- The policy statement in the Office Policy (Clause 22.10) be re-drafted so that it does not read like a control, by deleting all reference to the words “must”, “shall” or “should”.
- The relevant design guidelines be extracted from the City of Boroondara Office Development Guidelines 1977’ and be included in the Office Policy provisions under Clause 22.10 of the planning scheme.
- The land use policy provisions of the City of Boroondara Retail Policy 1997 be incorporated into the Retail Centre Policy under Clause 22.12 of the new planning scheme.
- The Telecommunications Policy (Clause 22.13) be deleted from the planning scheme.
- Council re-consider the purpose and value of the Yarra Valley Environs Policy (Clause 22.14) having regard to the detailed amended overlays for the land within the environs of the Yarra River already included as part of the new format planning scheme.

10. In conjunction with the Department of Infrastructure, review the list of incorporated and reference documents to the scheme, and delete the following 'Incorporated Documents' from the new format Boroondara Planning Scheme:
  - City of Boroondara Guidelines for Signs in the City of Boroondara.
  - City of Boroondara Car Parking Code 1977.
  - Context Report Willsmere Redevelopment Project November 1988.
  - City of Boroondara Guidelines for the Siting and Design of Telecommunications Facilities in the City of Boroondara.
  - Concept Plan - Tower Hotel Comprehensive Development Zone (if the Comprehensive Development Zone will not apply to this site).
11. Indicate through the MSS how it is proposed to
  - Identify key land use and development issues in the planning scheme which Council wants to monitor;
  - Identify indicators that could monitor Council's performance in relation to these key issues;
  - Adopt a process of setting performance targets for particular indicators to guide the Assessment: of the "success" of the scheme; and
  - Develop a system for the monitoring of planning applications and decisions made under the planning scheme.
12. Give consideration to suggested additions and changes to the LPPF and the MSS, except where there is duplication of the SPPF, made by Environment Protection Authority (19), Department of Natural Resources and Environment (47), Parks Victoria (50), Port Phillip Regional Catchment and Land Protection Board (56), Yarra Bend Park Trust (65), Melbourne Water (64), Ken Duxbury (5) and the National Trust (49).
13. The whole of the property at 527 Glenferrie Road, Hawthorn be placed in the Business 2 zone and be included in a schedule to the Heritage Overlay.
14. The property at Lot 1, 12 Doncaster Road, Balwyn be placed in a Business 1 zone.
15. The property known as 431 Burke Road, Glen Iris be placed in a Business 2 zone.
16. The MSS be amended to emphasise the importance of the role of the Camberwell Junction area as an activity centre.
17. The properties known as 228, 330 and 332 Auburn Road, Hawthorn be placed in a Business 1 zone, and that all of these property owners be properly notified of this anomaly.
18. The property known as 108 - 112 Church Street, Hawthorn be placed in a Business 2 zone.

19. The property at 12 Doncaster Road, Balwyn be placed in a Business 1 zone.
20. The properties known as 5, 7 and 9 Studley Park Road, Kew be placed in a Residential 1 zone.
21. The GPU Powernet site west of Burke Road and north of the Eastern Freeway be placed in an Urban Floodway Zone with a Significant Landscape Overlay.
22. In relation to the United Energy sites:
  - place the property on the eastern side of Burke Road, north of the South Eastern Freeway in a Residential 1 zone;
  - review the proposed zoning of the property known as 639 Canterbury Road, Surrey Hills to determine whether it should be placed in the Residential 1 zone.
23. Place the following Telstra properties in the following zones:
  - 2 - 3 Bright Street, Hartwell Residential 1
  - 891 High Street, Kew Residential 1
  - 375 Burwood Road, Hawthorn Business 2
24. With regard to the PTC submission:
  - Remove the Heritage Overlay from land that forms the Canterbury Railway Station;
  - Remove the Design and Development Overlay from land that forms the Camberwell Railway Station; and
  - Place land that forms the Camberwell Railway Station in the proposed Camberwell Junction Policy Area.
25. In relation to the Melbourne Water submission, Council:
  - Place Scotch College, and the Green Acres and Kew Golf Clubs in a Special Use Zone, with a Land Subject to Inundation Overlay, until such time as the issues relating to the floodprone portion of these areas are resolved by way of a separate investigation through a regional consideration and amendment.
  - Place the GPU Powernet land between the Eastern Freeway and the Yarra River in an Urban Floodway Zone.
  - Remove the Land Subject to Inundation Overlay from the areas shown in accordance with information supplied by Melbourne Water.
  - Amend the paragraph at the bottom of page 15 of the MSS as outlined.
  - Amend the Action on page 18 of the MSS as discussed.
  - Amend the Action on page 36 of the MSS as outlined.
  - Amend the Schedule 1 to the Environmental Significance Overlay as outlined.
26. Remove the Environment Significance Overlay over the constructed part of Bulleen Road.

27. With regard to the CitiPower submission, place the following properties in the following zones:
- 25-31 Whitehorse Road                      Business 2
  - 65 Lynden Street                              Residential 1
  - 15-17 Tennyson Street                      Residential 1
  - 387 Riversdale Road                      Business 2
  - Earl Street, Kew                              Road Zone
  - High Street, north of Windsor St part Business 2 & Residential 1
  - Harp Road, west of Normanby Rd.                      Residential 1
28. The following statement be added to the Heritage Policy in Clause 22 of the Planning Scheme:
- "Unless exempt from advertising under Clause 43.01-1, comment will be sought from the National Trust, under the provisions of Clause 43.01, on all planning applications for a building or place classified by the National Trust."*
29. With regard to the zoning of private schools and institutions, Council
- place all private schools (except Scotch College) in the City of Boroondara in a Residential 1 zone, with a Development Plan Overlay placed over only the land owned and used by the schools for education purposes, or where a permit has already been granted for use of land for education purposes. The application of the DPO be limited to a two year period, following which it be converted to an Incorporated Plan Overlay.
  - The Development Plan Overlay should be modified to ensure that a permit can be granted without the need for a Master Plan for minor buildings and works, some of which could include the following:
    - Externally alter a building by structural work, rendering, sandblasting or in any other way.
    - Externally paint a building.
    - Remove, destroy or lop a tree.
    - Construct, display or remove a sign.
    - Demolish, remove or construct a fence, an outbuilding (including carport, garage, pergola, shed or similar structure) or service installation.
    - Construction of playground equipment, seating, picnic tables, drinking taps, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards and telephone boxes.
  - The only exemption to the Residential 1 zone for the schools is Scotch College and it is recommended that Scotch College be placed in the Special Use Zone, and be subject to the same provisions of the Development Plan Overlay as noted above. (The reasons for this exemption are discussed in Submission No. 64.)

30. In relation to Methodist Ladies College, the Schedule to the Development Plan Overlay be amended to allow a permit to be granted without the need for a master plan for the following:
- Externally alter a building by structural work, rendering, sandblasting or in any other way.
  - Externally paint a building.
  - Remove, destroy or lop a tree.
  - Construct, display or remove a sign.
  - Demolish, remove or construct a fence, an outbuilding (including carport, garage, pergola, shed or similar structure) or service installation.
  - Construction of playground equipment, seating, picnic tables, drinking taps, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards and telephone boxes.
31. Place Scotch College in a Special Use Zone, with a Development Plan Overlay, until such time as Melbourne Water and the Department of Infrastructure undertake a regional assessment of provisions and application of the Urban Floodway Zone.
32. The Panel recommends the area of Fintona Girls School covered by the Development Plan Overlay includes the area of the school for which a planning permit has been obtained, and the Heritage Overlay be removed pending approval by the Minister for Planning.
33. In relation to the property at 78 and 80 Molesworth Street, Kew:
- correct the zoning plan to show all of the land as being in either a Residential 1 zone or an Urban Floodway zone, and
  - remove the Public Acquisition Overlay after clarification from Parks Victoria.
34. Remove the Public Acquisition Overlay from 19 Maxwell Street, Ashburton.
35. Remove the Public Acquisition Overlay Street from 6 and 8 Winson Green Road and all the properties to the south as far as Shrublands Creek Reserve.
36. Remove the Public Acquisition Overlay Street from 42 Young Street.
37. Remove the Public Acquisition Overlay from 2 Pitt Street, Ashburton.
38. Remove the Public Acquisition Overlay from 23 Donald Street, Ashburton.
39. Place land at 32 Woodlands Avenue, East Kew in a Residential 1 Zone.
40. The properties owned by Swinburne University and used for the purposes of education or associated purposes be placed in the Public Use Zone 2.

41. The site specific provisions for use of land for "Office" at 1 Whitehorse Road, Deepdene be included in a Schedule to Clause 52.03.
42. The Public Park and Recreation Zone be removed from the properties at 192, 194 and 198 Canterbury Road and those properties all be placed wholly within the Business 2 Zone
43. The Development Plan Overlay be removed from Canterbury Girls School.
44. The Development Plan Overlay be removed from the property at 405 Tooronga Road, Hawthorn.
45. In relation to the Heritage Overlay:
  - Include HO24, HO48, HO83, HO101, HO116, HO147 and Heritage Precincts on the Heritage Overlay and amend the schedule to the overlay accordingly.
  - Amend the numbering of HO46 and HO140 to HO49 and HO143 respectively, both on the Overlay map and in the schedule to the Overlay.
  - Amend the boundary of HO110, 51 Rathmines Road, Hawthorn East, Auburn Primary School, on the Heritage Overlay.
  - Amend the Heritage Overlay and the Schedule to the Overlay through the removal of the Camberwell A Graded Heritage Buildings not yet protected under the scheme.
46. Amend the Heritage Overlay to show the property boundary and heritage number for individual properties and objects of heritage significance.
47. Insert the City Link Overlay into the Boroondara Planning Scheme.
48. Amend the Environmental Significance Overlay and Significant Landscape Overlay to refer correctly to Parks Victoria and not Melbourne Parks and Waterways.
49. The property located between Nos 2 and 4 Pitt Street Glen Iris, and Gardiners Creek be placed in the Public Park and Recreation Zone.
50. The Environmental Audit Overlay be applied to all properties proposed to be zoned Business 2 or Business 3 that were formally zoned for Industrial purposes in the old scheme, and that each individual property owner be informed of this application.
51. Amend the zoning of that portion of land at rear of 2 and 6 Nelson Road, Camberwell, from Public Park and Recreation Zone to Residential 1 Zone.
52. The property at 38 Middlesex Road, Canterbury, known as the Mary McKillop Reserve be placed in the Public Park and Recreation Zone to appropriately reflect its current use.

53. The Public Acquisition Overlay be applied to that portion of the property known as 8 - 8A Harrison Crescent currently affected by the Proposed Public Open Space reservation.
54. Amend that portion of the Hartwell Shopping Centre carpark that is shown as Residential 1 Zone to show it as Public Use Zone 6, Local Government, to correctly reflect its use as a Council owned carpark.
55. The property known as 56 - 68 William Street, Hawthorn be placed in a Business 2 Zone.
56. The properties known as 253/5 - 259 A Auburn Road, Hawthorn, be zoned Business 2 Zone instead of the Business 1 Zone which was exhibited, and that each property owner be individually notified of this change.
57. A site specific provision be introduced into Clause 53.02 which states the following:  
*"A permit may be granted to develop only the rear 22.3 metres of the properties known as 29, 31 and 33 Allambee Avenue for the purposes of a Commercial Vehicle Park in association with the development at 748 and 752 Riversdale Road, Camberwell."*
58. The Panel recommends that Council amend that portion of the Hartwell Shopping Centre carpark that is shown as Residential 1 Zone to show it as Public Use Zone 6, Local Government, to correctly reflect its use as a Council owned carpark.

## **5.2 After Adoption**

The Panel and Advisory Committee recommends that after adoption of the Boroondara New Format Planning Scheme, the City of Boroondara undertake the following actions at its earliest opportunity.

1. Council prepare an amendment to the new scheme which identifies all institutional land and uses to be included in a Development (or Incorporated Plan Overlay) prior to the first major review of the scheme.
2. The proposed Urban Floodway Zone for the land at 8 Minogue Street, East Kew be reviewed in an appropriate forum where all the issues can be properly discussed and tested by way of a separate amendment. Consideration should be given by Council and Melbourne Water, in conjunction with the landowner to the long term future use of this land.

## **5.3 Actions by Others**



1. The Department of Infrastructure review the VPP issues raised by the Secure our Street, Harold Street Residents Action Group (Submission No. 68 and 68.1 to 68.38)
2. The Department of Infrastructure pursue a consistent approach to consideration of zoning of institutions, including private schools, investigate whether the provisions of the Residential 1 Zone should be used to give effect to approved Master Plans and investigate the applicability of the use of the Public Use Zone to zone schools, other than private schools.
3. VicRoads review its proposal to retain the Public Acquisition Overlay for land at 1031 Burke Road, Camberwell and to determine whether the Overlay will be required for road widening purposes in the short or longer term, and then communicate this information to the land owner.
4. The Department of Infrastructure and Melbourne Water prepare a separate amendment which identifies all land proposed to be included in the Urban Floodway Zone for the municipalities of Boroondara, Manningham, Yarra and Stonnington, and that a separate Panel and Advisory Committee be convened to hear submissions relating to individual submissions and on other issues relating to the specific provisions of the Urban Floodway Zone and the Land Subject to Inundation Overlay.



## **ATTACHMENT 2**

### **CONSIDERATION OF SUBMISSIONS**

THIS ATTACHMENT DETAILS EACH SUBMISSION TO THE PLANNING SCHEME. IT INCLUDES AN ASSESSMENT OF THE SUBMISSION AND RECOMMENDATION IN RESPECT OF THE SUBMISSION



# 1. COMMERCIAL ZONING ISSUES AND CAMBERWELL JUNCTION

## Overview

Submissions considered under this section, generally cover commercial zoning issues, the Camberwell Junction Structure Plan, the Kew Junction Strategy Plan and zoning anomalies carried over from the current Planning Scheme. All issues were considered with reference to current strategic work, in particular, the Boroondara Landplan 2020 Policy, Council's Economic Policy, the Retail Policy and the Municipal Strategic Statement.

## Retail Centres

The application of zones to Council's retail centres and commercial and industrial areas is based on existing and more recent strategic work including the City of Boroondara Retail Policy.

The Retail Policy provides a framework for the future use and development of the City's Retail Centres. The Policy recognises the roles of the retail centres and this is reflected in the zone applied to a centre.

An important issue to come out of the Retail Policy is the need for Council to assist in the growth and diversity of the customer base surrounding retail centres. This to be achieved by encouraging the location of office development, medium density residential development, and community facilities near or within retail centres as appropriate.

## Office Development and Industrial Land

A recent study of office development indicates that market conditions are right for suburban office building to accelerate, and particularly so for Boroondara, as current vacancies are relatively low and comparative rentals relatively high. This fact, together with statewide and national changes to the industrial sector, high land values in the City, and the proximity and possible conflict of industrial use with nearby residential areas, have lead to the demand to redevelop industrial land for other purposes and the gradual commercialisation of some industrial zones. These areas are suitable for the expansion of office development or a combination of office development and manufacturing industries that service local residential and business needs. The areas identified include the Burwood Road corridor, Canterbury Road corridor, Whitehorse Road and the Cato Street area and have been zoned Business 2 or 3 under the new Planning Scheme.

### Camberwell Junction

Camberwell Junction is an important community asset. The Junction has a broad range of retail, commercial, community and entertainment facilities with Metropolitan wide recognition. The Camberwell Junction Structure Plan 1993 has been applied in the exhibited Planning Scheme by the Design and Development Overlay, DDO1, Camberwell Junction Design and Development Area.

The Panel supports the strategic direction of Council in its consideration of submissions relating to commercial zoning and Camberwell Junction issues and considered that Council has articulated its vision for its commercial centres in a clear and concise manner.

#### **Submissions considered in this section**

The following submissions are considered in this section: No 4, 10, 14, 16, 17, 18, 23, 32, 39, 41, 48, 54, 55, 68, 68.1-1.68.31, 70, 71, 75, 77

**1.4 Submission No: 4**

**Name of Submitter:** R. L. Andrews

**Location:** 276A Canterbury Road

**Existing Zone:** Industrial 1

**Exhibited Zone:** Business 2 Zone

**Requested Zone:** Business 1 Zone

**Submission:**

The property has always been used for a shop and the submission objects to shop being a Section 2 use (ie discretionary) under the Business 2 Zone.

**Assessment**

Although the above property was used for retailing, it is currently in a zone where a shop is prohibited. Under the proposed zone a shop will no longer be prohibited but be subject to a planning permit.

Much of the surrounding commercial uses are offices or secondary type retail uses.

The Business 1 Zone (that permits shops as of right) has been used throughout the City for those retail centres or parts of centres that have retained their primary retail function. Its use outside these centres could potentially undermine existing retail precincts (identified in Council's Retail Policy) which Council is trying to strengthen and reinforce.

As discussed in the introduction to this section the purpose of introducing the Business 2 Zone is to encourage the development of offices and associated commercial activities along Canterbury Road. This is a strategic objective in the MSS that is reinforced by the current patterns of development along Canterbury Road.

The zoning as exhibited will not compromise the existing use but in fact advantages it.

**Council Recommendation to Panel**

- \* The retention of the Business 2 Zone on the property known as 276A Canterbury Road.

**Panel Comment and Recommendation**

"The Panel supports the position of Council in this matter. It has clearly identified in its MSS and Retail Policy where retail uses are to be encouraged, enhanced and consolidated, and there appears to be no strategic justification for a single property along this part of Canterbury Road to be placed in the Business 1 Zone.

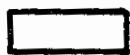
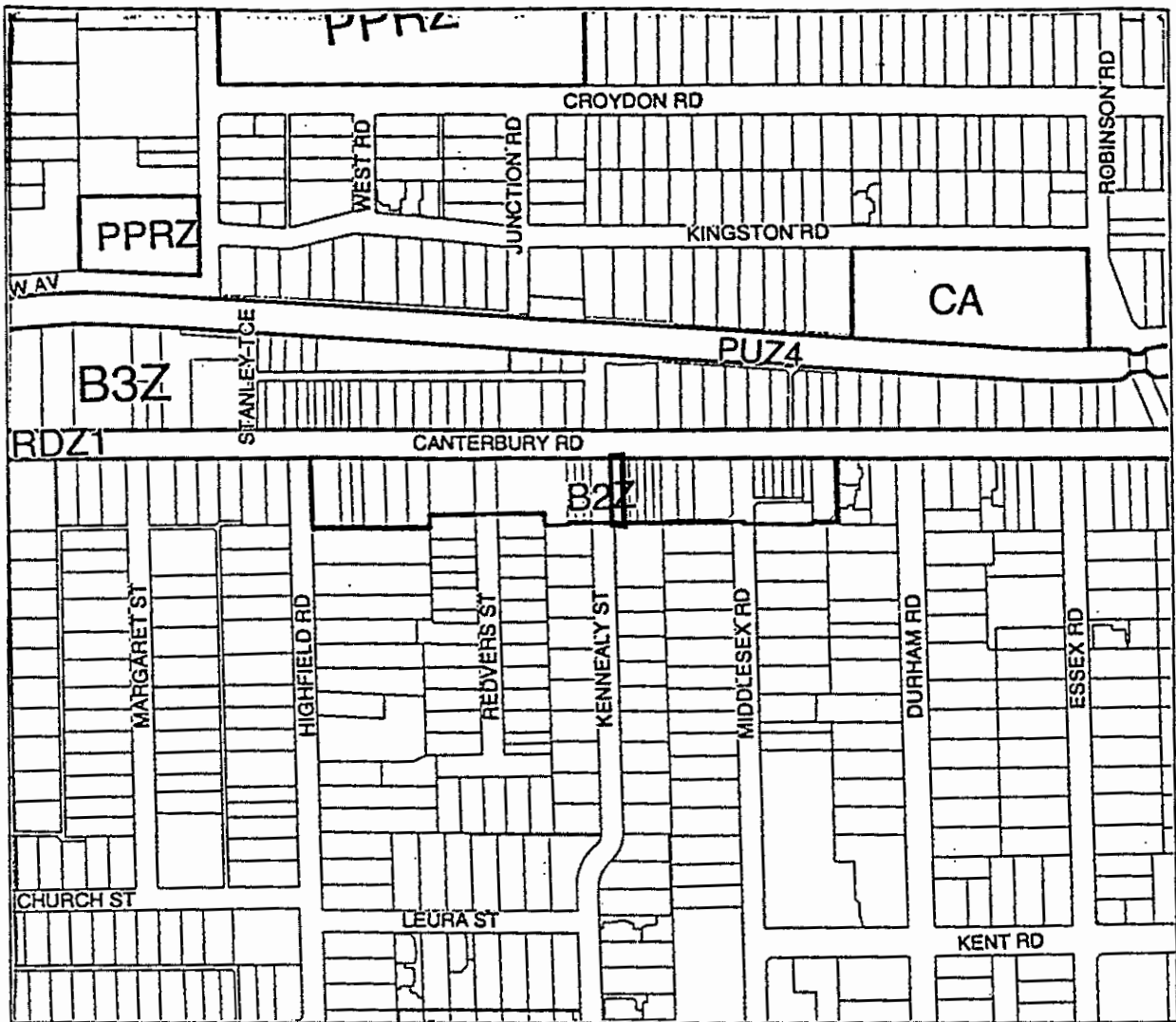
It is understood the subject premises are used as a florist shop and any future retail use in this location would not generally be affected by a Business 2 zone, as shop is a Section 2 use under the provisions of the zone. Each application would then be treated on its merits. The Panel was not persuaded by the argument of this submitter, and considers that spot zonings of Business 1 in a predominantly Business 2 area does not constitute a good strategic outcome.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission."*

### **Council Recommendation**

- 1.4.1**           The retention of Business 2 Zone for the property known as 276A Canterbury Road.





SUBJECT SITE

276 A CANTERBURY RD

## SITE & ZONING PLAN

**1.10 Submission No: 10**

**Name of Submitter:** Contour Consultants on behalf of Asian Pacific Building Corporation Pty Ltd

**Location:** 89-93 High Street and 3 Studley Park Road, Kew

**Existing Zone:** Residential C and Special Use Zone 10

**Exhibited Zone:** Business 2 Zone

**Submission**

Supports the Planning Scheme as it relates to these two properties.

**Assessment**

See submission 77 on page 31.

**Council Recommendation to Panel**

The noting of the submission

**Panel Comment and Recommendation**

“The Panel notes this submission.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

**1.10.1** That the submission be noted.

**1.14 Submission No: 14**

**Name of Submitter:** James Earle of James Earle and Partners Pty Ltd

**Location:** 527 Glenferrie Road, Hawthorn

**Existing Zone:** Residential C with part zoned Restricted Business also Hawthorn Heritage Area

**Exhibited Zone:** Part Residential 1 Zone and part Business 1 Zone.

**Requested Zone:** A Business Zone

**Submission:**

Adjoining the site to the north are shops which form part of the Glenferrie Hill Shopping Centre. The adjoining properties to the south of the site are residential.

The submitter has occupied the property as an office since 1966 and feels that the existing use is an ideal transition between the shops to the north and the surrounding residential development.

**Assessment:**

An omission has occurred in the Planning Scheme in that the property (including the area to the south and the area on the eastern side of Glenferrie Road), has not been included in a Heritage Overlay. (This area is within an existing Hawthorn Heritage Area.)

The anomaly of the dual zoning of the site was brought forward from the current Boroondara Planning Scheme into the new Planning Scheme.

An office is a prohibited use in the Residential 1 Zone and a Section 1 use in the Business 1 Zone. If the property has been used as an office since 1966, then it has existing use rights (in the Residential part of the site) and the use may lawfully continue to operate.

Although used as architects offices, the building is residential in character and the integrity and condition of the building is good. The Heritage Overlay will be in place to ensure that the character of the building is maintained.

For the following reasons it is considered that it would be appropriate for the property to be in the Business 2 Zone which is primarily an office zone.

- The office use has been operating for many years on property with a dual zoning. The current use demonstrates that an office can operate without compromising the heritage values of the building on the site.
- The Heritage Overlay will manage any changes to the building in an appropriate way.

- The site abuts the retail core of the shopping centre and therefore an office use can be seen as adding to the customer base of the centre (in accordance with Council's Retail Policy 1998).
- Although part of the current zoning is a primary retail zone (the Restricted Business zone), this type of zone under the Victoria Planning Provisions (ie Business 1) would not be appropriate as it is Council's policy to strengthen and reinforce current retail precincts and not to add to them.

#### **Council Recommendation to Panel**

- \* The zoning of the property known as 527 Glenferrie Road, Hawthorn to the Business 2 Zone.
- \* The inclusion of the property in the Heritage Overlay.

#### **Panel Comment and Recommendation**

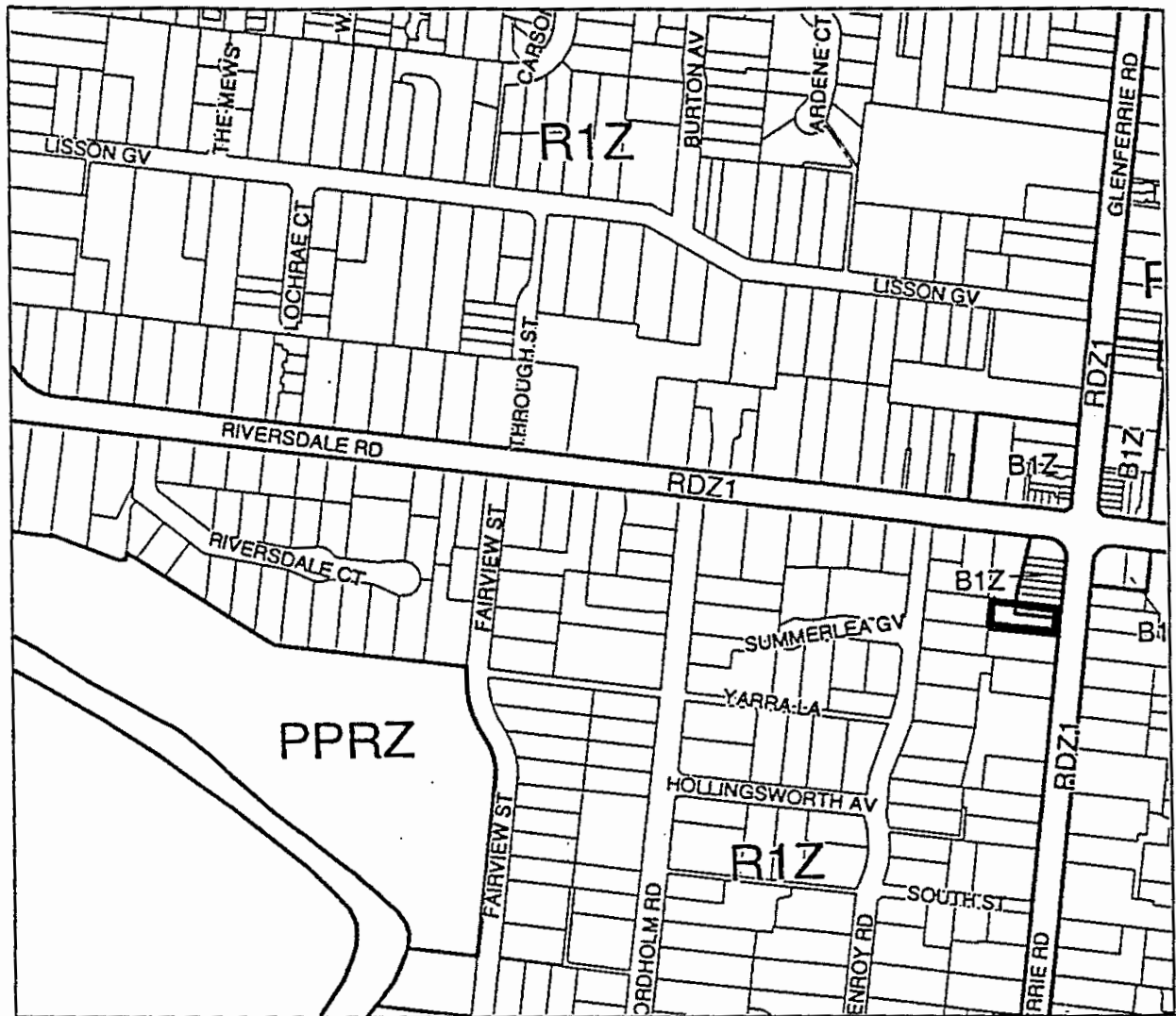
"This property presents as a residential use, but it is understood that it has been used as a professional office for many years. The Panel agrees that it is not appropriate to have two zones on any one property unless there are specific reasons for such. There appears to be no justification in this case, although as indicated by Council there has been dual zoning provisions for many years on this property. The MSS provides support for a Business 2 Zone on the periphery of retail centres and in this regard the application of a Business 2 Zone over the whole of the site is appropriate.

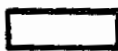
The Panel accepts that a Heritage Overlay was inadvertently left off the schedule and that it is warranted for inclusion as part of this process.

*The Panel recommends that the whole of the property at 527 Glenferrie Road, Hawthorn be placed in the Business 2 zone and be included in a schedule to the Heritage Overlay."*

#### **Council Recommendation**

- 1.14.1 The zoning of the property known as 527 Glenferrie Road, Hawthorn to the Business 2 Zone.
- 1.14.2 The inclusion of the property in the Heritage Overlay.



 SUBJECT SITE

527 GLENFERRIE RD

**SITE & ZONING PLAN**

**1.16 Submission No: 16**

**Name of Submitter:** Darrell Johnson of Woodards

**Location:** 12 Doncaster Road

**Existing Zone:** Camberwell Residential Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 1 Zone

**Submission**

The site has been a pharmacy for the last 50 years. Adjoining the site to the east is a Council car park.

**Assessment**

This matter was investigated with the assistance of the Department of Infrastructure.

Under the original Camberwell Planning Scheme the site was a laneway and did not have a zoning. The laneway was closed and a shop was built on it.

The current zoning was a drafting decision made, when the plain English version of the Camberwell Planning Scheme was prepared in 1988. The site is part of the shopping centre and should be zoned Business 1.

**Council Recommendation to Panel**

- \* The zoning of the property known as 12 Doncaster Road to Business 1 Zone.

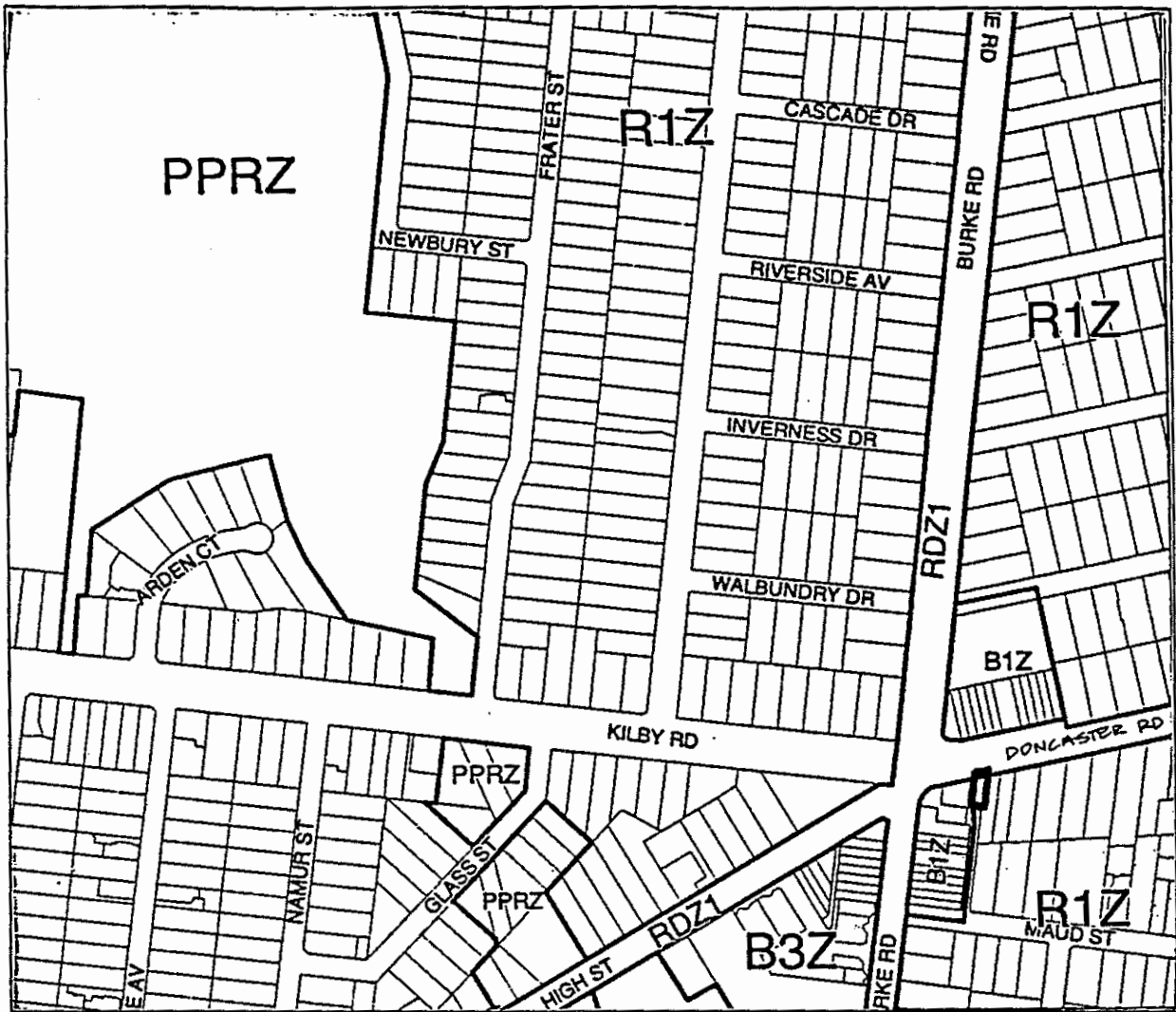
**Panel Comment and Recommendation**

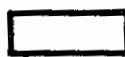
"The Panel accepts the assessment of Council in this matter and agrees that the site forms part of the established retail area and should be zoned as Business 1.

*The Panel recommends that the property at Lot 1, 12 Doncaster Road, Balwyn be placed in a Business 1 Zone."*

**Council Recommendation**

- 1.16.1** The zoning of the property known as 12 Doncaster Road to Business 1 Zone.



 SUBJECT SITE

LOT 1, 4-12 DONCASTER RD

## SITE & ZONING PLAN

**1.17 Submission No: 17**

**Name of Submitter:** Barnes Planning on behalf of Horison Petroleum Pty Ltd

**Location:** 101-105 Earl Street, Kew

**Existing Zone:** Residential C. The subject land is subject to a site specific control enabling the site to be used for a convenience shop with a maximum floor area of 130m<sup>2</sup>.

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 1 Zone

**Submission**

The site is developed with petrol station and convenience shop with an area of 130m<sup>2</sup>. Under the provisions of the Residential 1 Zone a convenience shop is limited to 80m<sup>2</sup>. Consequently the convenience shop would enjoy existing use rights under Clause 63 of new Boroondara Planning Scheme.

The submitter argues that the site is no longer suited to residential use and is not ever likely to be developed for residential purposes. The site should be in a similar zone to other business shopping precincts under the exhibited planning scheme. The submitter suggests a limit of 150m<sup>2</sup> of *floor area*. It is assumed that the submitter is referring to shop floor area.

**Assessment:**

The site is within a residential area and not associated with a retail precinct. Council's policy is to reinforce and consolidate its existing retail precincts and business areas and not to create any new retail areas that would challenge them. The Business 1 Zone (or any other business zone) is therefore not supported for this site.

In addition to the above, a convenience shop and petrol station are permitted uses in a residential zone. The purpose of the Residential 1 Zone specifically includes non-residential uses that serve the local need. The use of the site is therefore in keeping with the purpose of the zone. Because of the size of the convenience store, the use would ordinarily be prohibited in the Residential 1 Zone, but in this case the use would be lawful in that it would have existing use rights.

Retaining the site in a Residential 1 Zone will ensure that any future use and development is in keeping with surrounding residential use and development.

**Council Recommendation to Panel**

- \* The property known as : 101-105 Earl Street, Kew be zoned Residential 1, as exhibited.



### Panel Comment and Recommendation

“This site has been used as a petrol filling station and associated purposes for the past 40 years

The Panel considers that there is no compelling planning reason to support the argument that the site be placed in a Business 1 Zone as there is no strategic justification to support such a change in zoning. The site, which has been subject to an increase in floor space over past years, particularly through Amendment L7 to the Boroondara Planning Scheme, is surrounded by residential development and it sits firmly within an established residential area. There appears to be no other pressure for conversion of other residential uses to business purposes, and the Panel supports the position of Council in this matter.

The Panel does not support the opinion of the submitter in that:

*By adoption of a Business 1 Zone for the subject land, there would be a far greater deal of certainty for the proprietor and protection of its existing investment. Alternatively, unduly restricting a valued existing business is not good planning policy and would be contrary to the principles contained within Council policies, including the MSS, and properly and orderly planning.*

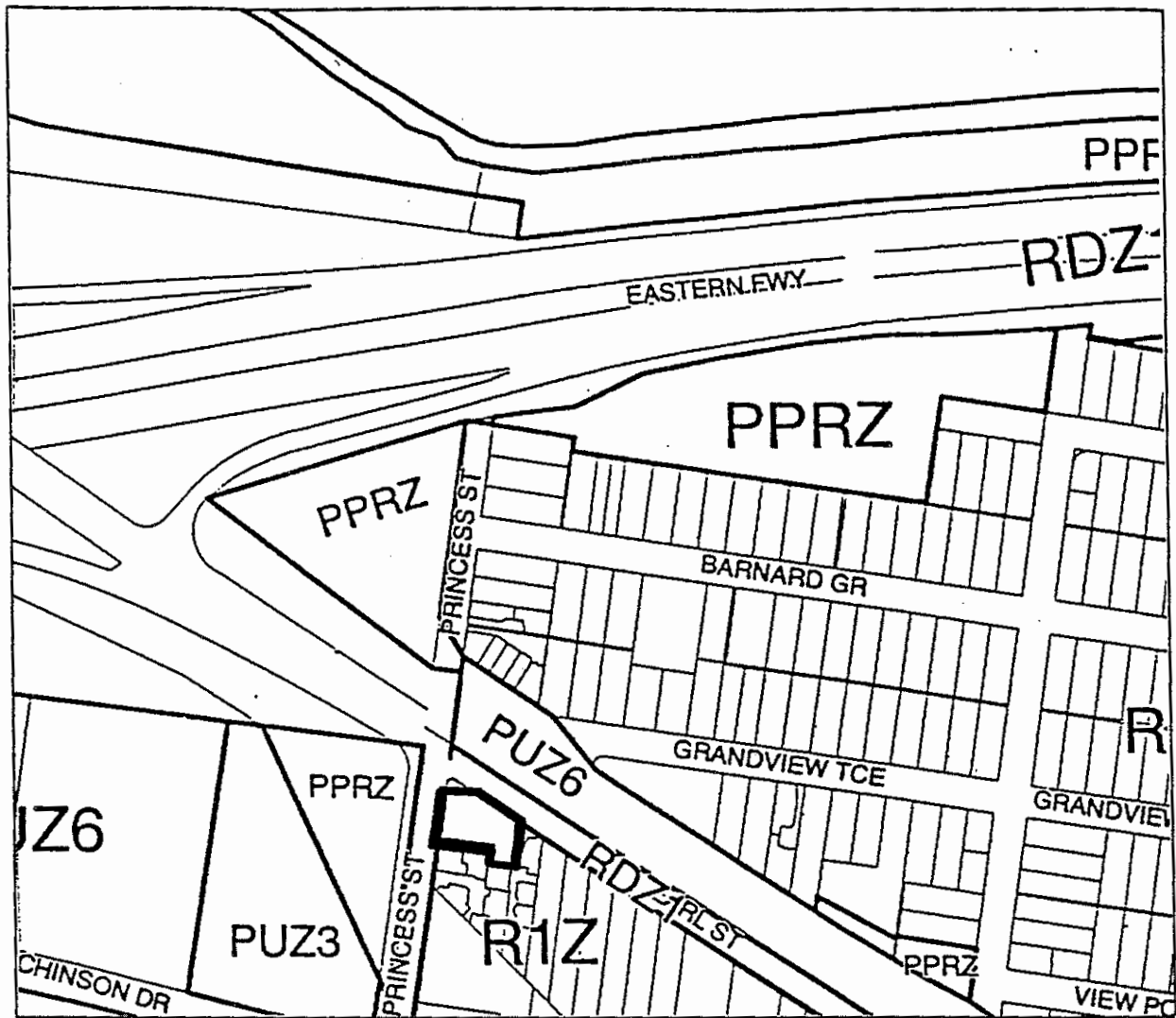
There is nothing in the MSS or any other Council policy which suggests that a change in zoning in this area should be contemplated. The subject site enjoys existing use rights and these will be maintained through the provisions of Clause 63 of the New Format Planning Scheme. The Panel considers that it is not appropriate that this site be placed in a Business 1 Zone and that there is no justification for an increase in floor area.


If the site was to be zoned as Business 1, there would be a range of other options that the site could be used and developed for, and the Panel considers that this is not a desirable situation in a predominantly residential area. The Panel does not support the application of Clause 52.03 with the use of an Incorporated Document to resolve the dilemma of the submitter as it does not consider it to be a suitable option in this case.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

### Council Recommendation

- 1.17 1**      The property known as 101-105 Earl Street, Kew be zoned Residential 1 Zone, as exhibited.



 SUBJECT SITE

101-105 EARL ST

## SITE & ZONING PLAN

**1.18 Submission No: 18**

**Name of Submitter:** Ratio Consultants on behalf of Andrianopoulos Nominees Pty Ltd

**Location:** 44-56 High Street, Glen Iris

**Existing Zone:** Service Business Zone

**Exhibited Zone:** Business 2 Zone

**Requested Zone:** Business 2 Zone

**Submission**

The submitter supports the exhibited zoning in relation to the above properties.

**Assessment**

The submission is noted.

**Council Recommendation to the Panel**

\* The submission be noted.

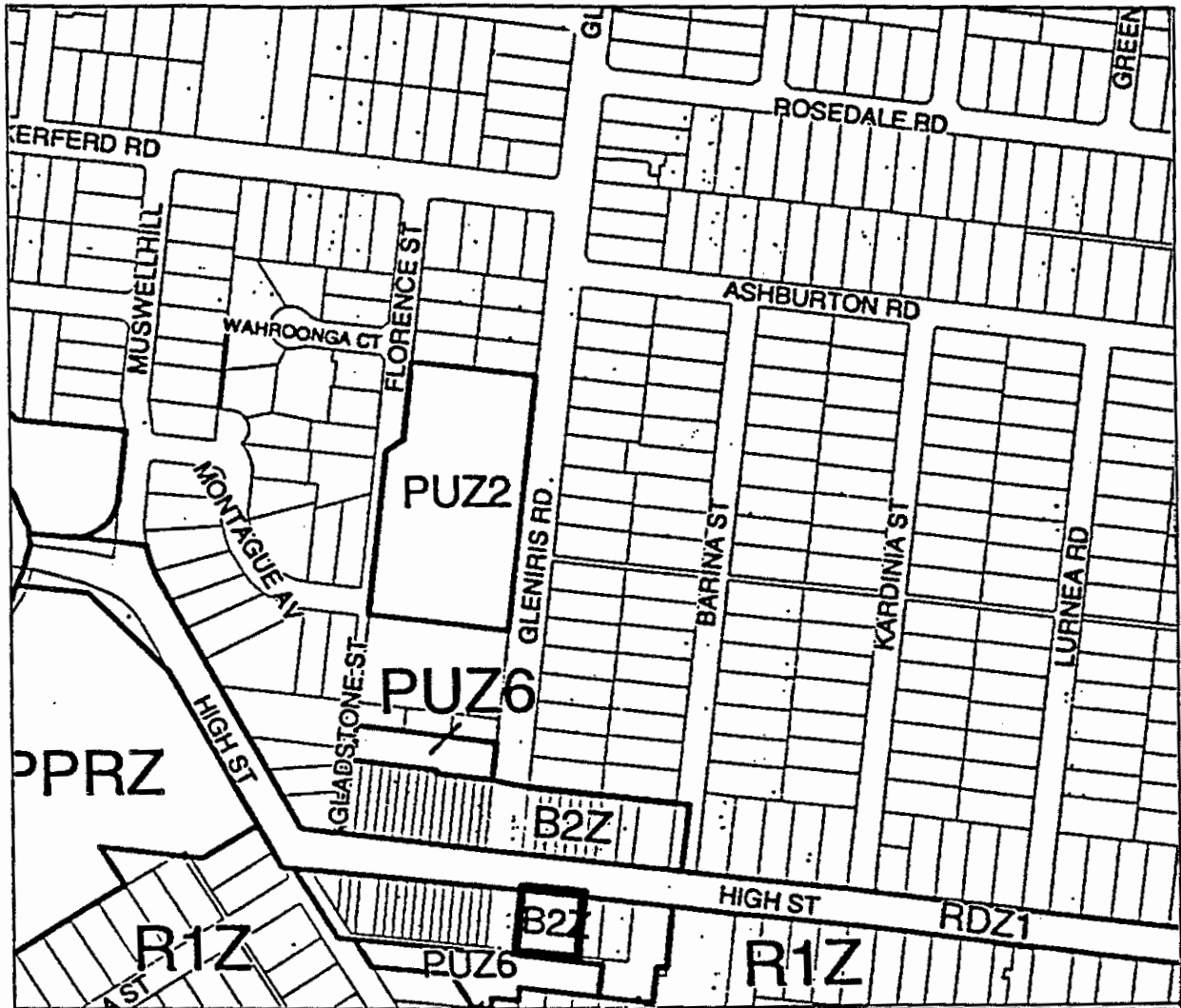
**Panel Comment and Recommendation**


“The Panel accepts this submission.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

**1.18.1** The submission be noted.



 SUBJECT SITE

44-56 HIGH ST

## SITE & ZONING PLAN

**1.23: Submission No.: 23**

**Name of Submitter:** Mr Seh Ming Ng

**Location:** 560 Glenferrie Road, Hawthorn

**Existing Zone:** Residential C Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 1 Zone

**Submission**

The adjoining property to the south of the site is in a Restricted Business Zone (to be zoned Business 1). The rezoning of the submitter's property would increase the number of properties available for commercial development.

**Assessment**

There is no evidence of a shortage of land available for commercial development in the City. This is particularly so with the strategic introduction of the Business 2 Zone in areas along Burwood Road and Canterbury Road as discussed in the introduction to this section.

The property abuts a medium size convenience centre being the Glenferrie Hill Shopping Centre and the adjoining properties to the south of the site are used commercially. The property currently has a dwelling on it.

The boundaries of this centre have been clearly established and reflected in the planning scheme so as to provide security for adjoining residents from an amenity perspective. Drawing out the centre into the residential area blurs the boundaries of the centre and is contrary to Council policy which aims to consolidate the role of its existing centres. It is therefore considered that the property should remain in the Residential 1 Zone.

**Council Recommendation to Panel**

- \* The property known as 560 Glenferrie Road, Hawthorn remain zoned Residential 1 Zone.

**Panel Comment and Recommendation**

"The Panel supports the recommendation of Council in this matter, although it recognises the position of the submitter who considers that *"one more property in the Business 1 Zone will not cause any one any major problems"*. This position represents the view of many people who are not involved in the planning process and who wish to maximise the return on their investments by inclusion in a business type zone.

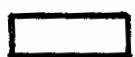
However, planning decisions are made on the basis of strategic policies and outcomes and in this situation Council has embarked on a strategy to consolidate its shopping centres both through policy and zoning criteria. It is understood that the submitter wishes to pursue some type of home office for the property and while there is no strategic basis to place this property in a Business 1 Zone, there could be a case for the seeking of a planning permit to allow a home based office use under the provisions of the Residential 1 Zone.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission."*

### **Council Recommendation**

- 1.23.1**      The property known as 560 Glenferrie Road, Hawthorn remain in the Residential 1 Zone.



 SUBJECT SITE

560 GLENFERRIE RD

**SITE & ZONING PLAN**

**1.32 Submission No: 32**

**Name of Submitter:** Dr Lynette Dubowitz

**Location:** 431 Burke Road, Glen Iris

**Existing Zone:** Residential C

**Exhibited Zone:** Business 2

**Requested Zone:** Residential 1

**Submission**

The current use of the site is a petrol station on the fringe of a strip shopping centre.

There is sufficient commercial property in the area. The site would be ideal for low level residential housing particularly for elderly people, given its proximity to the tramway. This strip shopping centre does not have any off street car parking.

A large business development with limited on site car parking is inappropriate, given the limited parking facilities and high traffic load of Burke and Toorak Roads.

**Assessment**

This submission refers to Amendment L34 to the Boroondara Planning Scheme which at the time the submission was lodged, had been considered by a Panel; adopted by Council and was waiting for the Minister for Planning's decision. The Amendment to rezone the site has now been approved.

**Council Recommendation to Panel**

- \* The zoning of the property known as 431 Burke Road to Business 2 Zone.

**Panel Comment and Recommendation**

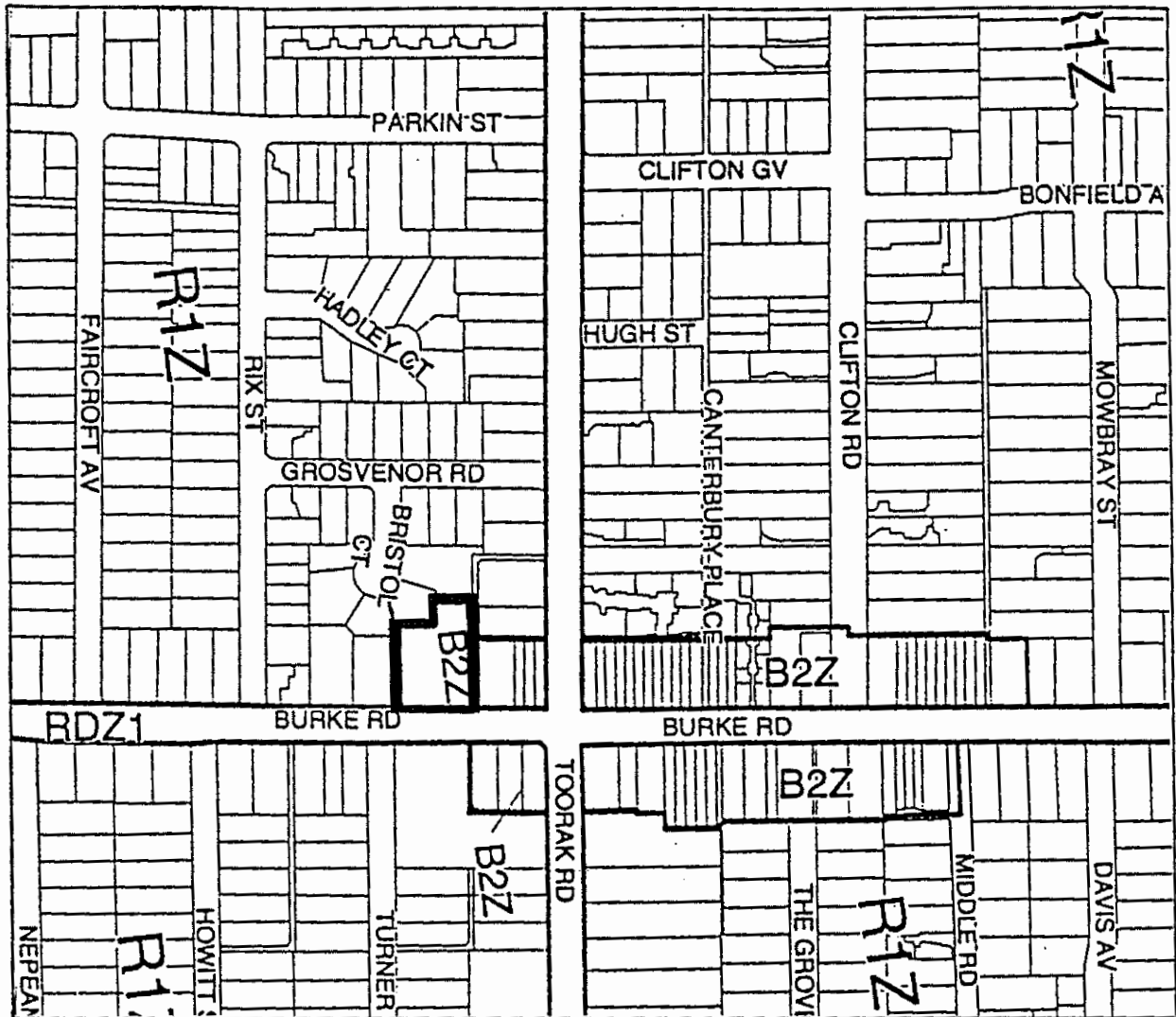
"The Panel accepts that a previous amendment has dealt with this issue and it supports the assessment of Council and adopts its recommendation.

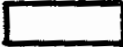
*The Panel recommends that Council place the property known as 431 Burke Road, Glen Iris in a Business 2 Zone."*

**Council Recommendation**

- 1.32.1** The zoning of the property known as 431 Burke Road to Business 2 Zone.





 SUBJECT SITE

431 BURKE RD

## SITE & ZONING PLAN

**1.39 Submission No: 39**

**Name of Submitter:** St Johns Anglican Church, Camberwell

**Location:** 552 Burke Road and 250 Camberwell Road

**Existing Zone:** Camberwell Residential Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 1 Zone

**Submission**

Either the whole of the church land or at least that section north of the church building should be included in a Business 1 Zone.

The proposed zoning is inconsistent with the provisions of the MSS and the Local policies and with the Camberwell Junction Structure Plan. There is no logic arising from these frameworks, the existing use and development of the subject land and adjoining land which suggest that Residential 1 is an appropriate zoning for the site.

Because of its location the land is not suitable for residential use and is suitable for uses consistent with the Business 1 Zone. The land clearly forms part of the Camberwell Junction area. The land between the Church and the post office is identified in the Structure Plan as a key development site. The church is now seeking commercial development on the northern part of the site. A formal request for an amendment to the existing Boroondara Planning Scheme to implement this proposal will be lodged by the project developers.

The land has never been a residential area and is not appropriate for residential development. It appears that the only reason that the land has been included in a Residential 1 Zone is that it is currently in a residential zone.

The principle of commercial development on this corner of Camberwell Junction has been recognised by including the post office site in a commercial zone.

**Assessment**

The land in and around the Camberwell Junction is to be developed in accordance with the Camberwell Junction Structure Plan 1993. The Structure Plan was subject to extensive public consultation before it was adopted by the former Cities of Camberwell and Hawthorn.

Under the Structure Plan, the area in which the site is located is designated as an area where "cultural, religious, educational and recreational" uses are proposed. Even though the Structure Plan states that opportunity may exist to undertake the redevelopment of the post office site together with the Church tennis court site, it includes the site in a non-commercial category. In preparing the new planning scheme, it was considered that the provisions of the Residential 1 Zone were appropriate to its designation under the Structure Plan.

### Council Recommendation to Panel

- \* The retention of the zoning of the property known as 552 Burke Road and 250 Camberwell Road as exhibited subject to the current amendment application being considered by Council.

### Panel Comment and Recommendation

"It is understood by the Panel that the property which is the subject of this submission is currently the subject of proposed Amendment L53 to the Boroondara Planning Scheme, which had not gone on exhibition at the time of the hearing. However the Explanatory Report for the amendment noted the following:

*The Amendment proposes to rezone part of the subject site from Camberwell Residential Zone and insert a site specific control into the District Centre Camberwell Zone as it affects the site, to enable the site to be used and developed as a retail and office development, with associated car parking and a sky sign without a planning permit, provided that such use and development generally accords with the endorsed plan and documents that are also referred to in the site specific clause.*

*The specific proposal is for a retail development on the ground level of 670 square metres and an office development on the first, second and third storeys of 5170 square metres.*

At the hearing, the submitter indicated that placing the property in a residential zone does not make sense given its location adjacent to the Camberwell District Centre, its abutting Business 2 Zone and the lack of a residential interface. It was stated that it is the intention of the Church to remain on the site indefinitely, but it would like to redevelop other parts of the site for alternative uses. It was contended that the current Residential 1 Zone would not provide that opportunity.

Council indicated that it has consolidated its core retail functions of the Camberwell District Centre through its Structure Plan, that the redevelopment of the Church site for retail, commercial or business uses has not been contemplated and such consideration should be as part of a further structure planning process. The Panel agrees with that position. Some of this consideration may emerge through the proposed amendment process, and in any event, it would be inappropriate to rezone the site at this stage as any interested party would not have had the opportunity to comment.

It is not the role of this Panel to recommend significant changes that may vary from Council policy without the opportunity to fully address the merits of the proposed changes and for other parties that may have an interest in, or be affected by, such a change in planning controls to comment through a public process.

This would deny rights of natural justice to potentially affected parties. The Panel therefore does not support this submission.

***The Panel recommends no change to the exhibited Planning Scheme arising from this submission.***

### **Comment**

Council has subsequently adopted a planning scheme amendment to rezone part of the subject site to District Centre Camberwell Zone with a site specific clause to facilitate the commercial redevelopment of the site. In relation to the new planning scheme it is expected that this amendment will translate into a Business 2 Zone and a permit for the adopted use and development. The amendment is currently awaiting approval by the Minister for Planning.

The strategic context for the amendment can be found in the Camberwell Junction Structure Plan (December 1993) which identifies in the "Preferred Land Use Plan" the post office site and the tennis courts of the St Johns Church as "Potential Development Sites".

Specifically, the Structure Plan states that there is a:

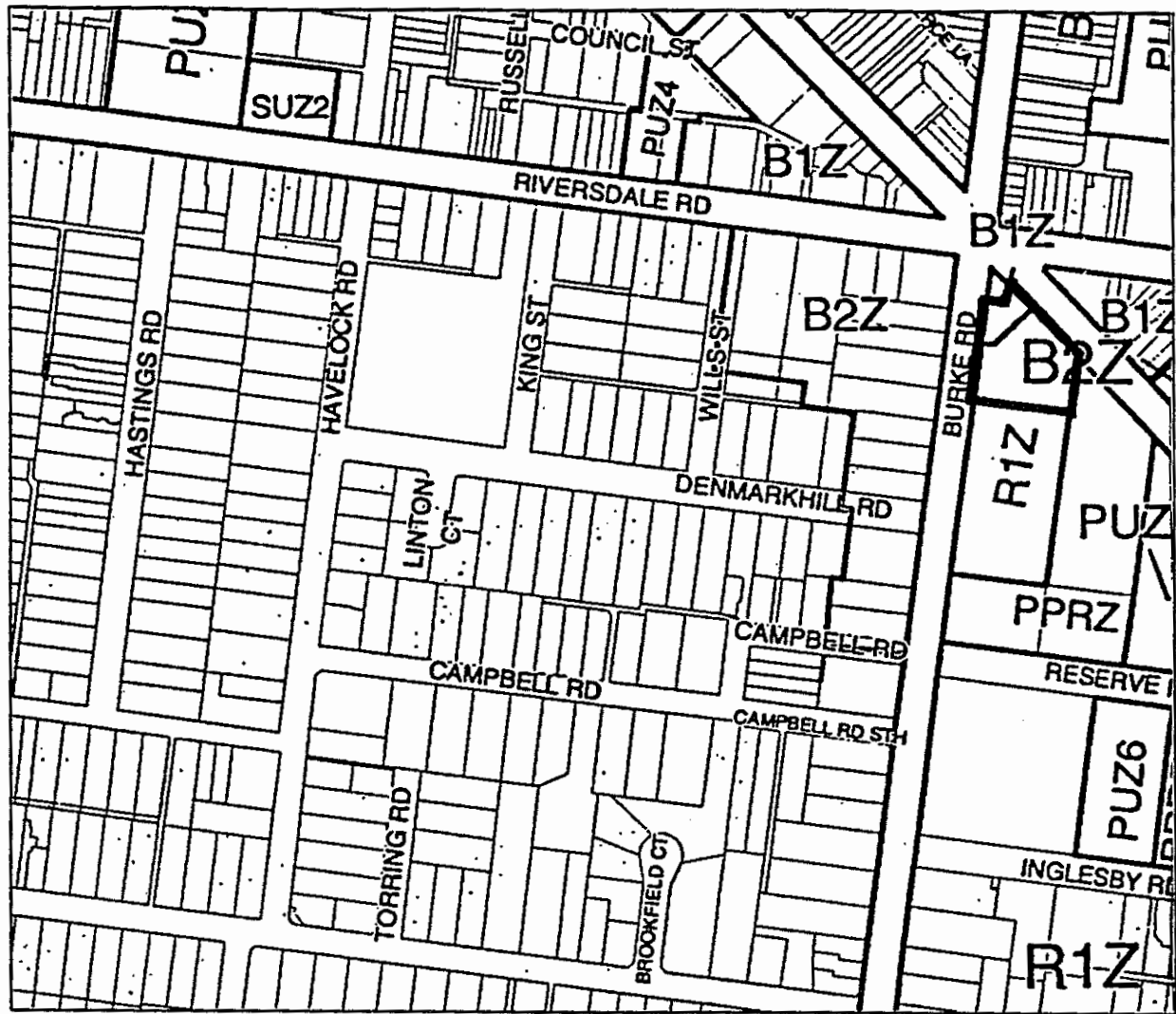
*"major opportunity on the Post Office land to replace the existing building with a new structure in keeping with the character of the other corners. Opportunity may also exist to undertake redevelopment together with the St.Johns tennis court site".*

The subject site falls within two land use precincts which indicate preferred locations of land uses within the Junction. Specifically, the Core Retail Area of the Junction embraces the northern portion of the site which is proposed to accommodate the retail component of the proposal. The remainder of the site is located within the cultural, religious, educational and recreational area which encompasses the school and the church south to Inglesby Road.

In this context, while the office use is not a cultural, religious, educational or recreational use, it is not considered to be inappropriate for the site and is considered to be consistent with the designated Office Precinct land located directly opposite on the west side of Burke Road.

### **Council Recommendation**

- 1.39.1** The retention of the zoning of the property known as 552 Burke Road and 250 Camberwell Road as exhibited subject to the current amendment application awaiting the approval of the Minister for Planning.



SUBJECT SITE

552 BURKE RD

250 CAMBERWELL RD

## SITE & ZONING PLAN

**1.41 Submission No: 41**

**Name of Submitter:** Ratio Consultants on behalf of RA Property Consultants

**Location:** 123 Whitehorse Road, Balwyn

**Existing Zone:** Restricted Business Zone

**Exhibited Zone:** Business 2 Zone with 2000m<sup>2</sup> section 1 limit in the schedule for office development

**Requested Zone:** Remove the 2000m<sup>2</sup> section 1 limit in the schedule for office development

**Submission**

The submitter is opposed to the floor space limit in the schedule to the Business 2 Zone. The office floor space limit is at odds with Council's exhibited MSS. The MSS seeks to accommodate new office development in areas and precincts considered appropriate for this type of activity. The MSS also recognises that trends indicate an upswing in the suburban office market. It is therefore strange that an arbitrary limit has been applied to the subject site.

The commercial vision also envisages facilitating investment opportunities and new office development and to encourage new office development in defined precincts such as the Business 2 Zone.

The subject land is not presently developed to its full potential with regard to office space and is the largest site in the locality. It is submitted that the schedule should be amended to provide for 4000m<sup>2</sup> rather than 2000m<sup>2</sup>.

**Assessment**

The limit on as-of-right offices was determined with reference to the Boroondara Office Supply Analysis, 1997. The reason for the 2000m<sup>2</sup> provision, is not to limit the size of office developments, but to enable the impact of large office developments to be assessed via the permit process.

The site is located in a commercial strip along Whitehorse Road which is to be zoned Business 2. In this location and where no permit is required for the use, an office development of up to 2000m<sup>2</sup> is regarded as reasonable (subject to a buildings and works assessment).

Beyond this size the impact of the office use may be more significant and more wide reaching, and would therefore need to be assessed.

**Council Recommendation to the Panel**

- \* The retention of the 2000m<sup>2</sup> as-of-right office floor area in the schedule to the Business 2 Zone.

### Panel Comment and Recommendation

“The schedule to the Business 2 Zone allows 2,000 square metres as of right office floor space within Section 1, with office proposals in excess of 2,000 square metres being assessed as part of the planning permit process through the provisions of Section 2. The submitter questioned the strategic basis of that limit and expressed concern that the floor space schedule does not distinguish between any variation in lot sizes. It was contended that the floor space schedule is unnecessary and overly prescriptive. It was acknowledged that all buildings and works would require a permit.


The Panel agrees that the schedule does not make any provision for lot size, but recognises that few schedules in any scheme do. It could be particularly difficult to make that provision because a number of factors would need to be taken into account and the schedule could then become even more prescriptive. The Panel accepts the strategic assessment of Council that the area has been designated as a commercial area and supports the contention that the reason for the 2,000 square metre limit is not to limit the size of office developments but to enable the impact of larger developments to be assessed via the permit process.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

### Council Recommendation

- 1.41.1** The retention of the 2000m<sup>2</sup> limit for as-of-right office floor area in the schedule to the Business 2 Zone.



 SUBJECT SITE

123 WHITEHORSE RD

## SITE & ZONING PLAN



**1.48 Submission No: 48**

**Name of Submitter:** AT Cocks Consulting on behalf of Village Roadshow Theatres Limited.

**Location:** Camberwell Junction

**Existing Zone:** District Centre Camberwell Zone

**Exhibited Zone:** Business 1 Zone; Design and Development Overlay

**Submission**

The submitter supports the proposed Business 1 zoning of the Camberwell Junction Area including the submitters site, the Rivoli site. However the submitter seeks clarification of some issues and requests certain changes.

The MSS focuses on the retail function of the Camberwell Junction and does not appear to recognise the broader role of Camberwell Junction, which functions as an activity centre with a range of roles including retailing, business, community and entertainment. To reflect its broader role, the Junction should be referred to as the Camberwell Junction Activity Centre and the MSS should make reference to the growing entertainment and leisure focus within this area.

The submitter requests the opportunity to be involved in the preparation of any plan for the area.

The submission refers to the assessment of required parking and advocates that demand and supply of parking should be considered in relation to the parking supply in the Junction precinct as a whole. It is considered that the concept of shared parking should be applied in the new format planning scheme.

It is considered that the Camberwell Junction Parking Management Strategy should address the issue of the preparation of a Parking Precinct Plan for the Junction.

**Assessment**

As the Camberwell Junction is the City's primary retail, business and activity centre, it is agreed that the MSS should be more specific in its reference to the Camberwell Junction and its role as an activity centre as opposed to a retail centre. Appropriate strategic objectives and actions have been added to the MSS to address this issue.

The Clause 22 Car Parking Policy outlines the principles for the provision of car parking and for the assessment of required parking. The principle of shared parking is used in the Policy. Under the Policy the principle of shared parking is based on limits relating to reasonable walking distances for long (workers) and short stays.

The assessment of the required parking for Rivoli cinemas proposed redevelopment has been considered by Council, a permit for the development has been issued, and a site for the provision of the parking has been agreed upon. This report, being the

consideration of submissions to the new Planning Scheme, is not considered the appropriate venue to consider the details of the Rivoli proposal.

Council having adopted the Camberwell Junction Parking Management Strategy may now consider formalising the provisions through the preparation of a parking precinct plan for the Junction.

### **Council Recommendation to the Panel**

- \* That the submission be noted.
- \* The amendment of the Commercial Section of the MSS to emphasise the importance of the role of the Junction as an activity centre.

### **Panel Comment and Recommendation**

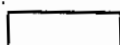
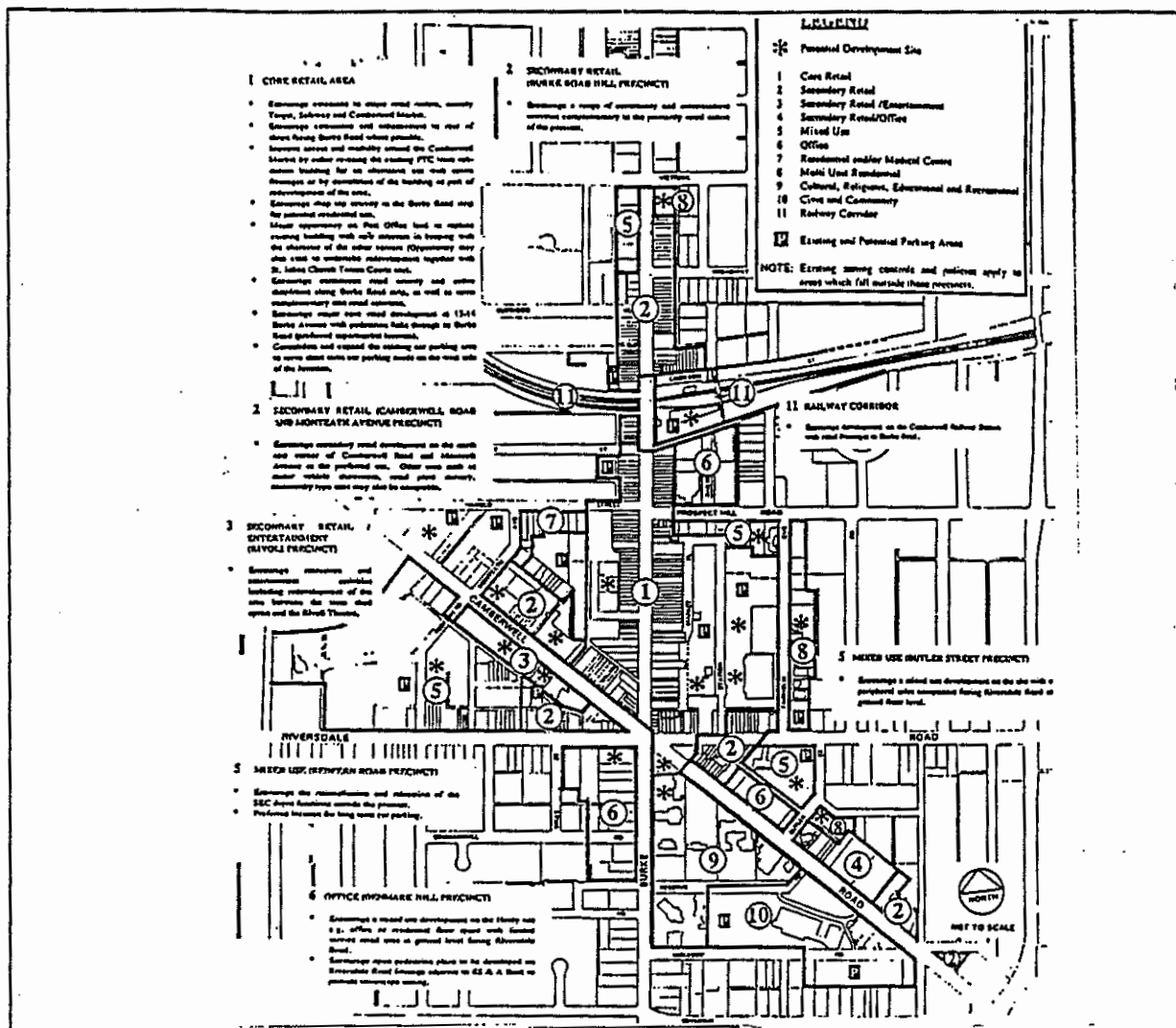
“It is understood by the Panel that a permit has been granted for the development of an eight cinema complex at this site and that Village is appealing one of the conditions to that permit about provision of 135 car parking spaces. This is a matter that the Panel need not concern itself with.

The principal concern of the submitter in relation to the New Format Planning Scheme is the lack of recognition about the broader role of the Camberwell Junction area as a major activity centre and the contribution of cinemas to the vitality and synergy of the area. Both the Council and the Panel support this submission and agree that the MSS should be strengthened to acknowledge the Camberwell Junction area as a key activity centre and the importance of cinemas to that role.

*The Panel recommends that the MSS be amended to emphasise the importance of the role of the Camberwell Junction area as an activity centre.”*

### **Council Recommendation**

- 1.48.1 That the submission be noted.
- 1.48.2 The July 1999 version of the MSS which emphasises the importance of the role of Camberwell Junction as an activity centre be noted.



CAMBERWELL JUNCTION STRUCTURE PLAN (DECEMBER 1993)

**1.54: Submission No.: 54**

**Name of Submitter:** Michael Hatjiandreou

**Location:** 330 Auburn Road, Hawthorn

**Existing Zone:** Residential C Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 1 Zone

**Submission**

The property is a two storey building in a shopping strip. The ground floor is used as a deli and take away business whilst upstairs is residential.

**Assessment**

This building and the adjoining buildings to the north and south were constructed as shops in the 1900s. All three buildings are used as shops: two have a cafe/delicatessen use and on is a hair dressing salon. The shops are an integral part of the shopping centre to the north.

The anomaly of the zoning of the properties was brought forward from the current Boroondara Planning Scheme into the new Planning Scheme.

**Council Recommendation to the Panel**

- \* The zoning of the properties known as 228, 330 332 Auburn Road, Hawthorn to the Business 1 Zone.

**Panel Comment and Recommendation**


“The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. It is understood that the existing anomaly was carried through in the preparation of the New Format Planning Scheme and needs to be rectified prior to adoption of the scheme.

*The Panel recommends that the properties known as 228, 330 and 332 Auburn Road, Hawthorn be placed in a Business 1 Zone, and that all of these property owners be properly notified of this anomaly.”*

**Council Recommendation**

- 1.54.1** The zoning of the properties known as 228, 330 332 Auburn Road, Hawthorn to the Business 1 Zone.



 SUBJECT SITE

330 AUBURN RD

## SITE & ZONING PLAN

**1.55 Submission No: 55**

**Name of Submitter:** Molfam Nominees Pty Ltd

**Location:** 347a Riversdale Road, Camberwell

**Existing Zone:** Residential C Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 2 Zone

**Submission**

The property has been used for office purposes for 13 years and prior to that was used for a mixture of residential and business purposes for about 50 years. The property is one of three between Symonds Street and Aberdeen Street which were built as shops and residences and have been more intensely developed for commercial purposes over the years.

The planning scheme should recognise this commercial strip by including it in a Business 2 Zone.

**Assessment**

The site is one of three small commercial properties, located within a residential area on Riversdale Road. The properties form an isolated commercial pocket in a predominantly residential area. The use of the site is a non-conforming use in its current zone although the submitter may be able to establish that it has existing use rights.

It is clear from the MSS that Council's strategy is to consolidate and enhance existing commercial precincts and not to create isolated commercial pockets in residential areas. The Business 2 Zone is therefore not supported for this site.

As the purpose of the Residential 1 Zone, does include non-residential uses which are compatible with, and serve the local need, there is a range of uses for which the existing buildings could be used. Retaining the site in the Residential 1 Zone will ensure that any future use and development is in keeping with the surrounding residential area.

**Council Recommendation to the Panel**

- \* The zoning of the property known as 347a Riversdale Road, Camberwell to Residential 1 Zone as exhibited.

**Panel Comment and Recommendation**

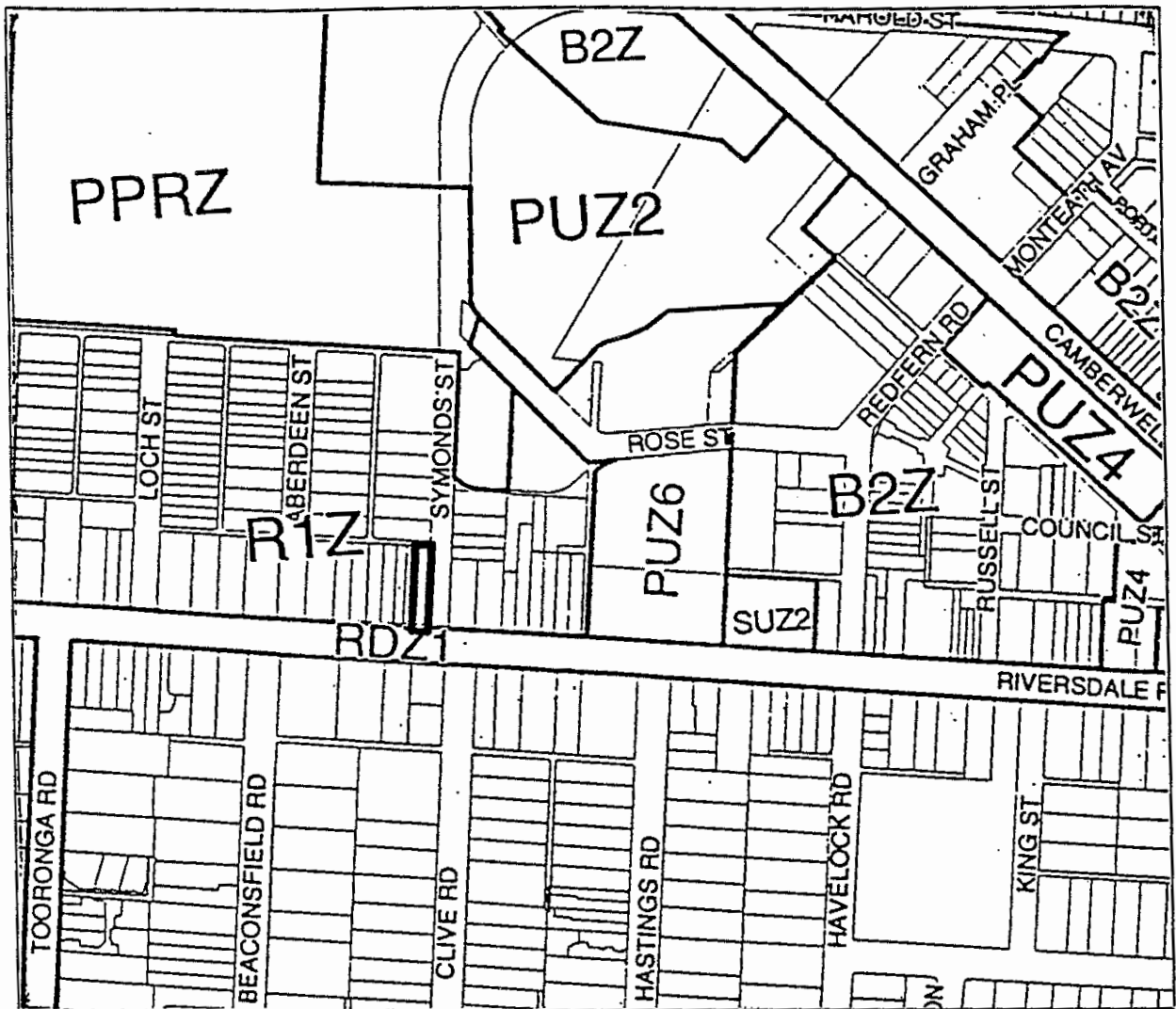
"This site is external to the Camberwell Junction Structure Plan area and it was made clear to the Panel that future commercial activities in that area are to be confined to within that designated area. The Panel supports the strategy of Council to consolidate


and enhance existing commercial precincts and to not create isolated commercial pockets in residential areas. This opinion is consistent with Council's current economic and retail policies. The request of the submitter is not consistent with the MSS or the adopted Structure Plan for the Camberwell Junction area and on this basis, the Panel does not support this submission.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission."*

#### **Council Recommendation**

- 1.55.1** The zoning of the property known as 347a Riversdale Road, Camberwell remain Residential 1 Zone as exhibited.



 SUBJECT SITE

347A RIVERSDALE RD

**SITE & ZONING PLAN**



**1.68 and 1.68.1 to 1.68.31, Submission No: 68 and 68.1 to 68.31**

**Name of Submitter:** Secure our Street, Harold Street Residents Action Group

**Location:** Harold Street, Hawthorn

**Existing Zone:** Northern side of road: Residential C; Southern side of road: from west to east: Light Industrial, Restricted Business, Restricted Light Industrial, Residential C and District Centre Camberwell

**Exhibited Zone:** Northern side: Residential 1 Zone; Southern Side: from west to east: Business 2 Zone, Residential 1 Zone, Business 1 Zone; Overlays: Design and Development Overlay

**Requested Zone:** Not stated

**Submission**

Part of the submission is concerned with the content of the new zones and their implications.

Other concerns are that where Business 2 is to replace the Restricted Light Industrial Zone there are no longer building setbacks and height limits.

There is concern with the change in the provisions of the Industrial 1 Zone which occurred by Ministerial Amendment on 8 May 1997.

The submitter queries the methodology behind the addition and deletion of land uses in the exhibited planning scheme.

The submitter compares the provisions of the Residential 1 Zone with the Residential C Zone and the Light Industrial Zone and Restricted Light Industrial Zone with the Business 2 Zone.

**Assessment**

The selection of zones for the Camberwell Junction area is based on the Camberwell Junction Structure Plan 1993.

The area recognised as having a core retail function under the plan, is to be zoned Business 1. This approximates with the area previously zoned District Centre Camberwell. The existing residential area on the northern side of Harold Street and the area on the southern side designated as Residential and/or Medical Centre under the plan, has also been zoned Residential 1.

The remainder of Harold Street which is a mixed use area and currently has a range of commercial zonings has been given a Business 2 zoning. The properties concerned also front onto Camberwell Road and this fits in with the proposal (discussed in the MSS) to encourage office development along the Burwood/Camberwell Road corridor.

Although the zones do not include controls relating to height and setback, these issues and other development issues are dealt with under the Camberwell Junction Policy in Clause 22 of the Scheme.

As discussed elsewhere in this report, the Camberwell Junction Structure Plan will be implemented by means of the Policy in Clause 22 of the new Planning Scheme.

#### **Council Recommendation to the Panel**

- \* That the submission be noted.

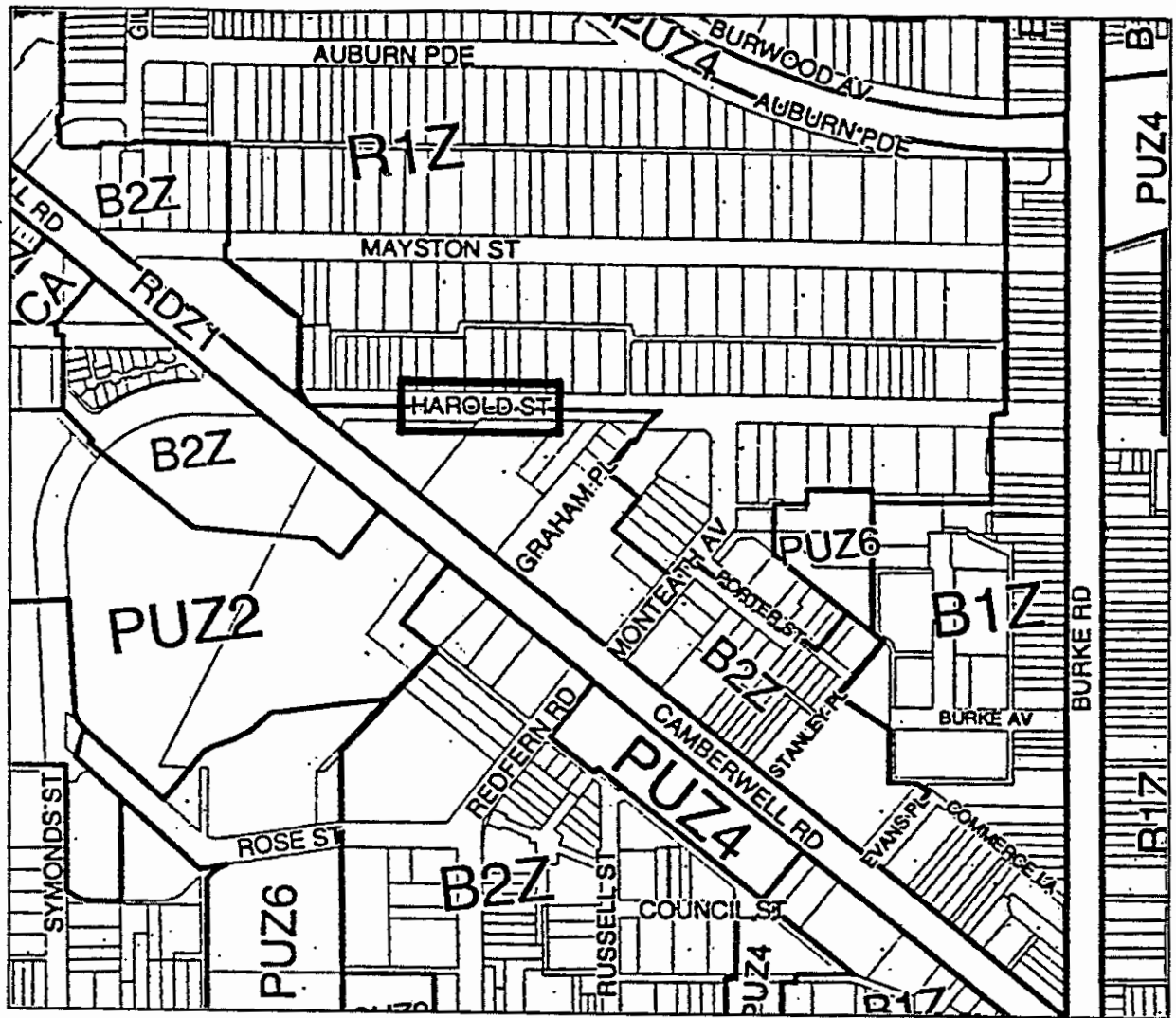
#### **Panel Comment and Recommendation**


“Essentially this submission is about the nature of the VPPs and there is not a lot that the Panel can respond to. It is understood that there may be a further review of the VPP zones and provisions at a later date when all of the New Format Planning Schemes have been finalised and this may provide an opportunity for these submitters to respond to that review. In the meantime the Panel will refer this submission to the Department of Infrastructure for further comment.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission, but requests the Department of Infrastructure to review the issues raised.”*

#### **Council Recommendation**

**1.68.1, 1.68.1.1 to 1.68.31.1** That the submission be noted.



 SUBJECT SITE

HAROLD ST

## SITE & ZONING PLAN

**1.70 Submission No: 70**

**Name of Submitter:** Horton Court Pty Ltd

**Location:** 108 - 112 Church Street, Hawthorn

**Existing Zone:** Residential C Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 2 Zone

**Submission**

108-116 Church Street is on one title and includes the property known as 108-112 Church Street, the subject site. Under the new planning scheme 116 Church Street has been exhibited as Business 2 Zone and is currently zoned Industrial 1. A consistent single zoning seems logical when looking at possible future uses for the site.

Since 1979 the existing use of the property at 116 Church Street is a car park and office building. For as many years the existing two storey shop and dwelling on the above site has also been used as an office. Therefore on an existing use basis it would seem logical that all of the property be included in a Business 2 Zone.

**Assessment**

In the vicinity of the site there is office development on both sides of Church Street. The property is part of an area of substantial office development and the use has been operating for many years as an office. Following consideration of the submission there is no objection to the site being zoned Business 2.

**Council Recommendation to the Panel**

- \* The zoning of the property known as 108 - 112 Church Street, Hawthorn to Business 2.

**Panel Comment and Recommendation**

"The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. It considers it appropriate to recognise a long standing office use in an commercial area and the placing of this property in a Business 2 Zone is consistent with Council's overall strategy.

*The Panel recommends that Council place the property known as 108 - 112 Church Street, Hawthorn in a Business 2 Zone."*

**Council Recommendation**

- 1.70.1** The zoning of the property known as 108 - 112 Church Street, Hawthorn to Business 2 Zone.

**1.71: Submission No.: 71**

**Name of Submitter:** Perrott Lyon Mathieson on behalf of Lazzcorp Developments (Vic) Pty Ltd.

**Location:** 5 Burwood Road, Hawthorn

**Existing Zone:** Residential C Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 2 Zone

**Submission**

The subject site is located at the north east corner of the intersection of Burwood Road and Barton Street. The site extends north to Lennox Street a predominantly residential street. The site is currently developed as the Whitehorse Inn Hotel. The use is discretionary in the current zone and in the exhibited zone.

The submission states that the proposed Residential 1 Zone is inappropriate for the following reasons:

- It does not reflect the long standing existing use of the site.
- The proposed zone does not reflect Council's current strategy. In the framework plan which is part of the MSS, the site is included in the heritage residential area but also in the mixed use activity area.
- The proposed zone does not accord with the commercial interface of the site along Burwood road.
- The site forms a gateway to the west Hawthorn business centre where commercial uses begin. A landmark development comprising mixed uses or commercial uses would be an appropriate effective use of the site.
- The site has good access to public transport.
- The site is currently subject to an application for an amendment to the planning scheme to allow for a mixture of office, entertainment and residential uses.

**Assessment**

If the site is to be rezoned, the appropriate mechanism is a planning scheme amendment, which gives the community the opportunity to express their opinions.

As indicated by the submitter the amendment process is underway. The above issues will be therefore be considered by Council when it considers the request to exhibit the amendment. It is not considered appropriate to pre-empt this process by consideration of the issues in this forum.

**Council Recommendation to the Panel**

- \* That the submission be noted.

### **Panel Comment and Recommendation**

“The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. At the time of this hearing it was indicated to the Panel that there is an amendment relating to this matter on public exhibition and it would be inappropriate for the Panel to make any further comment on this. The issues relating to this submission will be properly dealt with through the separate amendment process.

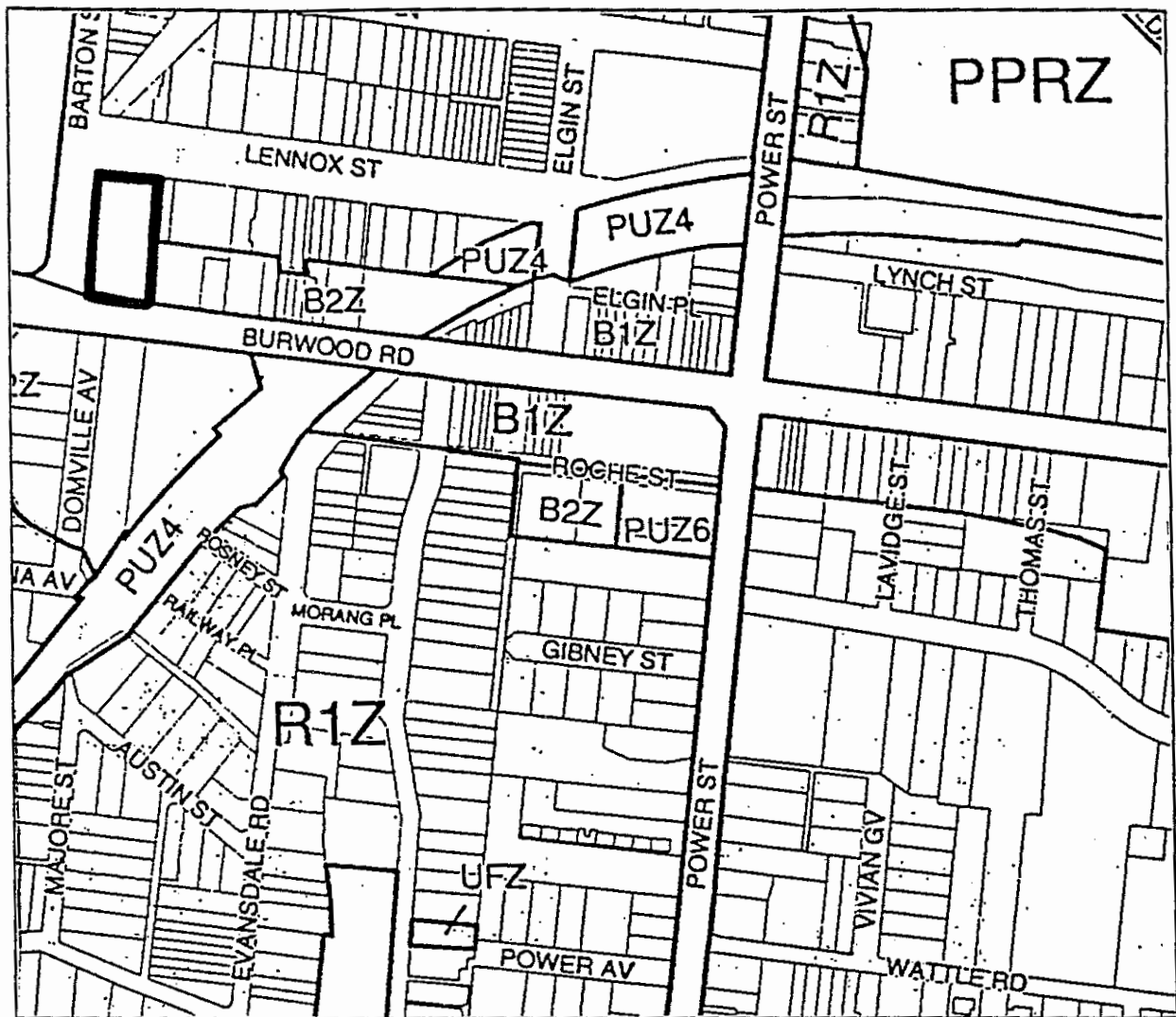
*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*


### **Comment**

Planning Scheme Amendment L52 to the Boroondara Planning Scheme to rezone the site to the Business 2 Zone, with a Design and Development Overlay which addresses built form, and a Section 173 agreement which addresses use, is currently waiting the approval of the Minister for Planning.

### **Council Recommendation**

**1.71.1**            That the submission be noted.



 SUBJECT SITE

5 BURWOOD RD

**SITE & ZONING PLAN**



**1.75: Submission No.: 75**

**Name of Submitter:** Rowan Sharp on behalf of Desmond and Pauline Newton

**Location:** 12 Doncaster Road

**Existing Zone:** Camberwell Residential Zone

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** Business 1 Zone

**Submission**

The property is the last in a row of shops situated in Doncaster Road, and known as Dickens Corner. The property is zoned Camberwell Residential and yet has been used for commercial purposes since the building was constructed in 1938.

**Assessment**

See Submission 1.16 on page 8.

**Council Recommendation to the Panel**

- \* The zoning of the property known as 12 Doncaster Road to Business 1 Zone.

**Panel Comment and Recommendation**


“This issue is the same as that raised in Submission No. 16 and the Panel accepts the assessment of Council in this matter and agrees that the site forms part of the retail area and should be zoned as Business 1.

*The Panel recommends that the property at 12 Doncaster Road, Balwyn be placed in a Business 1 Zone.”*

**Council Recommendation**

- 1.75.1** The zoning of the property known as 12 Doncaster Road to Business 1.



 SUBJECT SITE

12 DONCASTER RD

## SITE & ZONING PLAN

**1.77: Submission No.: 77**

**Name of Submitter:** Mr Leo Hawkins

**Location:** Kew Junction: west of High Street South and south of Studley Park Road

**Existing Zone:** Residential C Zone, Special Use Zone No 10, Office Zone and Office A Zone

**Exhibited Zone:** Business 2 Zone

**Requested Zone:** See submission

**Submission**

The proposed new scheme suggests an extension of the commercial zone to include the Beaumont Motel and No 7 Studley Park Road. The submitter states that Council has three options which are:

- leave the zoning as it is under the current Planning Scheme;
- extend the commercial zoning to the natural buffer at Merrion Place; or
- rezone to the boundary of the Beaumont Hotel as it is under the exhibited Planning Scheme.

The advantages of the first option are that it maintains the Council's strategy for the direction of the commercial development; it does not reward previous intrusions into the residential zone; and it does not adversely affect the residents.

Those advocating the second option would feel that is poor planning practice not to have a buffer between a commercial and a residential zoning and to have a change in the middle of the street; it avoids the problem of residents being left out on a limb; and Merrion Place is a natural buffer zone.

The submitter feels that the third option, the exhibited Planning Scheme, is the worst option.

**Assessment**

The area referred to in the submission comprises one of the precincts under the Kew Junction Commercial Centre Strategy Plan 1991. (The precinct extends southwards down High Street as far as number 79 High Street and westwards along Studley Park Road as far as 9 Studley Park Road.) Under the exhibited Planning Scheme the whole area was zoned Business 2.

Currently, in this precinct, all the land with frontage to High Street is developed with offices. The land on Studley Park Road is residential or developed with uses that are permissible under the provisions of the Residential C Zone such as a motel and medical consulting rooms. The land use pattern is such that these uses form a buffer between the commercial centre and the residential area to the west.

The Strategy Plan recommends rezoning Nos 1 and 3 Studley Park Road for commercial purposes and maintaining the remaining residential zoning.

There appears to be a drafting error in the exhibited Planning Scheme, as it was the intention that the exhibited zoning would accord with the Strategy Plan which is Council's strategic document for the area. It is therefore recommended that the exhibited zoning be amended to comply with the recommendations of the Strategy Plan. This means that Nos. 5, 7 and 9 Studley Park Road (exhibited as Business 2 Zone) would remain in a residential zone and would therefore be zoned Residential 1. This will have the advantage of maintaining the current buffer uses between the commercial centre and the residential area.

#### **Council Recommendation to the Panel**

- \* The zoning of the properties known as 1 and 3 Studley Park Road as Business 2 as exhibited.
- \* The zoning of the properties known as 5, 7 and 9 Studley Park Road as Residential 1.

#### **Panel Comment and Recommendation**

"The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. It accepts that there is an inconsistency in the exhibited Planning Scheme with the Kew Junction Commercial Centre Strategy Plan, and that the strategic basis for the zone controls should be compatible. It is understood that there would not be any material change for the hotel if it was to be placed in a Residential 1 Zone and that all affected property owners are aware of the recommendation of Council in this matter. The Panel considers it to be appropriate to initiate the zone changes.

*The Panel recommends that Council place the properties known as 5, 7 and 9 Studley Park Road, Kew in a Residential 1 Zone."*

#### **Council Recommendation**

- 1.77.1** The zoning of the properties known as 1 and 3 Studley Park Road as Business 2 as exhibited.
- 1.77.2** The zoning of the properties known as 5, 7 and 9 Studley Park Road as Residential 1.

## SITE & ZONING PLAN



## **2. ENVIRONMENT**

The City of Boroondara is committed to sound environmental management. This is reflected in the MSS and in the use of Overlays in the Planning Scheme.

In addition to the above measures to address environmental management, the City of Boroondara has a number of other specific projects related to this issue. This includes the development of an Environmental Management Policy as an umbrella document addressing environmental issues.

**Note:**

In some submissions submitters made specific reference to page numbers in the MSS. These page numbers refer to the exhibited MSS dated November 1997. The MSS has been revised twice since then: the version that was presented to the Panel (July 1998) and the version that is currently being considered for adoption (July 1999).

**Submissions considered in this section**

The following submissions are considered in this section: 19, 47, 50, 56, and 65

**2.19: Submission No.: 19**

**Name of Submitter:** Environment Protection Authority (EPA)

**Location:** City of Boroondara

**Submission**

It is the EPA's view that proponents of development should be responsible for satisfying Council that they have assessed the environmental impacts of their proposal and that best practice will be achieved. It is also felt that management of emissions to stormwater should be given similar emphasis to noise and air emission. To this end the following changes to the MSS are proposed.

On page 17 of the MSS, under Environment, opposite the Strategic Objective of an *Overall reduction of air and noise pollution in the City* include the following dot point as an action:

"Require development proponents to demonstrate that the construction and operation of their proposed development will be to best practice environmental management"

On page 18, change the Strategic Objective to: "Drainage and sewerage management and infrastructure which meets the water quality and water capacity of the Yarra Catchment strategies". Then add the following actions as dot points:

"Require development proponents to demonstrate that the construction and operation of their proposed development will be to best practice environmental management"

"Control emissions to stormwater from all relevant forms of development by applying the SEPPs to all uses. (All relevant State Environment Protection Policies)"

**Assessment**

The changes suggested will contribute to sound environmental management and it is recommended that they be included in the Municipal Strategic Statement.

**Council Recommendation to the Panel**

- \* The inclusion of the following dot point as an action on page 17 of the MSS, under Environment, opposite the Strategic Objective of an *Overall reduction of air and noise pollution in the City*:

*"Require development proponents to demonstrate that the construction and operation of their proposed development will be to best practice environmental management"*

- \* Amend the Strategic Objective On page 18 to: "Drainage and sewerage management and infrastructure which meets the water quality and water capacity of the Yarra Catchment strategies"

- \* Following the above amendment add the following as actions:



*"Require development proponents to demonstrate that the construction and operation of their proposed development will be to best practice environmental management"*

*"Control emissions to stormwater from all relevant forms of development by applying the SEPPs to all uses. (All relevant State Environment Protection Policies)"*

### **Panel Comment and Recommendation**

"The Panel accepts and supports the assessment of Council in this matter and generally adopts its recommendations in accordance with earlier comments.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission."*

### **Council Recommendation**

- 2.19.1** The inclusion of the following dot point as an action in the MSS, under Environment, opposite the Strategic Objective of *An overall reduction of air and noise pollution in the City:*

*"Require development proponents to demonstrate that the construction and operation of their proposed development will be to best practice environmental management."*

- 2.19.2** Amend the Strategic Objective under Environment to: *"Drainage and sewerage management and infrastructure which meets the water quality and water capacity of the Yarra Catchment strategies."*

- 2.19.3** Following the above amendment add the following as actions,

*"Require development proponents to demonstrate that the construction and operation of their proposed development will be to best practice environmental management."*

*"Control emissions to stormwater from all relevant forms of development by applying the SEPPs to all uses. (All relevant State Environment Protection Policies)."*

**2.47: Submission No.: 47**

**Name of Submitter:** Department of Natural Resources And Environment (DNRE)

**Location:** City of Boroondara

**Introduction**

The Department of Natural Resources and Environment recommends a range of specific changes to the wording of the Municipal Strategic Statement and policies under Clause 22 which are listed below. Generally they are sound in that they relate to the need to assess remnant vegetation in the City, the impact of environmental weeds on areas of environmental significance, and the importance of wild life habitat. Also raised as issues and discussed below are the environmental values of the Yarra Valley.

**MUNICIPAL STRATEGIC STATEMENT****Submission**

On page (ii) in Action 3 replace the words "*flora and fauna value*" with "*flora, fauna and habitat value*"

On page 4 remove the word "*regional*" from the statement "*one of the most important regional riverine environments in the State*"

In the **Relevant Documents** and **References** throughout the MSS the name *Beardsley* should be spelt *Beardsell*

The following two documents should be included in the **Relevant Documents** on page 19 and the **References** on page 41:

- Department of Conservation and Environment, 1990 "Remnant Native Grasslands and Grassy Woodlands of the Melbourne Area" This document supports the values of Beckett Park.
- Craig S, Webster A, and Anderson R, 1994, Managing Flora and Fauna in the Yarra Catchment, Department of Natural Resources and Environment, Melbourne as this document supports the environmental values of the Yarra River.
- Construction Techniques for Sediment Pollution Control (EPA 1991)

The above references should also be included in the Schedule to the Environmental Significance Overlay (Schedule 1 - Yarra River Environmental Significance Overlay).

Under the **Environment** section of the MSS, the sixth strategic Objective should be amended to read: *Drainage and sewerage systems which meet the water quality and water capacity objectives of strategic goals listed in policies and plans for the Yarra River.*

Under the **Infrastructure** section of the MSS, the **Relevant Document** titled *Yarra Catchment Strategy* should be changed to *Yarra Catchment Action Plan (1998)*. The date of this document in the **References** section on page 41 should be corrected.

The submission also includes suggestions with respect to the preparation of the proposed Vegetation Protection Policy. DNRE feels that the Vegetation Policy (proposed in the MSS) should address the remnant vegetation of the City as well as environmental weeds and their impact on environmental significance.

#### **Assessment**

The above will improve the focus of the MSS on environmental matters and are therefore agreed to.

The MSS includes a Vegetation Policy as an action. When the Policy is prepared the issue of the remnant vegetation of the City as well as environmental weeds and their impact on environmental significance will be considered. It is not considered necessary to include this level of detail in the MSS.

### **POLICIES IN CLAUSE 22 OF THE PLANNING SCHEME**

#### **The Yarra Valley Environs Policy**

##### **Submission**

The Yarra Valley Environs Policy should have a stronger emphasis on the environmental values of the Yarra Valley Environs.

In Clause 22.14, *Yarra Valley Environs Policy*, The words "*including environmental values*" should be added after the words "*unique characteristics*" in the last sentence of the Policy Basis.

In line with the above, the words "*while not compromising the unique characteristics and environmental values of the Yarra Environs*" should be added to the third dot point of the Policy.

The submission states that **Policy references** should list Beardsell C, 1997, "Sites of Faunal and Habitat Significance in North East Melbourne", Shire of Nillumbik, Melbourne.

##### **Assessment**

Although the Yarra Valley Environs Policy focuses on the recreational values of the Yarra Valley, when considering the recreation proposals, the environmental values of the area should still be considered. It is therefore agreed that the above changes be made to the Policy.

However as the Policy focuses on the recreational values of the Yarra Valley, this reference should rather be a **Referred Document** in the Schedule 1 to the **Environmental Significance Overlay** which focuses on the environmental values of the Yarra Valley.

### **OVERLAYS**

## **Environmental Significance Overlay No 1**

### **Submission**

In many instances dead or dying trees are important as wildlife habitat. The environmental significance of the area covered by the Environmental Significance Overlay No 1 is in part determined by habitat values. Accordingly under 3.0 **Permit Requirements**, after the words, "*A permit is required to remove, destroy or lop any vegetation*" add "*including dead or dying trees*".

Following from this, in the exemptions to the removal etc of vegetation, the fourth point "*a dead or dying tree*" should be removed".

Removal of environmental weeds should be included in the exemptions from the requirement to obtain a permit.

The Overlay should include a separate decision guideline relating to pest plants and animals as follows: *The effect of any potential development or vegetation removal upon pest plant infestations and pest animal populations.*

The following references should be included under **5.0 Referred Documents**:

- Carr, J Yugovic and K. Robinson, 1992, Environmental Weed Invasions in Victoria" Department of Conservation and Environment and Ecological Horticulture Pty Ltd, Melbourne.
- Yarra Care - Yarra Catchment Action Plan (1998)

### **Assessment**

The above suggestions are sound in that they relate to the importance of dead and dying trees to wild life habitat, allowing environmental weeds to be removed without the need for a permit, and the need to control pest plants and animals.

## **Significant Landscape Overlay Schedule 1**

### **Submission**

Under 3.0 **Permit Requirements**, "*Removal of environmental weeds*" should be included in the exemptions from the requirements to obtain a permit.

The following references should be included under **5.0 Referred Documents**:

- Carr, J Yugovic and K. Robinson, 1992, Environmental Weed Invasions in Victoria" Department of Conservation and Environment and Ecological Horticulture Pty Ltd, Melbourne.

### **Assessment**

It is agreed that the removal of environmental weeds should not require a permit.

## **Beckett Park**

**Submission**

In order to recognise the significant characteristics of Beckett Park an Environmental Significance Overlay should be introduced for Beckett Park. A suggested statement of significance is attached to the submission as follows

**SCHEDULE 2 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

Shown on the planning scheme map as ESO2.

**Beckett Park Environmental Significance Area****1.0 Statement of Environmental Significance**

Much of the near eastern suburbs of Melbourne once supported a grassy woodland which included *Euclyptus melliodora* as a characteristic co-dominant. There are no intact stands of this vegetation type remaining, although similar woodlands still occur at the Watsonia Military area. The open canopy included *Euclyptus camaldulensis*, above an open shrub layer in which various *Acacia* species were common. The field layer was apparently dominated by various grasses. This site is a disturbed remnant of that field layer. Scattered *E. camaldulensis* occur at the site, though many trees have been removed and the former shrubs are now uncommon.

**2.0 Environmental Objectives to be achieved**

To encourage the conservation and enhancement of the characteristic vegetation type.

To prevent inappropriate siting of buildings and works.

To encourage the use of the area for education purposes.

**Assessment**

As the statement highlights why Beckett Park is significant, it is agreed that this provision should be added to the planning scheme.

**Council Recommendation to the Panel**

- \* In the MSS on page (ii) under Action 3 replace the words "*flora and fauna value*" with "*flora, fauna and habitat value*."
- \* In the MSS on page 4 remove the word "*regional*" from the statement "*one of the most important regional riverine environments in the State*".
- \* In the **Relevant Documents** and **References** throughout the MSS replace the name *Beardsley* with *Beardsell*.

- \* Include in the **Relevant Documents** on page 19 and the **References** on page 41:

*Department of Conservation and Environment, 1990 "Remnant Native Grasslands and Grassy Woodlands of the Melbourne Area" This document supports the values of Beckett Park.*

*Craig S, Webster A, and Anderson R, 1994, Managing Flora and Fauna in the Yarra Catchment, Department of Natural Resources and Environment, Melbourne as this document supports the environmental values of the Yarra River.*

*Construction Techniques for Sediment Pollution Control (EPA 1991)*

- \* Include the following references in the Schedule to the Environmental Significance Overlay (Schedule 1 - Yarra River Environmental Significance Overlay),

*Department of Conservation and Environment, 1990 "Remnant Native Grasslands and Grassy Woodlands of the Melbourne Area" This document supports the values of Beckett Park.*

*Craig S, Webster A, and Anderson R, 1994, Managing Flora and Fauna in the Yarra Catchment, Department of Natural Resources and Environment, Melbourne as this document supports the environmental values of the Yarra River.*

*Construction Techniques for Sediment Pollution Control (EPA 1991)*

- \* Amend the sixth strategic Objective of the MSS Section titled **Environment**, to read:

*"Drainage and sewerage systems which meet the water quality and water capacity objectives of strategic goals listed in policies and plans for the Yarra River."*

- \* Amend the MSS under the Section **Infrastructure, Relevant Document** titled *Yarra Catchment Strategy* to "*Yarra Catchment Action Plan (1998)*".
- \* In the MSS amend the **References** by changing the document titled *Yarra Catchment Strategy* to "*Yarra Catchment Action Plan (1998)*".
- \* Include the words "*including environmental values*" after the words "*unique characteristics*" in the last sentence of the Policy Basis In Clause 22.14, *Yarra Valley Environs Policy*.
- \* Insert the words "*while not compromising the unique characteristics and environmental values of the Yarra Environs*" to the third dot point of Clause 22.14, *Yarra Valley Environs Policy*.

- \* Insert in the references section of the Schedule 1 to the **Environmental Significance Overlay** the reference Beardsell C, 1997, "*Sites of Faunal and Habitat Significance in North East Melbourne*", Shire of Nillumbik, Melbourne.
- \* Insert under Section 3.0 **Permit Requirements** of the **Environmental Significance Overlay No 1**, the words, "*including dead or dying trees*" after "*A permit is required to remove, destroy or lop any vegetation*".
- \* Remove under Section 3.0 **Permit Requirements** of the **Environmental Significance Overlay No 1**, the words "*a dead or dying tree*".
- \* Include under the exemptions from requiring a permit section of the **Environmental Significance Overlay No 1** the "*Removal of environmental weeds*".
- \* The inclusion of the decision guideline "*The effect of any potential development or vegetation removal upon pest plant infestations and pest animal populations*" into the **Environmental Significance Overlay No 1**.
- \* The inclusion under **5.0 Referred Documents** of the following:

*Carr, J Yugovic and K. Robinson, 1992, Environmental Weed Invasions in Victoria" Department of Conservation and Environment and Ecological Horticulture Pty Ltd, Melbourne.*

*Yarra Care - Yarra Catchment Action Plan (1998)*

- \* The introduction of the following Environmental Significance Overlay and Schedule into the Planning Scheme for Beckett Park,

## **"SCHEDULE 2 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**

*Shown on the planning scheme map as ESO2.*

### **Beckett Park Environmental Significance Area**

#### **1.0 Statement of Environmental Significance**

*Much of the near eastern suburbs of Melbourne once supported a grassy woodland which included Euclyptus melliodora as a characteristic co-dominant. There are no intact stands of this vegetation type remaining, although similar woodlands still occur at the Watsonia Military area. The open canopy included Euclyptus camaldulensis, above an open shrub layer in which various Acacia species were common. The field layer was apparently dominated by various grasses. This site is a disturbed remnant of that field layer.*

*Scattered E. camaldulensis occur at the site, though many trees have been removed and the former shrubs are now uncommon.*

## **2.0 Environmental Objectives to be achieved**

*To encourage the conservation and enhancement of the characteristic vegetation type.*

*To prevent inappropriate siting of buildings and works.*

*To encourage the use of the area for education purposes."*

## **"Panel Comment and Recommendation**

The Panel accepts and supports the assessment of Council in this matter and generally adopts its recommendations in accordance with earlier comments. The issues relating to the overlays have already been discussed in Section 3 of this report, and the conclusions of the Panel in respect of these are consistent with the assessment and recommendations of Council.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission."*

## **Council Recommendation**

- 2.47.1** In the MSS under Environment replace the words "*flora and fauna value*" with "*flora, fauna and habitat value*."
- 2.47.2** In the MSS remove the word "*regional*" from the statement "*one of the most important regional riverine environments in the State*".
- 2.47.3** In the **Relevant Documents and References** throughout the MSS replace the name *Beardsley* with *Beardsell*.
- 2.47.4** Include in the **Relevant Documents** under Environment, and also in the **References** to the MSS, the following documents:

*Department of Conservation and Environment, 1990 "Remnant Native Grasslands and Grassy Woodlands of the Melbourne Area" This document supports the values of Beckett Park.*

*Craig S, Webster A, and Anderson R, 1994, Managing Flora and Fauna in the Yarra Catchment, Department of Natural Resources and Environment, Melbourne as this document supports the environmental values of the Yarra River.*

*Construction Techniques for Sediment Pollution Control (EPA 1991)*



- 2.47.5** Include the following references in the Schedule to the Environmental Significance Overlay (Schedule 1 - Yarra River Environmental Significance Overlay),
- Department of Conservation and Environment, 1990 "Remnant Native Grasslands and Grassy Woodlands of the Melbourne Area" This document supports the values of Beckett Park.*
- Craig S, Webster A, and Anderson R, 1994, Managing Flora and Fauna in the Yarra Catchment, Department of Natural Resources and Environment, Melbourne as this document supports the environmental values of the Yarra River.*
- Construction Techniques for Sediment Pollution Control (EPA 1991*
- 2.47.6** Amend the relevant strategic Objective of the MSS under **Environment**, to read:
- "Drainage and sewerage systems which meet the water quality and water capacity objectives of strategic goals listed in policies and plans for the Yarra River."*
- 2.47.7** Amend the MSS under the Section **Infrastructure, Relevant Document** titled *Yarra Catchment Strategy* to "*Yarra Catchment Action Plan (1998)*".
- 2.47.8** In the MSS amend the **References** by changing the document titled *Yarra Catchment Strategy* to "*Yarra Catchment Action Plan (1998)*".
- 2.47.9** Include the words "*including environmental values*" after the words "*unique characteristics*" in the last sentence of the Policy Basis in the Clause 22, *Yarra Valley Environs Policy*.
- 2.47.10** Insert the words "*while not compromising the unique characteristics and environmental values of the Yarra Environs*" to the third dot point of the Clause 22, *Yarra Valley Environs Policy*.
- 2.47.11** Insert in the references section of the Schedule 1 to the **Environmental Significance Overlay** the reference Beardsell C, 1997, "*Sites of Faunal and Habitat Significance in North East Melbourne*", Shire of Nillumbik, Melbourne.
- 2.47.12** Insert under Section 3.0 **Permit Requirements** of the **Environmental Significance Overlay No 1**, the words, "*including dead or dying trees*" after "*A permit is required to remove, destroy or lop any vegetation*".

- 2.47.13** Remove under Section 3.0 **Permit Requirements** of the **Environmental Significance Overlay No 1**, the words "*a dead or dying tree*".
- 2.47.14** Include under the exemptions from requiring a permit section of the **Environmental Significance Overlay No 1** the "*Removal of environmental weeds*".
- 2.47.15** The inclusion of the decision guideline "*The effect of any potential development or vegetation removal upon pest plant infestations and pest animal populations*" into the **Environmental Significance Overlay No 1**.
- 2.47.16** The inclusion under **5.0 Referred Documents** of the following:
- Carr, J Yugovic and K. Robinson, 1992, Environmental Weed Invasions in Victoria" Department of Conservation and Environment and Ecological Horticulture Pty Ltd, Melbourne.*
- Yarra Care - Yarra Catchment Action Plan (1998)*
- 2.47.17** The introduction of the following Environmental Significance Overlay and Schedule into the Planning Scheme for Beckett Park,
- "SCHEDULE 2 TO THE ENVIRONMENTAL SIGNIFICANCE OVERLAY**
- Shown on the planning scheme map as ESO2.*
- Beckett Park Environmental Significance Area**
- 1.0 Statement of Environmental Significance**
- Much of the near eastern suburbs of Melbourne once supported a grassy woodland which included *Euclyptus melliodora* as a characteristic co-dominant. There are no intact stands of this vegetation type remaining, although similar woodlands still occur at the Watsonia Military area. The open canopy included *Euclyptus camaldulensis*, above an open shrub layer in which various *Acacia* species were common. The field layer was apparently dominated by various grasses. This site is a disturbed remnant of that field layer. Scattered *E. camaldulensis* occur at the site, though many trees have been removed and the former shrubs are now uncommon.*
- 2.0 Environmental Objectives to be achieved**
- To encourage the conservation and enhancement of the characteristic vegetation type.*

*To prevent inappropriate siting of buildings and works.*

*To encourage the use of the area for education purposes."*

**2.50 Submission No: 50**

**Name of Submitter:** Parks Victoria

**Location:** City of Boroondara

**Submission****Policy under Clause 22**

Parks Victoria has prepared two policy statements for inclusion in Clause 22 of the Planning Scheme. The two statements are explained as follows:

- "Yarra Bend Park is an important regional open space area in close proximity to Melbourne's CBD. A policy statement titled "Yarra Bend Park Policy" has been prepared for inclusion into the local planning policy framework."

and

- "The Yarra Valley Parklands is an important regional asset due to its high conservation values and recreational opportunities. A policy statement titled "Middle Yarra Environs Policy" has been prepared for inclusion into the local planning policy framework."

The submission notes that Council's Yarra River Environs policy refers to Studley Park. As Studley Park is a small area of the overall Yarra Bend Park, it should therefore not be noted or treated as a separate entity within this policy.

The submission also notes that there is overlap between Council's Yarra Valley Environs Policy (Clause 22) and the two policy statements prepared by Parks Victoria.

**Public Acquisition Overlay**

The Planning Scheme has nominated land for acquisition by Parks Victoria by including the land in a Public Acquisition Overlay.

Parks Victoria states that it has no intention of acquiring the land and that it does not accept financial responsibility. In addition to not wishing to acquire land, Parks Victoria has also intimated that it may dispose of land in the Creswick Street and the Hodgson Street areas. The submission states further that Melbourne Parks and Waterways is trading as Parks Victoria and the schedule to the Public Acquisition Overlay should be amended to refer to Melbourne Parks and Waterways.

**Assessment****Policy under Clause 22**

Council's Yarra Valley Environs Policy, relates to the recreational values of the Yarra Valley, and is more specific than the Parks Victoria statements in that it provides detailed decision guidelines. Discussions with Parks Victoria indicate that there is no objection to Council using its exhibited policy. (See Submission 2.47 on page 36 for details regarding changes to the Policy to include environmental values.)

### Public Acquisition Overlay

The land nominated for acquisition under the Public Acquisition Overlay is derived from land that is currently subject to a proposed Public Open Space Reservation. Generally the designation of land as a reserve originated with the Melbourne Metropolitan Board of Works (MMBW). Parks Victoria, as a successor to the MMBW, was nominated as the acquiring authority. The areas are listed below:

- Billabong (part Kew Golf Course)
- Rear of Creswick Street (part) south of Pridmore Park, Hawthorn
- Land south of Young Street, Kew
- River Retreat area, Kew

The above list is based on completing strategic open space links along the Yarra River. If the links are completed the trail system will be enhanced. This is in keeping with the principles in the document produced by Melbourne Parks and Waterways titled *A Guide to Priorities for Melbourne's Open Space Network*. It is considered that the links along the Yarra are undisputably part of the regional open space system and therefore the responsibility of the regional authority, Parks Victoria.

The area north of the Eastern Freeway and west of Burke Road that was nominated for acquisition by Parks Victoria is a billabong and wetlands. It adjoins other public land in the vicinity of Burke Road North Park beside the Yarra River. It is considered a regional asset and is therefore considered a regional responsibility.

At the Panel hearing Parks Victoria indicated that it was willing to accept responsibility for all the nominated land except the Billabong.

### **Council Recommendation to the Panel**

- \* That the submission be noted.

### **Panel Comment and Recommendation**

“Due to the nature of some of the competing submissions by local residents, Parks Victoria made a quite detailed presentation to the Panel but the key issue remains that if Parks Victoria nominates itself as an acquiring authority for proposed public open space purposes, the Panel has little option but to support that nomination. The Panel acknowledges that Parks Victoria, through its various predecessors, has had a long standing interest and commitment in developing a public open space system along the Yarra River, and although this appears to be moving at a slow rate, the future intention of Parks Victoria was made clear to the Panel at the hearing.

*The Panel makes no specific change to the exhibited Planning Scheme arising from this submission.”*

### **Council Recommendation**

**2.50 1** That the submission be noted.

**2.56: Submission No. :56**

**Name of Submitter:** Port Phillip Regional Catchment and Land Protection Board

**Location:** City of Boroondara

**Submission**

This submission supports the majority of the work done by Council in its MSS and exhibited Planning Scheme. Only suggested amendments or changes are discussed below.

In the MSS the reference to the Yarra Catchment Strategy (1996) should be updated to the Yarra Catchment Action Plan (1998). The amendment to the date and title also applies elsewhere in the document.

The correct title of the related Regional Catchment Strategy is the Port Phillip and Westernport Regional Catchment Strategy. This is incorrectly referenced.

Under **Environment** the sixth strategic objective should be amended to read "...of policies and plans for the Yarra River".

The document titled *Construction Techniques for Sediment Pollution Control* (EPA, 1991) should be listed as a **Relevant Document** as it is a source of performance standards to minimise the impacts of land development. The document should also be included in the **References** section of the MSS.

Under **Environment**, the strategic objective regarding "protection of areas of environmental value and sensitivity" should include an additional action "protect areas of environmental value from the impact of environmental and noxious weeds and pest animals".

Under **Infrastructure**, the Strategic Objective relating to the water quality should be amended to read: "...objectives of the State Environment Protection Policy (Waters of Victoria) Schedule F7 and related plans." as this policy is the statutory policy regarding water quality.

Under the Yarra River Environmental Significance Area a separate decision guideline regarding pest plants and pest animals may be warranted to avoid the issue being overlooked.

## Assessment

Except as discussed below, the suggested changes are agreed to (and in some cases have been dealt with under Submission 2.47) :

With regard to the suggested change to the sixth strategic objective under Environment, there have been different requests from the EPA, DNRE and the current submitter. This will be resolved in consultation with the three submitters.

The Environment Significance Overlay is the mechanism used in the Planning Scheme to implement the Strategic Objective regarding the protection of areas of environmental value and sensitivity. The statement "protect areas of environmental value from impact of environmental and noxious weeds and pest animals" is a specific action related to the protection of areas of environmental value and sensitivity. It is therefore considered that it should be included in the Environmental Significance Overlay.

In this context it would be appropriate to include a "decision guideline" in the ESO. This issue has been considered under Submission 47, which states that the ESO should include a decision guideline relating to pest plants and animals as follows: *The effect of any potential development or vegetation removal upon pest plant infestations and pest animal populations.*

## Council Recommendation to the Panel

- \* The amendment of the reference to the Yarra Catchment Strategy (1996) in the MSS to "*The Yarra Catchment Action Plan (1998)*".
- \* The title to be corrected to "*The Port Phillip and Westernport Regional Catchment Strategy*" in the references on page 16 of the MSS.
- \* The amendment of the sixth strategic objective on page 18 of the MSS under **Environment** to read "*...of policies and plans for the Yarra River*".
- \* The inclusion in the **Relevant Document** Section (pg 19) and the **References** on page 41 of the MSS of the document titled "*Construction Techniques for Sediment Pollution Control* (EPA, 1991)".
- \* Include a decision guideline in the Environmental Significance Overlay as follows: "*The effect of any potential development or vegetation removal upon pest plant infestations and pest animal populations.*"
- \* Amend the Strategic Objective relating to *water quality* under the Section **Infrastructure** in the MSS to read: "*objectives of the State Environment Protection Policy (Waters of Victoria) Schedule F 7 and related plans.*"



### Panel Comment and Recommendation

"The Panel accepts and supports the assessment of Council in this matter and generally adopts its recommendations in accordance with earlier comments.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission."*

### Council Recommendation

- 2.56.1 The amendment of the reference to the Yarra Catchment Strategy (1996) in the MSS to *"The Yarra Catchment Action Plan (1998)"*.
- 2.56.2 The title to be corrected to *"The Port Phillip and Westernport Regional Catchment Strategy"* in all references in the MSS.
- 2.56.3 The amendment of the sixth strategic objective under **Environment** in the MSS to read *"...of policies and plans for the Yarra River"*.
- 2.56.4 The inclusion in the **Relevant Document** section under Environment, and the **References** section of the MSS, of the document titled *"Construction Techniques for Sediment Pollution Control (EPA, 1991)"*.
- 2.56.5 Include a decision guideline in the Environmental Significance Overlay as follows: *"The effect of any potential development or vegetation removal upon pest plant infestations and pest animal populations."*
- 2.56.6 Amend the Strategic Objective relating to *water quality* under the **Infrastructure** Section of the MSS to read: *"objectives of the State Environment Protection Policy (Waters of Victoria) Schedule F7 and related plans."*

**2.65: Submission No.: 65**

**Name of Submitter:** Yarra Bend Park Trust

**Location:** Yarra Bend Park

**Submission**

In general the Trust supports the proposed planning scheme review.

The Trust states that it supports the position taken by Parks Victoria in relation to River Retreat and Acquiring Authority recommendations.

**Assessment**

See Submission No 2.50

See Public Acquisition Overlay section of this report on page 156.

**Council Recommendation to the Panel**

- \* That the submission be noted.

**Panel Comment and Recommendation**

“The Panel notes this submission and accepts and supports the assessment of Council in this matter.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

- 2.65.1** That the submission be noted.

### **3. MISCELLANEOUS**

#### **Submissions referred to in this section**

Submission Nos. 1, 3, 11, 26, 34, 37, 40, 73, 74, 78

**3.1 and 3.3 Submission Nos: 1 and 3**

**Names of Submitters:** Ellis Brover and Michael Smith

**Location:** City of Boroondara

**Submission:**

Two submissions were concerned that there was no opportunity for working people to view the planning scheme outside normal business hours.

**Assessment:**

The submitters were informed that the planning scheme was available in the Camberwell library on Saturdays between 1.30 pm and 5.00 pm and Sundays between 2.00 pm and 5.00 pm. This fact was also included in an article in the December issue of the Boroondara Bulletin.

**Council Recommendation to the Panel**

- \* The submitters were informed of after hours viewing times.

**Panel Comment and Recommendation**

“This submission is noted by the Panel.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

**3.1.1 and 3.3.1** That the submission be noted.

**3.11 Submission No: 11**

**Name of Submitter:** Mr Graeme Scott

**Location:** Various

**Existing Zone:**

**Exhibited Zone:**

**Requested Zone:**

**Submission:**

This submission includes plans for the following:

- Ashburton High Speed Railway Interchange and shopping mall.
- Interchange for Camberwell Junction
- Hartwell major train/ tram interchange.

The submitter does not wish to be a developer of any of these proposals.

**Assessment:**

These proposals are for the future development of these areas which involve extensive capital works. The proposals are offered as ideas and do not specifically address the zones, overlays or policies of the planning scheme. The submitter does not wish to carry out any of the buildings and works.

No change to the Planning Scheme is contemplated as a response to this submission.

**Council Recommendation to the Panel**

- \* No change to the Planning Scheme as a response to this submission.

**Panel Comment and Recommendation**

“This submission is noted by the Panel.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

- 3.11.1** No change to the Planning Scheme as a response to this submission.

**3.26 Submission No: 26**

**Name of Submitter:** Barnes Planning on behalf of Mr and Mrs R L Dunning

**Location:** 32 Woodlands Avenue, East Kew

**Existing Zone:** Light Industrial Zone

**Exhibited Zone:** Business 3 Zone

**Requested Zone:** Residential 1

**Submission:**

The existing use of the site is a detached single storey dwelling. Properties to the north and on the opposite (western side) of the road have also been exhibited as Business 3. Both of these Business 3 properties are large properties with frontage to High Street.

Adjoining properties to the south and east of the site are to be zoned Residential 1 as are all properties bordering the Business 3 Zone.

Under the Business 3 provisions accommodation is a prohibited use. The submitter feels that rather than carry forward the anomaly, the site should be zoned Residential 1. The site is already used for residential purposes and because of its small size there is limited potential to develop the site for commercial or industrial purposes.

**Assessment:**

The MSS refers to the protection of industry on High Street, East Kew. The site is not on High Street, has never been used industrially, and appears to be part of the surrounding residential area.

It is agreed that the zoning of the site should be Residential 1.

**Council Recommendation to the Panel**

- \* Amendment of the zoning of 32 Woodlands Avenue, East Kew to Residential 1 Zone.

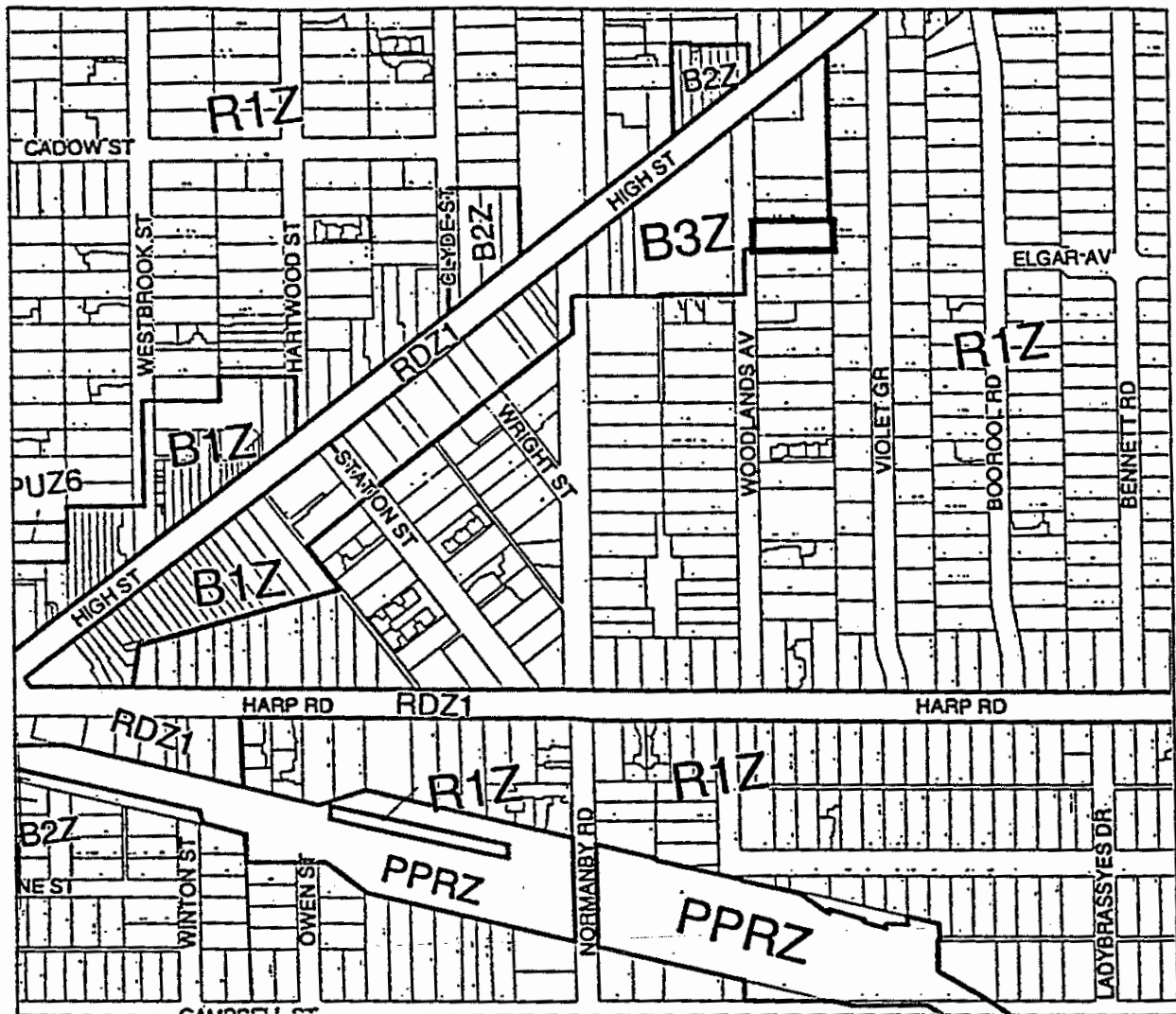
**Panel Comment and Recommendation**

“The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation, however it considers that this should occur as part of this planning process, and not as a separate or subsequent amendment. The property is clearly not required as part of the industrial or business area and the Panel can see no reason to delay what is an anomaly to the scheme.

*The Panel recommends that land at 32 Woodlands Avenue, East Kew be placed in a Residential 1 Zone.”*

## **Council Recommendation**

- 3.26.1**      Amendment of the zoning of 32 Woodlands Avenue, East Kew to Residential 1 Zone.



SUBJECT SITE

32 WOODLANDS AV

## SITE & ZONING PLAN



**3.34: Submission No.: 34**

**Name of Submitter:** SJB Planning on behalf of Swinburne University of Technology

**Location:** Burwood Road, Hawthorn

**Existing Zone:** Technical School

**Exhibited Zone:** Public Use Zone

**Requested Zone:** Public Use Zone

**Submission**

A number of Swinburne owned properties are not included in the Public Use Zone. The properties are listed in the submission. The submission requests that all properties owned by Swinburne University be incorporated into the Public Use Zone.

**Assessment**

The existing situation in the planning scheme only reflects part of the Swinburne University campus in a Technical School Reservation. Other properties owned and used by the University have retained their existing zoning and have had their use approved through the permit application process. This process has allowed for the full assessment of applications in accordance with all existing provisions.

Given the significance that the University uses have on the surrounding area, it is felt important that Council have the ability to assess and control use and development through the planning permit process.

**Council Recommendation to the Panel**

- \* Retain the zoning of properties associated with Swinburne University as exhibited.

**Panel Comment and Recommendation**

“While the Panel generally accepts and supports the assessment of Council in this matter and agrees that some of the activities of the University present in a different context, it considers it would be more appropriate to indicate all Swinburne owned properties, that are used for education or associated with an educational use in the Public use Zone.

This raises similar issues to that highlighted in the Panel’s discussions about zoning for private and public institutions and the Panel recognises there is a need for consistency in the application of the zones. In this regard the submission from Swinburne has some merit. At this stage it is not considered to be appropriate to split the properties of the University into different zones.

***The Panel recommends that the properties owned by Swinburne University and used for the purposes of education or associated purposes be placed in the Public Use Zone No 2.***

### **Comment**

It is interesting to note that the first sentence of the Panel's recommendation states that the Panel "supports the assessment of Council in this matter". In the Panel report on the new Planning Scheme, the Panel has also indicated its concern about the manner in which private institutions are treated differently from public institutions under the VPPs.

The development of off shoots of the Swinburne University of Technology should not proceed without Council and the community being able to assess to the impact of the new use or development. This cannot be achieved if the properties are placed in the Public Use Zone.

### **Council Recommendation**

- 3.34.1** Retain the zoning of properties associated with Swinburne University as exhibited.

**3.37: Submission No.: 37**

**Name of Submitter:** Fisher Stewart on behalf of the Grant-Hay Family

**Location:** 8 Minogue Street, East Kew

**Existing Zone:** Proposed Public Open Space, River Concept Plan No 4, Streamside Environment Area No1 and Floodway Management Area

**Exhibited Zone:** Urban Floodway Zone, Land subject to Inundation Overlay, Significant Landscape Overlay, and Environment Significant Overlay

**Requested Zone:** Residential 1 Zone

**Submission**

The uses permitted under the Urban Floodway Zone are very limited and fail to recognise the future development opportunities of the land. In addition the zone denies the owner the right to compensation.

The Overlays further restrict the use of the land.

**Assessment**

Melbourne Water as the Floodplain Management Authority has determined that the area should be in an Urban Floodway Zone as the site is situated within the Chandler Storage Basin, a natural retarding basin on the Yarra River.

The Urban Floodway Zone includes the current use of the property as a Section 2 use.

The land was included in the Significant Landscape Overlay and Environmental Significance Overlay as it is part of an area with significant landscape and environmental values. The areas included in these Overlays in the Kew area were demarcated with reference to the Middle Yarra Concept Plan - Dights Falls to Burke Road, 1990, and the current Planning Scheme.

The submission offers no evidence as to why the land should not be within an Urban Floodway Zone or why the Overlays are not appropriate.

**Council Recommendation to the Panel**

- \* The retention of the Urban Floodway Zone, Land subject to Inundation Overlay, Significant Landscape Overlay, and Environment Significant Overlay for the property known as 8 Minogue Street, East Kew, as exhibited.

**Panel Comment and Recommendation**

"The Panel heard detailed submissions about the application of a proposed Urban Floodway Zone (UFZ) in an area known as the Kilby Horse Stud at 8 Minogue Street, East Kew. The site is also proposed to have an Environmental Significance Overlay (ESO), a Landscape Significance Overlay (LSO) and a Land Subject to Inundation

Overlay (LSIO). The owners of that property, the Grant Hay family submitted that the site should not be placed in the UFZ, nor should it be subject to the provisions of the ESO1 and the LSO1. It submitted that the whole of the site should be placed in a Residential 1 Zone, with a LSIO.

Council, Melbourne Water and a group of residents represented by the Hansen Partnership supported the zones and overlays as exhibited. This issue, in effect constituted a “mini- hearing” as there was legal representation by most parties and expert witnesses was called to support particular arguments. There were a number of issues raised through these submissions and it is appropriate that the Panel discuss these in further detail.

This issue has some recent history, which is worth noting. The site was formerly a thoroughbred horse stud and consisted of land partly occupied by golf courses to the north, the Eastern Freeway and Hay’s Paddock to the east. The subject site is triangular in shape and is the remnant of the original stud property. In the early 1970s the majority of the stud property was compulsorily acquired for the purposes of the construction of the Eastern Freeway and to facilitate the provision of replacement open space land in substitution for other open space that was absorbed by the construction of the freeway.

There is a current application for development of this land for the purposes of a 20 lot subdivision and it is understood that this application had been made to trigger a compensation claim. Council refused the application due to a number of reasons, not the least because of a lack of information provided on the specific details of the proposal. It also referred the matter to Melbourne Water who refused the application on the grounds that it was an inappropriate proposal for the land.

The matter went before the AAT (now VCAT) and a Directions Hearing was convened to discuss relevant issues. At that hearing the Applicant sought leave to amend the application for subdivision for a 35 lot subdivision, which the Panel was advised represented a shift in intention as the Applicant was keen to pursue a residential development.

VCAT made a number of directions about the provision of information and recommended that the issue be dealt with by way of a fresh application. This is now being pursued and this process is running concurrent with the New Format Planning Scheme process, but as a separate consideration. The Panel supports the directions made by VCAT.

Under the provisions of the existing planning scheme, the subject site is placed in the proposed Public Open Space Reservation and a planning permit would be required for a residential development in this reservation. It would appear that there is no public authority willing to acquire the land for open space purposes. The site is also subject to the following overlay controls:

- Clause 136 - Floodway Management Areas (Hawthorn and Kew)
- Clause 141 - River Concept Plan No 4
- Clause 146 - Streamside Environment Area No 1 (Hawthorn and Kew)

These controls reflect the site's sensitivity to flooding and the significance of the site as an important area for flood management of the Chandler Basin.

The New Format Planning Scheme proposes to include the subject land in the following zones and overlays:

- Urban Floodway Zone
- Environmental Significance Overlay (ESO1: Yarra River Environmental Significance Area)
- Significance Landscape Overlay (SLO1: Yarra River and Valley Significant Landscape Area)
- Land Subject to Inundation Overlay (LSIO)

It was submitted by Council that the proposed controls, particularly the UFZ and the LSIO were placed on the site in response to discussions and the submission from Melbourne Water, which has applied these controls to other flood sensitive areas of metropolitan Melbourne. It is important to recognise that this zone was exhibited as Urban Floodway, compared to some other proposals by Melbourne Water to place other properties in the municipality in an UFZ as a result of submission to the scheme. (see submission No 64.) It should be noted that the comments made by the Panel in respect of that submission do not, and are not intended to apply to this submission.

The Panel accepts the submission of Council and Melbourne Water that the policies in the SPPF in the form of Clause 15.02 - Floodplain Management and Clause 18.09 - Water Supply, Sewerage and Drainage are particularly relevant in this matter and properly set the parameters for the consideration of issues.

One of the key issues is the interpretation of both the Urban Floodway Zone and the Land Subject to Inundation Overlay. The Panel has made some comments about this in its consideration of Submission No. 64 and has recommended a separate Advisory Committee to be convened to clarify these provisions. This matter raises particular issues about the future of land previously in a Proposed Open Space Reservation where a similar zone does not apply and where there is no acquiring authority.

The subject land is obviously subject to some flooding but the extent of flooding is in question. The submitter indicated that the UFZ should only be used for high hazard floodway areas while the LSIO should be applied to areas subject to some flooding. The Panel considers that the site should not be examined in isolation but as part of the Chandler Storage Basin which is of regional significance in the control and management of flooding. This is where the Panel places a great deal of weight on the evidence and views of Melbourne Water and it accepts that this area should not be zoned and developed for residential purposes until such time as the full extent of any proposal is known, tested and assessed by all relevant parties.

In this regard, the Panel considers that the details of the proposal to use and develop this land for residential purposes should not be dealt with in this forum, particularly as there has been no opportunity for detailed input by other public and service authorities, adjacent landholders (with the exception of the submission from the

Hansen Partnership on behalf of land owners in Minogue Street), the adjacent municipality and any other interested party. Full consideration of these issues should be provided through a separate planning scheme amendment process or by VCAT in the context of the earlier planning appeal No. 1998/030052.

The subject site is part of the Chandler Storage Basin, and it was estimated that the site, in conjunction with the Hays Paddock area constitutes approximately 4% of the storage area of the basin.

A great deal of time and effort was expended by the submitter to present evidence to the Panel that the site could be appropriately engineered to minimise or reduce any effects of flooding from the Yarra River and Glass Creek area. While the Panel recognises the significance of the engineering evidence put before it, it is concerned that this process is not the appropriate forum for this material to be considered in any detail. This point was made at both the Directions Hearing and at the commencement of the discussion of this issue.

The Terms of Reference for this Panel do not contemplate the specific and detailed consideration of what amounts to a site specific amendment request and it is inappropriate that this Panel that has been constituted to consider the general planning issues relating to the Boroondara New Format Planning Scheme, be in a position to debate the merits or otherwise of proposed engineering and drainage mechanisms. These aspects must be properly debated at a different forum where members of the specific Panel or Tribunal include members with expertise in the relevant areas.

Notwithstanding these comments, the Panel makes the following observations about the engineering evidence. The key issue of contention and debate centred on whether the site represents a floodplain or a flood fringe area. Evidence was presented by the Floodplain Management Authority, Melbourne Water that the subject site is an important link in the flood control area of the Chandler Basin and that it is a recognised floodplain area.

The submitter went to a great deal of trouble to try and convince the Panel that the area is not floodplain but rather flood fringe, and it was generally agreed by all parties that that an engineering solution could be developed to minimise or limit any threat of flooding. While this may also limit any threat to the established Minogue Street area, questions were raised as to whether it would defer flood threat to another location. Further, it would involve an enormous establishment cost by the proponent and a high and ongoing continuous maintenance cost - the issue was raised as to who would be responsible for these costs?

This is not a matter that can be adequately dealt with through this process and the Panel supports the submission and recommendation of Council.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission. However it recognises that the proposed Urban Floodway Zone for the land at 8 Minogue Street, East Kew should be reviewed in an appropriate forum where all the issues can be properly discussed and tested by way of a separate amendment. Consideration should*

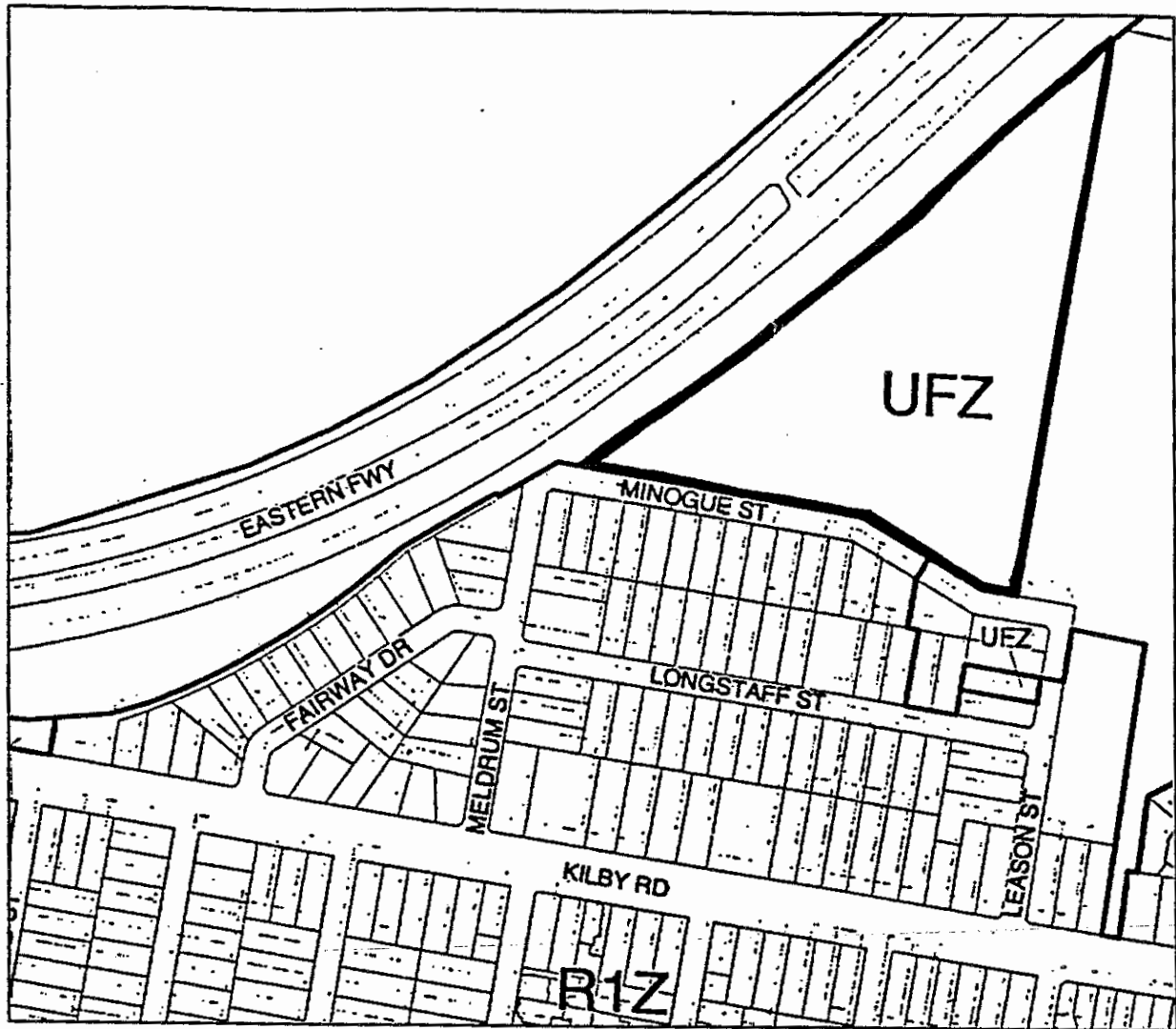
*be given by Council and Melbourne Water, in conjunction with the landowner to the long term future use of this land.”*


### **Comment**

As Melbourne Water is the Floodplain Management Authority its advice in the designation of areas subject to the Land Subject To Inundation Overlay or Urban Floodway Zone has been accepted. If however Melbourne Water determined that the land could be developed, Council should work with Melbourne Water, the owners of the property and the community in determining the future use and development of the land.

### **Council Recommendation**

- 3.37.1** The retention of the Urban Floodway Zone, Land Subject to Inundation Overlay, Significant Landscape Overlay, and Environment Significant Overlay for the property known as 8 Minogue Street, East Kew, as exhibited.



 SUBJECT SITE

8 MINOGUE ST

## SITE & ZONING PLAN



**3.40: Submission No.: 40**

**Name of Submitter:** Frank O'Sullivan

**Location:** 1031 Burke Road, Camberwell

**Existing Zone:** Proposed Road Widening (Secondary)

**Exhibited Zone:** Business 2 Zone; **Overlays:** Public Acquisition Overlay with VicRoads being the acquiring authority.

**Requested Zone:** Remove Public Acquisition Overlay

**Submission.**

Traffic planning has aimed to reduce traffic turning from Burke Road into Rathmines Road. The property suffers devaluing influence of this Overlay for which VicRoads has no concrete plans.

**Assessment**

The Overlay can only be removed if VicRoads no longer requires the land. VicRoads states that the Overlay is necessary for future works.

**Council Recommendation to the Panel**

- \* The retention of the Public Acquisition Overlay over the property 1031 Burke Road, Camberwell as exhibited.

**Panel Comment and Recommendation**

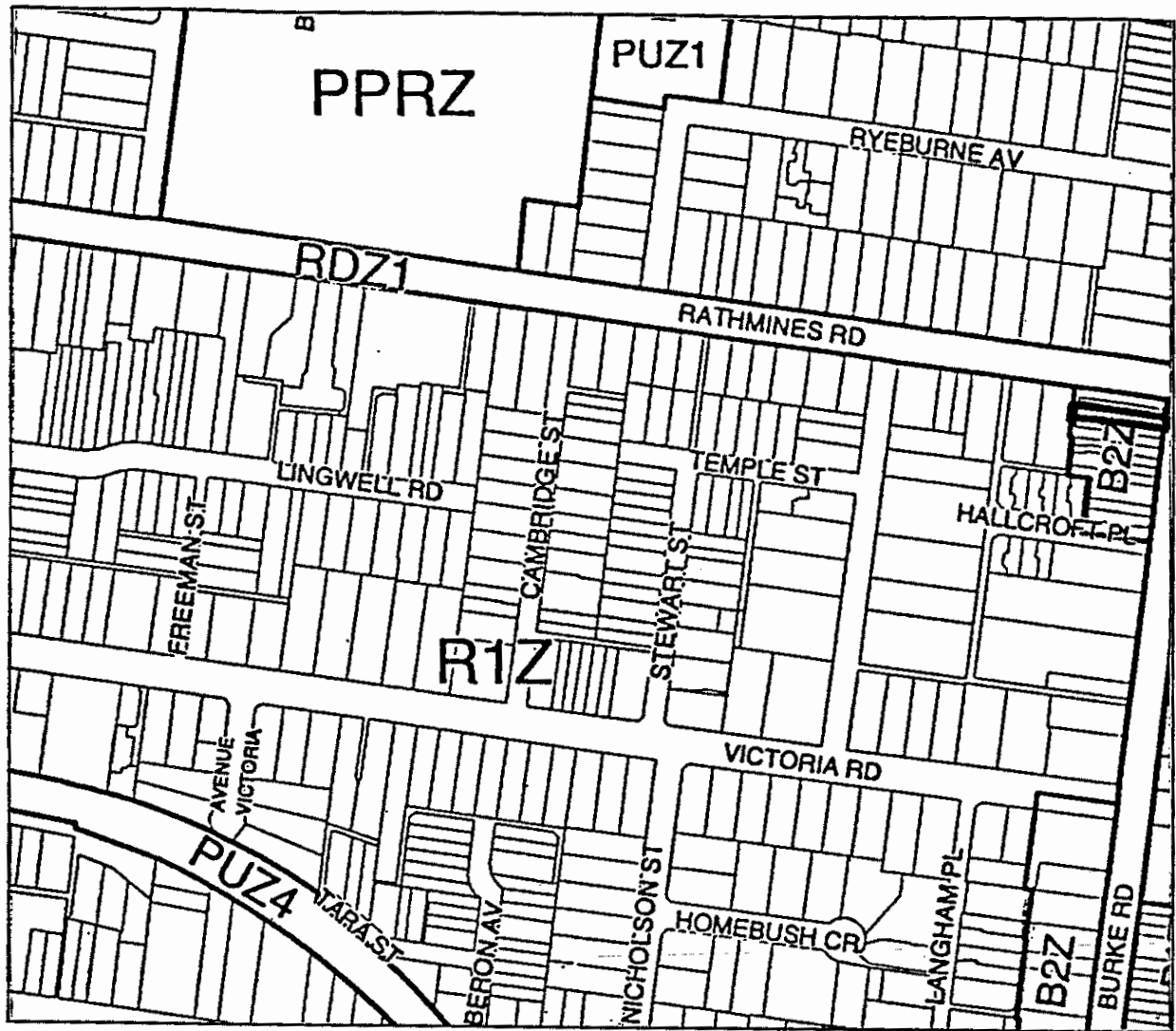
"This is an issue where the Panel has a degree of empathy with the submitter, but unfortunately it is not in a position, nor does it have any authority to remove the Overlay, for which VicRoads is the Acquiring Authority, from the submitter's property. The Panel recognises that the overlay has been in place for many years and there appears to be no moves by VicRoads to remove it, nor does there appear to be a strategic justification its retention. It is apparent that Council has tried to rationalise this issue with VicRoads but to no avail. The Panel can only assist the submitter by requesting VicRoads to clarify whether it still requires the overlay.

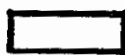
*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.*

*The Panel further recommends that VicRoads review its proposal to retain the Public Acquisition Overlay for this part of Burke Road and to determine whether the Overlay will be required for road widening purposes in the short or longer term, and then communicate this information to the submitter."*

### **Council Recommendation**

- 3.40 1**        The retention of the Public Acquisition Overlay over the property 1031 Burke Road, Camberwell as exhibited.
- 3.40.2**        That Council approach VicRoads with regard to the removal of the Public Acquisition Overlay over this part of Burke Road.



 SUBJECT SITE

1031 BURKE RD

## SITE & ZONING PLAN

**3.73: Submission No. :73**

**Name of Submitter:** Stephan Koenig Planning Pty Ltd on behalf of Dr J Lambrineas and Whiteburke Unit Trust

**Location:** 1 Whitehorse Road, Deepdene

**Existing Zone:** Camberwell Residential with a specific site control

**Exhibited Zone:** Residential 1 Zone

**Requested Zone:** That the site specific provisions be included in the schedule to clause 52.03.

**Submission**

The site is occupied as a dwelling with an attached commercial premises. Although the use of the land in the current zone is normally a prohibited use, in this case, there is a specific site provision in the Planning Scheme, and the land enjoys a special provision giving it the right to be used as an office without a planning permit. The specific site provision is not subject to a sunset provision and attaches indefinitely to the land to enable it to be used as an office.

The site specific controls will not be translated into the new format and therefore the right to use the land as an office would be extinguished.

Although a planning permit was issued for use of part of the premises as a Medical Centre and has recently been extended to expire on 11 October 1999, the permit does not replace or extinguish the right to use the land as an office.

The owners have made a fresh application for a medical centre for 5 practitioners which is currently being considered by Council.

**Assessment**

The request for a specific site provision under Clause 52.03 does not enable the specific site exclusion to be maintained indefinitely. If the use is not started within 2 years of the approval date of the Planning Scheme, the control would expire unless application is made to extend it.

Given the recent history of the use of the site, the fact that there is an application for a medical centre pending, as well as the fact that there is no shortage of land suitable for office development in this municipality, it seems unlikely that the land will be used for offices in the short to medium term.

As the site was occupied by a real estate agents office some years ago, it appears that the specific site amendment was introduced to accommodate that use.

The new Planning Scheme has designated significant office areas with sufficient capacity to accommodate substantial growth. In accordance with its strategies as

outlined in the MSS, Council does not wish to encourage office development in other locations and in particular in an isolated location such as the site.

### **Council Recommendation to the Panel**

- \* That the site specific provisions be included in the schedule to clause 52.03.

### **Panel Comment and Recommendation**

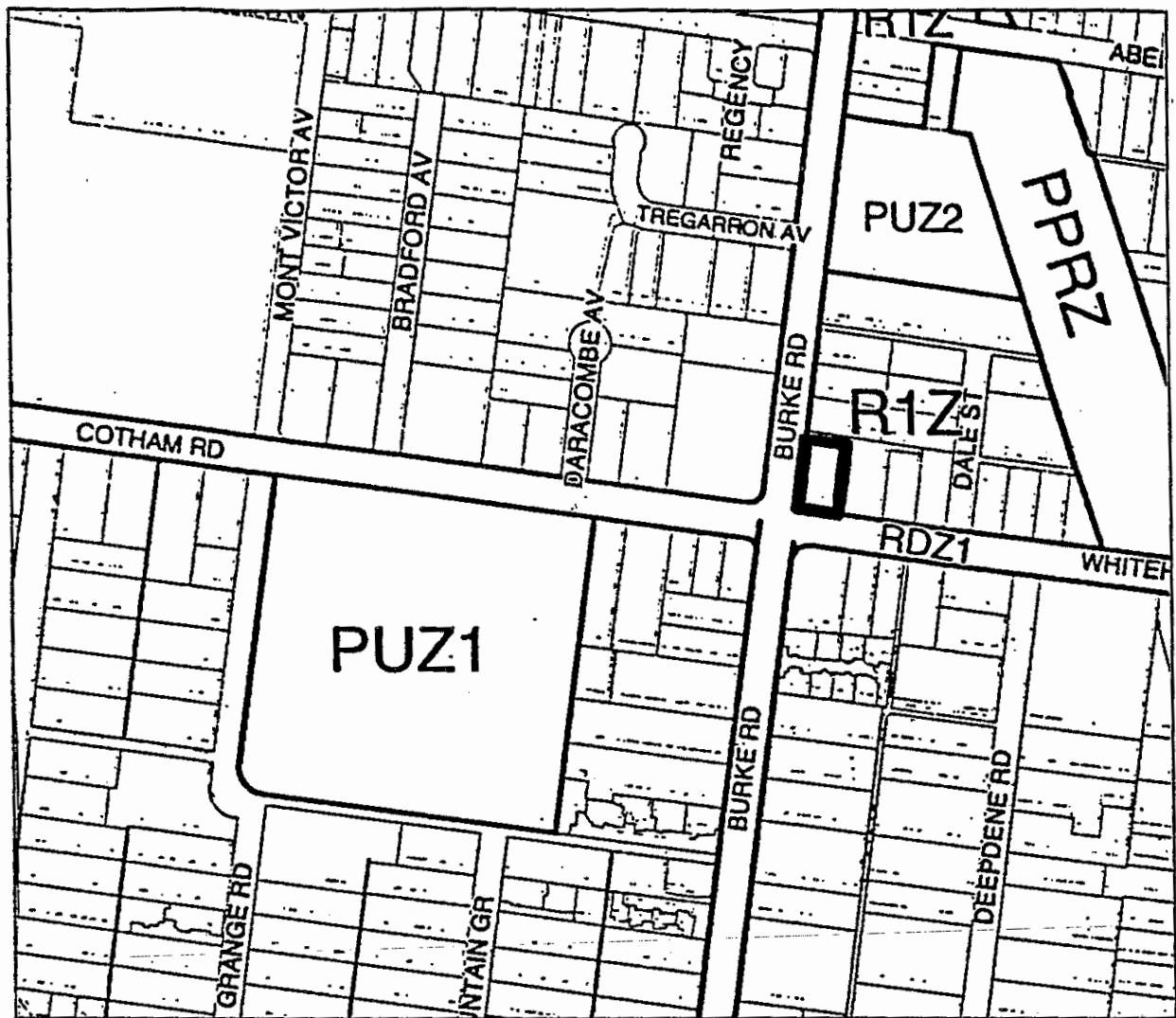
“Council has made it quite clear through the provisions of the proposed New Format Planning Scheme that it seeks to consolidate and enhance existing commercial, office and retail centres and to not foster proliferation of such uses outside of designated areas. The Panel supports those strategic objectives which appears to be contrary to this assessment and recommendation. It is considered that there is an inconsistency with the consideration of this submission compared to others that have sought a business type zone in a predominantly residential area. While this submission is not strictly seeking a change of zone, it is seeking the right to use the land for offices through the provisions of Clause 52.03.

The Panel is guided by Council in this matter and supports its recommendation although it suggests that Council strongly resist any further non residential development of this land until such time as there is a proper strategic review of the area to determine its long term future.

*The Panel recommends that the site specific provisions for use of land for “Office” at 1 Whitehorse Road, Deepdene be included in a Schedule to Clause 52.03.”*

### **Council Recommendation**

- 3.73.1** That the site specific provisions relating to 1 Whitehorse Road, Deepdene, be included in the schedule to clause 52.03.



SUBJECT SITE

1 WHITEHORSE RD

## SITE & ZONING PLAN

**3.74 Submission No: 74**

**Name of Submitter:** Beveridge Williams and Co. on behalf of Mr and Mrs Adler

**Location:** 192, 194, 198 Canterbury Road

**Existing Zone:** Camberwell Urban Conservation Business Zone and Proposed Road Widening as a band along the frontage

**Exhibited Zone:** Public Park and Recreation Zone as a band along the frontage, Business 2 Zone as the balance and predominant zoning, Public Acquisition Overlay 5 as an acquisition overlay as a band along the frontage

**Requested Zone:** Removal of the PPRZ as a band along the frontage and the entire property in a B2 Zone.

**Submission**

The submitter believes the PPRZ zoning of the front portions of the above properties to be an error.

**Assessment**

The use of the PPRZ for this property is an error and the request is agreed to.

**Council Recommendation to the Panel**

- \* Remove the PPRZ from the properties 192, 194, 198 Canterbury Road and correct the zoning to Business 2 Zone.

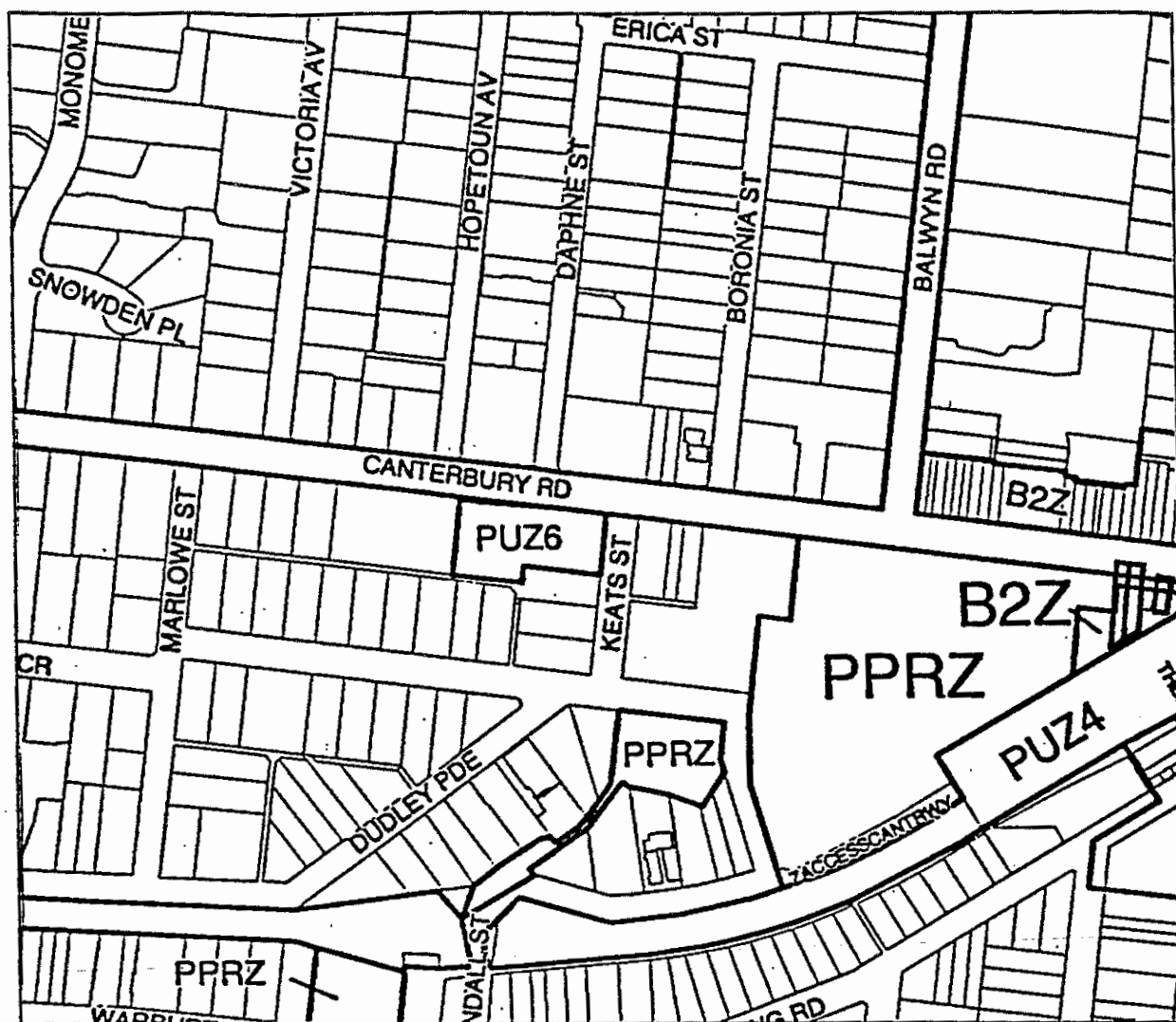
**Panel Comment and Recommendation**

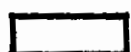
“The Panel accepts and supports the assessment of Council in this matter and it adopts its recommendation.

*The Panel recommends that the Public Park and Recreation Zone be removed from the properties at 192, 194 and 198 Canterbury Road and those properties all be placed wholly within the Business 2 Zone.”*

**Council Recommendation**

- 3.74 1** Remove the Public Park and Recreation Zone from the properties 192, 194, 198 Canterbury Road and place the properties wholly within the Business 2 Zone.



 SUBJECT SITE

192, 194, 198 CANTERBURY RD

**SITE & ZONING PLAN**



**3.78 Submission No: 78**

**Name of Submitter:** Barnes Planning on behalf of Green Acres Golf Club

**Location:** 51 Elm Grove, Kew East

**Existing Zone:** Special Use No 1 Zone, small part Residential C

**Exhibited Zone:** Special Use Zone, small part Residential 1, Significant Landscape Overlay, Land Subject to Inundation Overlay

**Requested Zone:** Special Use Zone

**Submission**

The Green Acres Golf Club comprises an eighteen hole golf course, including practise driving nets and putting greens, licensed club house, pro-shop, caretaker's residence, maintenance sheds and car park. The submission requests a change to the zone boundary to include all the land owned by the Golf Club in a Special Use Zone.

The submitter understands that Council may be reconsidering its position with regard to the preferred zoning for the Green Acres site. The alternative of an Urban Floodway Zone is not supported and is not considered appropriate.

**Assessment**

As discussed in Submission 64, (the Melbourne Water submission on page 83), this area is within the Chandler Storage Basin, a natural retarding basin on the Yarra River. Information available at Melbourne Water indicates that the site is subject to severe flooding, with maximum depths in excess of 7m. Melbourne Water considers that most of the land owned by the Club, beyond the clubhouse and residential area, is not suitable for the use or development which is implied in the Schedule to the Special Use Zone. In addition, the Land Subject To Inundation Overlay is not sufficient control as it regulates only buildings and works. Melbourne Water considers that this area should therefore be contained within the Urban Floodway Zone.

As Melbourne Water is the Floodplain Management Authority its advice in the designation of areas subject to the Urban Floodway Zone and Land Subject to Inundation Overlay has been accepted.

In accordance with the principle that the Special Use Zone should be used only for exceptional uses (as discussed in the introduction to the Utility and Transport Services section), the remainder of the land, in the vicinity of the clubhouse and residential area, should be Residential 1.

**Council Recommendation to the Panel**

- \* The designation of land known as 51 Elm Grove, Kew East as indicated by Melbourne Water, in the Urban Floodway Zone and the remainder be zoned Residential 1.

## Panel Comment and Recommendation

“The Panel does not accept the assessment and recommendation of Council in this matter, nor does it accept that the site should be placed in the Urban Floodway Zone at this stage, although that may be a later outcome as a result of some further planning work. The comments that the Panel has made for this submission also apply to the Kew Golf Course, located adjacent to the Green Acres Golf Course. A full discussion about these issues is provided in the Panel’s response to submission No 64.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

## Comment

As Melbourne Water is the Floodplain Management Authority its expertise is relied on in determining areas which are subject to flooding and whether the extent of the flooding means that the area should be subject to the Land Subject to Inundation Overlay or the Urban Floodway Zone. In this case Melbourne Water determined that the extent of flooding in respect of the Kew and Greenacres Golf Clubs is such that the Urban Floodway Zone should be applied. Council therefore recommended to the Panel that the properties be placed in an Urban Floodway Zone.

The Panel rejected the Urban Floodway Zone stating that “the Panel considers that there are too many unresolved issues relating to the application of the Urban Floodway Zone in Boroondara and other municipalities for a recommendation in favour of Melbourne Water to be made at this stage. This is not to say that it does not consider their submission to be without merit, and the Panel certainly supports any move to minimise potential for flooding through the proper application of zones and overlays, but this should be through a full and considered strategic assessment.”

In the Melbourne Water submission to the Stonnington Panel, Melbourne Water acknowledged the difficulty of its position.

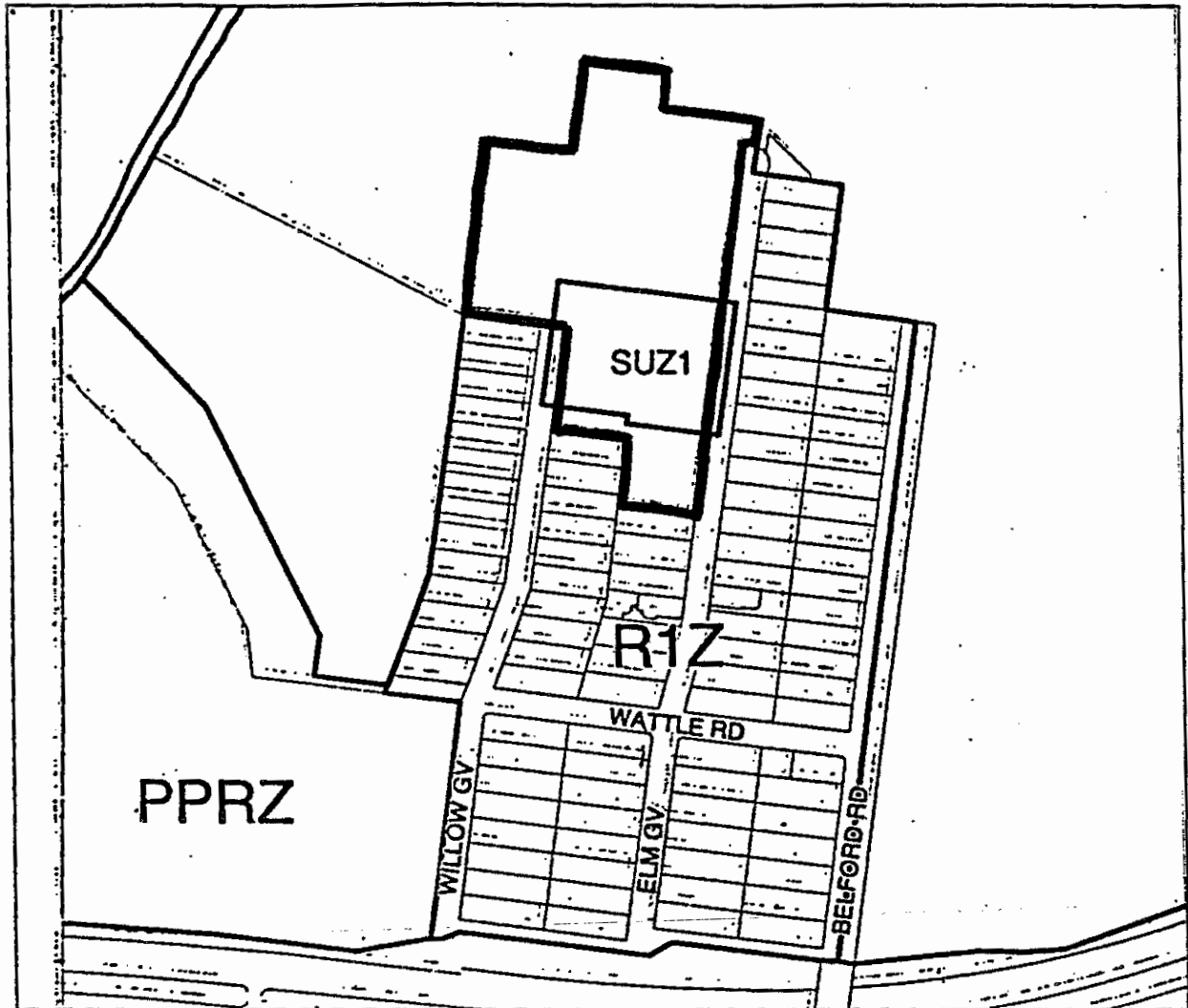
While the application of the zone is not questioned, the Panel considers that Melbourne Water erred in that it did not inform Council prior to exhibition that the land in question should be placed in an Urban Floodway Zone. Although the issue was debated at Panel, it is acknowledged that “due process” has not been carried out. In addition Melbourne Water will have control over development in that all the land concerned will be subject to the Land Subject to Inundation Overlay.


Although Council has not recommended the application of the Special Use Zone in any other instance, in the case of the Golf Courses, a Special Use Zone would be the only appropriate solution. Strategically, the site forms part of an extensive band of open space along the Yarra River and northern boundary of the City, which extends into adjoining municipalities. Because of this, much of the land adjoining the site is to be zoned Public Park and Recreation Zone and there is therefore no clear underlying zone. It is appropriate that a Special Use Zone ensure that the use of the land is in keeping with surrounding uses. For this reason a Special Use Zone which

narrowly limits the use of the site to a golf course and a limited range of sports and recreation facilities is recommended. An appropriate Shedule to the Special Use Zone has been included in the Planning Scheme Ordinance.

### **Council Recommendation**

- 3.78.1**        The designation of land known as 51 Elm Grove, Kew East as Special Use Zone and Residential 1 Zone as exhibited.
- 3.78.2**        That the Shedule to the Special Use Zone be amended as indicated in the Planning Scheme Ordinance.



 SUBJECT SITE  
51 ELM GV

## SITE & ZONING PLAN

## **4. PROVIDERS OF UTILITY AND TRANSPORT SERVICES**

This section considers submissions by utility supply companies, the PTC, VicRoads and Telstra, all included in a public reservation under the provisions of the current Boroondara Planning Scheme.

### **Principles for Determining Zones of Utility Companies and Transport Services**

#### Public Utility Companies

Utility companies which are not privately owned have been included in a Public Use Zone. The purpose of this zone is to recognise public land use for public utility and community services and facilities. Land owned by Council and State Authorities such as VicRoads and Melbourne Parks and Waterways has been included in one of the Public Use Zones.

#### Private Utility Companies

In the exhibited Planning Scheme private utility companies such as GPU Powernet, Telstra (which is partially privatised), CitiPower and United Energy were included in a Special Use Zone at their request. Under the Special Use Zone, Schedule 2 - Private Utilities, was a defacto "zone", tailor made for private utility companies. It is no longer intended to apply the Special Use Zone to private utility companies.

Utility companies should be required to use and develop land in the context of their surrounds and in accordance with the strategic direction set by Council. The best way to ensure this, is to include them in the surrounding or underlying zoning in accordance with the strategic objectives of the Municipal Strategic Statement.

As will be seen from the submissions most private utility companies made submissions requesting a standard zone (such as the Business 2 Zone).

In addition, the use of the Special Use Zone for private utility companies is not favoured by the Department of Infrastructure. According to the Department, zones such as the Special Use Zone are not intended to be used for identification of uses on the land, but for the application of specific objectives and requirements where these cannot be applied through a permit.

### Designation of Urban Floodway Zone and Land subject to Inundation Overlay

As Melbourne Water is the Floodplain Management Authority its advice in the designation of areas subject to the Urban Floodway Zone and Land Subject to Inundation Overlay has been accepted. Melbourne Water will therefore be required to defend its position in relation to any submissions which challenge these designations.

### Commonwealth Land

Properties owned by the Commonwealth are designated CA on the Planning Scheme map. No controls apply to these properties. In the exhibited Planning Scheme some Telstra properties were zoned CA. This zone is no longer appropriate as Telstra is now partially in private ownership.

### **Submissions considered under this section**

The following submissions are considered under this section:

9, 12, 13, 15, 36, 64, 67, 69

#### **4.9 Submission No: 9**

**Name of Submitter:** Matt Zema, GPU Powernet Assets Division.

**Location:** City of Boroondara

##### **Submission**

The submitter requests that the zone provisions be amended to allow a permit application to be made for utility installations in all zones, or alternatively that easements and terminal station sites are zoned Special Use Zone.

##### **Assessment**

The use of the Special Use Zone for utility companies is discussed in the introduction to this section.

The submission also requests changes to the Victoria Planning Provisions (the provisions of the zones) These changes were made by the Department of Infrastructure prior to the exhibition of the new Boroondara Planning Scheme.

For further discussion with regard to the Powernet site see Submission 12 on the following page.

##### **Council Recommendation to the Panel**

- \* That the submission be noted.

##### **Panel Comment and Recommendation**

“The Panel notes this submission and supports the assessment of Council in this matter.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

##### **Council Recommendation**

- 4.9.1** That the submission be noted.

#### **4.12 Submission No: 12**

**Name of Submitter:** Beveridge Williams on behalf of GPU Powernet

**Location:** West of Burke Road north of the Eastern Freeway

**Existing Zone:** PP13

**Exhibited Zone:** Special Use Zone 2, Land subject to Inundation Overlay, Significant Landscape Overlay

**Requested Zone:** Special Use Zone 2 - Private Utilities

#### **Submission**

The submission notes that the site is included in a Significant Landscape Overlay, and recommends that the overlay not apply to the site unless the Schedule is broadened to recognise the facility.

#### **Assessment**

The site was exhibited as Special Use Zone 2 which is to provide for areas in private ownership to be used for the purposes of a utility installation. The use of the Special Use Zone for private utility companies and a method for determining an appropriate zone is discussed in the introduction.

The Significant Landscape Overlay which applies to the Yarra Valley includes "the rivers, its banks, the floodplain, the adjoining steeper slopes and terraces...". The site is clearly part of the Yarra Valley, and the purpose of the Overlay would not be advanced by specifically referring to it. As any development on the site could affect the landscape values of the area, the site should remain subject to the Significant Landscape Overlay.

As part of Melbourne Water's submission to the Planning Scheme, information received indicates that the site is subject to severe flooding, with maximum depths in excess of 7 metres. Melbourne Water states that the site should be contained in an Urban Floodway Zone. A Utility Installation is a Section 2 use in this zone.

#### **Council Recommendation to the Panel**

- \* The inclusion of the site within the Urban Floodway Zone.

#### **Panel Comment and Recommendation**

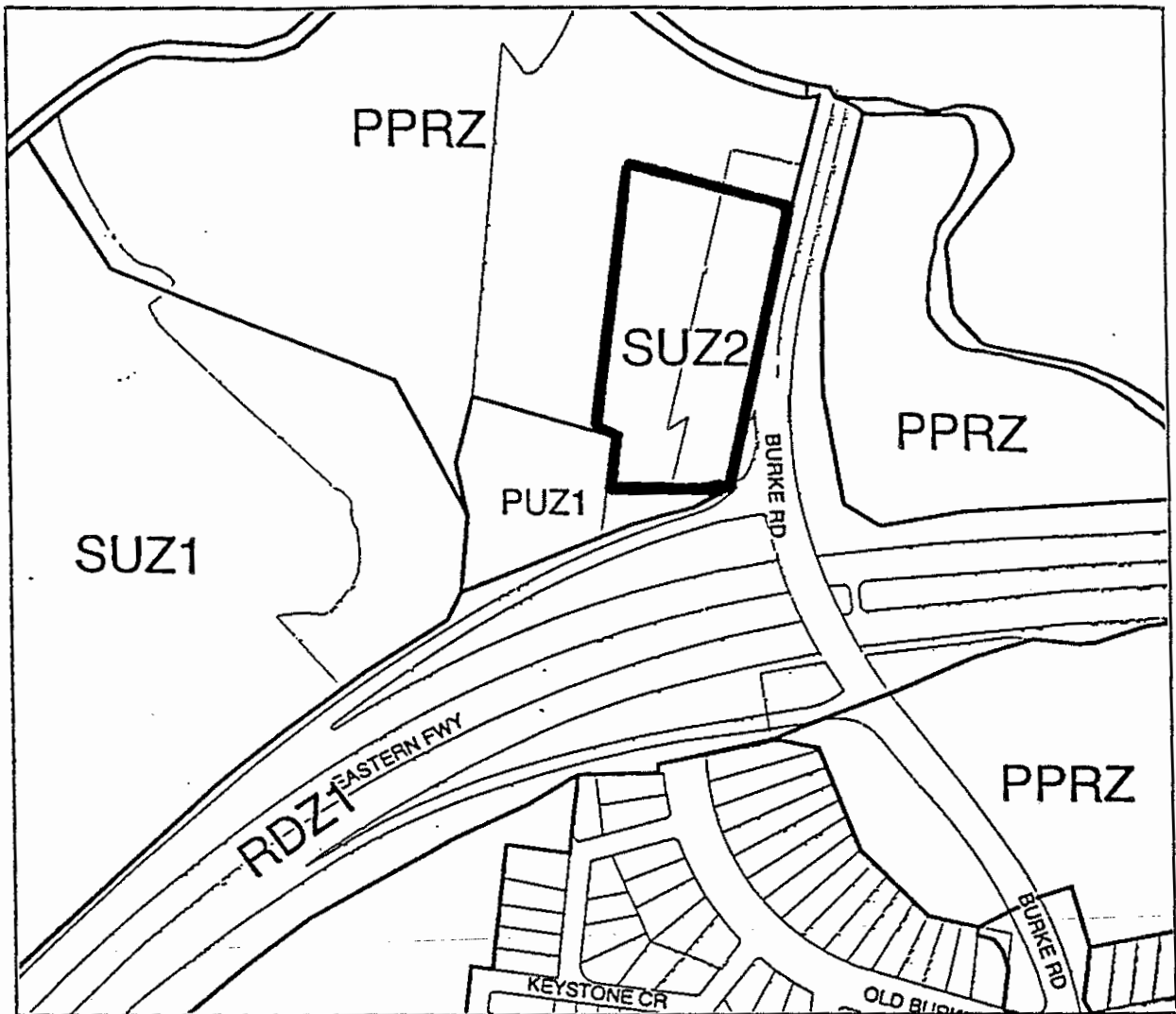
"The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. It agrees that a Special Use Zone is not suitable for this site and it accepts that the application of the Urban Floodway Zone, with the Significant Landscape Overlay, is entirely appropriate.




*The Panel recommends that the GPU Powernet site west of Burke Road and north of the Eastern Freeway be placed in an Urban Floodway Zone with a Significant Landscape Overlay.”*

#### **Council Recommendation**

- 4.12.1**        The inclusion of the site within the Urban Floodway Zone.



 SUBJECT SITE

WEST OF BURKE ROAD, NORTH OF EASTERN FWY.

## SITE & ZONING PLAN

#### **4.13 Submission No: 13**

**Name of Submitter:** Beveridge Williams on behalf of United Energy

**Location:** Eastern side of Burke Road, north of the South Eastern Freeway (Map 1); and 639 Canterbury Road, Surrey Hills (Map 2).

**Existing Zone:** PP13 (both)

**Exhibited Zone:** Special Use Zone 2 (Burke Road site) and Public Use Zone 1 (Canterbury Road site)

**Requested Zone:** Special Use Zone 2 (Burke Road site), and Special Use Zone 2 or Business 2 (Canterbury Road site)

#### **Assessment**

United Energy is a private company which supplies electricity. As discussed in the introduction to this section of the report, it is no longer considered appropriate to use the Special Use Zone for private utility companies.

As United Energy is a private company it cannot be included in a Public Use Zone and should therefore be included in the underlying zone in accordance with the strategic direction for the areas concerned.

The property on the eastern side of Burke Road is surrounded by parkland within a residential area, and should therefore be zoned Residential 1.

The Canterbury Road property forms part of a commercial area with a secondary role to the core retail area on Union Road. In accordance with the MSS this strip along Canterbury Road is zoned Business 2. This site should therefore be zoned Business 2.

#### **Council Recommendation to the Panel**

- \* The zoning of the property located on Burke Road as Residential 1 Zone.
- \* The zoning of the property known as 639 Canterbury Road, Surrey Hills, as Business 2 Zone.

#### **Panel Comment and Recommendation**

“The Panel generally accepts and supports the assessment of Council in this matter and adopts its recommendations. It does question however whether the site at 639 Canterbury Road should be placed in the Business 2 Zone or alternatively the Residential 1 Zone, depending on the likely future direction of this site should it ever not be used as an utility installation. The Panel asks whether Council would like the business area to extend into a residential area, and what implications would that have on traffic, parking and the like? The Panel suggests that Council reconsider this zone.

*The Panel recommends that in relation to the United Energy sites, Council:*

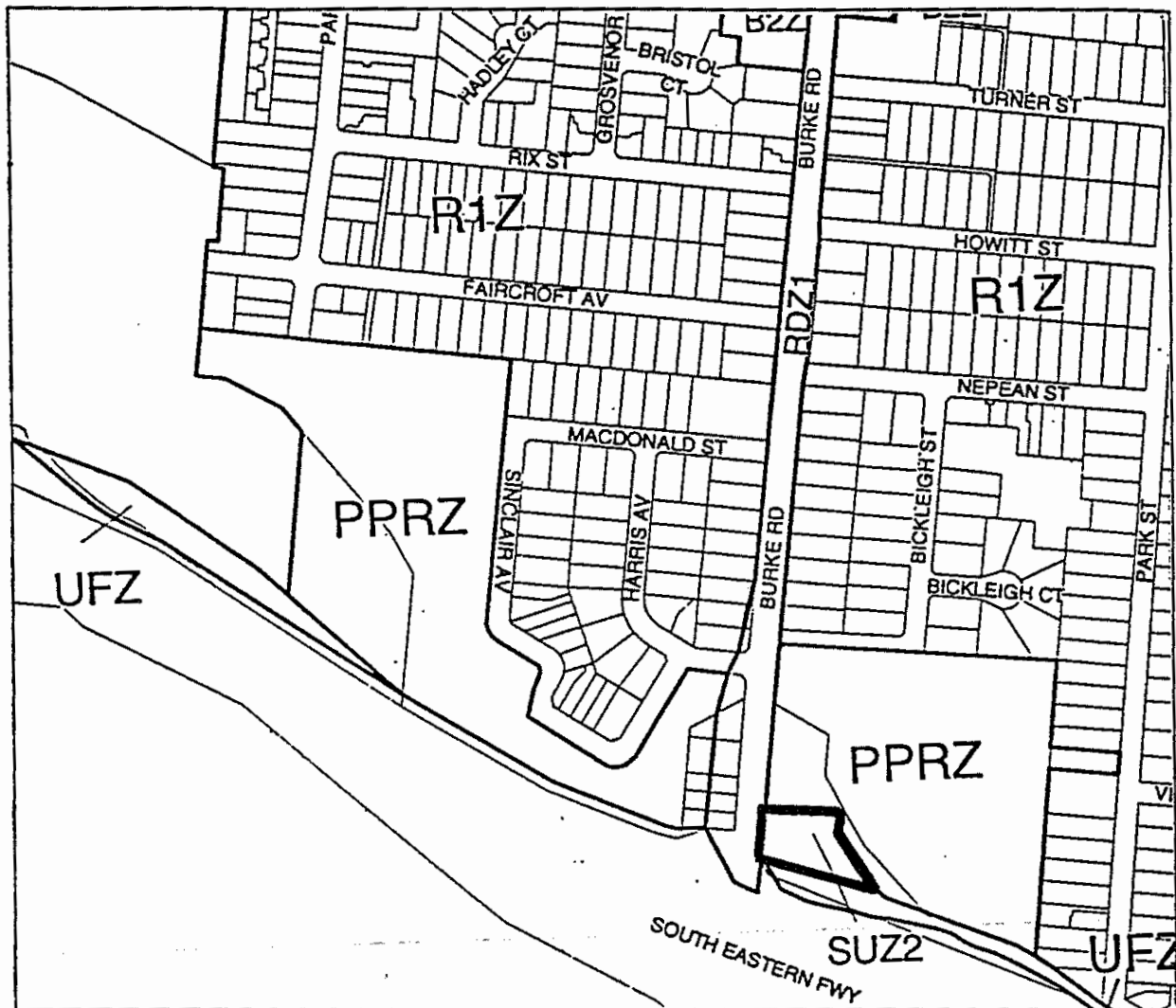
- *place the property on the eastern side of Burke Road, north of the South Eastern Freeway in a Residential 1 Zone;*
- *review the proposed zoning of the property known as 639 Canterbury Road, Surrey Hills to determine whether it should be placed in the Residential 1 Zone.”*


### **Comment**

The property is located on the north side Canterbury Road, east of Union Road, Surrey Hills, within a strip of mixed use development. In accordance with Council's strategy to encourage offices and other commercial development in such areas, the whole strip (including properties on either side of the site) is to be zoned Business 2. It is therefore not appropriate that this property be zoned Residential 1 as suggested by the Panel and the property should be placed a Business 2 Zone.

### **Council Recommendation**

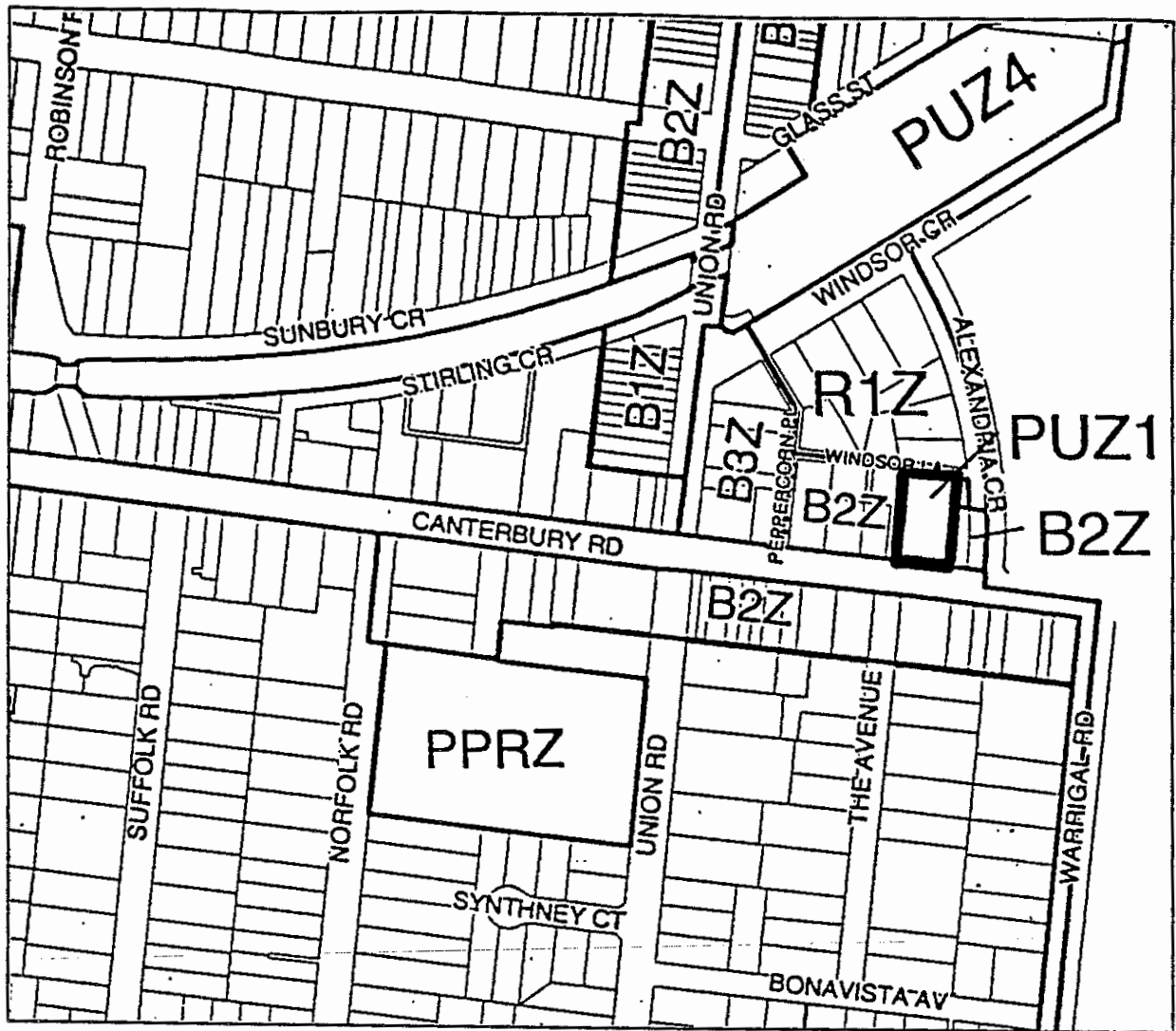
- 4.13.1**        The zoning of the property located on Burke Road as Residential 1 Zone.
- 4.13.2**        The zoning of the property known as 639 Canterbury Road, Surrey Hills, as Business 2 Zone.




 SUBJECT SITE

EAST SIDE OF BURKE RD, NORTH OF SOUTH EASTERN FWY

## SITE & ZONING PLAN



 SUBJECT SITE

639 CANTERBURY RD

## SITE & ZONING PLAN

#### 4.15 Submission No: 15

**Name of Submitter:** R G Harvey Pty Ltd on behalf of Telstra

Telstra has nine properties in the municipality on which it has commented. Only those properties where the submitter does not agree with the exhibited zone are discussed in the assessment below.

The addresses of the properties where the submitter does agree with the exhibited zone are:

Balwyn North Exchange - 269 Doncaster Road, Balwyn  
 Canterbury Exchange - 14 Highfield Road, Canterbury  
 Deepdene Exchange - 2 Normanby Road, Kew  
 Kew Exchange - 106-108 Denmark Street, Kew  
 65-75 High Street, Glen Iris

#### Submission

Telstra has submitted that the properties listed in the table below be zoned as requested.

Location	Existing Zone	Exhibited Zone	Requested Zone
<b>70 Camberwell Road, Camberwell</b>	Commonwealth Government	Commonwealth land	Business 2
<b>2-4 Bright Street, Hartwell</b>	Camberwell Residential	Residential 1	Business 2
<b>891 High Street, Kew East</b>	Residential C	Residential 1	Business 2
<b>375 Burwood Road, Hawthorn</b>	Commonwealth Government	Commonwealth land	Business 1

#### Assessment

Two of the Telstra properties were exhibited as Commonwealth land. As discussed in the introduction, this is no longer considered appropriate. Telstra should be treated the same as the other utility companies. The strategic principles in the MSS and the underlying zone will therefore be applied to all Telstra properties.

#### 70 Camberwell Road, Camberwell (Map 1)

The submission requests the Business 2 Zone for this site.

Business 2 is considered appropriate as the site is within the mixed use, commercial corridor proposed for Burwood Road/ Camberwell Road in the MSS. The corridor is to be zoned Business 2.

#### 2-4 Bright Street (Map 2)

The submission requests the Business 2 Zone for this site.

The property is a corner site within a residential area. The site is separated by a laneway from the commercial centre to the south. The laneway forms a distinct boundary between the commercial centre and the residential area. Council's strategy is to consolidate its commercial centres and not to extend them with commercial rezoning on the fringes of the centres.

In this case, the Hartwell Shopping Centre, is undergoing change and new role development is being encouraged by zoning the sections away from the retail core, Business 2 Zone.

The site has frontage to two residential streets and the development on the site is an intrusion into the residential area. In order to ensure that any future development reverts back to a residential use or is a use permitted in a residential zone, the site should be zoned Residential 1 as exhibited.

#### 891 High Street, East Kew (Map 3)

The site is one property back from the junction of Burke Road, Doncaster Road, High Street and Kilby Road. Three of the five corners are commercially developed.

The site abuts a fast food outlet which is on the corner of High Street and Kilby Road. Other than the site and the fast food outlet (which is permissible in a residential zone), all properties in this vicinity, with frontage to High Street and Kilby Road are residential.

The future use and development of the site should be in keeping with its residential surrounds. In order to ensure that any future development reverts back to a residential use or is a use permitted in a residential zone, the site should be zoned Residential 1 as exhibited.

#### 375 Burwood Road, Hawthorn (Map 4)

The submission requests the Business 1 Zone for this site.

The site is located in a part of Burwood Road which performs a secondary function to the core retail area on Glenferrie Road and the Glenferrie Road/Burwood Road intersection. In order to consolidate and strengthen the City's retail centres, only those areas which have a core retail function are to be zoned Business 1. As the site is not part of a primary retail precinct it should not be zoned Business 1, however the Business 2 Zone would be acceptable.

Business 2 is considered appropriate for this site as it is within the proposed mixed use, commercial corridor proposed for Burwood Road/ Camberwell Road in the MSS. The corridor is to be zoned Business 2.



### Council Recommendation to the Panel

- \* The property known as 70 Camberwell Road, Camberwell, be zoned Business 2.
- \* The property known as 2-4 Bright Street, Hartwell be zoned Residential 1.
- \* The property known as 891 High Street, Kew East be zoned Residential 1.
- \* The property known as 375 Burwood Road, Hawthorn be zoned Business 2.

### Panel Comment and Recommendation

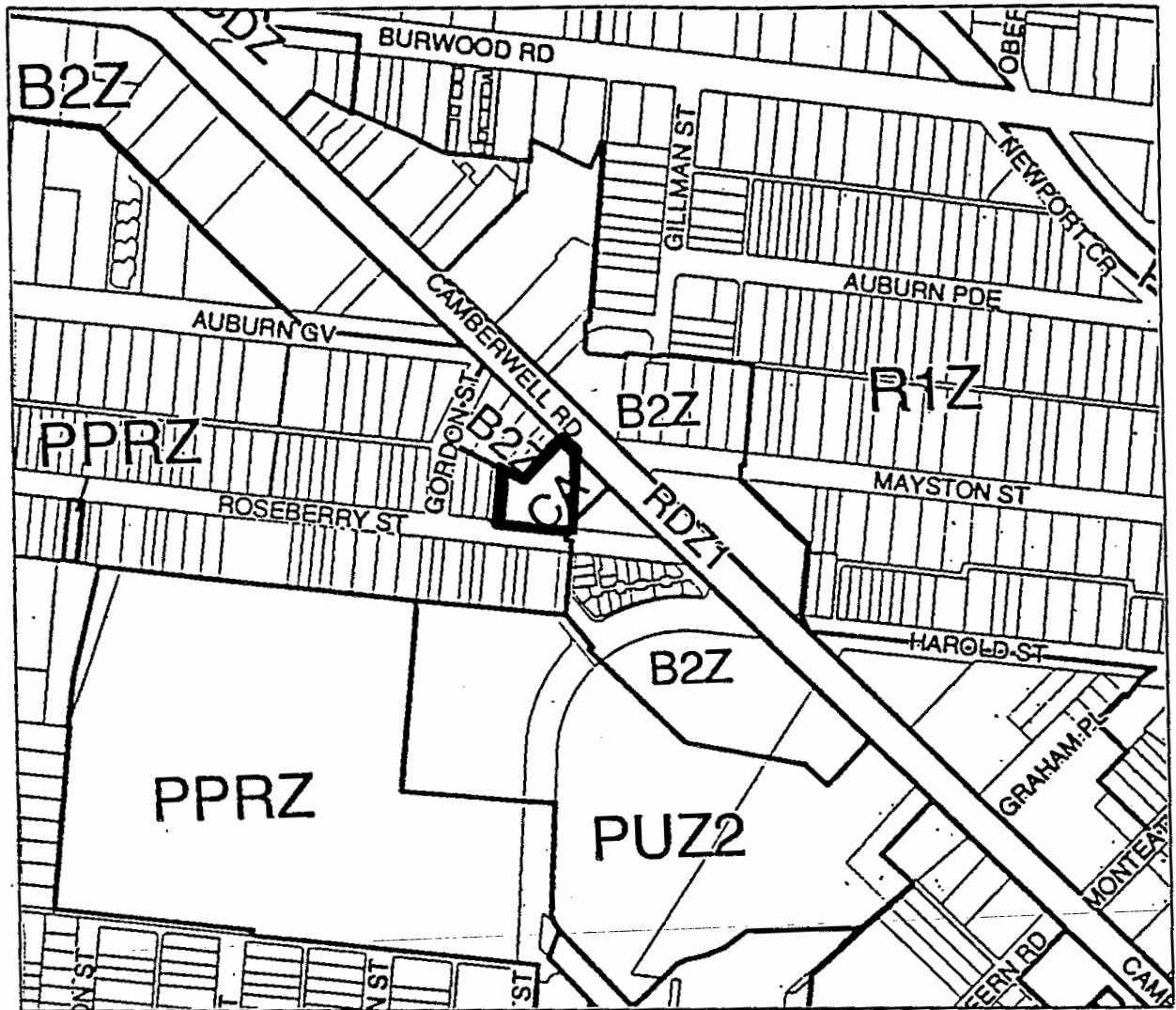
“The Panel accepts and supports the assessment of Council in this matter and adopts its recommendations. It considers that the zones recommended for the Telstra sites are the most appropriate options.

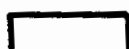
*The Panel recommends that Council place the following Telstra properties in the following zones:*

- |                                 |                      |
|---------------------------------|----------------------|
| • 2 - 3 Bright Street, Hartwell | <i>Residential 1</i> |
| • 891 High Street, Kew          | <i>Residential 1</i> |
| • 375 Burwood Road, Hawthorn    | <i>Business 2”</i>   |

### Council Recommendation


- |               |  |
|---------------|--|
| <b>4.15.1</b> | The property known as 70 Camberwell Road, Camberwell, be zoned Business 2. |
| <b>4.15.2</b> | The property known as 2-4 Bright Street, Hartwell be zoned Residential 1.  |
| <b>4.15.3</b> | The property known as 891 High Street, Kew East be zoned Residential 1.    |
| <b>4.15.4</b> | The property known as 375 Burwood Road, Hawthorn be zoned Business 2.      |



 SUBJECT SITE  
70 CAMBERWELL RD

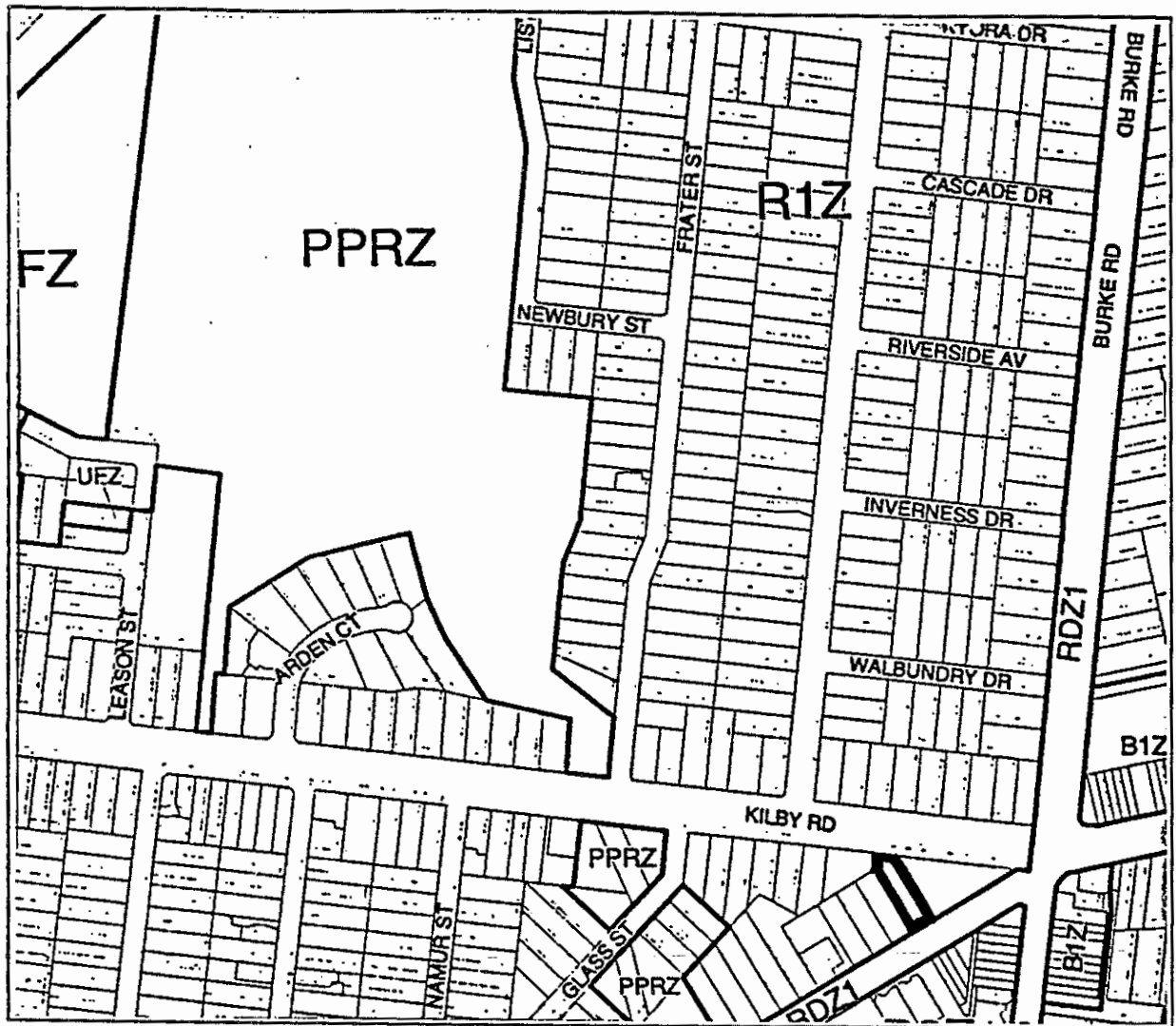
## SITE & ZONING PLAN



 SUBJECT SITE

2-4 Bright Street

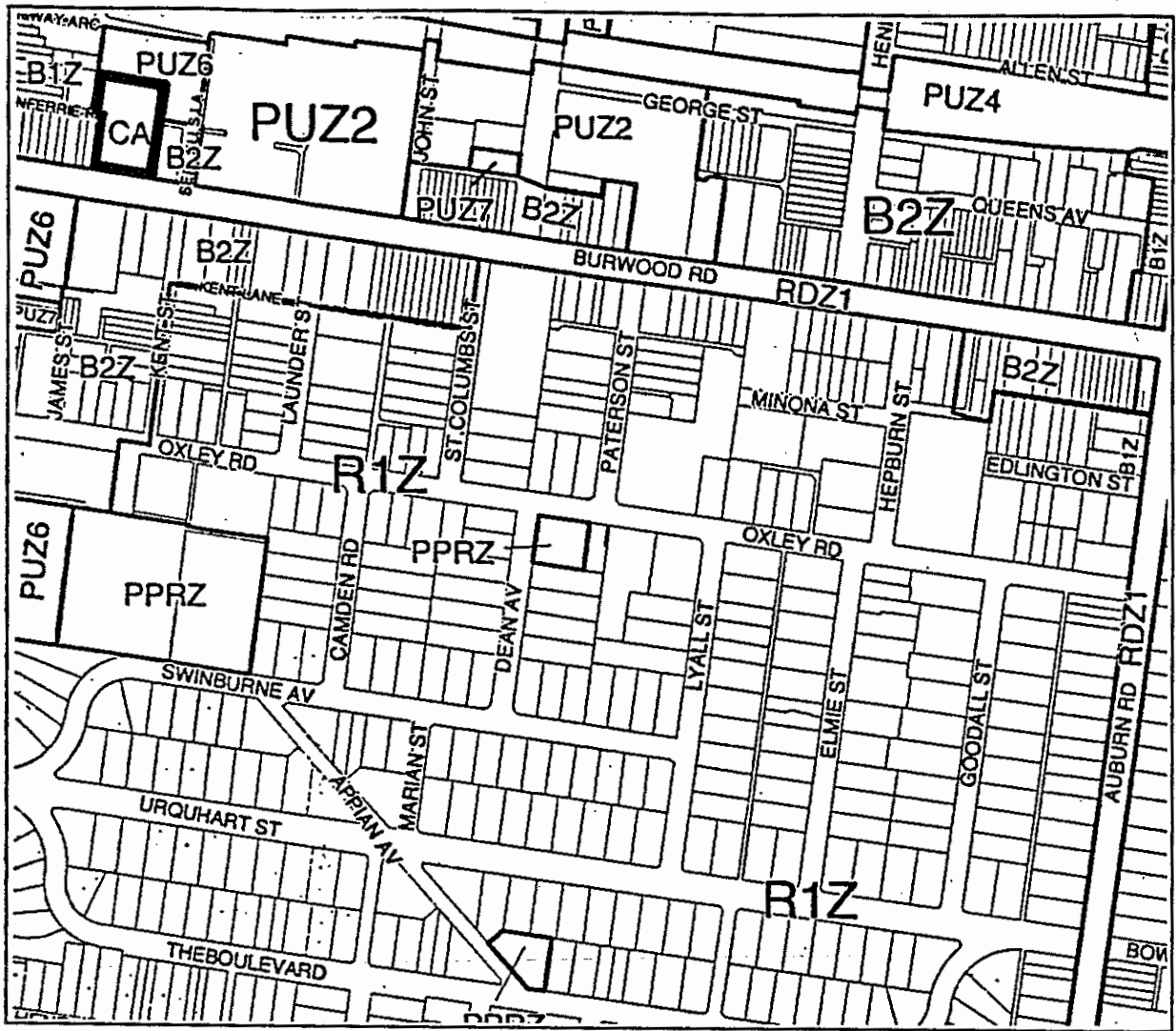
## SITE & ZONING PLAN




**■** SUBJECT SITE

891 High Street - East Kew

## SITE & ZONING PLAN



 SUBJECT SITE

375 Burwood Road - Hawthorn.

## SITE & ZONING PLAN

**4.36 Submission No: 36****Name of Submitter:** Jewell Partnership Pty on behalf of the PTC**Existing Zone:** Various as listed below.**Exhibited Zone:** Various as listed below.**Requested Zone:** Delete overlay controls over PTC land

<b>Location</b>	<b>Existing Zone</b>	<b>Exhibited Zone</b>
<b>Rail land south west of Hawthorn Station</b>	Railways Reservation, Floodway Management Area (Hawthorn and Kew), Streamside Environment Area No. 1	Public Use Zone 4, Significant Landscape Overlay, Environmental Significance Overlay, and Land subject to Inundation Overlay
<b>Canterbury Station and surrounds</b>	Railways Reservation Interim Heritage Overlay	Public Use Zone 4, Heritage Overlay
<b>Auburn Station and Surrounds</b>	Railways Reservation	Public Use Zone 4, Heritage Overlay
<b>Land within Camberwell including Camberwell Station</b>	Railways reservation	Public Use Zone 4, Design and Development Overlay
<b>Glenferrie Station</b>	Railways Reservation	Public Use Zone 4, Heritage Overlay

**Submission**

The overlays will impose operational constraints on the activities of the PTC and are considered inappropriate given the development of the land.

**Assessment****Rail land south west of Hawthorn Station (Map 1)**

The Significant Landscape Overlay and Environmental Significance Overlay are the mechanisms in the new Planning Scheme to implement the strategic objectives of the MSS in relation to the Yarra Valley. In the case of the subject land, the provisions are based on the Lower Yarra Concept Plan - Punt Road to Dights Falls. The Lower Yarra Concept Plan contains recommendations relating to the whole Yarra Valley- the river, the floodplain, the valley sides and the sky line.

As the PTC land falls within this sensitive area and any development associated with the railway may affect the environmental values of the area, it is appropriate that it be included in the overlays.

The Land Subject to Inundation Overlay has been determined with reference to advice obtained from Melbourne Water.

Canterbury Station and surrounds (Map 2)

Canterbury Station has been inadvertently included in the Heritage Overlay in the exhibited scheme as it is not subject to current heritage protection. The Heritage Overlay over Canterbury Station should therefore be removed from the new Planning Scheme.

The Station has however, (along with much of the Canterbury area) been included in a new Heritage Overlay currently being considered for approval (Amendment L45 to the Boroondara Planning Scheme) and currently has interim protection.

Glenferrie and Auburn Stations and surrounds (Maps 3 and 4)

Glenferrie and Auburn Stations were included in the Heritage Overlay as they were both included in the Government Heritage Register which is now defunct.

However it should be noted that in the Hawthorn Heritage Study, Auburn Station was assessed as an A grade building, and Glenferrie Station was assessed as a B grade building. As the buildings are graded it is considered that they should remain subject to the Heritage Overlay as exhibited.

The Camberwell Station (Map 5)

The Camberwell Railway Station is an integral part of the Camberwell Junction Shopping Centre. Any development of the railway station will have implications for the Junction and should therefore be considered in the context of the Structure Plan.

The Design and Development Overlay to implement the Camberwell Junction Structure Plan, 1993, will be replaced by a Camberwell Junction Policy. The area covered by the new policy will include the area covered by the exhibited Design and Development Plan No. 1.

**Council Recommendation to the Panel**

- \* Rail land south west of Hawthorn Station - retain Overlays as exhibited.
- \* Canterbury Station and surrounds: remove Heritage Overlay.
- \* Auburn Station and surrounds: retain in the Heritage Overlay.
- \* Land within Camberwell Junction including Camberwell Station removed from the Design and Development Overlay.
- \* Land within the Camberwell Junction be included in a new Camberwell Junction Policy area.

- \* Glenferrie Station be retained in the Heritage Overlay.

### Panel Comment and Recommendation

"It has long been held that public authorities should not be exempt from the planning provisions that control the form of development on land. There is no reason for these properties, which are in public ownership, to be managed any differently than properties which are in private ownership and for these reasons, the Panel does not support the submission of the PTC. It does however support the other recommendations of Council.

*The Panel recommends that with regard to the PTC submission, Council:*

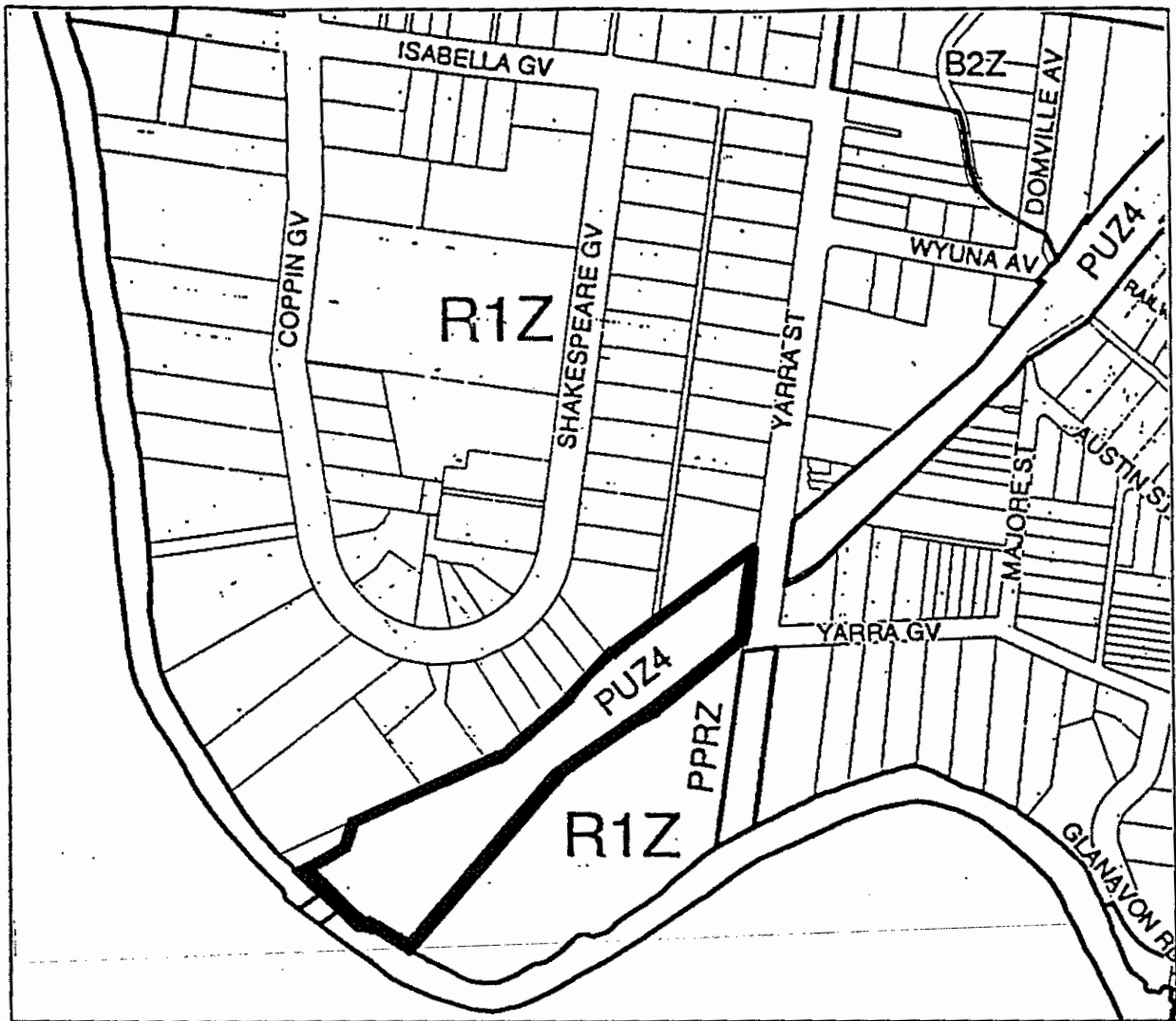
- *Remove the Heritage Overlay from land that forms the Canterbury Railway Station;*
- *Remove the Design and Development Overlay from land that forms the Camberwell Railway Station; and*
- *Place land that forms the Camberwell Railway Station in the proposed Camberwell Junction Policy Area."*

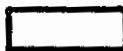
### Council Recommendation

- 4.36.1 Rail land south west of Hawthorn Station - retain Overlays as exhibited.
- 4.36.2 Canterbury Station and surrounds: remove Heritage Overlay pending approval of Amendment L45 to the Boroondara Planning Scheme.
- 4.36.3 Auburn Station and surrounds retained in the Heritage Overlay.
- 4.36.4 Land within Camberwell Junction including Camberwell Station be removed from the Design and Development Overlay.
- 4.36.5 Land within the Camberwell Junction be included in a new Camberwell Junction Policy.
- 4.36.6 Glenferrie Station be retained in the Heritage Overlay.



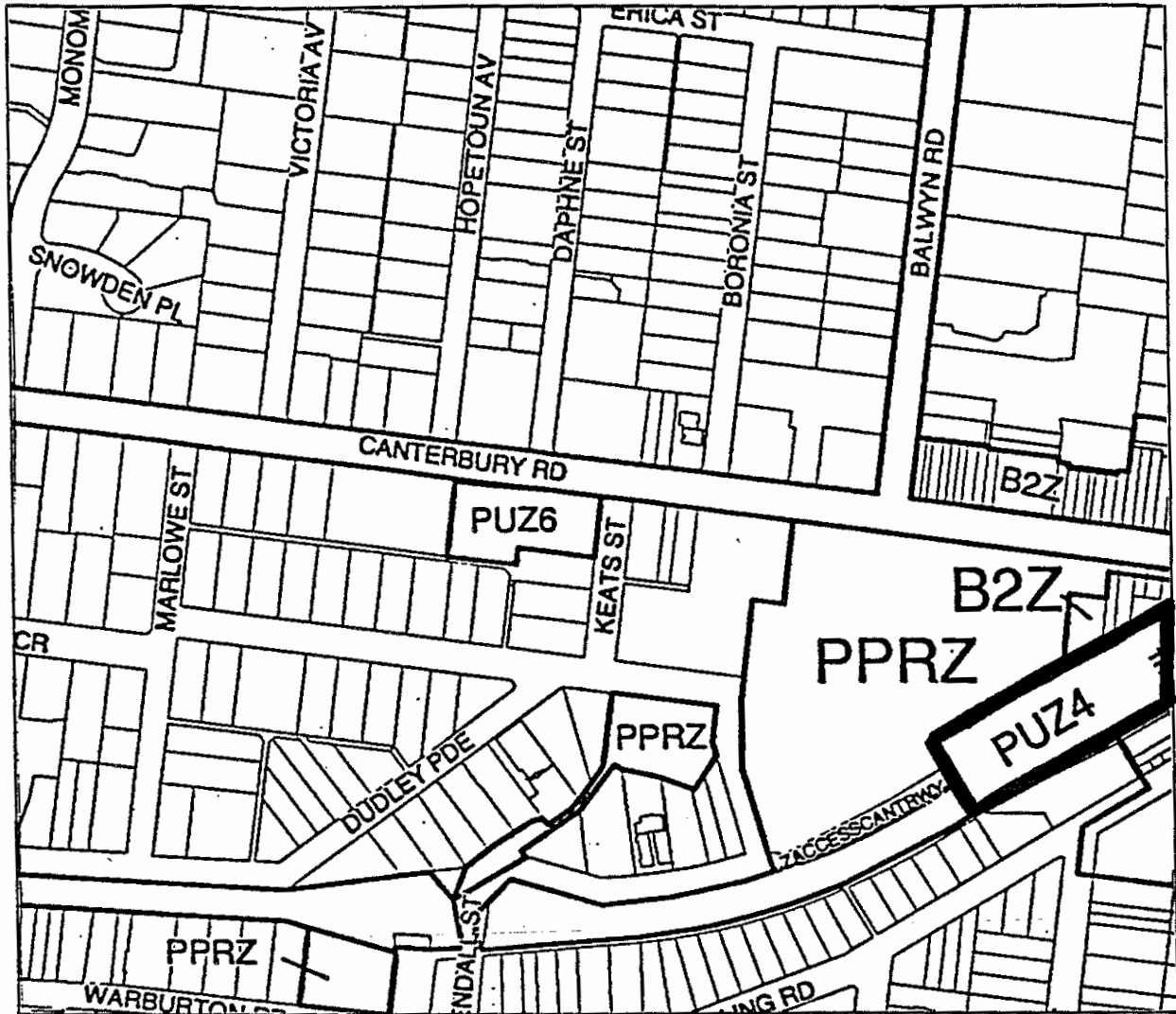
MAP 1

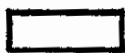


 SUBJECT SITE

RAIL LAND SW OF HAWTHORN STATION

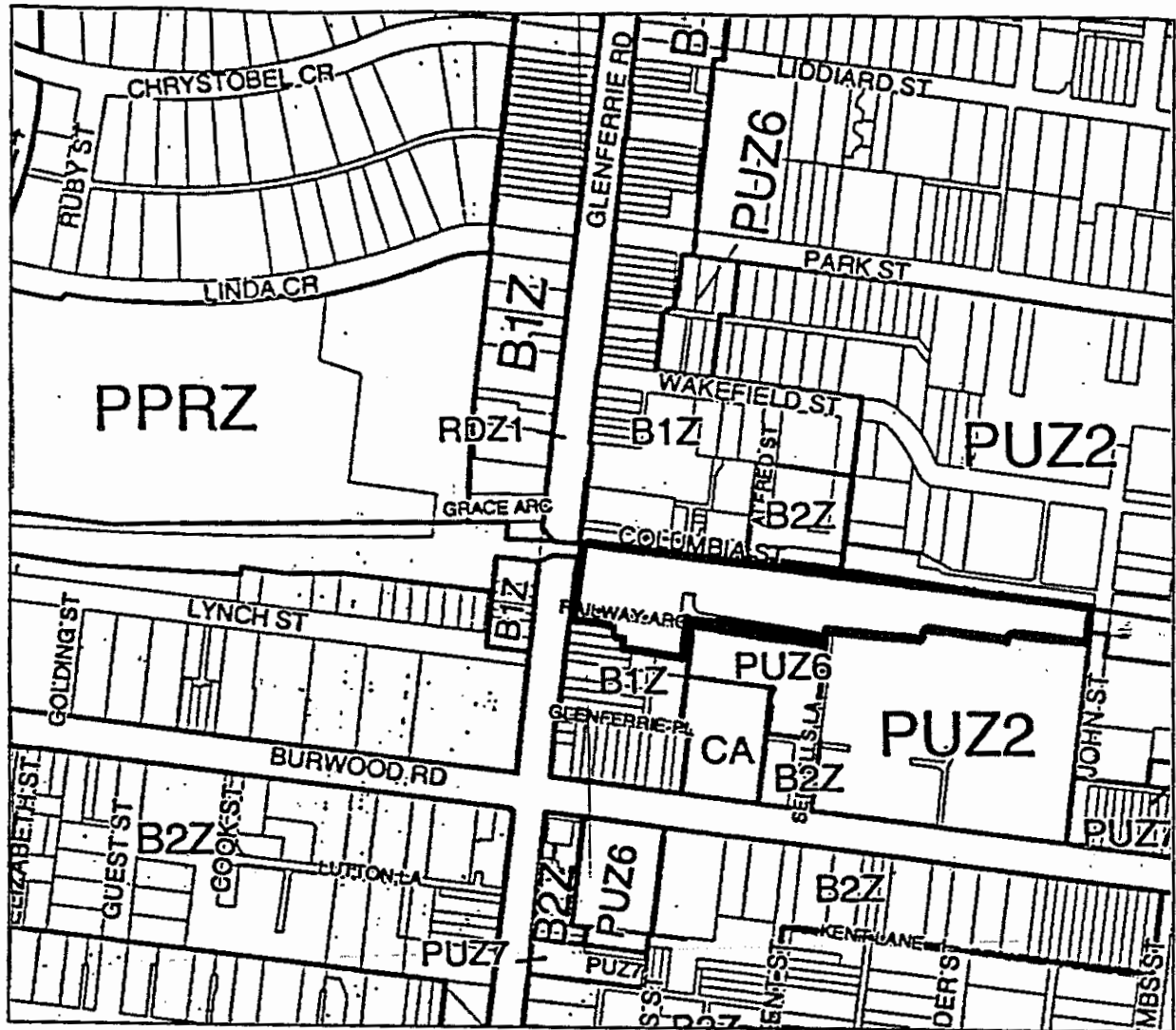
**SITE & ZONING PLAN**



 SUBJECT SITE

CANTERBURY STATION

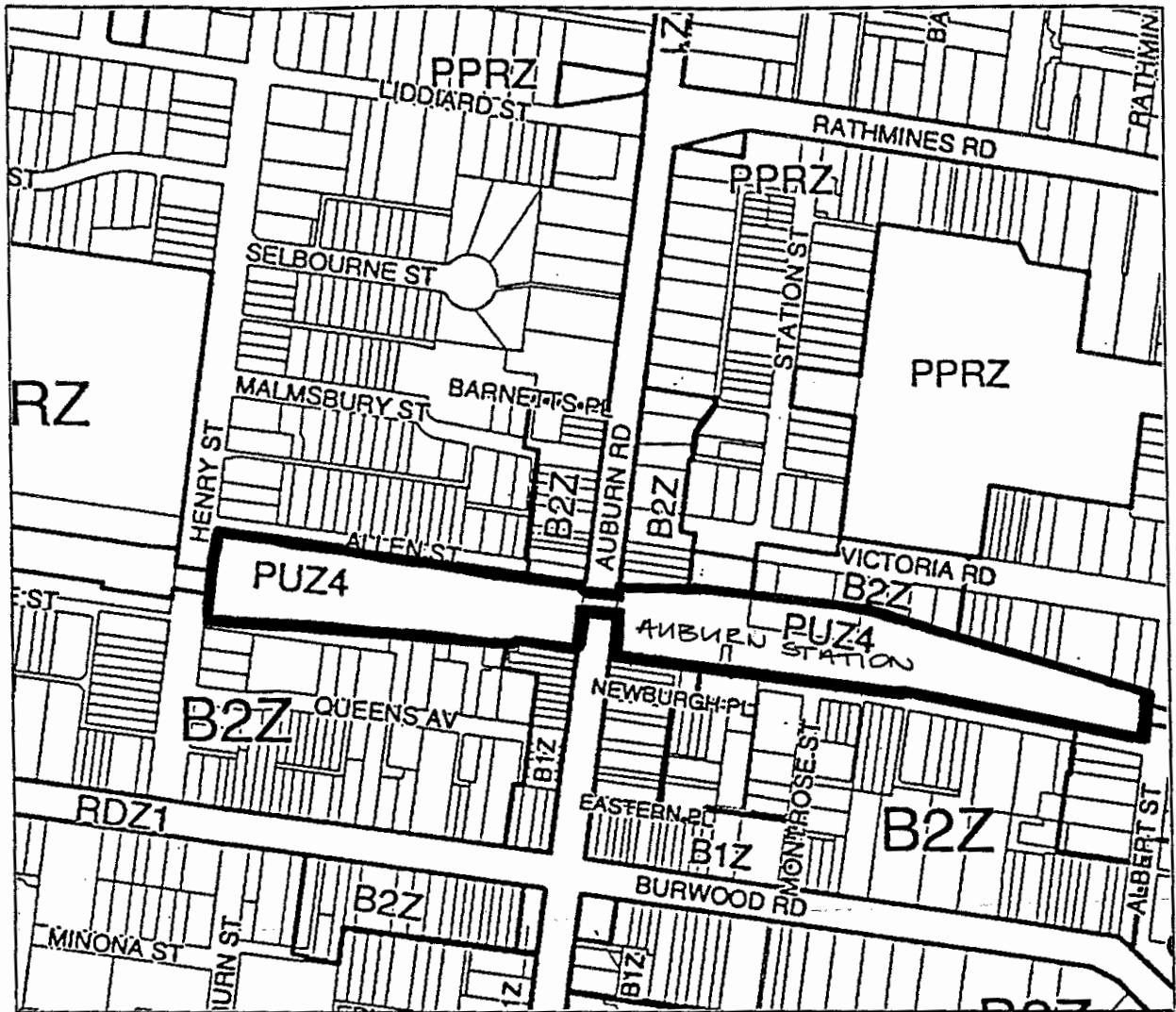
## SITE & ZONING PLAN

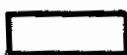


SUBJECT SITE

GLENFERRIE STATION.

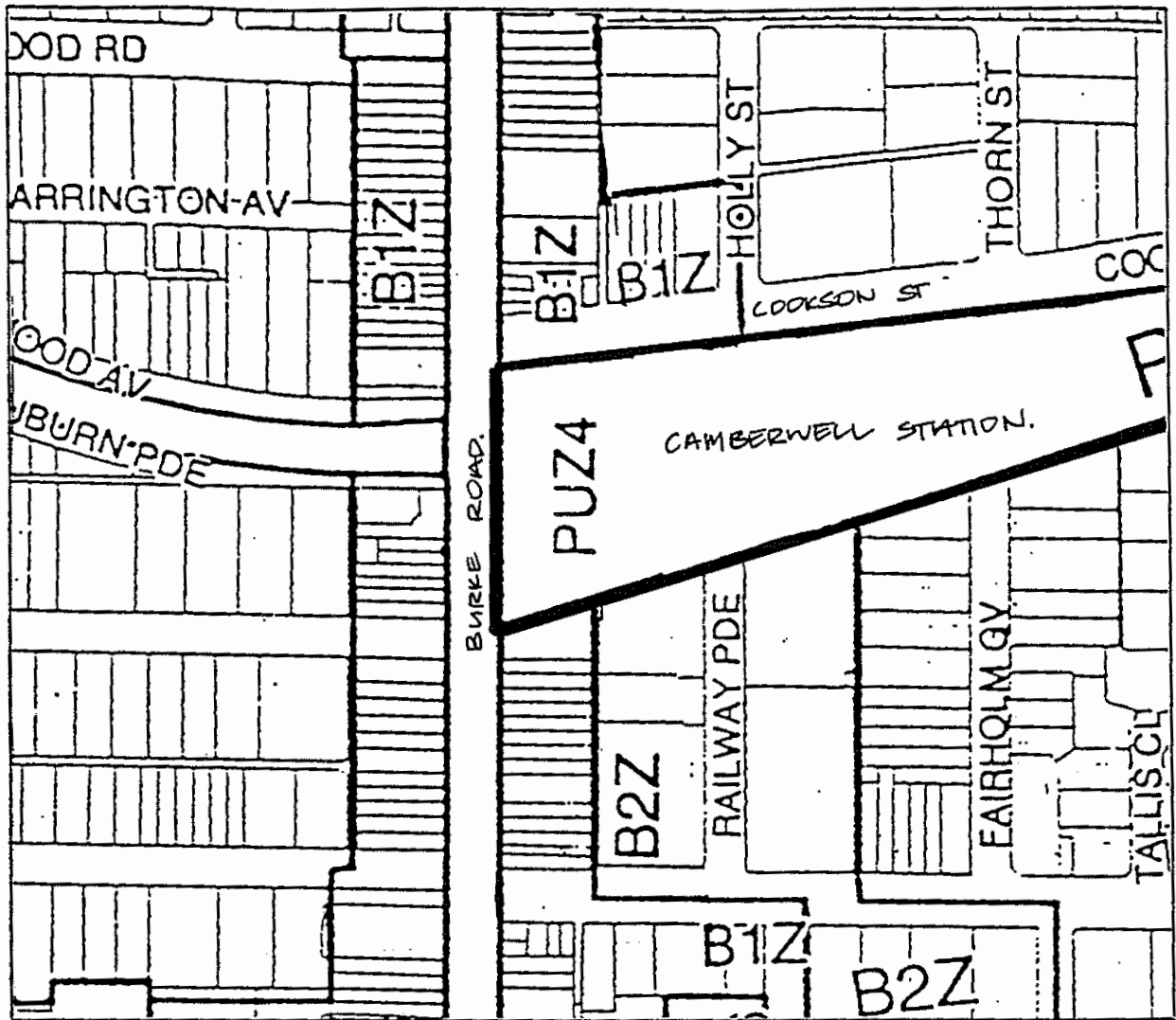
## SITE & ZONING PLAN




 SUBJECT SITE

AUBURN STATION

## SITE & ZONING PLAN



 SUBJECT SITE

CAMBERWELL STATION

## SITE & ZONING PLAN

#### 4.64 Submission No: 64

**Name of Submitter:** Melbourne Water

**Location:** City of Boroondara

#### **Zones and Overlays**

##### **Submission**

Generally Melbourne Water supports the application of the Urban Floodway Zone throughout the City, however it does not support the zoning of the land at Scotch College to a Residential 1 Zone or the zoning of the land between the Eastern Freeway and the Yarra River to a Special Use Zone.

##### *Scotch College Land*

Melbourne Water submits that Scotch College is situated within the floodplains of the Yarra River and Gardiners Creek. The risk associated with flooding renders the site unsuitable for any further intensification of use or redevelopment for residential purposes. The Urban Floodway Zone is the appropriate control for this land due to the topographical and flooding constraints which affect the land. The Urban Floodway Zone is intended for application along open reaches of waterways, along declared and active components of the floodplain, in areas where the flood risk is particularly high. The Land Subject to Inundation Overlay is not considered a sufficient control in this instance as it is intended for application over the less hazardous or flood fringe of the floodplain. The use of the Urban Floodway Zone accords with Clause 15.02-2 of the State Planning Policy Framework "Floodplain Management".

Melbourne Water recommends that the floodprone portion of the site be contained within an Urban Floodway Zone. The Urban Floodway Zone would allow the site to continue to be used for its current purpose whilst preventing any intensification of what is already an unacceptable occupation of the floodplain.

##### *Land between the Eastern Freeway and the Yarra River (includes GPU Powernet land and two private golf clubs)*

This area is within the Chandler Storage Basin, a natural retarding basin on the Yarra River. Information available at Melbourne Water indicates that the sites are subject to severe flooding, with maximum depths in excess of 7m. The sites were exhibited as Special Use Zone. Melbourne Water considers that the land is not suitable for the use or development which is implied in the Schedule to the Special Use Zone.

The Land Subject To Inundation Overlay is not sufficient control as it regulates only buildings and Works. This area should therefore be contained within the Urban Floodway Zone.

##### *Land Subject to Inundation Overlay*

Melbourne Water generally supports Council's application of a land subject to inundation overlay continuously along the Yarra river and Gardiners Creek. Flooding information supplied by Melbourne Water and upon which the Land Subject to Inundation Overlay was based has subsequently been updated. Works undertaken in association with the South Eastern Freeway have alleviated flooding of a number of properties formerly situated within the Gardiners Creek Floodplain. These properties shown on a map supplied by Melbourne Water no longer require inclusion within the Land Subject to Inundation Overlay.

### **Assessment**

As Melbourne Water is the Floodplain Management Authority, its advice in the designation of areas subject to the Urban Floodway Zone and the Land Subject to Inundation Overlay has been accepted. (See also submissions 12, GPU Powernet, and 78, Greenacres Golf Club)

### **Municipal Strategic Statement**

#### **Submission**

Melbourne Water states that State Planning Policy for "Protection of Waterways, Groundwater and Catchments" Clause 15.01, places an obligatory role in water quality protection and the management of catchments on Councils, which should be reflected in Local Policies.

The Municipal Strategic Statement contains limited references to stormwater management, especially in terms of water quality protection, and to Boroondara's role in catchment management. The following changes are recommended by Melbourne Water to the Local Policy Framework to strengthen provisions relating to stormwater management.

The published date of the Middle Yarra Concept Plan Burke Road to Watsons Creek should be 1991 not 1993.

Under **Environment** on page 15 of the MSS, there is an inference that ensuring sufficient unpaved open space in new development will positively impact on new development. As the issue is more complex the following should be added:

*Boroondara has some significant responsibilities for the water quality of local streams, both as a player in catchment management of the Yarra River and through its role in the management of the local drainage and stormwater system. The intensification of urban development will inevitably result in an increase in impervious surfaces which will in turn cause increased volumes of water to be discharged to local waterways. If there were no improvements to drainage infrastructure then drainage capacity problems may well occur. Failures may also arise over time due to the age of some infrastructure. However, the key outcome will be declining standards of water quality discharged to the receiving bodies. In order to guard against this prospect, a number of steps will be required including the installation of sediment and litter traps on new developments, the protection of floodplains to ensure flood retention capacity along waterways and provide the possibility of some low flow water quality treatments, and the construction of*

*stormwater retarding devices, again with water quality improvement measures, where opportunities are available. In addition to these, the drainage system will also require the protection of overland flow paths to manage storm events and assist in the protection of life and property.*

### **Assessment**

The paragraph at the bottom of page 15 will be substituted with the following:

*Boroondara has some significant responsibilities for the water quality of local streams, both as a player in catchment management of the Yarra River and through its role in the management of the local drainage and stormwater system. The intensification of urban development will inevitably result in an increase in impervious surfaces which will in turn cause increased volumes of water to be discharged to local waterways. If there were no improvements to drainage infrastructure then drainage capacity problems may well occur. Failures may also arise over time due to the age of some infrastructure. However, the key outcome will be declining standards of water quality discharged to the receiving bodies. In order to guard against this prospect, a number of steps will be required including the investigation of the installation of sediment and litter traps, the protection of floodplains to ensure flood retention capacity along waterways and provide the possibility of some low flow water quality treatments, and the investigation of stormwater retarding devices, again with water quality improvement measures, where opportunities are available.*

It is not appropriate to include the paragraph in its entirety as suggested by Melbourne Water (under point 2), as Council is still investigating and trialing some of these measures such as the installation of sediment and litter traps and the use of retarding devices and at this stage has not determined which would be appropriate.

With regard to overland flow paths, this issue is subject to a separate proposed amendment and will be considered as part of that amendment process.

### **Submission**

On page 18 under "Drainage and sewerage systems" the following dot points should be added:

- Seek to improve the quality of stormwater discharged to receiving bodies through the use of sediment and litter traps and other measures designed to treat stormwater.
- Seek to protect designated overland flow paths as notified by Melbourne Water by discouraging development within those areas and exercising controls such as the Special Building Overlay to provide protection to people and property from flood events.

### **Assessment**

On page 18 the action relating to litter traps and storm water retention facilities will be replaced with the following:



- Seek to improve the quality of stormwater discharged to receiving bodies through the use of sediment and litter traps and other measures designed to treat stormwater.

With regard to the dot point regarding overland flows, this issue is subject to a separate proposed amendment and will be considered as part of that amendment process.

### **Submission**

Under **Infrastructure** on page 36, under "Environmental Perspective" include the following dot point:

- Examine Council's street sweeping practices to investigate improvements which would contribute to improvement of stormwater quality.

### **Assessment**

Although Council undertakes regular reviews of its street sweeping practices, with the aim of achieving best practice, the dot point in relation to street sweeping will be added to the MSS.

## **Yarra Valley Environs Policy**

### **Submission**

It is recommended that an additional dot point be included as policy under 22.14 Yarra Valley Environs Policy:

- *Floodplain areas be protected from development so that the flood retention capacity of these lands can be preserved and natural processes of interaction between the stream and its floodplain can be maintained and opportunities for water quality improvement retained.*

### **Assessment**

The Yarra Valley Environs Policy is a recreational use and access policy relating to the Yarra Valley Environs which is a metropolitan recreational area. It is therefore not appropriate to include statements regarding the protection of the floodplain in this policy.

It is considered that this issue is adequately covered in the Land Subject to Inundation Overlay. However, if Melbourne Water does not consider that the protection offered by the Land Subject to Inundation Overlay is adequate, it would be more appropriate to include objectives relating to the protection of the floodplain in Schedule 1 to the Environment Significance Overlay - Yarra River Environmental Significance Area.

Accordingly, the following objective and decision guideline will be added to Schedule 1 to the Environment Significance Overlay:

**"Objective**

To protect the flood retention capacity of floodplain areas from development.

**Decision Guideline**

The need to preserve the flood retention capacity of floodplains so that natural processes of interaction between the stream and its floodplain can be maintained and opportunities for water quality improvement retained."

**Stormwater Quality Policy****Submission**

It is recommended that Council consider adopting a Local Planning Policy for stormwater management. Melbourne Water attached a suggested policy to its submission.

**Assessment**

While Council acknowledges the need to improve stormwater quality it does not consider the policy suggested by Melbourne water as the appropriate vehicle. Generally, the policy is not structured to inform decisions made under the provisions of the planning scheme.

Council will investigate this issue as an outcome of its proposed Environmental Management Policy.

**Council Recommendation to the Panel**

- \* The floodprone portion of Scotch College be contained in an Urban Floodway Zone.
- \* The land between the Eastern Freeway and the Yarra River (includes GPU Powernet land and two private golf clubs) be contained in an Urban Floodway Zone.
- \* The removal of the Land Subject to Inundation Overlay from the areas shown in accordance with information supplied by Melbourne Water.
- \* The paragraph at the bottom of page 15 of the MSS be amended as outlined.
- \* The Action on page 18 of the MSS be amended as discussed.
- \* The amendment of the Action on page 36 of the MSS to be amended as outlined.
- \* The amendment of Schedule 1 to the Environmental Significance Overlay as outlined.

**Panel Comment and Recommendation**

“The Panel supports the recommendations of Council in relation to proposed changes to the MSS and recommends such changes be incorporated into the scheme prior to adoption. The proposed Stormwater Quality Policy is best left for further consideration by the Department and dealt with as a State Policy. The Panel supports the inclusion of additional objectives in the Environmental Significance Overlay that deal with protection of the flood retention capacity of floodplain areas from development.

The issues raised by the proposed application of an Urban Floodway Zone over part of Scotch College and the Greenacres and Kew Golf Clubs is more than just of local concern. It is understood by the Panel that similar application of the UFZ over land designated to be flood prone by Melbourne Water have been raised in Yarra (Latrobe Golf Club), Manningham (Veneto Club) and Stonnington (Kooyong Lawn Tennis Club, St Kevin's College, Royal Institute for the Blind, South Yarra Tennis Club). In each of these cases land has been exhibited as either Residential 1 or Special Use, and through submission to the scheme, Melbourne Water has proposed the application of the UFZ. There has been considerable opposition to this, particularly as the UFZ was not exhibited, and is not a carry over of similar controls (eg Stream and Floodway Zone) or a direct translation.

The Panel notes that the Manual for the VPPs indicates that the UFZ should be applied to urban land identified:

*..... as part of the active floodway or a high hazard area where high flow velocities are known to occur and where impediment of flood flows is likely to cause significant changes in flood flows, adversely affecting flooding in other areas.*

In the case of the application of the UFZ over part of Scotch College land, “Education” is a prohibited use in the zone. Clearly at this stage, it is not appropriate for Scotch College to be in a zone when the primary purpose of its function, ie education, is prohibited. The Panel does not support Scotch College being placed in the UFZ at this time, even if it is proposed to be applied to only part of the site.

Similarly, the Panel has concerns about the application of the UFZ over the Greenacres and Kew Golf Club, and it considers that issues relating to this application need to be canvassed as regional issues. Discussions about these issues with the Chair of the Yarra Panel and Advisory Committee for that New Format Planning Scheme has led to the following recommendation in their report:

*This Panel does not consider that it has been provided with sufficient information to adopt the view that this Urban Floodway Zone should be applied at this time. Moreover, the Golf Club (and School, as noted above) has not had the opportunity to formally make comment on the proposal, nor have any other interested parties. For this reason, the Panel does not support a rezoning to Urban Floodway Zone for the Golf Course at this time. The Panel reiterates the suggestion noted above, that Melbourne Water should pursue its proposal to include various sites along waterways in Urban Floodway Zones on a regional basis given that similar issues relating to golf*

*courses and schools abutting the Yarra River have arisen during the review of other Planning Schemes.*

The Chair of this Boroondara Panel also chaired the recent Stonnington New Format Planning Scheme (November 10 to 26) and in its submission to the exhibited Stonnington scheme, Melbourne Water requested that Kooyong Lawn Tennis Club and St Kevin's School be placed in the UFZ. However, during its presentation, representatives of Melbourne Water had shifted their position and conceded that these matters would best be handled on a regional basis through a regional amendment. It submitted on 11 November 1998 that:

*Melbourne Water did not make written submissions in relation to the Association for the Blind Site in Glenferrie Road or the Royal South Yarra Lawn Tennis Club. St Kevins College and Kooyong Lawn Tennis Club were not exhibited with Urban Floodway Zone. Melbourne Water recognises that it would be difficult to rezone these sites to Urban Floodway without formal exhibition and notification.*

*Melbourne Water seeks further direction from the Panel as to how the issues of Special Use Zones in active floodways can be resolved on a regional basis.*

*Direction is required as to who should prepare amendments to introduce Urban Floodway Zones to appropriate sites and when amendments should occur.*

The Stonnington Panel and Advisory Committee will be responding in detail to the issues raised by Melbourne Water as indicated above, however a regional amendment prepared by the Department of Infrastructure and Melbourne Water may assist to resolve these issues.

At this stage, the Panel considers that there are too many unresolved issues relating to the application of the Urban Floodway Zone in Boroondara and other municipalities for a recommendation in favour of Melbourne Water to be made at this stage. This is not to say that it does not consider their submission to be without merit, and the Panel certainly supports any move to minimise potential for flooding through the proper application of zones and overlays, but this should be through a full and considered strategic assessment.

*The Panel recommends that in relation to the Melbourne Water submission, Council:*

- *Place Scotch College, and the Green Acres and Kew Golf Clubs in a Special Use Zone, with a Land Subject to Inundation Overlay, until such time as the issues relating to the floodprone portion of these areas are resolved by way of a separate investigation through a regional consideration and amendment.*
- *Place the GPU Powernet land between the Eastern Freeway and the Yarra River in an Urban Floodway Zone.*
- *Remove the Land Subject to Inundation Overlay from the areas shown in accordance with information supplied by Melbourne Water.*

- *Amend the paragraph at the bottom of page 15 of the MSS as outlined.*
- *Amend the Action on page 18 of the MSS as discussed.*
- *Amend the Action on page 36 of the MSS as outlined.*
- *Amend the Schedule 1 to the Environmental Significance Overlay as outlined.*

*The Panel further recommends that the Department of Infrastructure and Melbourne Water prepare a separate amendment which identifies all land proposed to be included in the Urban Floodway Zone for the municipalities of Boroondara, Manningham, Yarra and Stonnington, and that a separate Panel and Advisory Committee be convened to hear submissions relating to individual submissions and on other issues relating to the specific provisions of the Urban Floodway Zone and the Land Subject to Inundation Overlay.”*

### Comment

As Melbourne Water is the Floodplain Management Authority its expertise is relied on in determining areas which are subject to flooding and whether the extent of the flooding means that the area should be subject to the Land Subject to Inundation Overlay or the Urban Floodway Zone. In this case Melbourne Water determined that the extent of flooding in respect of the Kew and Greenacres Golf Clubs and Scotch College is such that the Urban Floodway Zone should be applied. Council therefore recommended to the Panel that the properties be placed in an Urban Floodway Zone.

The Panel rejected the Urban Floodway Zone stating that “the Panel considers that there are too many unresolved issues relating to the application of the Urban Floodway Zone in Boroondara and other municipalities for a recommendation in favour of Melbourne Water to be made at this stage. This is not to say that it does not consider their submission to be without merit, and the Panel certainly supports any move to minimise potential for flooding through the proper application of zones and overlays, but this should be through a full and considered strategic assessment.”

In its submission to the Stonnington Panel, Melbourne Water acknowledged the difficulty of its position.

While the application of the zone is not questioned, the Panel considers that Melbourne Water erred in that it did not inform Council prior to exhibition that the land in question should be placed in an Urban Floodway Zone. Although the issue was debated at Panel, it is acknowledged that “due process” has not been carried out. In addition Melbourne Water will have control over development in that all the land concerned will be subject to the Land Subject to Inundation Overlay.

Although Council has not recommended the application of the Special Use Zone in any other instance, in the case of the Golf Courses, a Special Use Zone would be the only appropriate solution. Strategically, the site forms part of an extensive band of open space along the Yarra River and northern boundary of the City, which extends into adjoining municipalities. Because of this, much of the land adjoining the site is to be zoned Public Park and Recreation Zone and there is therefore no clear underlying zone. It is appropriate that a Special Use Zone ensure that the use of the

land is in keeping with surrounding uses. For this reason a Special Use Zone which narrowly limits the use of the site to a golf course and a limited range of sports and recreation facilities is recommended. An appropriate Schedule to the Special Use Zone has been included in the Planning Scheme Ordinance.

In rejecting the application of the Urban Floodway zone the Panel does not offer any sound reason why the Residential 1 Zone should not be applied to Scotch College land. The Residential 1 Zone has been applied all other private schools and endorsed by the Panel.

It is Council's position that schools are part of the residential fabric of the City and that this should be reflected in their zoning. Like all other private schools in the City, Scotch College has a residential interface. In addition its size is such that its impacts extend beyond the immediate residential area. Under the Residential 1 Zone the use and development on this site would be assessed to limit their impacts on their surrounds. The impacts of the use would not be considered under a Special Use Zone. It is therefore considered that the site should be included in the Residential 1 Zone.

From the VPP Practice Note regarding the application of the Special Use Zone it is clear that the zone should not be applied to Scotch College. Firstly, the zone, overlays and policies which would apply to the site, would give effect to the desired objectives as articulated in the MSS. Secondly, were the area to be redeveloped, it is clear from the strategic intent of the MSS that residential development would be the preferred use.

### **Council Recommendation**

- 4.64.1 Scotch College remain in the Residential 1 Zone as exhibited.
- 4.64.2 The GPU Powernet land be contained in an Urban Floodway Zone.
- 4.64.3 Land between the Eastern Freeway and the Yarra River (excluding the GPU Powernet land but including the two private golf clubs) be included in a Special Use Zone as exhibited.
- 4.64.4 The removal of the Land Subject to Inundation Overlay from the areas shown in accordance with information supplied by Melbourne Water.
- 4.64.5 The paragraph regarding water quality in the Environment section of the MSS be amended as outlined.
- 4.64.6 The action under the Environment Section of the MSS relating to litter traps and storm water retention facilities be amended as discussed above.
- 4.64.7 The action regarding street sweeping practices in the Infrastructure Section of the MSS to be amended as outlined above.

- 4.64.8** The amendment of Schedule 1 to the Environmental Significance Overlay as outlined above.

#### 4.67 Submission No: 67

**Name of Submitter:** VicRoads

**Location:** City of Boroondara

##### **Submission**

The submission lists the declared roads, the designation of VicRoads land as Public Use Zone, and other detail regarding the designation of roads.

VicRoads objects to the Heritage Overlay over properties in Barkers Road and Canterbury Road which currently have Public Acquisition Overlays. VicRoads considers that this will impose upon its ability to perform future road works.

VicRoads also comments that the Environment Significance Overlay encroaches onto Bulleen Road.

##### **Assessment**

Matters of detail regarding the status of the roads and designation of boundaries will be resolved in consultation with VicRoads.

The Environmental Significance Overlay is the mechanism in the new Planning Scheme to implement the strategic objectives of the MSS in relation to the environmental values of the Yarra Valley. In the case of the subject land, the provisions are based on the Middle Yarra Concept Plan - Burke Road to Watsons Creek. Any development in this area should be subject to the provisions of the Overlay as it has the potential to impact on the environmental values of the area. However, the Environment Significance Overlay over the **constructed** part of Bulleen Road can be removed.

The Heritage Overlays should not be removed for two reasons. As VicRoads has not given any indication as to when it will acquire the designated land to widen the roads, the Overlay is in place to ensure that any development of these properties in the interim is in keeping with the heritage character of the area and the property.

Secondly, if VicRoads does acquire the land in order to widen the roads in question, it is important that the Heritage Overlays are kept in place to ensure that any development, including possible changes to the street frontages, such as fences, and gardens, are in keeping with the heritage character of the place.



### **Council Recommendation to the Panel**

- \* The Environment Significance Overlay over the **constructed** part of Bulleen Road be removed.
- \* The Heritage Overlays be retained as exhibited.

### **Panel Comment and Recommendation**

“The Panel accepts and supports the assessment of Council in this matter and adopts its recommendations. The Panel does not accept the submission of VicRoads that the Heritage Overlay be removed from properties along Barkers Road and Canterbury Road for the same reasons outlined in the PTC submission (No. 36). It does however support the removal of the Environmental Significance Overlay over the constructed part of Bulleen Road as there is little point in its retention if there is to be no further work.

***The Panel recommends that the Environment Significance Overlay over the constructed part of Bulleen Road be removed.”***

### **Council Recommendation**

- 4.67.1** The Environment Significance Overlay over the **constructed** part of Bulleen Road be removed.
- 4.67.2** The Heritage Overlays be retained as exhibited.

**4.69 Submission No: 69****Name of Submitter:** Blake Dawson Waldron on behalf of CitiPower**Location:** City of Boroondara**Submission**

The distribution of electricity is an essential service that can only be properly performed if appropriate infrastructure exists. CitiPower's utility installations are an integral component of its operations and should therefore be free of overly restrictive planning controls.

Under the Planning Scheme provisions CitiPower's distribution substations which are designed to operate at no more than 66,000 volts are referred to as Minor Utility Installations. The zone substations used to transmit or distribute power are referred to as Utility Installations.

The submission states that Minor Utility Installations are included in Section 1 of all zones, and that buildings and works associated with minor utility installations are exempt from the need for a permit.

The submission submits that Utility Installations are far more significant assets and should be afforded the same "level of protection" as Minor Utility Installations. CitiPower is concerned that future expansion of a Utility Installation may be hampered by the requirement to obtain a permit for buildings and works if expansion or development on a site is required. The submitter is concerned that there is the strong possibility that this will lead to third party objections and appeals and unnecessarily complicate the development of an essential service.

CitiPower submits that its zone substations (defined as Utility Installations), should be incorporated into the surrounding zoning and wherever possible should be included in a zone which contains exemption from third party notice, objection and appeal in respect of application for building and works permits.

CitiPower's suggested zoning for each substation is in the Table below.

Address	Use	Current zoning	Exhibited Zoning	Zoning proposed by Submitter
25-31 Whitehorse Road	Zone substation	State Electricity Commission (PP13)	Special Use Zone 2	Mixed Use Zone
65 Lynden	Zone	State	Special Use	Residential 1

<b>Street</b>	substation	Electricity Commission (PP13) and Proposed Public Open Space	Zone 2	Zone.
<b>15-17 Tennyson Street</b>	Zone substation	State Electricity Commission (PP13)	Special Use Zone 2	Residential 1
<b>387 Riversdale Road</b>	Zone substation	State Electricity Commission (PP13)	Special Use Zone 2	Business 2 Zone

CitiPower also owns some of the Outer Circle Railway Land which land is currently unofficially managed and occupied by Council. The land is listed in the table below.

<b>Address</b>	<b>Current zoning</b>	<b>Exhibited Zoning</b>	<b>Zoning proposed by Submitter</b>
<b>Earl Street, Kew</b>	PMR (western section north of Peel St.) and PPOS (eastern section)	Road Zone 1	Residential 1 Zone
<b>High Street, north of Windsor St.</b>	Main Road and Proposed Main Road	Small western section: Business 2 Remainder: Residential 1 Zone	Mixed Use Zone
<b>Harp Road, west of Normanby Road (three properties)</b>	Proposed Main Road	Residential 1 Zone	Residential 1 Zone

## **Assessment**

### **Utility Installations**

As discussed in the introduction, all utility installations were exhibited in a Special Use Zone. From a strategic point of view, it is preferable to place utility installations in the zone ascribed to the surrounding land. In selecting the zone, the primary considerations are the characteristics of the area in which the site is located and the strategic direction as reflected in the MSS, and not whether the buildings and works will be subject to public exhibition under the Act.

*25-31 Whitehorse Road*

The site adjoins a strip along Whitehorse Road identified as an area where office development is to be encouraged along with other commercial development and possibly industry. The site should be zoned Business 2 in keeping with the adjoining precinct.

*65 Lynden Street*

Given that the site is within a residential area the Residential 1 Zone as suggested in the submission is appropriate.

*15-17 Tennyson Street*

Given that the site is within a residential area the Residential 1 Zone as suggested in the submission is appropriate.

*387 Riversdale Road*

The site is within an area designated as "Mixed Use" under the Camberwell Junction Structure Plan 1993. In the exhibited Planning Scheme the area has been zoned Business 2 to encourage offices and permit a range of other commercial uses. It is therefore agreed with the submission that the site be zoned Business 2.

Outer Circle Railway LandEarl Street, Kew

On the plans prepared by the Land Information Branch of the Department of Infrastructure, the properties are shown as two thin slivers of land (one directly north of Peel Street and one east of Willsmere Road) between the road reserve and land reserved for road purposes. Inspection of the area indicates that the land is within the constructed part of the road. As the road is a declared road, the properties should be included in a Road Zone.

High Street (property runs east west north of Windsor Street)

The property comprises a long and narrow strip of land which abuts a business area and a residential area. The section that abuts the commercial area was zoned Business 2 in accordance with the exhibited zoning of the commercial area and the remainder which directly abuts residential properties was zoned Residential 1.

As the residential area concerned is an "intact" residential area, it would not be appropriate to introduce commercial type uses as permitted under the provisions of the Mixed Use Zone.

Harp Road

These three properties were given the underlying zoning. The zoned proposed by the submitter is the same as that exhibited by Council.

### Council Recommendation to the Panel

- \* The property known as 25-31 Whitehorse Road be zoned Business 2.
- \* The property known as 65 Lynden Street be zoned Residential 1
- \* The property known as 15-17 Tennyson Street be zoned Residential 1
- \* The property known as 387 Riversdale Road be zoned Business 2
- \* The property known as Earl Street, Kew - Road Zone
- \* The property known as High Street, north of Windsor St. be zoned part Business 2; part Residential 1
- \* The property known as Harp Road, west of Normanby Road (three properties) be zoned Residential 1

### Panel Comment and Recommendation

“The Panel supports the assessment and recommendation of Council in this matter. It considers that the recommended application of zones to CitiPower properties to be appropriate and in accordance with the general principles of applying underlying zones.

*The Panel recommends that with regard to the CitiPower submission, Council place the following properties in the following zones:*

- |                                    |  |
|------------------------------------|--|
| • 25-31 Whitehorse Road            | <i>Business 2</i>                          |
| • 65 Lynden Street                 | <i>Residential 1</i>                       |
| • 15-17 Tennyson Street            | <i>Residential 1</i>                       |
| • 387 Riversdale Road              | <i>Business 2</i>                          |
| • Earl Street, Kew                 | <i>Road Zone</i>                           |
| • High Street, north of Windsor St | <i>part Business 2 &amp; Residential 1</i> |
| • Harp Road, west of Normanby Rd.  | <i>Residential 1”</i>                      |

### Council Recommendation

- 4.69.1 The property known as 25-31 Whitehorse Road be zoned Business 2.
- 4.69.2 The property known as 65 Lynden Street be zoned Residential 1
- 4.69.3 The property known as 15-17 Tennyson Street be zoned Residential 1
- 4.69.4 The property known as 387 Riversdale Road be zoned Business 2
- 4.69.5 The property known as Earl Street, Kew - Road Zone

- 4.69.6** The property known as High Street, north of Windsor St. be zoned part Business 2; part Residential 1
- 4.69.7** The property known as Harp Road, west of Normanby Road (three properties) be zoned Residential 1

## **5. RESIDENTIAL CHARACTER AND MEDIUM DENSITY DEVELOPMENT**

Two issues which are raised by submitters are urban character and medium density development.

### Urban Character

A number of submissions were concerned with the effect of new development on the residential character of the City.

The distinctive character of the City is highly regarded by both Council and the community. This is reflected in Council's Corporate Plan which includes measures to protect and enhance the character of the City; and the Planning Scheme where the issue is addressed in the Municipal Strategic Statement (MSS) and the Policy section.

A key element of the MSS is the emphasis on maintaining the distinctive character of the residential areas of the City. The MSS notes that particular urban character precincts and elements will be identified for specific attention.

Council currently uses the Residential Urban Character Study, which comprises a systematic assessment of the character of all its residential areas. The character assessments for each area are currently used to evaluate whether a development addresses the character of the area in which it is located.

In addition, Council is also pursuing a number of specific measures to protect the residential urban character of the City and the characteristics of particular areas. These include among others, the issue of demolition, heritage, subdivision, vegetation management, and local variations to the Good Design Guide as well as the identification of distinctive character areas (such as Laver Street, Kew and Yarrbat Avenue, Balwyn) for possible recognition in the Planning Scheme.

Since the Panel hearing Council has undertaken a number of initiatives to protect the qualities which are special to Boroondara's urban character. These include:

The Single Dwelling Covenant Policy

The Subdivision Policy

The Interim Medium Density Housing Policy

The exhibition of L50 (vegetation) and L60 (local variation) to the Boroondara Planning Scheme.

## **Medium Density Development**

Medium density development is addressed in the MSS, which recognises the need to increase appropriate medium density residential opportunities in the City and to maintain the population levels of the City.

Council is currently undertaking a Residential Housing Needs Strategy to address the issue of medium density development and further manage residential development in the City. This work will enable Council to refine the Residential Framework Plan of the MSS.

The Panel commented that clear and transparent guidelines need to be in place to provide strategic direction for development. The Panel is satisfied that these are provided through the MSS, Residential Urban Character Study, Good Design Guide and Discretionary Uses Policy and that others are being developed as part of Council's current strategic program. In implementing these strategies and undertaking this work, the Panel feels that Council is in a strong position to provide the level of strategic direction necessary to manage its urban environment and maintain and enhance its distinctive urban character.

## **Submissions Addressed in this Section**

Submission Nos. 5, 25, 58, 60, 62, 63, 66



## 5.5 Submission No: 5

**Name of Submitter:** Ken Duxbury

**Location:** City of Boroondara

This submission comprises specific comments on the summary section of the MSS each of which is considered below.

**Submission:**

Under Urban Character Section 1.0, the following statement is made: *Growth and development needs to be facilitated so that it complements and enhances the character of Boroondara.*

The submission is concerned with the use of "facilitated". In the Oxford dictionary the word facilitate means to promote or make easier. The submitter feels that development needs to be regulated, guided and controlled.

**Assessment:**

It is agreed that the emphasis should be on complementing and enhancing the character of the City.

It is recommended that this sentence should be changed so that it reads: *Growth and development that complements and enhances the character of Boroondara needs to be encouraged.*

**Submission:**

Action 5 states: *Preserve and enhance the unique character of the areas along the Yarra..* The submitter feels that in this context "conserve" is a more appropriate word.

**Assessment:**

It is agreed that conserve is a more appropriate word in this context. The MSS will be checked to ensure that the word "preserve" is not inappropriately used.

**Submission:**

Action 6 should refer to our treed "and leafy" residential environment.

**Assessment:**

It is recommended that the suggested words be added.

**Submission:**

There is a need to protect and where possible rebuild biodiversity by protecting remnant indigenous vegetation and by additional revegetation and other measures.

**Assessment:**

The section of the MSS that the submitter has commented on is a summary section. It is considered that the issue of biodiversity is adequately addressed in the body of the MSS and the Planning Scheme.

**Submission:**

The following should be actions under the MSS.

- Develop a concept/ master/ management plan for Council controlled land along the Yarra River.
- Co-ordinate the planning and appropriate development of existing and potential public open space along the Yarra River corridor and resolve uncertainties about ownership, maintenance and management.

**Assessment:**

Council has recently conducted an Open Space Study and adopted an Open Space Policy which addresses master plans and management issues for all parks controlled by Council.

**Submission:**

Reference should be made to extend and reinforce corridors of flora and fauna value.

**Assessment:**

It is considered that this has been done under the Environment Section in the body of the MSS.

**Submission:**

The first sentence of the Residential Land Section on page ii. should be simplified to read: *"Residential development is the dominant form of land-use in the City, and Boroondara provides a much sought after residential environment."*

**Assessment**

It is recommended that this sentence be amended as suggested.

**Submission**

The second paragraph needs to be modified to make it indisputably clear that diverse and changing needs should be provided for in such a way as to protect and enhance the residential environment.

**Assessment**

It is considered that the MSS as a whole makes this point and is therefore adequately addressed.

**Council Recommendation to the Panel**

- \* On Page i. of the MSS change the sentence which reads:

*Growth and development needs to be facilitated so that it complements and enhances the character of Boroondara.*  
to

*Growth and development that complements and enhances the character of Boroondara needs to be encouraged.*

- \* On Page i. under Action 5 change the word "preserve" to "conserve".

- \* Check the MSS to ensure that the word "*preserve*" is not inappropriately used.
- \* Amend Action 6 to refer to our treed and "*and leafy*" residential environment.
- \* The first sentence of the Residential Land Section on page ii. will be modified to read: "*Residential development is the dominant form of land-use in the City, and Boroondara provides a much sought after residential environment.*"

### **Panel Comment and Recommendation**

"The Panel already commented about this submission in its introduction to Section 4 and it generally supports the assessment of Council in this matter. The recommendation in that introduction is applicable to this submission and it needs no further comment. It is noted that most of the changes suggested by this submitter have already been incorporated into the revised MSS.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission."*

### **Comment**

As stated in the main body of this report, in accordance with advice from the Panel and the Department of Infrastructure, the introduction to the MSS has been deleted. Because of this, specific recommendations regarding wording in the introduction are no longer applicable and the Council recommendation should be amended accordingly. It should however be noted, that where relevant, the suggested changes have been incorporated into the main body of the MSS.

### **Council Recommendation**

- 5.5.1** Check the MSS to ensure that the word "*preserve*" is not inappropriately used.
- 5.5.2** Amend the Urban Character section of the MSS to refer to our treed and "*and leafy*" residential environment.
- 5.5.3** The first sentence of the Residential Land Use Section modified to read: "*Residential development is the dominant form of land-use in the City, and Boroondara provides a much sought after residential environment including some of the finest residential streets in Melbourne.*"

**5.25 Submission No: 25**

**Name of Submitter:** Jack M Dowse

**Location:** City of Boroondara

**Submission**

This submitter feels that although urban character is recognised in the MSS, no specific recognition has been included in the Planning Scheme for the preservation of urban character. Greater emphasis is needed in the planning scheme itself, regarding the application of measures to maintain the City's urban character. The planning scheme does not properly address the protection of qualities which are unique to Boroondara's urban character. It is illogical to apply the same standards (the Good Design Guide) to all areas. The submitter is particularly concerned with the standard of unit development in the City.

**Assessment**

As discussed in the introduction to this section, Council already uses the Residential Urban Character Study and a number of other approaches, to ensure that new development which requires a planning permit is responsive to the character of the locality. This approach, together with the use of the Study, has been endorsed by the Administrative Appeals Tribunal.

Council is exploring a variety of practical mechanisms, as well as political lobbying, to maintain the City's character and to protect those qualities which are unique to the City. The exhibited Planning Scheme reflects these intentions.

**Council Recommendation to the Panel**

- \* That the submission be noted.

**Panel Comment and Recommendation**

"See the Panel's comment in the introduction to this section. The Panel notes this submission and accepts the assessment of Council. It agrees that the MSS and the appropriate supporting documentation such as the Urban Character Study will provide the strategic direction necessary for implementing future development in the City.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission."*

**Comment**

Since the Panel hearing Council has also undertaken a number of initiatives to protect the qualities which are special to Boroondara's urban character. These include:

The Single Dwelling Covenant Policy

The Subdivision Policy

The Interim Medium Density Housing Policy

The exhibition of L50 (vegetation) and L60 (local variation) to the Boroondara Planning Scheme.

**Council Recommendation**

**5.25.1** That the submission be noted.

**5.58 Submission No: 58**

**Name of Submitter:** Aileen and Alex Kelly

**Location:** City of Boroondara

**Submission**

This submission expresses concern about plans to alter their street and nearby areas by new development. The submission is concerned with the extra traffic and loss of water pressure and electrical supplies. The submitter requests that Council do something to maintain the value of their street.

**Assessment**

The issue is discussed in the introduction and under Submission No 25.

Issues such as the capacity of utility services and their impact on development are addressed by the relevant utility companies.

**Council Recommendation to the Panel**

\* That the submission be noted.

**Panel Comment and Recommendation**

“See the Panel’s comment in the introduction to this section. The Panel notes this submission and accepts the assessment of Council. It agrees that the MSS and the appropriate supporting documentation such as the Urban Character Study will provide the strategic direction necessary for implementing future development in the City.

*The Panel recommends no specific change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

**5.58.1** That the submission be noted.

**5.60 Submission No: 60**

**Name of Submitter:** Housing Industry Association

**Location:** City of Boroondara

**Submission**

Whilst the HIA recognises that the MSS is the basis for the development of a detailed policy framework, it is concerned that in the intervening period without a detailed policy in relation to the location of higher density development, population targets, housing demand and choice may give rise to more uncertainty for the community and applicants. The submission speculates that in the absence of such a policy, applications may simply be refused because they do not conform with Council policy. A statement such as the following should therefore be included in the MSS:

*Urban consolidation and infill development outside of designated higher density areas such as the Kaikoura Road area and designated activity nodes is considered acceptable where it is in keeping with and complements the existing urban character of the area.*

Given the potential conflict which could occur, the HIA considers, neither Landplan 2020 nor the Residential Urban Character Study should make inferences relating to a desirable demographic profile or the market demand for housing until a detailed housing strategy is developed.

The submission has concerns that the Residential Urban Character Study makes statements relating to residential amenity and housing diversity. It also makes recommendations that Council pursue local variations to the Good Design Guide. The HIA suggests that no detailed analysis or documentation exists to guide the community as to what Council is seeking in relation to these issues.

The HIA is concerned that statements relating to residential amenity, housing diversity and need for local variations in the Study will be relied upon as part of the decision making process, whilst they are still to be tested and supported.

**Assessment**

This submission raises a number of concerns which reflect a misunderstanding of Council's practices and policies, and as such the concerns raised in the submission are substantially misplaced.

Council presently determines planning applications on their merit, and among other things on their ability to complement the existing urban character of the area. It uses the Residential Urban Character Study to assist in this context.

The study itself does not make inferences as to desirable demographic profiles, nor the market demand for housing. It is also silent on residential amenity issues and housing demand and diversity. In a very simple sense, the study provides information on an area, and asks an applicant to demonstrate how a proposal responds to the character of the area.

Further, having been in use for over 2 years, the study has been adequately tested and has been endorsed by the Administrative Appeals Tribunal.

As discussed in the introduction to this section, Council is currently undertaking a residential Housing Needs Strategy. In addition to those issues mentioned in the introduction, the Strategy will consider strategies for management of residential growth in the City, population projections, and housing demand and choice.

In the absence of Council designating specific areas considered suitable for unit development as an outcome of the Housing Needs Strategy, all planning applications for unit developments will continue to be considered on their merits with reference to the MSS and Neighbourhood Character Policy.

### **Council Recommendation to the Panel**

- \* That the submission be noted.

### **Panel Comment and Recommendation**

“See the Panel’s comment in the introduction to this section. The HIA expressed concerns about Council’s Landplan 2020 and the Residential Urban Character Study as the main basis for determining the desirable demographic and housing profile for the City in the future. The HIA expressed concern that a number of it’s members who operate in Boroondara area have difficulty “getting through the system” and questioned whether there was enough guidance and direction in the Council’s strategic studies to properly assist and guide decision making. The HIA was seeking increased certainty with a consistent performance based approach.

The Panel considers that the Residential Urban Character Study has been in force for over two years and has been properly tried and tested both at Council level and through the AAT (now VCAT). There is clear direction provided by Council and although users may not agree with that direction, it is transparent to all. Council is currently undertaking a Residential Strategy, a draft of which is expected to be completed by the end of 1998.

The Panel does not consider that there is any other issue that needs to be addressed through this submission as the concerns raised were principally about the timing of current and ongoing studies. The HIA and the Panel recognises that while it would be desirable for Council to have completed all of its strategic studies prior to the development of the MSS and associated policies, this has not been practicable.

***The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”***

### **Council Recommendation**

- 5.60.1**            That the submission be noted.





**5.62 Submission No: 62**

**Name of Submitter:** Elizabeth McMahon

**Location:** City of Boroondara

**Submission**

The submission expresses concern with the loss of large family homes in the City and feels that the ratepayers want to have a say in so called "changing values and housing needs".

Development in Cotham Road as proposed is unacceptable and should not be allowed when it is close to a heritage area. Main roads and corners of main roads should be included in heritage areas to conserve and enhance heritage assets. Gateways to heritage areas should be protected.

The environment should be protected by imposing restrictions on development close to or abutting waterways, parks and the Outer Circle.

The height of buildings in non-residential areas should be restricted.

**Assessment**

With regard to the first point of the submission, it is Council policy to exhibit all policies, strategies, master plans etc in order to enable the community to have a say.

Any development which requires a planning permit including development in Cotham Road will also be considered on its merits as part of the normal planning permit process. ( See also Submission 57)

Development close to or abutting waterways generally requires a permit under the provisions of the planning scheme as these are controlled by various overlay provisions such as the Significant Landscape Overlay and Environmental Significance Overlay.

The MSS refers to the sensitive design of commercial and industrial buildings at the interface with surrounding residential areas. The Office Policy in Clause 22 and the structure plans which are in place for some of the commercial centres have guidelines with regard to appropriate heights of non-residential buildings.

**Council Recommendation to the Panel**

- \* That the submission be noted.

**Panel Comment and Recommendation**

“See the Panel’s comment in the introduction to this section. The Panel accepts and supports the assessment of Council in this matter and considers that the mechanisms in place through the development of this Planning Scheme will address the concerns of the submitter.

***The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”***

### **Council Recommendation**

**5.62.1**        That the submission be noted.

**5.63 Submission No: 63**

**Name of Submitter:** Lyn O' Connor

**Location:** North Balwyn

**Submission**

The submitter is concerned that the MSS shows their single dwelling covenant area as one of the preferred sites for medium density development. The submitter has many concerns with regard to unit development in her area.

**Assessment**

The new planning scheme will not affect any rights in relation to single dwelling covenants.

Council is currently undertaking a Residential Housing Needs Strategy to address the issue of medium density development and manage residential development in the City.

Work on the Residential Housing Needs Strategy is still under way and will not be completed before approval of the new Planning Scheme. Part of the Strategy will include an assessment the appropriateness of a range of planning scheme mechanisms to implement particular aspects of the strategy.

**Council Recommendation to the Panel**

\* That the submission be noted.

**“Panel Comment and Recommendation**

“See the Panel’s comment in the introduction to this section. The Panel accepts and supports the assessment of Council in this matter and considers that the mechanisms in place through the development of this Planning Scheme will address the concerns of the submitter.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

**5.63.1** That the submission be noted.

**5.66 Submission No: 66**

**Name of Submitter:** DH and LE Young

**Location:** North Balwyn

**Submission**

The MSS encourages medium density housing in our area. This is contrary to previous plans which exempted single dwelling covenanted areas from such development.

**Assessment**

See submission 63 on the previous page.

**Council Recommendation to the Panel**

- \* That the submission be noted.

**Panel Comment and Recommendation**

“See the Panel’s comment in the introduction to this section. The Panel accepts and supports the assessment of Council in this matter and considers that the mechanisms in place through the development of this Planning Scheme will address the concerns of the submitter.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

- 5.66.1** That the submission be noted.

Q

Q

Q. Now, you're going to ask me to read this, is that right?

## 6. HERITAGE ISSUES

This section discusses heritage issues raised by submitters. In most cases the submission comprises a request for heritage protection of a particular building or area.

### Heritage Protection in the City of Boroondara

The former Cities of Camberwell, Kew and Hawthorn each undertook heritage studies of their respective municipal areas. These studies resulted in heritage protection for a number of buildings and areas identified as having heritage significance, but not for all. Council's current heritage review involves a reassessment of the areas and buildings identified in these studies which do not have heritage protection, in order to establish that they are still intact and warrant heritage protection. Following extensive consultation, heritage protection may then be introduced by the planning scheme amendment process.

In addition to the above, as will be seen from the submissions, some facets of heritage not included in existing studies, such as war memorials, are also being assessed.

The Kew Urban Conservation Study, (1991), resulted in a number of residential areas and specific buildings being afforded heritage protection. There are however still some individual buildings which were not given heritage protection at the time, and which therefore require reassessment under the heritage review.

The Hawthorn Heritage Study, (1993), also resulted in a number of residential areas and specific buildings being included in heritage controls. However commercial areas, some individual buildings, and a few residential areas are not yet included in heritage controls. These will therefore require reassessment.

In Camberwell, three heritage studies were undertaken. The first study was of the Maling Road area, and resulted in the Maling Road shopping centre and surrounding residential area being given heritage protection. The second study, which included the central part of the municipality, resulted in the Victorian/ Edwardian area east of Camberwell Junction, being afforded heritage protection. The Camberwell Conservation Study, (1991), did not result in any new heritage areas at the time. All areas and buildings identified in the Camberwell study which do not have current heritage protection have therefore required reassessment. The heritage review is progressing in the Camberwell area, and as a result of this process, new heritage areas for the Golf Links Estate and Hassetts Estate have been introduced, and a number of amendments introducing new heritage buildings and areas have been exhibited, are at the Panel stage, or are waiting for the Minister's approval.

The Panel commended Council for the way in which it developed its Heritage Policy in Clause 22 and its consideration of submissions relating to heritage issues.

**Submissions considered under this Section**

Submissions Nos. 7, 20, 33, 49, 57, 61



## **6.7 Submission No 7 (also considered under Public Acquisition Overlays)**

**Name of Submitter:** Mr and Mrs G Eisen

**Location:** 82 Molesworth St, Kew

**Existing Zone:** Proposed Public Open Space, Streamside Environment Area No. 1, River Concept Plan No 4 Area, and Floodway Management Area.

**Exhibited Zone:** Urban Floodway Zone - major portion of the site, Residential Zone - small eastern portion; **Overlays:** Environmental Significance Overlay, Significant Landscape Overlay, Land subject to Inundation Overlay, Public Acquisition Overlay.

**Requested Zone:** Residential 1; remove the Public Acquisition Overlay; include a Heritage Overlay

### **Submission**

The submission includes a letter from the National Trust dated November 1988, advising that the property is included in its Register.

### **Assessment**

As this land is part of an open space area of regional significance, Parks Victoria was nominated as the authority to acquire the land to continue the parkland strip along the Yarra and the land is therefore subject to a Public Acquisition Overlay.

The boundaries of the Urban Floodway Zone have been determined by Melbourne Water who is the floodplain authority.

The property is being considered for heritage protection as part of Council's heritage review discussed in the introduction to this section.

### **Council Recommendation to the Panel**

- \* That the zoning and overlay provisions remain unchanged as exhibited.

### **Panel Comment and Recommendation**

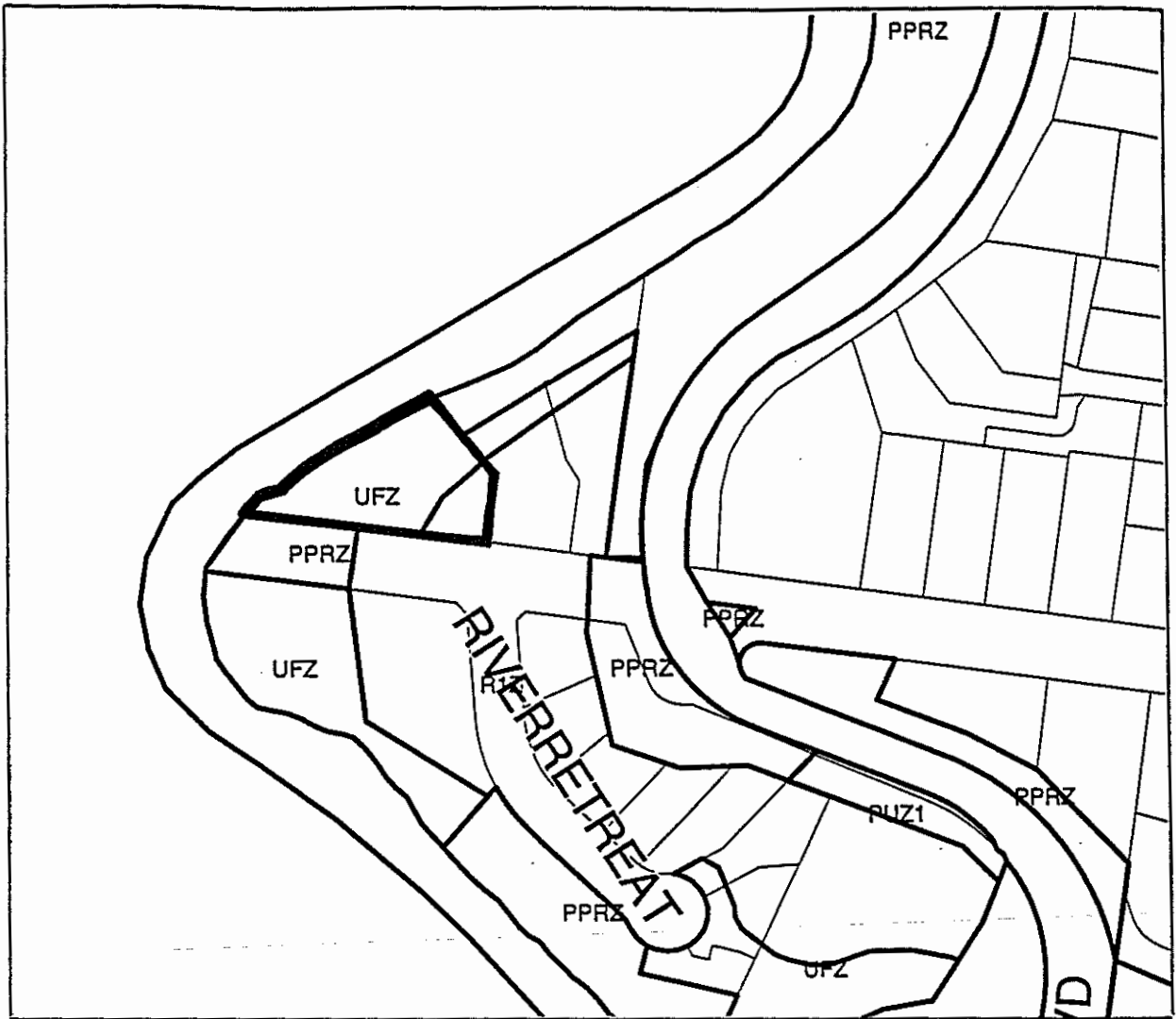
"The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. Further heritage studies will assist to clarify some of the issues raised in this submission.

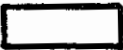
With regard to the proposed Public Acquisition Overlay, the Panel has provided a detailed assessment of this in Section 4.7 of this report.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission."*

### **Council Recommendation**

**6.7.1** That the zoning and overlay provisions remain unchanged as exhibited.



 SUBJECT SITE

82 MOLESWORTH ST

## SITE & ZONING PLAN

**6.20 Submission No: 20**

**Name of Submitter:** Ellena Biggs

**Location:** City of Boroondara

**Submission**

The submission states that there are discrepancies between the Ordinance and the Maps in that some properties listed in the Ordinance are not shown on the Maps.

The submitter feels that Council should implement the recommendations of the Camberwell Urban Conservation Study and undertake further heritage studies of the City. It is felt that the heritage overlays exhibited under the new Planning Scheme do not adequately cover and protect the heritage homes, streetscapes and gardens of the City.

Some examples of buildings not included in the overlays are listed by the submitter.

**Assessment**

The Map and Ordinance have been checked for errors and will be corrected. (This is discussed in detail in the section of this report which addresses anomalies.)

With regard to the second point raised by the submitter, and as discussed in the introduction to this section, all areas identified in the previous heritage studies which are not yet subject to heritage protection are being reassessed with a view to including them in the Heritage Overlay. The Camberwell Urban Conservation Study, 1991, is being systematically reviewed and new heritage areas are being exhibited where appropriate.

With regard to ungraded buildings, unless further information is supplied to justify reassessment, no further action is proposed.

Maranoa Gardens, also on the submitter's list, is a Council owned park. Even though it is a significant asset within the City, the park is not noted as having environmental value. There is, however, a masterplan in place which seeks to make various improvements to the park including ongoing planting, the construction of new pathways and other structures.

In terms of its heritage value, the park is on the National Trust Register and will be considered for heritage protection as part of Council's current heritage review.

**Council Recommendation to the Panel**

- \* That the submission be noted.

**Panel Comment and Recommendation**

“The Panel accepts and supports the assessment of Council in this matter and notes that the mapping and ordinance errors and recommendations are provided for in Section 4.10 of this report. The Panel sought clarification on Maranoa Park at the hearing and is satisfied that it should be placed in the Public Park and Recreation zone.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

- 6.20.1** That the submission be noted.

**6.33 Submission No: 33**

**Name of Submitter:** Returned Services League of Australia 10 District Board (Victoria)

**Location:** City of Boroondara

**Existing Zone:** Various

**Exhibited Zone:** Various

**Requested Zone:** Heritage Overlay

**Submission**

The submission seeks inclusion within the Heritage Overlay, of all war memorials located in the City of Boroondara. The war memorials are listed in the submission.

**Assessment**

Council officers met with representatives of the RSL several months ago. All the war memorials listed will be considered as part of the heritage review.

**Council Recommendation to the Panel**

- \* That the submission be noted.
- \* That all war memorials listed in the submission be considered for heritage protection as part of Council's heritage review.

**Panel Comment and Recommendation**

"The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. The Council acknowledged at the hearing and in its introduction and overview to this section that war memorials will be assessed and considered as part of its heritage review.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission."*

**Council Recommendation**

- 6.33.1** That the submission be noted.
- 6.33.2** That all war memorials listed in the submission be considered for heritage protection as part of Council's heritage review.

**6.49 Submission No: 49**

**Name of Submitter:** National Trust of Australia (Victoria)

**Location:** City of Boroondara

**Submission**

The MSS specifies giving protection to all places on the National Trust's Significant Trees Register and Gardens Register through listing in the Heritage Overlay. This has not been done in the exhibited planning scheme, with the majority of trees and gardens not being listed.

A number of buildings on the National Trust Register, and one area, the Rathmines Village Area, have not been included in the Heritage Overlay.

The National Trust requests that the following statement be included in the Heritage Policy contained in Clause 22 of the Planning Scheme:

*"Comment be sought from the National Trust on all planning applications which may have a significant impact on a place classified by the National Trust."*

**Assessment**

As part of the heritage review, Council will assess all areas and places on the National Trust Register not yet covered by planning controls, including the Significant Trees Register and Gardens Register, with the object of including them in a Heritage Overlay as appropriate.

With regard to referrals to the National Trust, Council concurs with the view of the Advisory Committee on the Victoria Planning Provisions which sets out that any permit application to alter a heritage place will be advertised in the normal manner, which includes the National Trust if it is a classified building, unless the proposal is exempt from advertising under Clause 43.01-1.

The following statement should therefore be added to the Heritage Policy in Clause 22 of the Planning Scheme:

*"Unless exempt from advertising under Clause 43.01-1, comment will be sought from the National Trust, under the provisions of Clause 43.01, on all planning applications for a building or place classified by the National Trust."*

### Council Recommendation to the Panel

- \* That the submission be noted.
- \* That the following statement be added to the Heritage Policy in Clause 22 of the Planning Scheme:

*"Unless exempt from advertising under Clause 43.01-1, comment will be sought from the National Trust, under the provisions of Clause 43.01, on all planning applications for a building or place classified by the National Trust."*

### Panel Comment and Recommendation

"The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. The Panel has already discussed this issue in Section 3 of this report and it is understood that the National Trust also accepts the recommendation of Council in relation to its submission.

*The Panel recommends that the following statement be added to the Heritage Policy in Clause 22 of the Planning Scheme:*

*'Unless exempt from advertising under Clause 43.01-1, comment will be sought from the National Trust, under the provisions of Clause 43.01, on all planning applications for a building or place classified by the National Trust.'* "

### Council Recommendation

- 6.49.1 That the submission be noted.
- 6.49.2 That the following statement be added to the Heritage Policy in Clause 22 of the Planning Scheme:

*"Unless exempt from advertising under Clause 43.01-1, comment will be sought from the National Trust, under the provisions of Clause 43.01, on all planning applications for a building or place classified by the National Trust."*



**6.57 Submission No: 57**

**Name of Submitter:** Studley Park Association Inc

**Location:** Studley Park Area

**Existing Zone:** Residential C and Heritage Residential Zone

**Exhibited Zone:** Residential 1 with some of the area subject to a Heritage Overlay

**Submission**

This submission refers to the "Studley Park Area" which is defined by the submitter as the area bounded generally by the Eastern Freeway to the north, High Street, Carson Street and Findon Crescent to the east, Stevenson Street and Barkers Road to the south and the Yarra River to the west.

The submission maintains that under the exhibited Planning Scheme, the Studley Park Area has a greater number of identified heritage places than any other comparable area in the City of Boroondara. There are many places in the Studley Park Area which merit heritage protection; in some cases with even more justification than those currently subject to heritage protection.

The submission argues that more and preferably all the precincts in the Studley Park area should be included in a Heritage Overlay.

Over recent years the Studley Park Area, in common with other areas in the City has been subject to property development which has threatened to impact on the culture of the area. Proposals for development should be assessed in the main, against the third purpose of the Heritage Overlay which is to ensure that development does not affect the significance of heritage places. This would protect the character and culture of the Studley Park Area. In order for this to be a valid assessment of a development proposal, the whole of the Studley Park area should be included in a Heritage Overlay.

**Assessment**

As discussed in the introduction to this section, the Kew Conservation Study was adopted by the former City of Kew in April 1991. As a result of this study a number of precincts and buildings in Kew were given heritage protection.

A precinct would only be included in a heritage overlay if it were assessed as having natural or cultural heritage significance. If a precinct does not have heritage significance, it is not possible to include it in a heritage overlay.

The submission is concerned with the effect of development on the character of the area and in particular the effect of development adjacent to areas of recognised heritage significance.

As discussed in the introduction, the protection of character is addressed by the MSS and the Neighbourhood Character Policy in Clause 22 of the exhibited Scheme. In addition Council is investigating the use of further planning scheme mechanisms to

protect particular character areas as well as lobbying for other changes in line with its eight Residential Planning Initiatives.

In order to address the issue of development which abuts a heritage area, Council ensures that at the time of any permit application, the need for sympathetic interfacing of any such development with an adjoining heritage site, which has been identified in heritage overlays in the Boroondara Planning Scheme, is addressed. Council is able to achieve this, through the Boroondara Planning Scheme and the application of its Residential Urban Character Study.

#### **Council Recommendation to the Panel**

- \* That the submission be noted.

#### **Panel Comment and Recommendation**

“The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. It is understood that the issues raised in this submission will be picked up in the forthcoming heritage review and until that review occurs, it would be inappropriate to make any specific heritage recommendations about the Studley Park area.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission.”*

#### **Council Recommendation**

- 6.57.1 That the submission be noted.

**6.61: Submission No.: 61**

**Name of Submitter:** Murray and Diana Gerstman

**Location:** Kew

**Submission**

Medium density development should be more sensitive to surrounding properties. Council should act to ensure that locally developed guidelines are enforceable. A major concern is the continued creep of medium density development including units, dual occupancies and also large fences. Many of these are having a detrimental effect on character, amenity and heritage which is cherished by the community.

One of the difficulties with the defined heritage areas in the Planning Scheme is the exclusion of strips along some main roads which abut heritage areas. The effect of higher density development adjacent to heritage areas detracts from the heritage area.

The heritage area in Kew, east of the Kew Junction, should include the properties along Cotham Road from Ridgeway Avenue to Adeney Avenue for the above reasons and because there are many properties of significant heritage value in that strip.

The Residential Framework Plan in the MSS identifies this strip (in which the submitters live) as a medium density residential opportunity. The area fulfils the criteria of main road, public transport and close to shopping centres but in this case, the submitter feels that Council has ignored the heritage of the area in making this recommendation. The submitter requests that Council remove the strip along Cotham Road from Ridgeway Avenue to Adeney Avenue as a preferred location for medium density development.

**Assessment**

As discussed in submission 57 on the previous page, In order to address the issue of residential development which abuts a heritage area, Council ensures that at the time of any permit application for either subdivision or multi-unit development, the need for sympathetic interfacing of any such development with an adjoining heritage site, which has been identified in heritage overlays in the Boroondara Planning Scheme, is addressed. Council is able to achieve this, through the Boroondara Planning Scheme and the application of its Residential Urban Character Study.

The MSS includes broad statements regarding medium density development and refers to areas which have the locational requirements which may be suitable for higher density development, including being close to shopping and community facilities, and public transport. Council is currently undertaking a Residential Housing Needs Strategy to address these issues and further manage residential development in the City. This work will also allow Council to refine the Residential Framework Plan of the MSS.

The Study will also suggest the means to achieve increased density in select locations. In the meantime each application will be assessed on its merits and in the light of Council initiatives such as the Residential Urban Character Study and Heritage Overlays.

#### **Council Recommendation to the Panel**

- \* That the submission be noted.

#### **Panel Comment and Recommendation**

"The Panel accepts and supports the assessment of Council in this matter and adopts its recommendation. It is understood that the issues raised in this submission will be picked up in the forthcoming Heritage Study and the Housing Strategy and until those reviews occur, it would be inappropriate to make any specific heritage recommendations in relation to this submission.

*The Panel recommends no change to the exhibited Planning Scheme arising from this submission."*

#### **Council Recommendation**

- 6.61.1 That the submission be noted.

## 7. INSTITUTIONS

Institutions, which include private schools and hospitals, are recognised for their role in providing medical and educational services to the City and for their role in the economy of the City (Boroondara Economic Policy). Council's 1995-1998 Corporate Plan, and the 1998-2001 Corporate Plan, both identify the need to establish links with large educational and health institutions and to develop master plans to assist in their development so that their impacts on surrounding areas are minimised.

The important role of institutions as well as the need to be able to accommodate them in residential areas without impacting adversely on amenity are strategic objectives of the Municipal Strategic Statement.

One option raised by submitters is to place large institutions in a Special Use Zone under the provisions of the new planning scheme.

This approach is not favoured by Council. An approach which treats the schools as part of the residential fabric of the City is preferred. This can be achieved by placing the schools in the Residential 1 Zone which specifically caters for non-residential uses such as schools. This can be seen from the purposes of the Residential 1 Zone, one of which is, *"In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs."*

All but four of the private schools are currently in a residential zone. Placing the schools in the Residential 1 Zone under the new Planning Scheme recognises that they are part of the residential fabric of the City. The permit process (or master plan process) will enable them to be accommodated without impacting adversely on residential amenity and character.

### Development Plan Overlay and Incorporated Plan Overlay

As discussed above, Council's Corporate Plan and the Municipal Strategic Statement (MSS) indicate that there is a need for provisions other than the zoning provisions to direct the future development of large institutions and schools. It is considered that the preparation of a master plan will be of benefit to the schools involved, as well as to surrounding residents. The schools will benefit from not experiencing delays every time an application for a permit is lodged, as once the master plan is in place, permit applications will not be subject to public exhibition and associated appeal rights. Residents will benefit from being consulted in the forward planning of the school, and from knowing what to expect with regard to its growth and development in the short to medium term.

The new planning scheme provides two mechanisms to ensure that master plans are prepared. These are the Development Plan Overlay and Incorporated Plan Overlay.

The exhibited Planning Scheme has applied the Development Plan Overlay to all private schools.

Under the provisions of the Development Plan Overlay the development plan is prepared to Council's satisfaction. This means that there is no set procedure for approval of the development plan, and no statutory requirement to exhibit the plan to adjoining or potentially affected residents. (Council would however undertake exhibition of the plan.)

The Incorporated Plan Overlay differs from the Development Plan Overlay in that the (master) plan is incorporated into the planning scheme. In order to incorporate the plan, an amendment to the planning scheme is required. The amendment process has set procedures under the Act with regard to public consultation, and the community has access to a panel as an impartial arbiter. Final approval of the plan rests with the Minister for Planning.

Greater certainty for all parties is clearly the intention of the MSS. At its meeting on 27 July 1998, Council therefore resolved to replace the Development Plan Overlay with the Incorporated Plan Overlay for all private schools. This will not result in a change to the outcome, being the master plan, but in a change to the process to achieve that outcome. All private schools involved were notified of Council's position in order to give them the opportunity to make further submissions and to address the Panel on this issue. The schools were also invited to a workshop where the two controls and their differences were discussed.

As public (State) schools are included in public use zone, it is not possible to apply similar controls.

At present the Development Plan Overlay has only been exhibited for schools. The reason for this is that schools tend to have a relatively significant impact on their surrounds as they occupy large sites, and because prior to exhibition, insufficient information was available relating to institutions other than schools. It is therefore intended to prepare an amendment to introduce the Incorporated Plan Overlay for hospitals and other large institutions as a priority, once the new scheme has been adopted, and all necessary work has been completed. On 27 July 1998 Council resolved as follows:

*That the inclusion of the Hawthorn Private Hospital and other hospitals and institutions in an Incorporated Plan Overlay as one of the early amendments to the new Planning Scheme be investigated as a matter of urgency.*

The Panel indicated that it supports the intention of Council in its master plan approach. However, while the Panel considered that the use of the Incorporated Plan Overlay has some merit, it considered that the issues relating to the application of the Overlay have not been tested and that it was appropriate that interested parties be provided with a fuller opportunity to respond to the issues of concern and detail.

The Panel therefore recommended that the Development Plan Overlay be retained as the mechanism for institutions to prepare masterplans for a period of two years, allowing Council to explore the introduction of the Incorporated Plan Overlay.

There is merit in the Panel's suggestion. Because the exhibited Planning Scheme had included all schools in a Development Plan Overlay, Council was unable to undertake formal exhibition of the Incorporated Plan Overlay (although as mentioned above all parties were informed of Council's decision). Because of the process, issues relating to the schedule have not been able to be fully worked through or tested in a public forum. It is therefore agreed that the new Planning Scheme be adopted with the Development Plan Overlay in place, and that Council investigate a planning scheme amendment to introduce the Incorporated Plan Overlay as one of the early amendments to the Scheme. There is no rational reason for the two year time period for the introduction of the Incorporated Plan Overlay as suggested by the Panel. The introduction of the Overlay would be determined by the planning scheme amendment and consultation process rather than an arbitrary time.

**Submissions Considered in this Section**

The following submissions have been considered in this section:

24, 27, 28, 29, 42, 43, 44, 45, 46, 72, 79

**7.24 Submission No: 24**

**Name of Submitter:** Perrott Lyon Mathieson on behalf of Methodist Ladies College

**Location:** 207 Barkers Road, Kew

**Existing Zone:** Heritage Residential Zone

**Exhibited Zone:** Residential 1, Development Plan Overlay, Heritage Overlay (part)

**Note:** This school has a master plan incorporated into the Planning Scheme, for part of the site, but not for the section referred to in the submission as "the main campus".

**Submission:**

The requirement of the Development Plan Overlay is not a concern of this submission. The concern is the implications of the combination of this overlay with the Heritage Overlay.

The Heritage Overlay will require a permit for external alterations to the buildings along the Fitzwilliam Street, Barkers and Glenferrie Road frontages; and the Development Plan Overlay requires that a master plan be prepared to accompany any application for a permit over the same land. It therefore appears that a master plan could be required for the main campus for example to reposition a window.

It is requested that Council review the draft scheme to exempt minor external works to the existing buildings from the provisions of the Development Plan Overlay.

**Assessment**

The point raised in the submission would apply to either the Development Plan Overlay or the Incorporated Plan Overlay.

It is agreed that minor external works which will require a permit under the provisions of the Heritage Overlay (or the zone itself) should not trigger the requirement to prepare a master plan. The Schedule to the overlay should be amended to allow a permit to be granted without the need for a master plan for the following:

- Externally alter a building by structural work, rendering, sandblasting or in any other way.
- Externally paint a building.
- Remove, destroy or lop a tree.
- Construct, display or remove a sign.
- Demolish, remove or construct a fence, an outbuilding (including carport, garage, pergola, shed or similar structure) or service installation.
- Construction of playground equipment, seating, picnic tables, drinking taps, barbecues, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards and telephone boxes.



### Council Recommendation to the Panel

- \* That the Development Plan Overlay be replaced with the Incorporated Plan Overlay.
- \* That the Schedule to the Incorporated Plan Overlay be amended to allow a permit to be granted without the need for a master plan for the following:
  - *Externally alter a building by structural work, rendering, sandblasting or in any other way.*
  - *Externally paint a building.*
  - *Remove, destroy or lop a tree.*
  - *Construct, display or remove a sign.*
  - *Demolish, remove or construct a fence, an outbuilding (including carport, garage, pergola, shed or similar structure) or service installation.*
  - *Construction of playground equipment, seating, picnic tables, drinking taps, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards and telephone boxes.*

### Panel Comment and Recommendation

“See the opening comments and recommendation in the introduction to this section and also key issues in Section 2 of this report. The issue of the level of control and detail in the DPO or IPO was raised by other submitters during the course of the hearing and the Panel supports the concerns raised by MLC that a permit should not be required for what could be considered as minor works. The Panel is not convinced that the schedule to the IPO has been fully worked through and it has already recommended that its inclusion be delayed until such time as all parties have had an opportunity to comment on it.

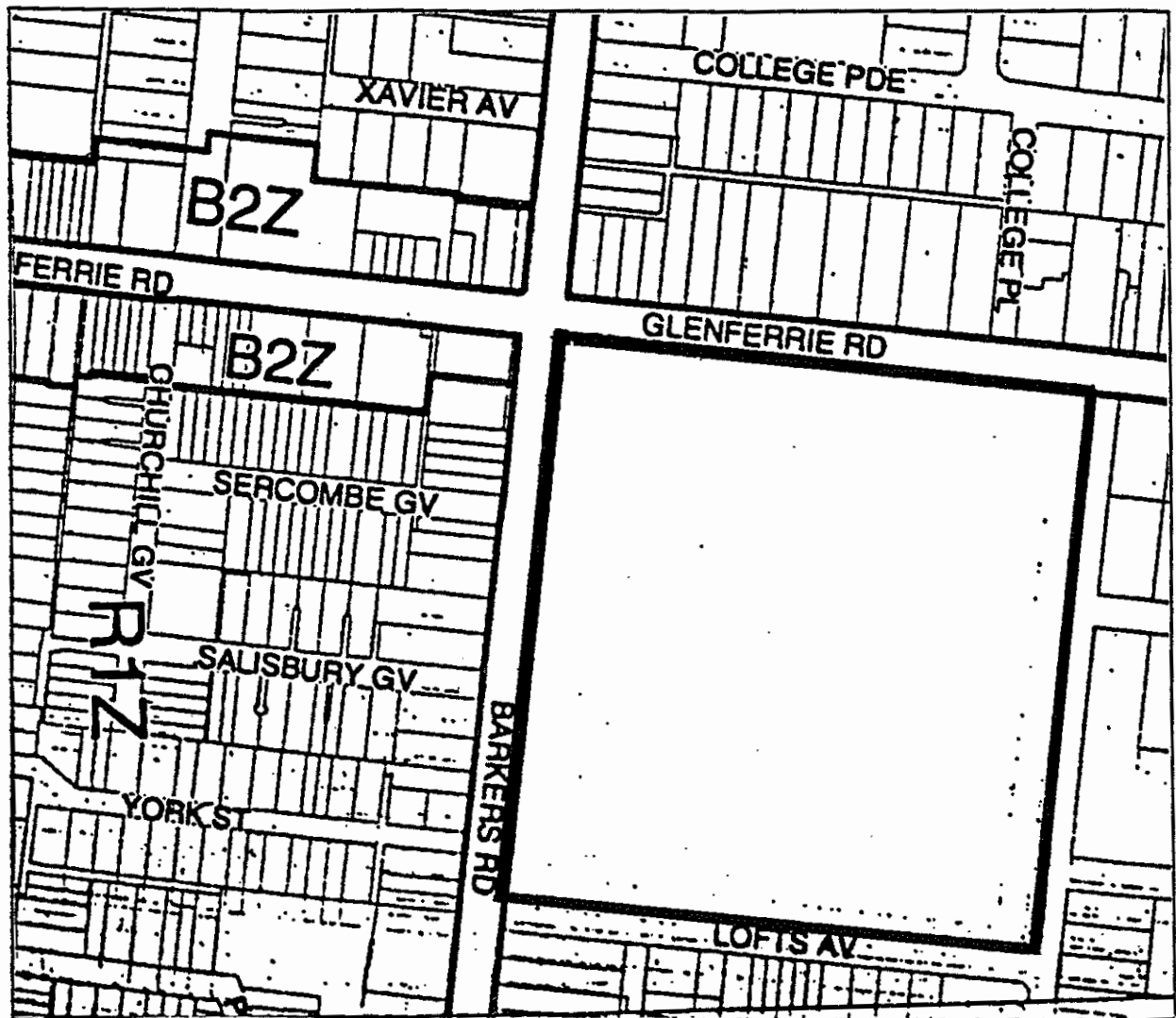
*The Panel recommends that in relation to Methodist Ladies College, the Schedule to the Development Plan Overlay be amended to allow a permit to be granted without the need for a master plan for the following:*

- *Externally alter a building by structural work, rendering, sandblasting or in any other way.*
- *Externally paint a building.*
- *Remove, destroy or lop a tree.*
- *Construct, display or remove a sign.*
- *Demolish, remove or construct a fence, an outbuilding (including carport, garage, pergola, shed or similar structure) or service installation.*

*Construction of playground equipment, seating, picnic tables, drinking taps, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards and telephone boxes.”*

### Council Recommendation

- 7.24.1** That the Development Plan Overlay be retained as exhibited.
- 7.24.2** That the Schedule to the Development Plan Overlay be amended to allow a permit to be granted without the need for a master plan for the following:
- *Externally alter a building by structural work, rendering, sandblasting or in any other way.*
  - *Externally paint a building.*
  - *Remove, destroy or lop a tree.*
  - *Construct, display or remove a sign.*
  - *Demolish, remove or construct a fence, an outbuilding (including carport, garage, pergola, shed or similar structure) or service installation.*
  - *Construction of playground equipment, seating, picnic tables, drinking taps, barbeques, rubbish bins, security lighting, irrigation, drainage or underground infrastructure, bollards and telephone boxes.*



 SUBJECT SITE

207 BAKERS RD

## SITE & ZONING PLAN

**7.27 Submission No: 27**

**Name of Submitter:** Scotch College. A number of other schools sent letters under cover of the Scotch College letter. These are Genazzano F C J College, Fintona Girls' School, Camberwell Grammar School, Ruyton Girls' School, Camberwell Anglican Girls Grammar School, Trinity Grammar School, Strathcona Baptist Girls Grammar School, Rossbourne School, Xavier College, Carey and Baptist Grammar School. Some of these schools have lodged separate submissions which are addressed elsewhere in this report.

**Location:** Morrison Street, Hawthorn

**Existing Zone:** Mainly residential; Scotch College, Xavier College, and part of Trinity Grammar, are zoned Special Use Zone No 1.

**Exhibited Zone:** Residential 1 Zone, Development Plan Overlay.

**Requested Zone:** Special Use Zone

**Submission**

The schools form a vital part of the Boroondara community and provide education opportunities for many thousands of students. These schools indicate that they have concerns with the proposed zoning.

**Assessment**

The concerns of the schools are not clearly expressed in this joint submission, however the proposed zoning is discussed in the introduction to this section of the report and in other submissions.

**Council Recommendation to the Panel**

- \* That the zonings of the above schools remain Residential 1 as exhibited.

**Panel Comment and Recommendation**

"See the opening comments in the introduction to this section and also key issues in Sections 2 and 3 of this report. The Panel agrees that the concerns are not clearly expressed by the joint submission, although Xavier College made a further presentation to the Panel on the zoning issue. For reasons previously discussed, the Panel supports Council's recommendation that all schools should be placed in the surrounding zone (with the exception of Scotch College for other reasons) with a Development Plan Overlay and has already made a recommendation for all schools in the introduction to this section.

*The Panel recommends that with the exception of placing Scotch College in a Special Use Zone, there be no change to the exhibited Planning Scheme arising from this submission."*

**Comment**

As discussed in Submission No 64 Scotch College is no different to any other private school in the City with regard to its potential impact on its surrounds. The Panel has endorsed the Residential 1 Zone for all private schools. Scotch College should therefore be included in the Residential 1 Zone.

**Council Recommendation**

- 7.27.1** That the zonings of the above schools remain Residential 1 and subject to the Development Plan Overlay as exhibited.

**7.28 Submission No: 28**

**Name of Submitter:** Scotch College.

**Location:** Morrison Street, Hawthorn

**Existing Zone:** Special Use No. 1 Zone. Some residential properties on the north side of Morrison Street, now owned by Scotch College are included in the Residential C Zone. Overlays: Floodway Management Area (Hawthorn and Kew) Streamside Environment No 1 Area.

**Exhibited Zone:** Residential 1 Zone, Environment Significance Overlay, Significant Landscape Overlay, Land Subject to Inundation Overlay, Development Plan Overlay.

**Requested Zone:** Special Use Zone

**Submission**

Under its current zoning the school is an as-of-right use. The new planning scheme would result in the loss of the as-of-right status of the school. The school would become a Section 2 use. A change in zoning to a Residential 1 Zone is unreasonable and detrimentally affects the existing rights and legitimate expectations of Scotch College for its schools/education centre to be recognised as-of-right.

Scotch College should not be restricted from obtaining a permit until a master plan has been prepared. The Development Plan process requiring community consultation and formalities will lead to unreasonable delays and for those applications which do not affect the neighbourhood, be unnecessary and over restrictive procedures.

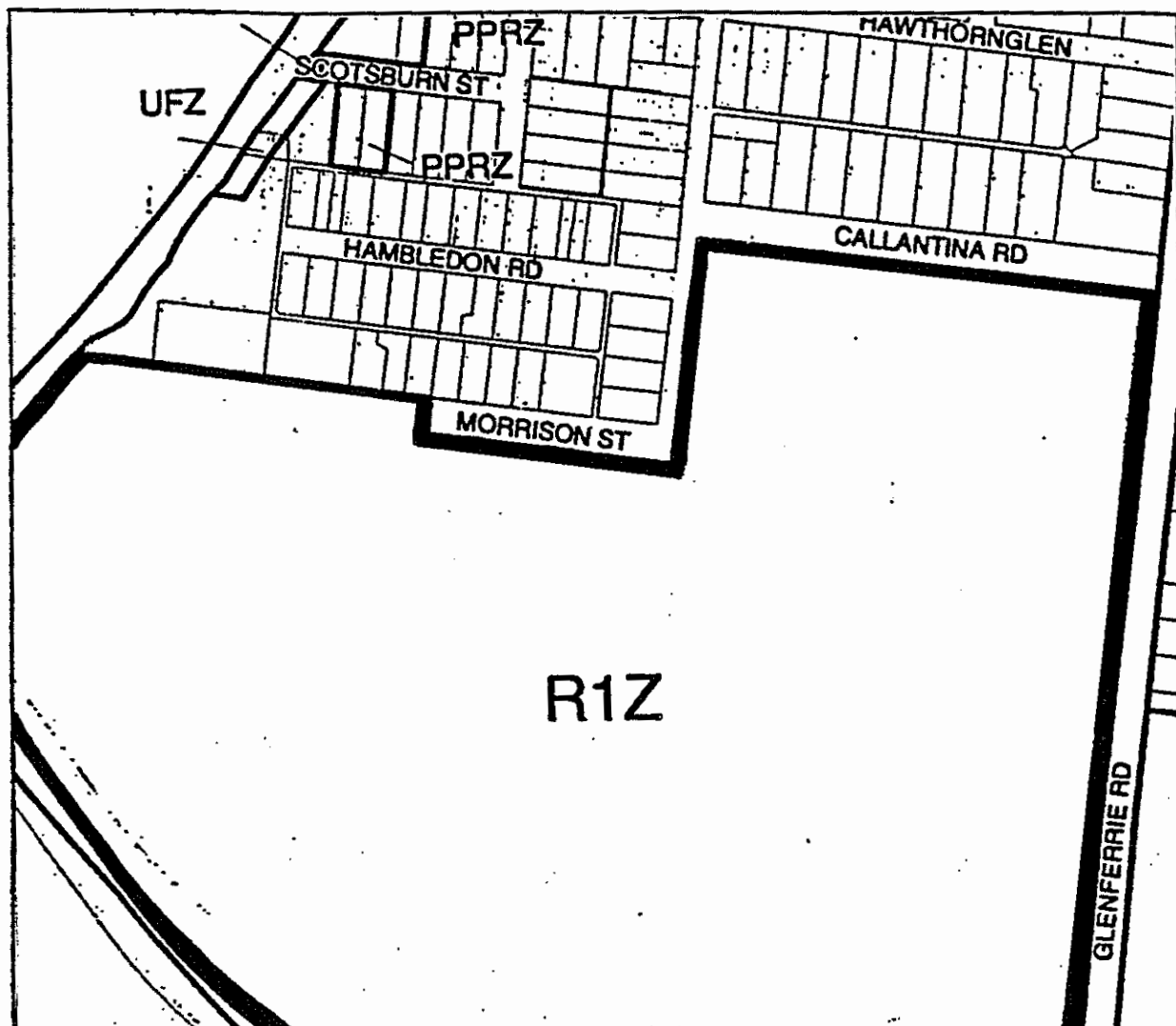
The adoption of the Municipal Strategic Statement and policies such as the Discretionary Uses Policy and Institutional Use Policy are contrary to good planning.


The College wishes to remain in a zone which translates the existing planning controls.

**Assessment**

Melbourne Water has revised its assessment of the flood-liaible land and floodway land in the vicinity of Scotch College and has advised that most of the Scotch College land which is flood prone, should be in an Urban Floodway Zone. As Melbourne Water is the Floodplain Authority, Council should reflect its wishes in the new Planning Scheme by zoning this land accordingly.

As discussed in the introduction, schools are a recognised part of the residential fabric and should be included in a zone which reflects this. The part of the site which is not floodprone should therefore be included in a Residential 1 Zone.



 SUBJECT SITE

MORRISON ST

**SITE & ZONING PLAN**

Council's exhibited Planning Scheme uses the tools available under the Victoria Planning provisions to create a sound and orderly planning system with a good strategic basis. The Municipal Strategic Statement (MSS), the Policies under Clause 22, the selection of Zones and Overlays are all an essential part of this system.

The MSS emphasises the proper integration of institutions and other non-residential uses with surrounding residential areas. This is to be achieved by applying the appropriate zone as discussed above; by applying an overlay which requires the preparation of a master plan, and by policy to guide discretion.

The policies assist in that they provide the guidelines to assess discretion in the following manner:

- The purpose of the Institutional Uses Policy is to encourage the development of master plans for all institutions in the City.
- The Neighbourhood Character Policy includes principles to encourage design solutions which respond positively to, and enhance existing neighbourhood character.
- The Discretionary Uses in Residential Areas Policy includes principles to encourage the accommodation of non-residential uses in residential areas with minimal impact.

It is considered that the preparation of a master plan will be of benefit to the schools involved, as well as to surrounding residents. The schools will benefit from having to plan for their future growth and needs and not having to accommodate new development in an ad hoc and unplanned manner. They will also derive benefits from the public notification exemptions contained within the overlay provisions. They will not experience delays every time an application for a permit is lodged, as once the master plan is in place, permit applications will not be subject to public exhibition and associated appeal rights. Residents will benefit from being consulted in the forward planning of the school, and from knowing what to expect with regard to its growth and development in the short to medium term.

#### **Council Recommendation to the Panel**

- \* That the floodprone part of the site be included in the Urban Floodway Zone as required by Melbourne Water.
- \* That the remainder of the site be included in the Residential 1 Zone.
- \* That the Development Plan Overlay be replaced with an Incorporated Plan Overlay.

#### **Panel Comment and Recommendation**

"See the opening comments in the introduction to this section and also key issues in Section 2 of this report. A full analysis relating to issues raised in this submission is provided in the Panel's comments and recommendations to Submission No. 64.



***The Panel recommends that Council place Scotch College in a Special Use Zone, with a Development Plan Overlay, until such time as Melbourne Water and the Department of Infrastructure undertake a regional assessment of provisions and application of the Urban Floodway Zone."***

### **Comment**

The Panel does not offer any sound reasons for recommending to place Scotch College in a Special Use Zone and does not explain how the application of a Special Use Zone will resolve the flooding issues facing the site.

In rejecting the application of the Urban Floodway Zone the Panel does not offer any sound reason why the Residential 1 Zone should not be applied to the Scotch College land. The Residential 1 Zone has been applied all other private schools and endorsed by the Panel.

It is Council's position that schools are part of the residential fabric of the City and that this should be reflected in their zoning. Like all other private schools in the City, Scotch College has a residential interface, in addition its size is such that its impacts extend beyond the immediate residential area. Under the Residential 1 Zone the use and development on this site would be assessed to limit their impacts on there surrounds. The impacts of the use would not be considered under a Special Use Zone. It is therefore considered that the site should be included in the Residential 1 Zone.

From the VPP Practice Note regarding the application of the Special Use Zone it is clear that the zone should not be applied to Scotch College. Firstly, the zone, overlays and policies which would apply to the site, would give effect to the desired objectives as articulated in the MSS. Secondly, were the area to be redeveloped, it is clear from the strategic intent of the MSS that residential development would be the preferred use.

### **Council Recommendation**

- 7.28.1**            That the floodprone part of the site be included in the Urban Floodway Zone as required by Melbourne Water.
- 7.28.2**            That the remainder of the site be included in the Residential 1 Zone.
- 7.28.3**            That the Development Plan Overlay be retained as exhibited.

**7.29 Submission No: 29**

**Name of Submitter:** Macroplan for Sienna College

**Location:** 815 Riversdale Road, Camberwell

**Existing Zone:** Camberwell Residential Zone

**Exhibited Zone:** Residential 1 Zone, Development Plan Overlay-

**Submission:**

The submitter objects to the Discretionary Uses in Residential Areas Policy, the Institutional Uses Policy, and the Development Plan Overlay.

The school wishes to build a new sports hall and science laboratory. Once constructed the school will have limited expansion ability and no developable land immediately adjacent to surrounding dwellings.

The proposed local policies are unnecessary and unjustified. There is no direct or reasoned link between the Policies and the Municipal Strategic Statement. There is no need to include a broad policy to deal with Council's discretion to grant planning approval.

The Discretionary Uses Code has not been prepared or incorporated into the Planning Scheme. The Discretionary Uses in Residential Areas Policy is therefore not explained.

The proposed policy framework will establish a complex land use regulatory system which is not in the spirit of the reform program.

The overlay is being used as a defacto zone and affects only part of the land.

There are no significant design or development interface issues relevant to the property.

**Assessment**

As explained in the introduction to this section and in Submission No. 28, the policies referred to, as well as the Overlay requiring the preparation of a master plan, are directly linked to the Municipal Strategic Statement. The strategic objectives of the MSS refer to the proper integration of institutions and other non-residential uses into residential areas and the limitation of the impact of non-residential uses in residential areas. The policies and the Overlay are the means Council will use to achieve these objectives.

The Incorporated Plan Overlay or Development Plan Overlay are not de facto zones as they have different characteristics to a zone. A zone controls use and development. The Incorporated Plan Overlay and Development Plan Overlay do not attempt to control land use but require the preparation of a master plan.

The Discretionary Uses in Residential Areas Policy in Clause 22 provides guidance for the consideration of planning permits for discretionary uses. The Policy sets the principles, and criteria for assessing the impact of a non-residential use in a residential zone.

Although the Discretionary Uses Code had not been prepared at the time the Planning Scheme was exhibited, it was flagged in the MSS and it has now been adopted by Council. On the advice of the Department of Infrastructure the provisions of the Code have been included in the Policy. (See discussion in the main body of this report.)

The submitter is correct in that part of the school has inadvertently not been included in the Development Plan Overlay. This will be corrected.

### **Council Recommendation to the Panel**

- \* That the Development Plan Overlay be replaced with the Incorporated Plan Overlay.
- \* That the area covered by the Overlay includes the area of the school for which a planning permit has been obtained.

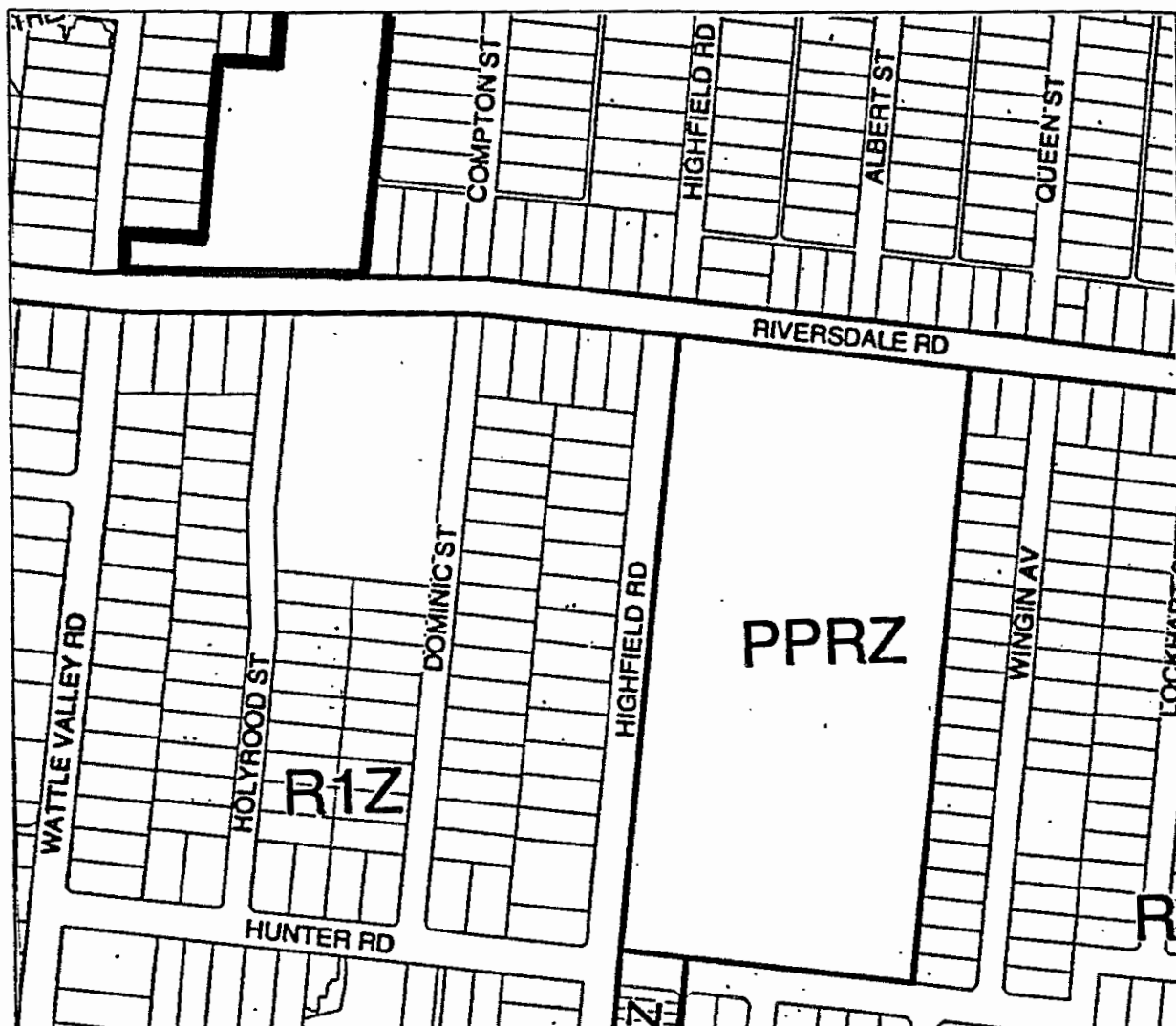
### **Panel Comment and Recommendation**

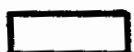
“See the opening comments in the introduction to this section, key issues in Section 2 of this report and the discussion by the Panel on the policies in Section 3.5.

*The Panels recommends no change to the exhibited Planning Scheme arising from this submission.*

### **Council Recommendation**

- 7.29.1** That the Development Plan Overlay be retained as exhibited.
- 7.29.2** That the area covered by the Overlay includes the area of the school for which a planning permit has been obtained.”



 SUBJECT SITE

815 RIVERSDALE RD

## SITE & ZONING PLAN

**7.42 Submission No: 42**

**Name of Submitter:** Moores on behalf of Carey Baptist Grammar School

**Location:** 349 Barkers Road, Kew

**Existing Zone:** Residential C

**Exhibited Zone:** Residential 1, Development Plan Overlay

**Requested Zone:** Special Uses Zone

**Submission**

Schools should be acknowledged by a Special Use zoning rather than an intrusion into residential zones. It is a regressive step to zone education institutions Residential 1. Council should acknowledge the special contribution and requirements of educational institutions in the City by using an appropriate Special Use Zone.

It is conceivable that the use of the Residential 1 Zone opens the way for the argument that further intensification or development of a school is not in compliance with the zoning of the land.

The Municipal Strategic Statement acknowledges the importance of schools to the City. However its reference to local policies augers that educational institutions will be treated less favourably than other land owners particularly home owners.

By placing Carey within a Residential 1 Zone and making it subject to the Discretionary Uses in Residential Areas Policy places inappropriately stringent controls on the school.

The objectives of the Institutional Uses Policy state that Council wishes to limit the impact that institutional uses have on surrounding residential uses. The wording suggests that schools are an intrusion rather than an integral part of the City's life, history and culture.

Carey will cooperate in the master plan process to facilitate future development consistent with the master plan.

The Neighbourhood Character Policy creates a perception that schools are an inconsistent and undesirable use in residential areas. The objective of the Policy says that it is to maintain or enhance the character of residential neighbourhoods in the City. The use of the word maintain suggests that no development of non-residential uses will be permissible or encouraged.

Schools like Carey should not be zoned in a way that treats them like unwelcome newcomers to residential areas.

### Assessment

The reasons behind the application of the Residential 1 Zone to institutions are discussed in the introduction and in Submission 28.

The Municipal Strategic Statement acknowledges the special contribution made by private schools to the City. However it is also true that these large institutions are generally located in residential areas and have the potential to impact on surrounding residential development. The use of an Overlay requiring the preparation of a master plan, in conjunction with the Policies mentioned in the submission, will minimise the potential impact of these large institutions should they be developed further.

The policies assist in planning decisions in that they provide the guidelines to assess discretion:

- The purpose of the Institutional Uses Policy is to encourage the development of master plans for all institutions in the City.
- The Neighbourhood Character Policy includes principles to encourage design solutions which respond positively to, and enhance existing neighbourhood character.
- The Discretionary Uses in Residential Areas Policy includes principles to encourage the accommodation of non-residential uses in residential areas with minimal impact on its surrounds.

### Council Recommendation to the Panel

- \* That the Development Plan Overlay be replaced with the Incorporated Plan Overlay.
- \* That the property be retained in the Residential 1 Zone as exhibited.

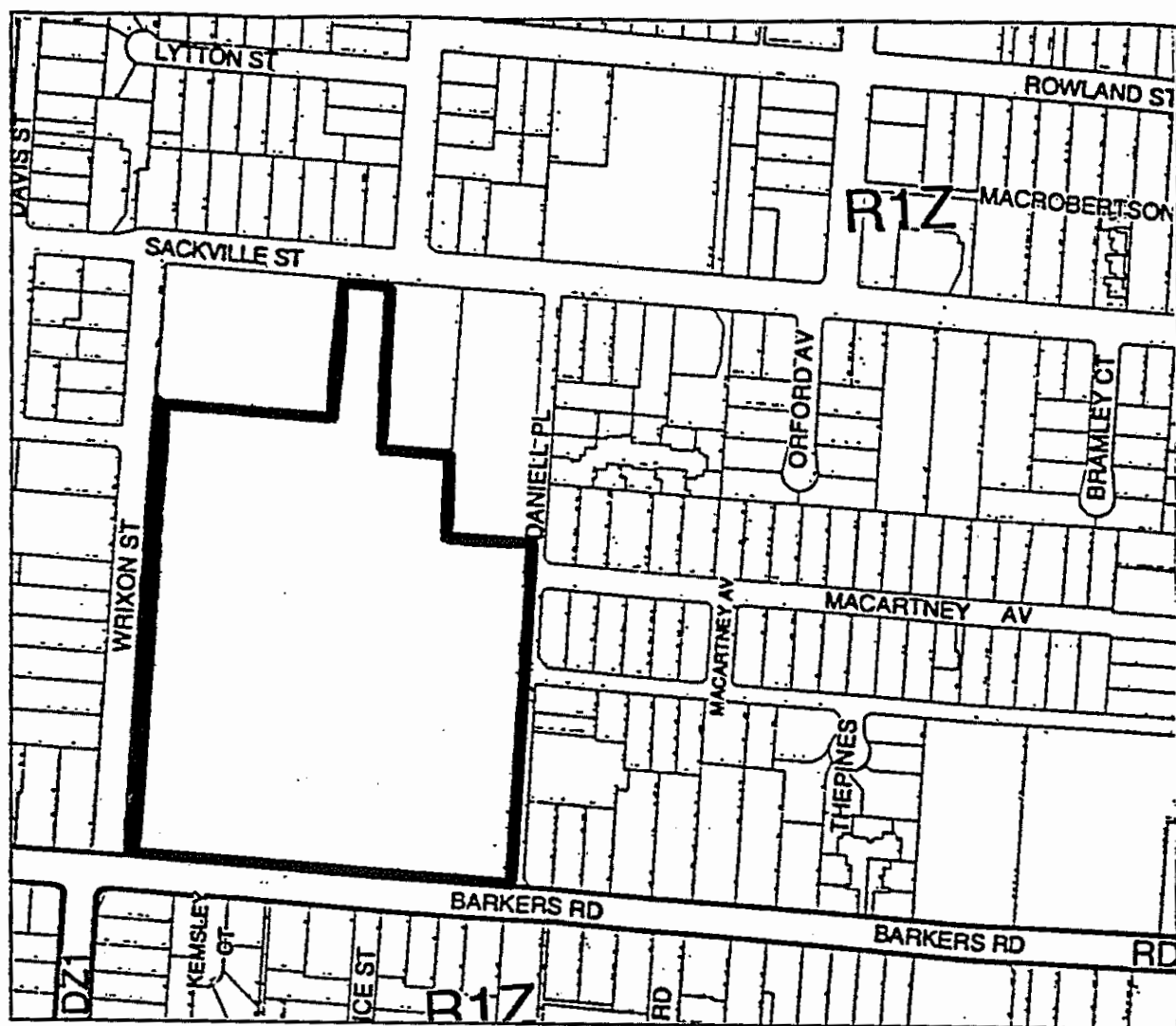
### Panel Comment and Recommendation


“See the opening comments and recommendations in the introduction to this section and also key issues in Section 2 of this report.

*The Panels recommends no change to the exhibited Planning Scheme arising from this submission.”*

### Council Recommendation

- 7.42.1 That the Development Plan Overlay be retained as exhibited.
- 7.42.2 That the property be retained in the Residential 1 Zone as exhibited.



 SUBJECT SITE

349 BARKERS RD

## SITE & ZONING PLAN

**7.43 Submission No: 43**

**Name of Submitter:** Hansen Partnership on behalf of Fintona Girls School

**Location:** 79-81 Balwyn Road, 80 Balwyn Road and 17 Cherry Street (junior campus) and 71 Balwyn Road (caretakers house)

**Existing Zone:** Camberwell Residential Zone

**Exhibited Zone:** Residential 1 with Development Plan Overlay

**Submission**

It is desirable for all the sites owned and used by Fintona to be included in the Development Plan Overlay. To this end the submitter advises that the property at 71 Balwyn Road is owned by Fintona and used by the caretaker and should be included in the Development Plan Overlay.

The submission expresses concern that where there is a need for any minor development such as a garden shed, the preparation of a master plan will be required. It is felt that this aspect needs to be clarified prior to the Development Plan Overlay receiving general acceptance.

The Discretionary Uses policy is not seen as necessary.

The Institutional Policy requires fine tuning. It is considered that the need to provide detailed plans including elevations will result in the need to amend the plan as the schools operational priorities change from the time of preparing the master plan. It is felt that the school cannot always estimate the realistic levels of what it wants outside a 3-5 year programme. Detailed approval too early may result in the need to amend the master plan after spending large sums of money on its initial preparation.

When development cannot be undertaken in accordance with the approved master plan, clarification is required on processing amendments to the master plan.

Finally, the submission contends that the degree to which the site has been included in the Heritage Overlay is incorrect.

**Assessment**

It is agreed that minor external works which will require a permit under the provisions of the Heritage Overlay (or the zone itself) should not trigger the requirement to prepare a master plan. A means to avoid this, is recommended under Submission No. 24.

The caretaker's house at 71 Balwyn Road although owned by the school, is used and developed as a dwelling, it should therefore not be included in the Development Plan Overlay. As a general principle Council will not include land in the Incorporated Plan Overlay or Development Plan Overlay until it has been assessed via a planning permit, as appropriate for use and development as an educational institution. The reason for this is that the inclusion of land in the Overlay control prior to this stage could be



regarded as de facto acceptance that the new area should be part of the school prior to any assessment of the suitability of the proposal.

Both the Institutional Policy and the Discretionary Uses in Residential Area Policy are required in the Planning Scheme as they have different roles. The former policy states what is required in the preparation of a master plan. The latter states the principles and criteria that a discretionary use should achieve in order to be accommodated in a residential area without impacting adversely on residential character and amenity.

The matters that must be addressed in the development of master plans (as listed in the Institutional Uses Policy and the Schedule to the Development Plan Overlay) include broad elements such as future building envelopes, and building form and design elements. No detailed plans and elevations are required at the master plan stage. It is considered that the requirements while broad, should have sufficient information so that Council and residents are able to ascertain the scale and intensity of the development, as well as possible impacts on the surrounding residential area.

There is an error in that a Heritage Overlay has been applied to the property. The property is however, subject to heritage amendment currently waiting for the Minister's approval. When the amendment is approved, that part of the property which is the subject of the Amendment will be included in a Heritage Overlay.

#### **Council Recommendation to the Panel**

- \* That the Development Plan Overlay be replaced with the Incorporated Plan Overlay.
- \* That the area covered by the Overlay includes the area of the school for which a planning permit has been obtained.
- \* That the Heritage Overlay be removed pending approval by the Minister for Planning.

#### **Panel Comment and Recommendation**

"See the opening comments and recommendation in the introduction to this section and also key issues in Section 2 of this report. Further, the issue of how far the application of the Development Plan Overlay should apply is also discussed in more detail in submission No 45. The Panel agrees that at this stage, the application of the Development Plan Overlay should only be for land which is owned and used by the school, or where a permit has been obtained for use for education purposes.

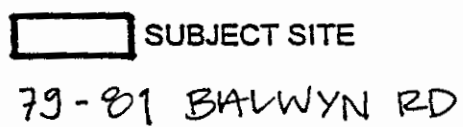
*The Panel recommends the area of Fintona Girls School covered by the Development Plan Overlay includes the area of the school for which a planning permit has been obtained, and the Heritage Overlay be removed pending approval by the Minister for Planning."*

**Comment**

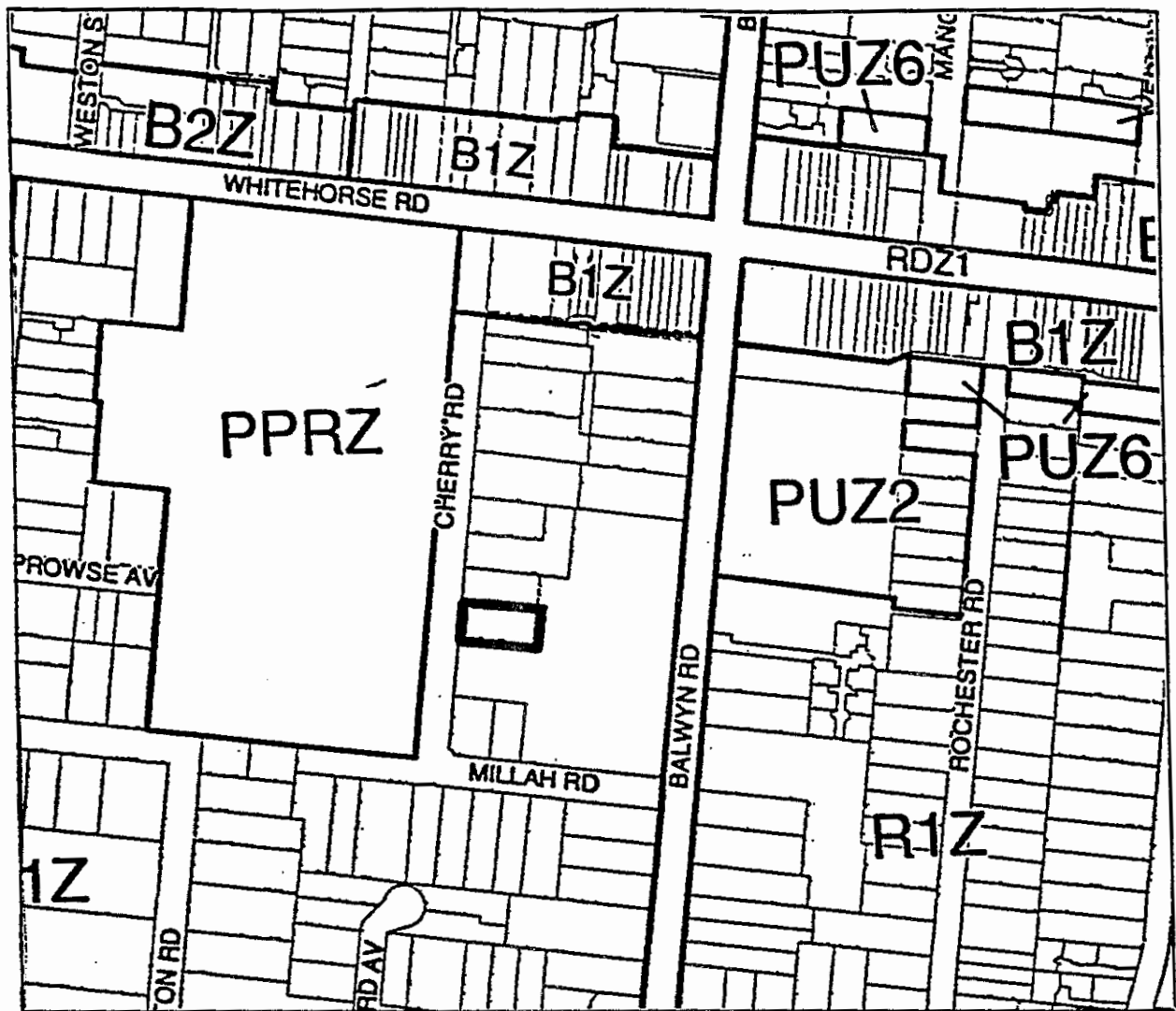
Since the Panel hearing the Planning Scheme Amendment to introduce heritage controls to a number of A Grade buildings in the City has been approved by the Minister for Planning. Part of the property is now subject to a Heritage Overlay. This Overlay will be continued into the new Planning Scheme.

**Council Recommendation**

- 7.43.1**            That the Development Plan Overlay be retained as exhibited.
- 7.43.2**            That the area covered by the Overlay includes the area of the school for which a planning permit has been obtained.



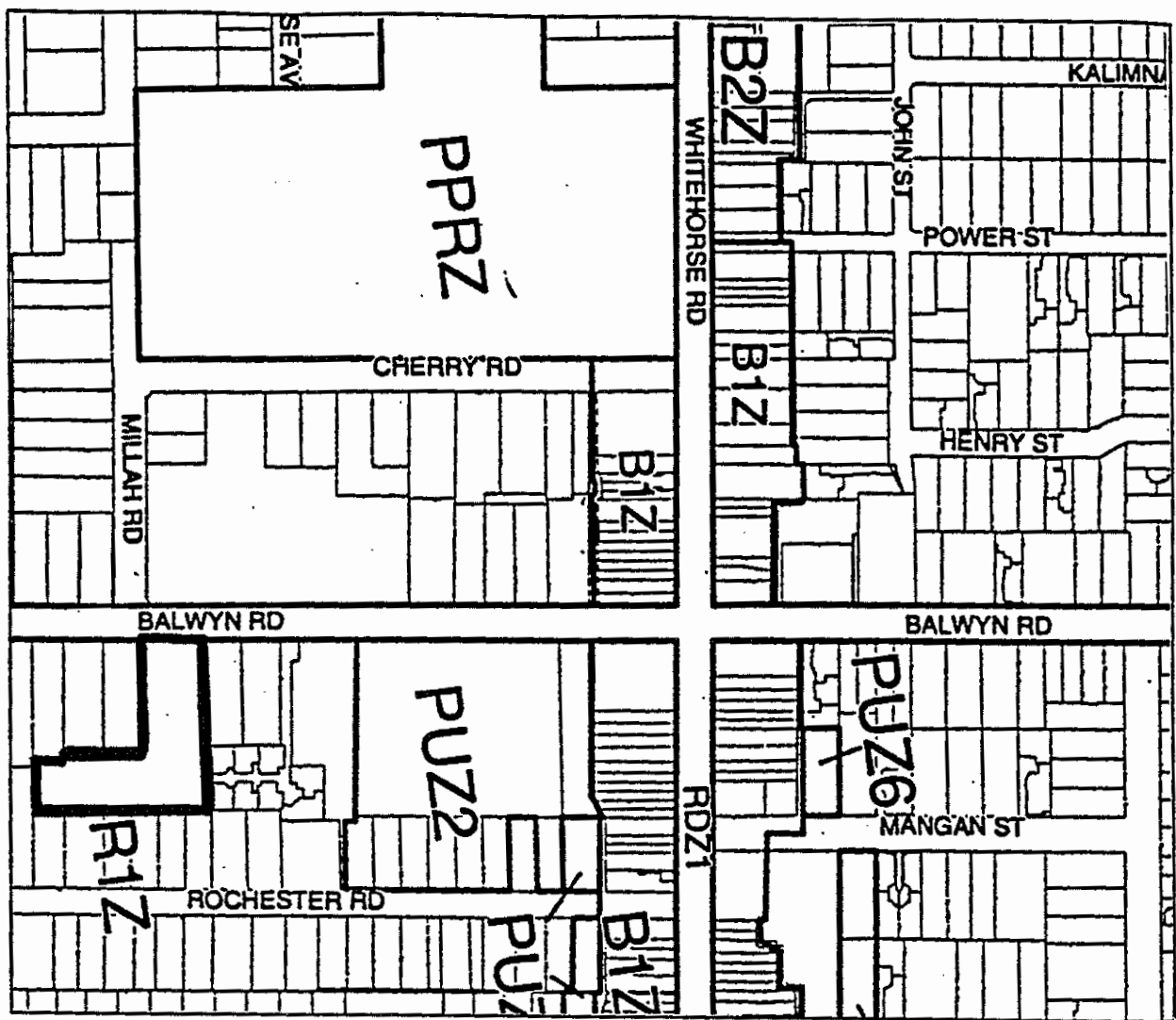
## SITE & ZONING PLAN



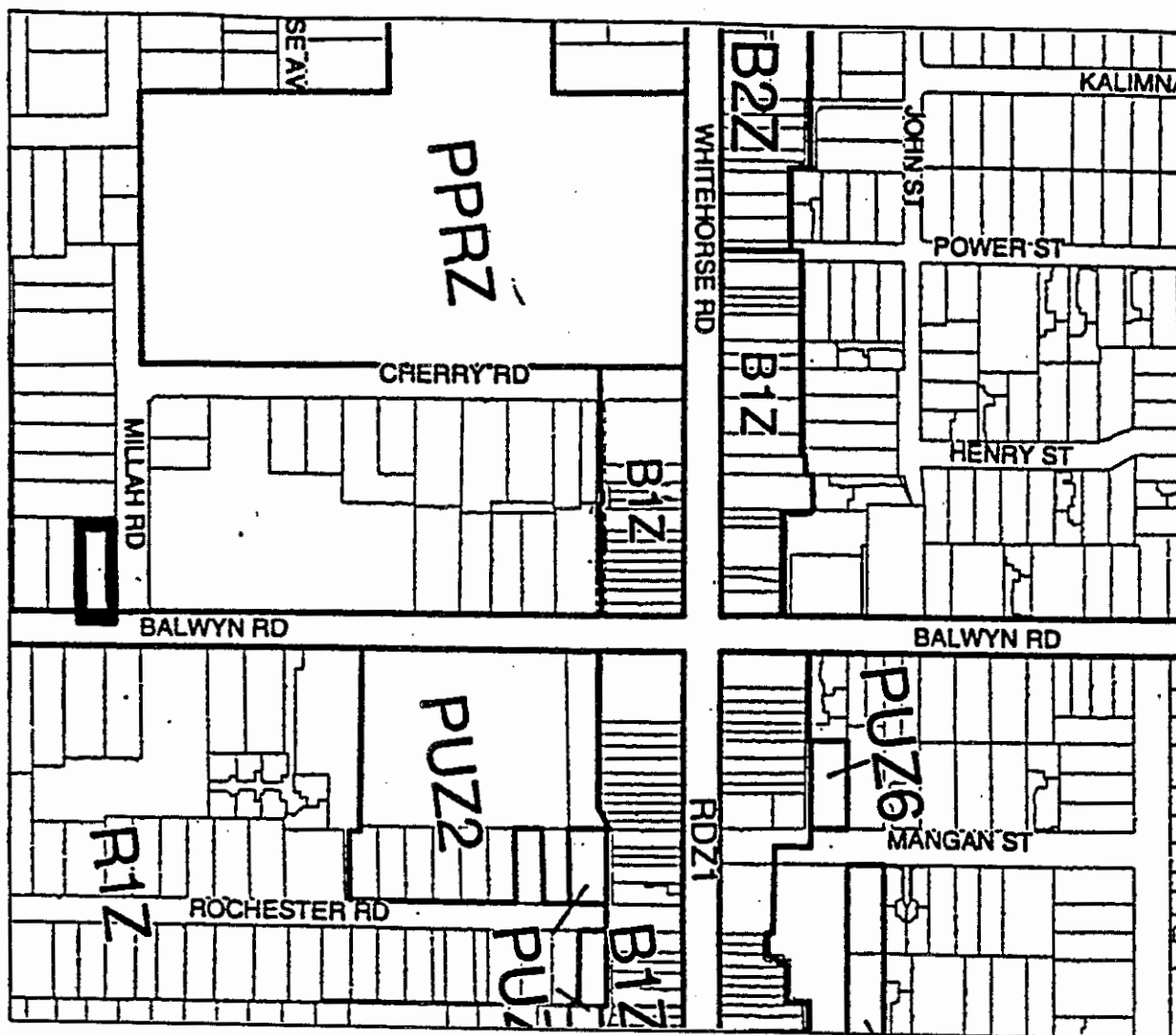
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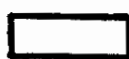
17 CHERRY RD

## SITE & ZONING PLAN



## SITE & ZONING PLAN



 SUBJECT SITE

71 BALWYN RD

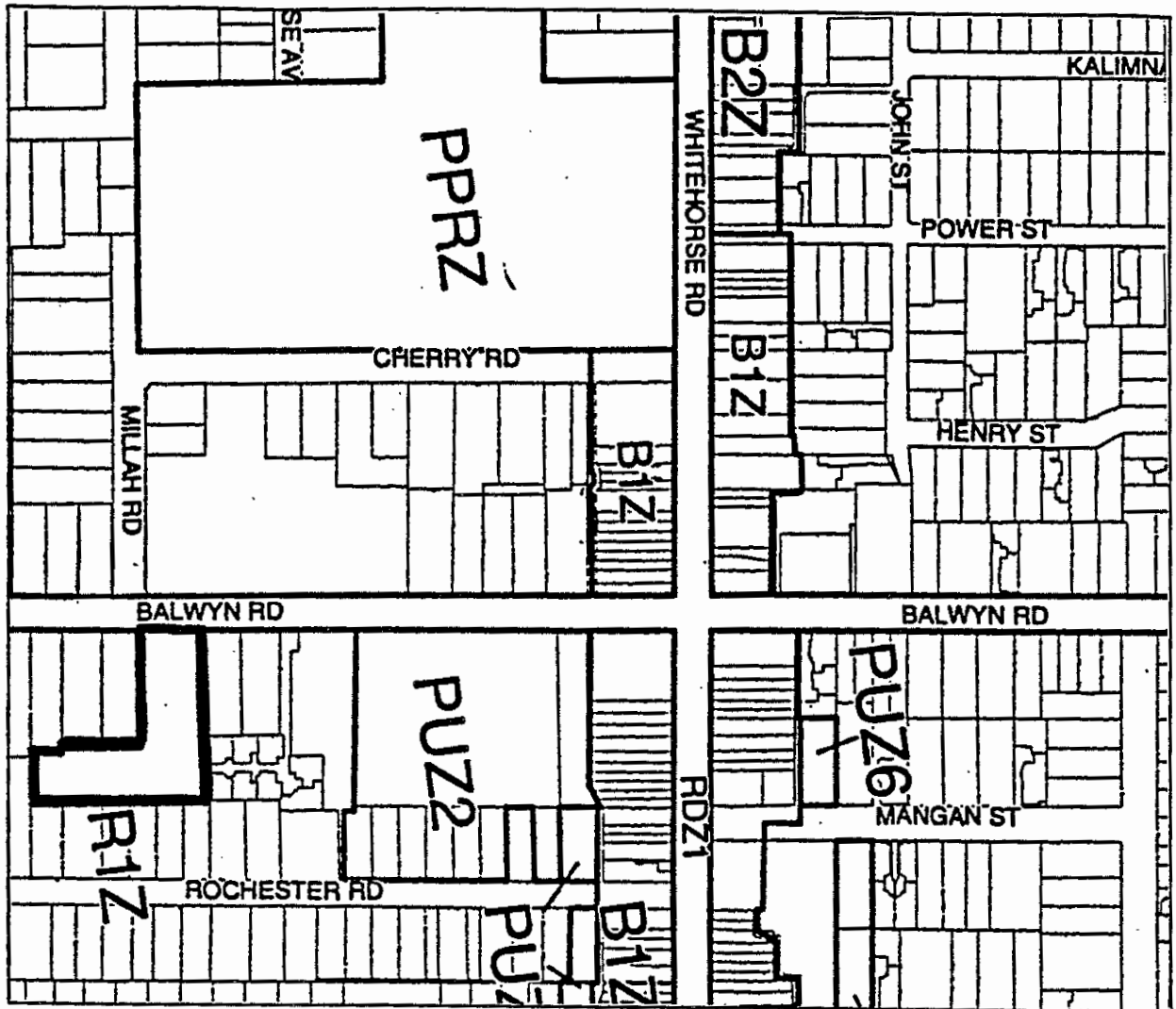
## SITE & ZONING PLAN

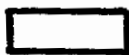


 SUBJECT SITE

79-81 BALWYN RD

## SITE & ZONING PLAN

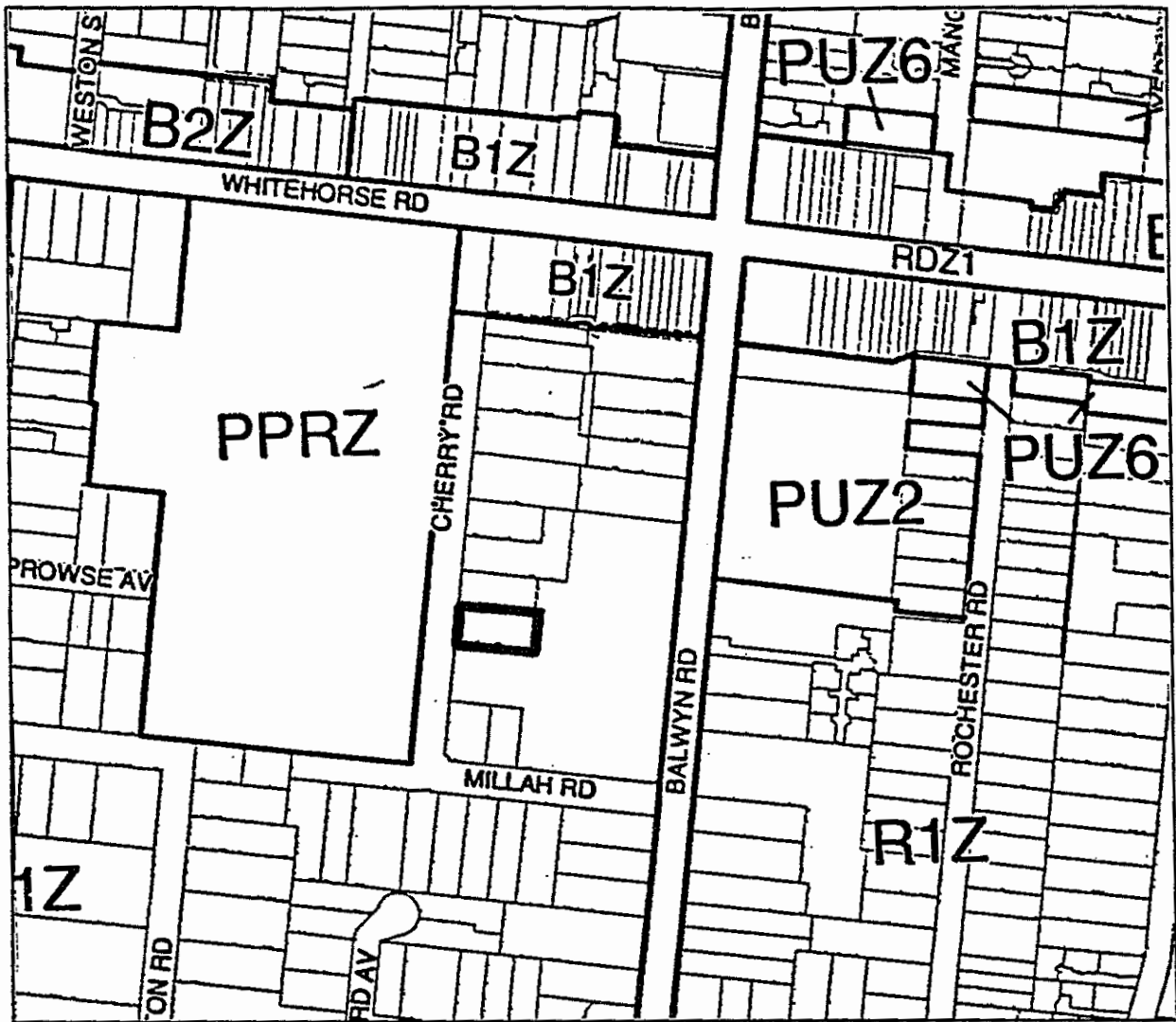


 SUBJECT SITE

80 BALWYN RD

## SITE & ZONING PLAN



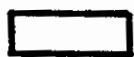


 SUBJECT SITE

17 CHERRY RD

## SITE & ZONING PLAN



 SUBJECT SITE

71 BALWYN RD

## SITE & ZONING PLAN

**7.44 Submission No: 44**

**Name of Submitter:** Carey Baptist Grammar School Ltd.

**Location:** 349 Barkers Road, Kew

**Existing Zone:** Residential C

**Exhibited Zone:** Residential 1, Development Plan Overlay

**Requested Zone:**

**Submission**

The submitter was uncertain about the implications of the Development Plan Overlay. The submitter signed the Scotch collective letter, to gain further information and not necessarily to support their position.

**Assessment**

Much of the information queried in the letter is not accurate and has subsequently been explained to the submitter.

**Council Recommendation to the Panel**

- \* That the submission be noted.

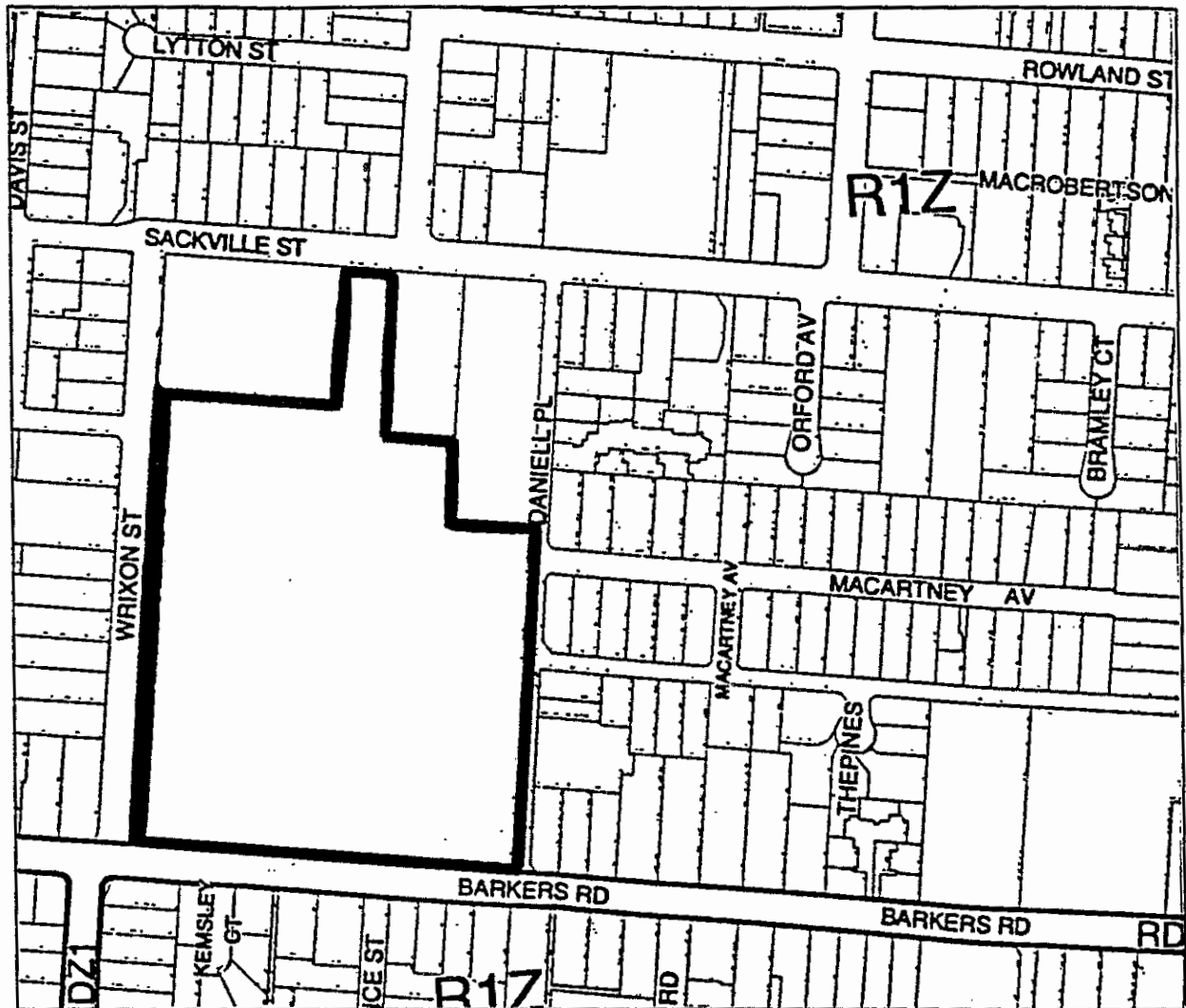
**Panel Comment and Recommendation**


“See the opening comments and recommendation in the introduction to this section and also key issues in Section 2 of this report.

*The Panels recommends no change to the exhibited Planning Scheme arising from this submission.”*

**Council Recommendation**

- 7.44.1** That the submission be noted.



 SUBJECT SITE

349 BARKERS RD

## SITE & ZONING PLAN