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26 Feb  
2019

*Planning & Heritage on Trial*

# **Rod Quantock**

**Master of Ceremonies**

Tonight's Discussion

**Planning & Heritage on Trial**

7 Year Marathon

**Turns into a**

**20 Year Iron Man Contest**

So the saga continues...

# Apologies

- Tim Smith MP
- Tien Kieu MP
- Suzanna Sheed MP
- Ingrid Stitt MP
- Christine Couzens MP
- Phillip Storer
- Elizabeth Bentley
- Ann Brewer
- Frances Schultz
- Nick Stavrou
- David Davis MP



PART 1

**KCC AGM**

AGM

Minutes

Matters Arising

Treasurer's Report

President's Report

New Committee

# Matters Arising

## **Nov 2017 Resolution**

This Public Meeting welcomes the recent ruling by Heritage Victoria to reject Walker's recent building application and calls on MPV to now transfer the land to Boroondara Council to establish a **Kew Arboretum to fulfill the original von Mueller vision for this heritage site.**

Carried Unanimously

Financial Statement

30 June 2018

David Pym

Treasurer

# KCC Financial Statements for the FY ending 30 June 2018

## BALANCE SHEET

### Current Assets:

Cash on Hand	\$ 120	
Cash at Bank	<u>\$ 176.30</u>	\$ 296.30
Debtors	Nil	
Stock	Nil	

### Fixed Assets:

Nil

**Total Assets \$ 296.30**

### Current Liabilities:

Creditors Nil

**Net Assets \$ 296.30**

### Equity:

Stock Nil  
Fixed Assets Nil  
Liquid Assets \$ 296.30

**Total Equity \$ 296.30**

\*\*\*\*\*

# KCC Financial Statements for the FY ending 30 June 2018

## PROFIT & LOSS STATEMENT

### Income:

Bank Interest	.00	
Bank Deposits (Direct Cr)	<u>\$ 70.00</u>	
Cash Donations	\$ 247.00	
		<b>Total Income \$317.00</b>

### Expenses:

Website Hosting	\$ 0.00	
Consumer Affairs Vic	\$ .00	
Bank Trans Fees	\$ .00	
Post Box P.O. Kew	\$127.00	
AGM Room Hire	<u>\$ 0.00</u>	<u>\$ 127.00</u>
		<b>Total Expenses \$ 127.00</b>

**Operating Surplus \$ 190.00**

### Bank Reconciliation:

Bank Balance as at 1 July 2017	\$ 106.30	
Plus Operating Surplus	<u>\$ 190.00</u>	<b>\$ 296.30</b>

**Bank Account Statement Balance as at 30 June 2018 \$176.30**

**Plus Cash on Hand \$120.00 \$296.30**

There were no outstanding cheques.

David Pym (Honorary Treasurer)



# President's Report

Brian Walsh

# **The Year in Review**

## **The Key Issues**

- 1. Heritage Protection**
- 2. Planning**

# 1. HERITAGE

First The Bad News....

KCC vision for the future

# Kew (von Mueller) Arboretum



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4 June  
2018

TO

*The Applicant's Tale*



# Main Drive 1878





# Main Drive 1890





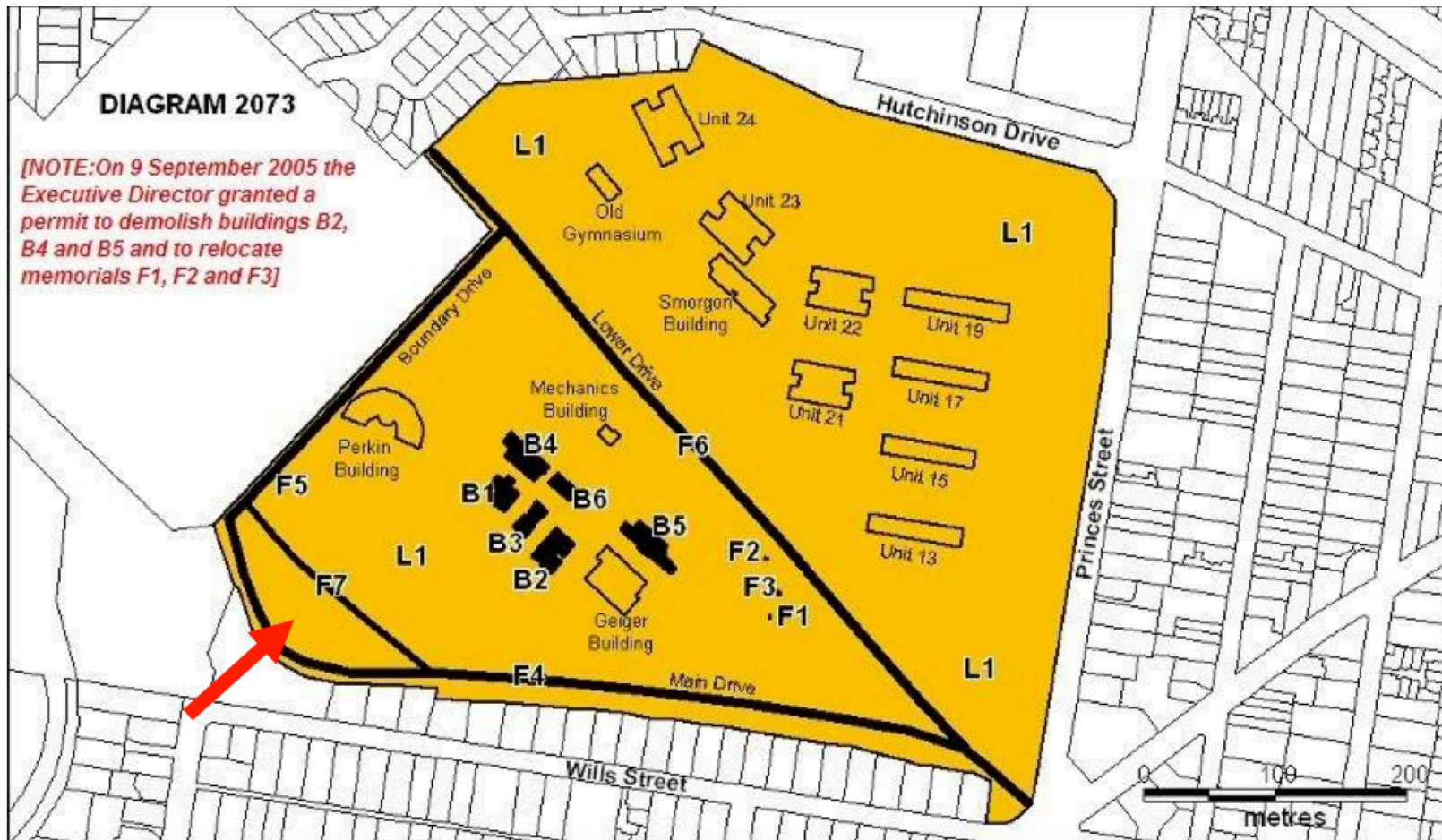
# Main Drive 2018





We understand that:


# 1. The Applicant Acknowledges



**The Updated Statement of Significance 2005** <sup>19</sup>

We understand that:

## 2. The Applicant Claims

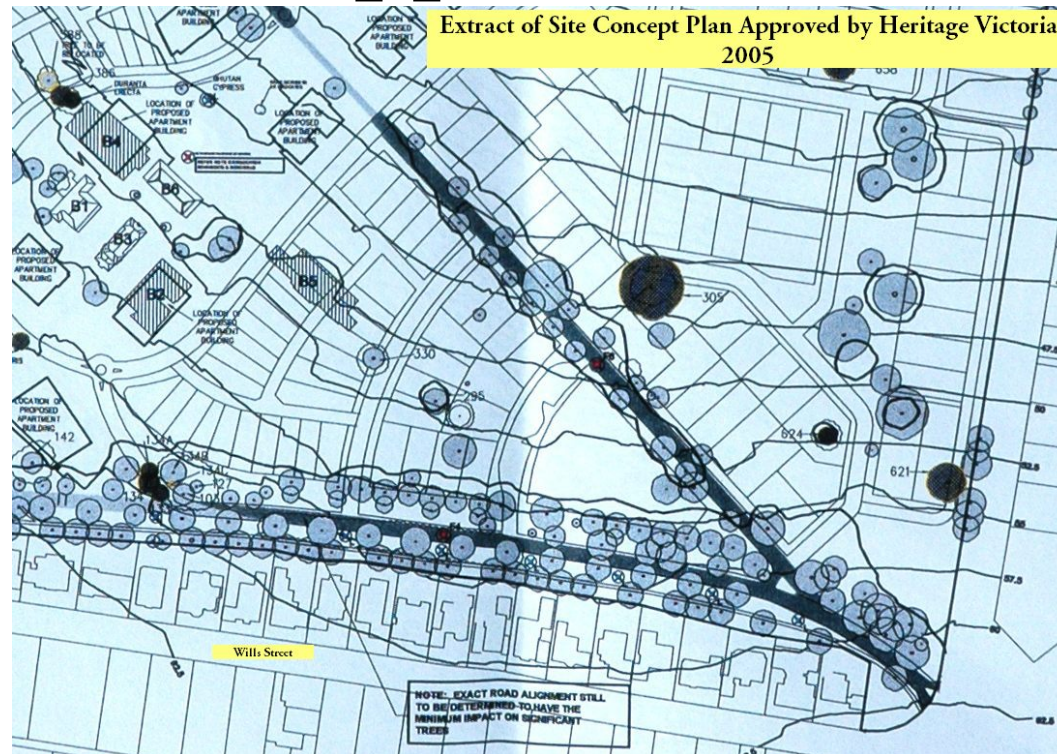
PERMIT		
HERITAGE ACT 1995		
PERMIT NO:	P9639	
OWNER/S:	Department of Human Services	
ADDRESS:	Kew Residential Services Locked Bag 15 Kew 3101	
HERITAGE REGISTER NO:	H2073	FILE NO:
REGISTRATION CATEGORY:	Heritage Place	HER/2001/001389
NAME OF PLACE /OBJECT (IF ANY):	FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES)	
LOCATION:	PRINCESS STREET KEW	

Pursuant to Section 74 of the Heritage Act (1995) and in respect to the above-mentioned place / object, the Executive Director, Heritage Victoria hereby grants a PERMIT, subject to conditions as prescribed hereunder to carry out the following:

**Reliance on P9639 is wrong  
(Expired)**

We understand that

### 3.The Applicant's Claims



**Reliance on the Concept Plan  
is wrong (Out of date)**

We understand that

## 4. The Applicant Claims



HERITAGE ACT 1995

REPORT AND RECOMMENDATION TO EXECUTIVE DIRECTOR ON APPLICATION FOR A PERMIT

Fee Received: Yes Amount: \$1812.20

Owner/s: Mr Charles Spanjer – Secretary, DEDJT&R on behalf of the State Government of Victoria  
(The land title for the subject site is currently in the name of the ‘Department of State Development, Business and Innovation’, since renamed the ‘Department of Economic Development, Jobs, Transport and Resources’ but transfer to Development Victoria is imminent)

**Reliance on the Officer’s Report  
is wrong**

**(Unsupported by the Applicant’s ‘Experts’)**



We understand that

## **5. The Applicant Claims**



**Their amended plan is a compromise<sup>23</sup>**

We understand that

## **6. The Applicant Claims**



**Their amended plan has merit...**



# 7. The Applicant Claims

## The new plan is supported by:

COMPARISON OF 2005 ENDORSED CONCEPT PLAN AND 2017 PROJECT



**Changes made between 2005 and 2017**

# 7a. And by its own 'expert witnesses'



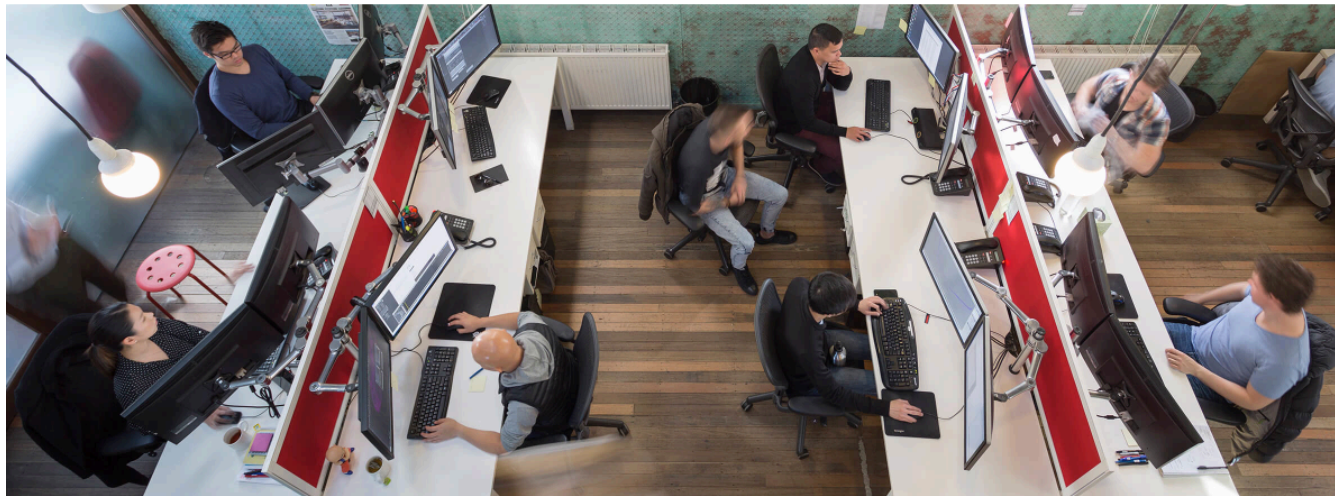
Lardner



Lovell



Patrick



**Scharp.**

## **In Reply**

We submit that:

**2 The Grounds for Refusal are correct**

**3 Permit P9639 may be relied on**

**4 The Concept Plan may be relied on**

**5 The Applicant's Proposal has no merit**

**However,  
If we are wrong  
and the Concept Plan is not to be  
relied on.**

**Then we submit that:  
The Applicant's claim to  
'compromise' is also no longer  
relevant.**



**However,  
If we are wrong  
and Permit P9639 is not to be  
relied on.**

**Then we submit that:**

**The Applicant's reference to  
'building heights' approved in 2005  
is also no longer relevant.**

**However,  
If we are wrong  
and Permit P9639 is not to be  
relied on.**

**Then we submit that:**

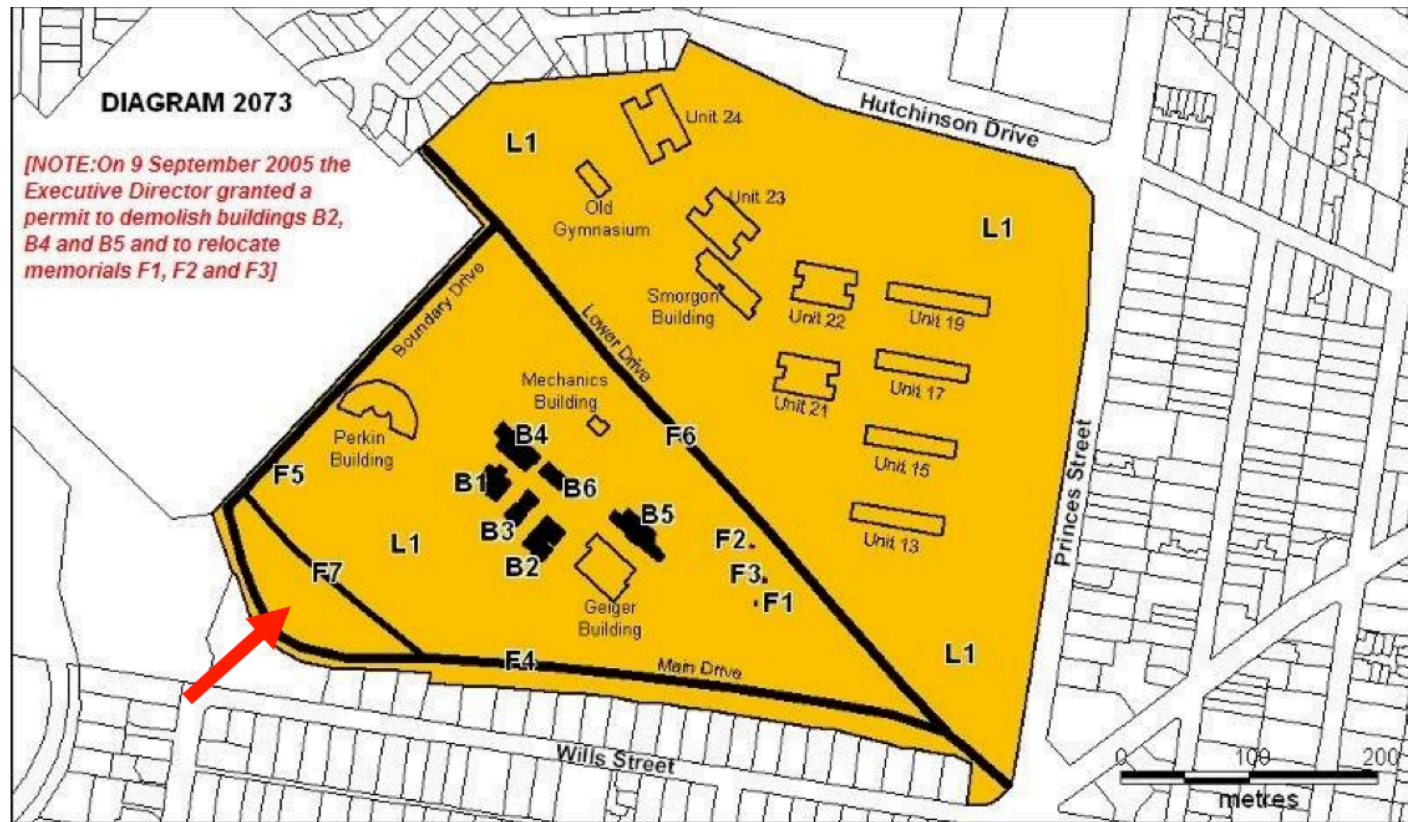
**The Applicant's reference to changes  
between 2005 and 2017 is also no  
longer relevant.**

**However,  
If we are wrong  
and the Concept Plan (2005)  
is not to be relied on.**

**Then we submit that:  
The reference plan to be relied on is  
VHD Diagram 2073**

VHD Diagram 2073 is significant because

## 1. The Building that never was

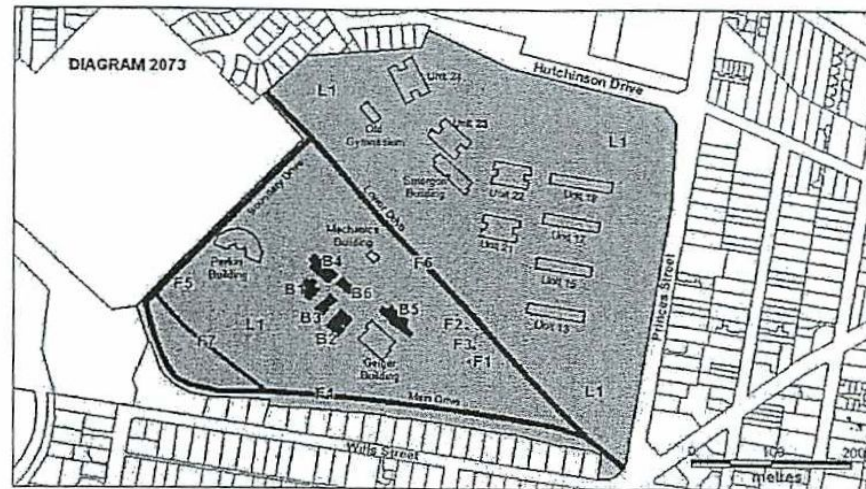


**The Building referred to by the Applicant is not shown on VHD Diagram 2073 (Sep 2005)** <sup>32</sup>

VHD Diagram 2073 is significant because

## 2. The Building that never was

Victorian Heritage Register

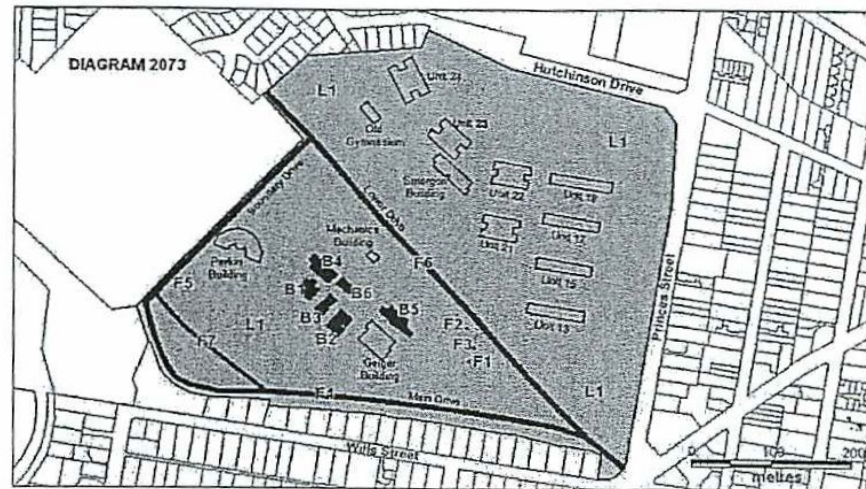


The Building referred to by the Applicant is not shown on VHD Diagram 2073 in 2004

VHD Diagram 2073 is significant because

### 3. Listed Features F4, F5, and F7

Victorian Heritage Register



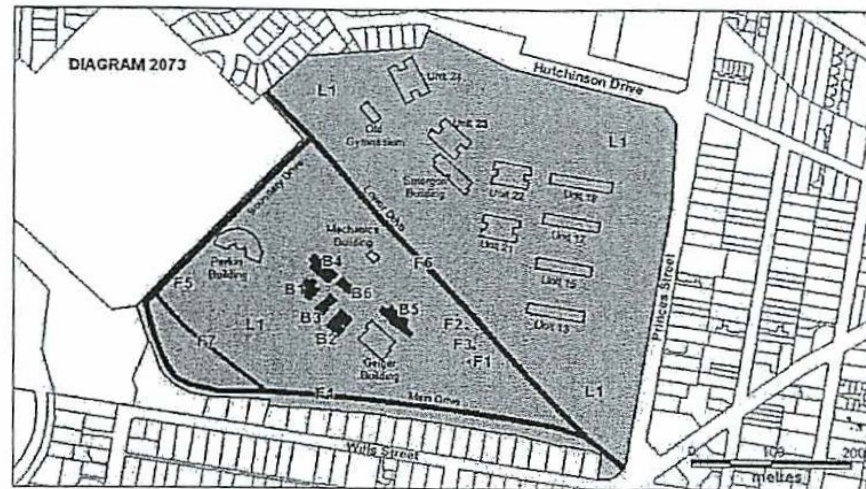
Are clearly shown on VHD Diagram 2073 in  
2004



VHD Diagram 2073 is significant because

## 4. The changes to F4, F5, & F7

Victorian Heritage Register

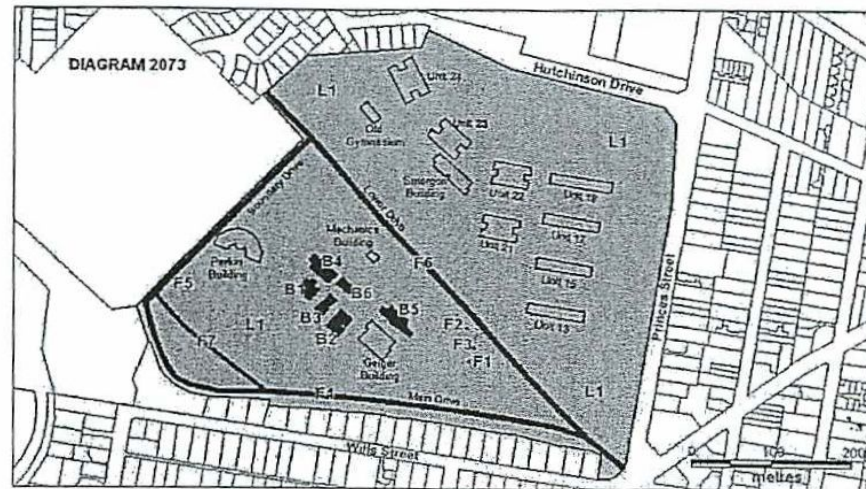


between 2004 and 2017 do not support the  
**Applicant's Plan.**

# The F4 Jigsaw

## Changes to Main Drive (F4)

Victorian Heritage Register



between 2004 and 2017 undermine the  
Applicant's Plan.



## The F4 JIGSAW

### The Applicant has tried before to change the Main Drive Reserve (F4)

*“... In March (2008) a heritage permit application P12879 was submitted for Stage 2. ... however, it failed to take into account the reserve shown along Main Drive on the original approved drawings for the development of the overall site...”*

Officer's Report Permit P13278.

**Walker subsequently withdrew Application P12879**

## The F4 JIGSAW

**The Applicant has failed before to change the Main Drive Reserve (F4)**

*“... Following correspondence and discussions with the applicant this heritage permit application was withdrawn and the current stripped back application submitted. **This clearly shows the creation of a public reserve...***

Officer's Report Permit P13278. (1 Sep 2008)

## The F4 Jigsaw

**In 2009 Heritage Victoria again emphasised the importance of the public reserve as shown in the Concept Plan**

*“.. (The concept plan) set some basic parameters, particularly in relation to the need for a public reserve along Main Drive to ensure the Avenue was in public ownership and/or management...”*

Officer's Report Permit P13872. 2009

## The F4 Jigsaw

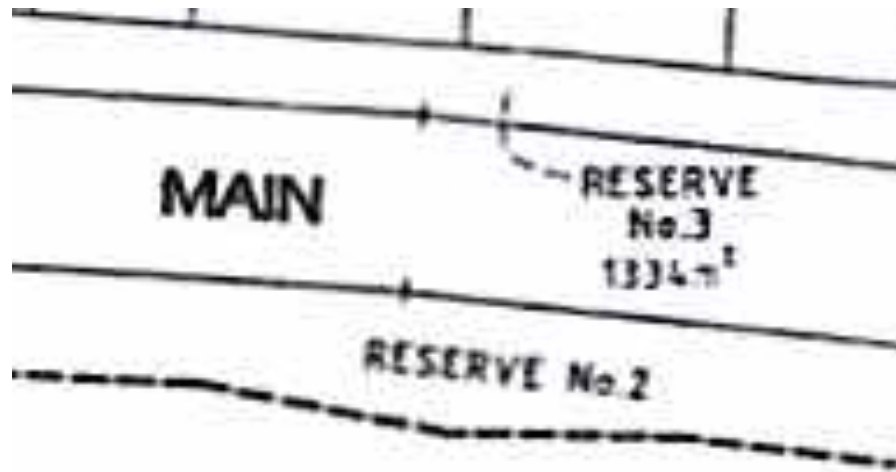
**The Applicant acknowledged that continuing the public reserves is**  
***‘..necessary in preserving the significance of the site.’***

The application continues the reserves along Main Drive and Lower Drive as approved as part of the previous application with their importance necessary in preserving the significance of the site.

Permit Application Stage 2 HIS P13872. Nov 2008

## The F4 Jigsaw

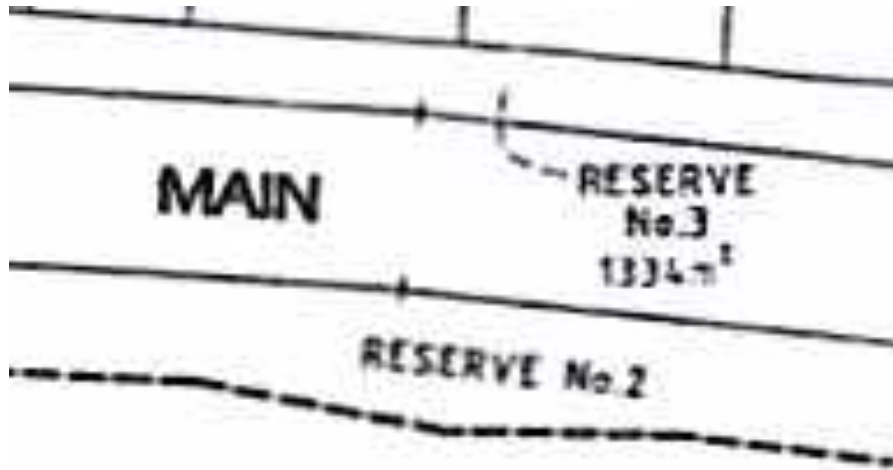
**BUT, instead of making all of F4 a single well defined public reserve. The Applicant cut up the East End into 3 pieces.**



Permit Application Stage 2 HIS P13872. Nov 2008

# The F4 JIGSAW

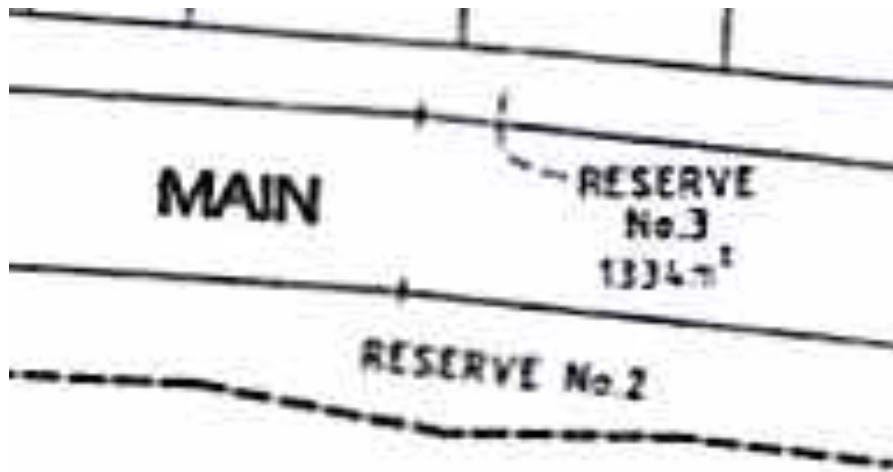
**Leaving the West End of the F4 public reserve still undefined.**



Permit Application Stage 2 HIS P13872. Nov 2008

# The F4 JIGSAW

**The Applicant continued this 'slice and dice' approach to F4 in Stages 3-7.**



Permit Application Stage 2 HIS P13872. Nov 2008



## The F4 JIGSAW

**In 2011 the Executive Director granted conditional approval for landscaping including the West End of Main Drive but stated clearly that:**

***‘Existing landscape plans and tree reports are incomplete and inaccurate..’***

Permit P16912. 14 June 2011

# The F4 Jigsaw

Over a year later in Aug 2012 the Applicant finally emailed some amended plans for the West End of Main Drive.

**MAIN DRIVE KEW  
HERITAGE CORE PARKLANDS (PARKS 014 & 016 to 018)  
MAIN DRIVE WEST (PARK 011)  
INFORMATION CENTRE + OAKWALK (PARK 012)**

LA924-00.00 Title Sheet  
LA924-00.04 Construction Staging Plan

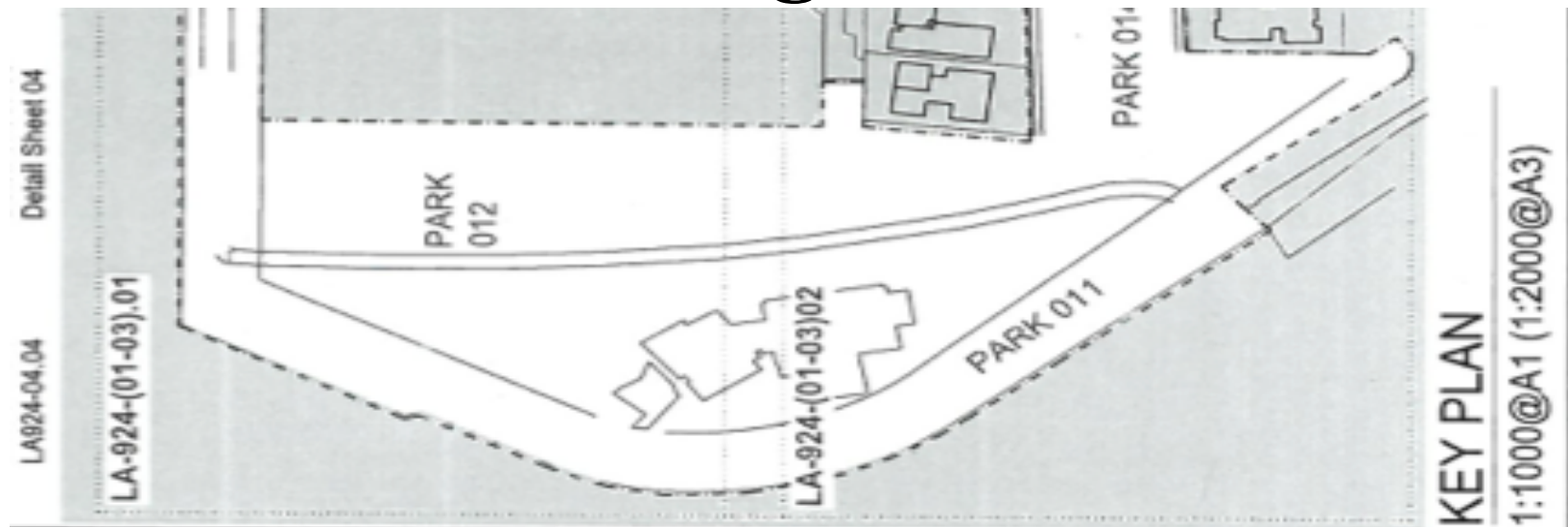
LA924-01.01 Landscape Plan - Set-Out and Grading  
LA924-01.02 Landscape Plan - Set-Out and Grading  
LA924-01.03 Landscape Plan - Set-Out and Grading

Symbol	Botanic Name	Common Name	Qty	Stakes	Installation Size
	Trees				
AI	Acacia implexa	Lightwood Wattle	1	2	45Ltr
AP	Acacia prominens	Golden Rain Wattle	1	2	45Ltr
AR	Agathis robusta	Kauri Pine	1	2	75Ltr
EF	Eucalyptus robusta	Flowering Gum	1	2	75Ltr

Permit P16912. 14 June 2011

# The F4 Jigsaw

**But the Applicant's P16912 Landscape plans submitted 15 Aug 2012 still showed the Applicant's temporary site office abutting Main Drive.**



## The F4 Jigsaw

**And the Applicant's P16912 Landscape plans submitted 15 Aug 2012 still failed to provide the**

***“the future plans required for the existing office building which is to be demolished.”***

*Executive Director, Letter to the Applicant 8 Oct 2012*



## **The F4 Jigsaw**

**The Applicant failed to comply with the  
P16912 Permit Conditions.**

**Instead, between 2014-2017 the  
Applicant sought approval for a range of  
apartment plans, none of which  
correctly identified the  
Main Drive public reserve (F4)**



## **The F4 Jigsaw**

**The Applicant, therefore, has in our submission repeated the same error that they made in their March 2008 P12879 Stage 2 Application **by failing to create an appropriate contiguous public reserve along the north side of Main Drive (F4)****



## **Conclusion**

**We conclude, therefore, that the Applicant's proposal will prevent the completion of the required contiguous public reserve for the full length of Listed Feature F4 as shown in VHD Diagram 2073**

**The Executive Director's Refusal should, therefore, be endorsed.**

## Conclusion

**We conclude, therefore, that the Applicant's apartment proposal will prevent the completion of the required contiguous public reserve for the full length of Listed Feature F4 as shown in VHD Diagram 2073**

**The Executive Director's Refusal should, therefore, be endorsed.**



# How to put F4 Back Together Again

## **Condition 1**

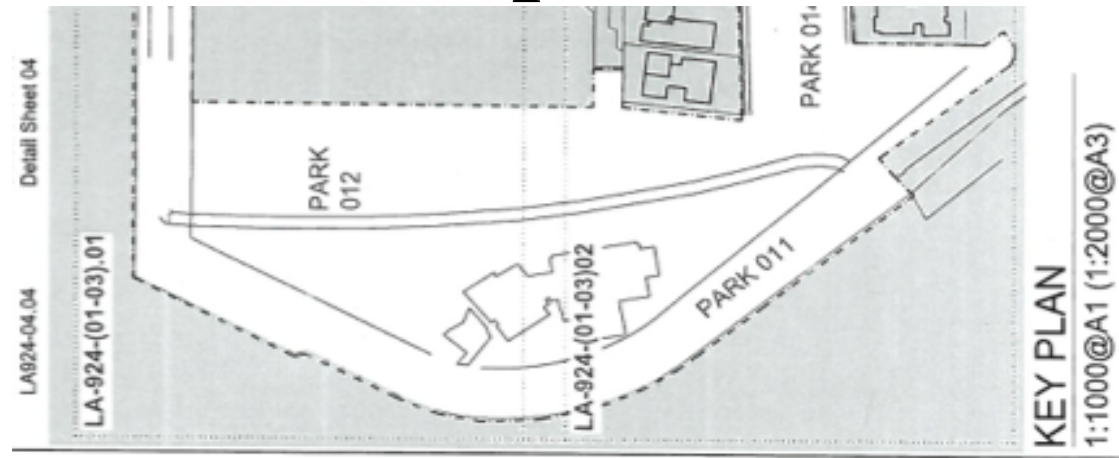
**A contiguous public reserve must be created on both the north and south sides of Main Drive between Princess Street and Willsmere  
(F4 as shown on VHD Diagram 2073)**

*To ensure all the VHR trees will be retained in public ownership and management (Consistent with Stage 2 Permit P13872)*

# How to put F4 Back Together Again

## Condition 2

The public reserve must include all established and replacement VHD trees.



*To ensure all the VHR trees will be retained in public ownership and management (Consistent with Stage 2 Permit P13872)*

# How to put F4 Back Together Again

## Condition 3

**There shall be no vehicular access to Main Drive from lots facing onto Main Drive.**

*To eliminate any need for vehicular access crossovers from Main Drive. (Consistent with existing heritage conditions on all lots both north and south of Main Drive.)*

## How to put F4 Back Together Again

### **Condition 4**

**A comprehensive landscape plan, including conditions for the management and replacement of all VHD trees in Park 011 and Park 012 shall be completed as directed by Heritage Victoria.**

*To overcome the high number of dead and dying replacement VHD trees in Park 011 and Park 012 (Permit P16912)*



## **In Summary**

The Heritage Council found that:

- 2 The Grounds for Refusal were not correct**
- 3 Permit P9639 may not be relied on**
- 4 The Concept Plan may not be relied on**
- 5 The Applicant's Proposal has merit**

## **Questions remain..**

- 1 Why was Heritage Victoria denied legal representation to defend its refusal ?**
- 2 Was it for the same reason that the heritage watch dog has been denied resources to proactively inspect and monitor compliance with permits ?**

**And..**

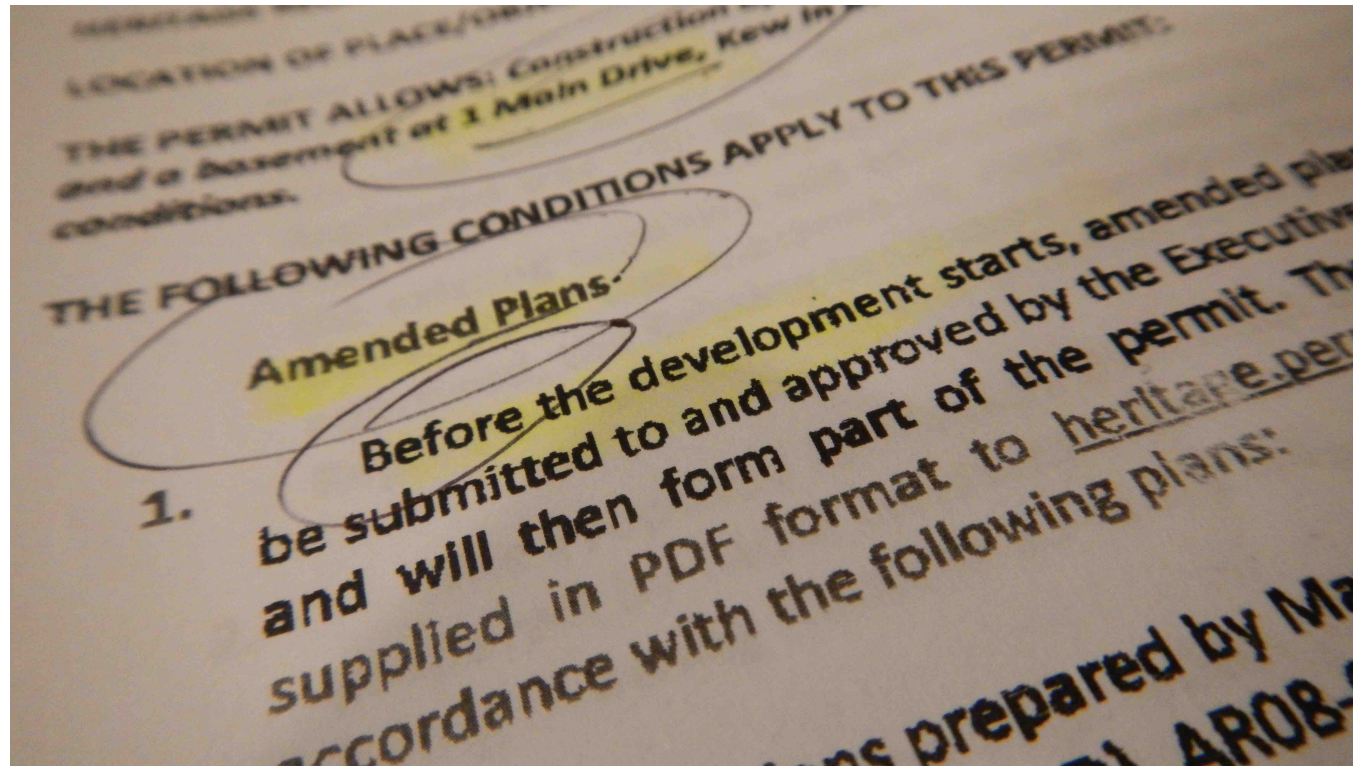
- **3 Has the Government acted reasonably?**
- **4 Has the Government given residents a fair go ?**

## 2. HERITAGE

And Now the Good News....

# Heritage

## Permit P26760 with Conditions

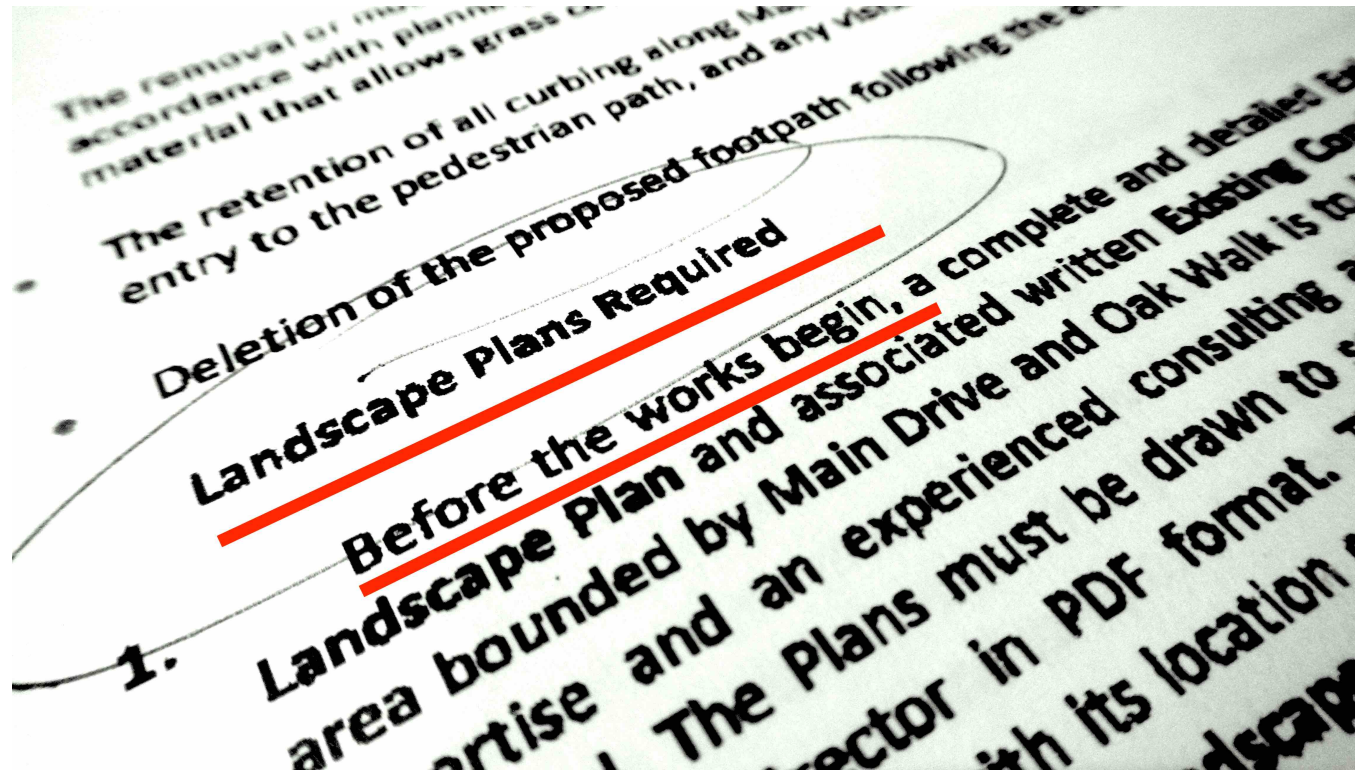


**1. Amended Plans  
Before the development starts..**



# Heritage

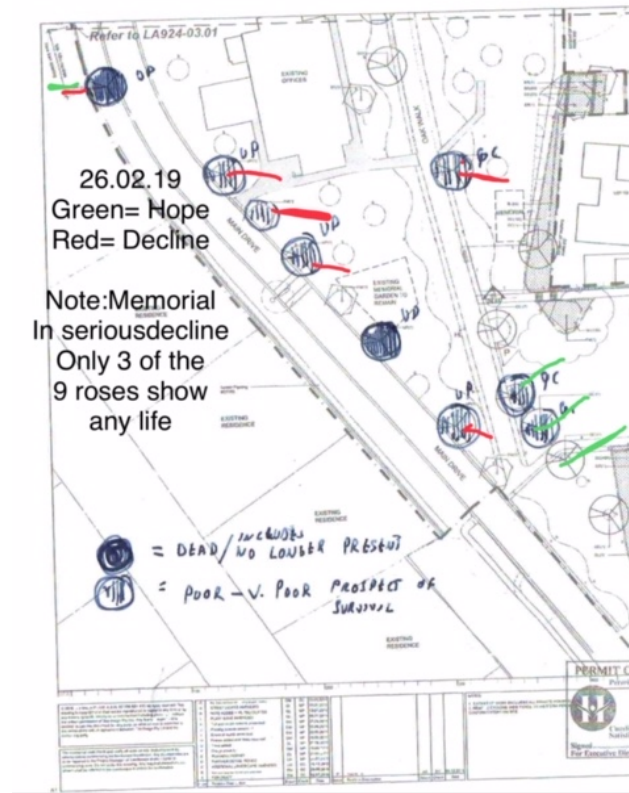
## Permit P26760 with Conditions



**2. Landscape Plans  
Before the works begin...**

# Heritage

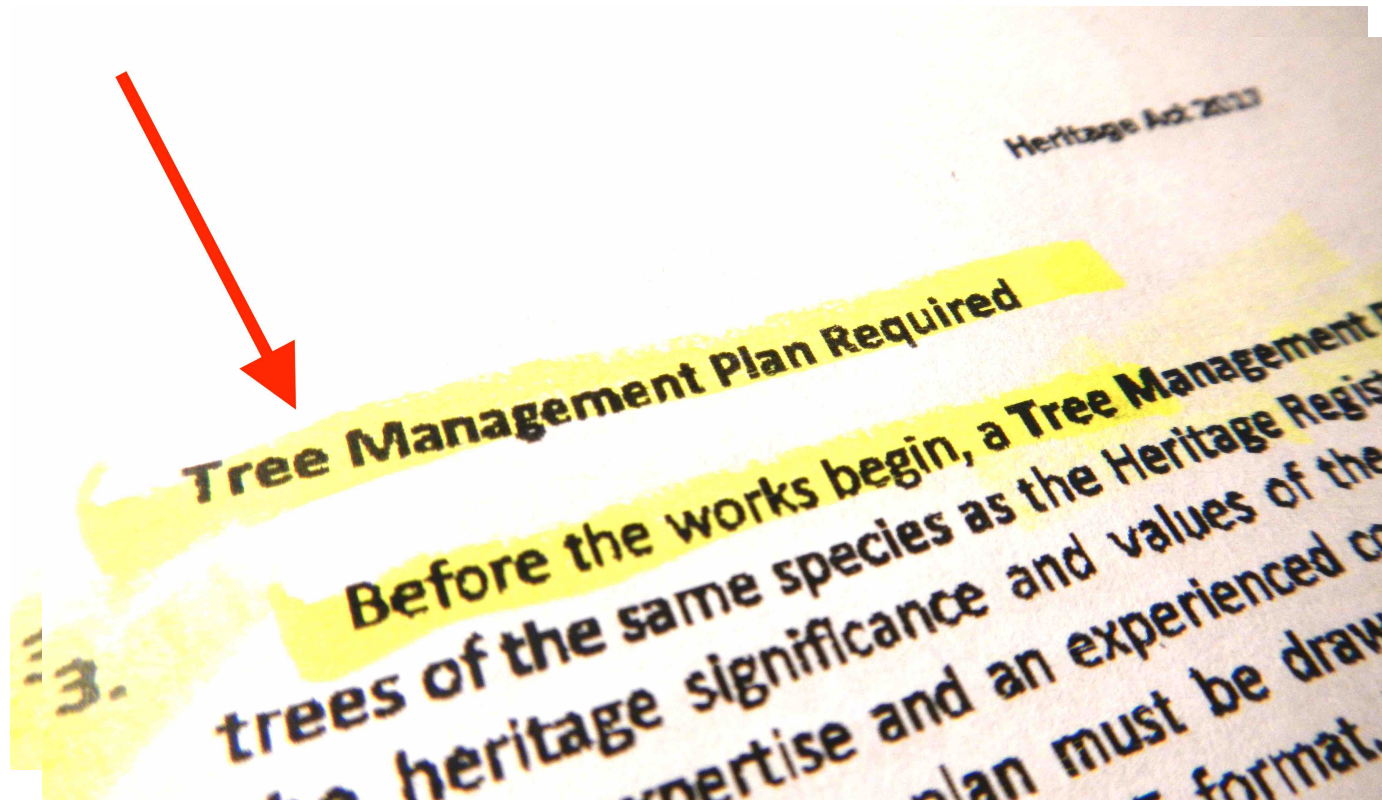
## Permit P26760 with Conditions



**2. Landscape Plans  
Before the works begin...**

# Heritage

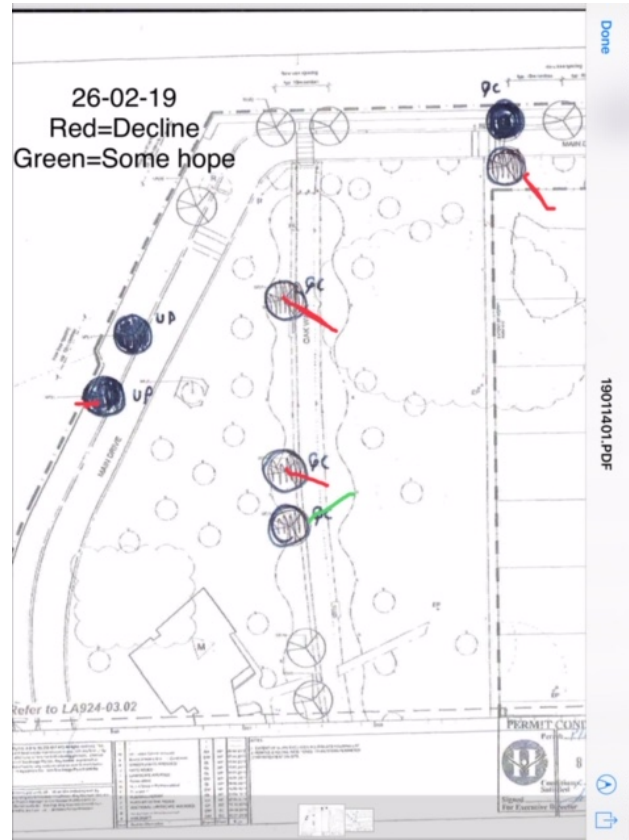
## Permit P26760 with Conditions



**3. Tree Management Plan  
Before the works begin...**

# Heritage

## Permit P26760 with Conditions

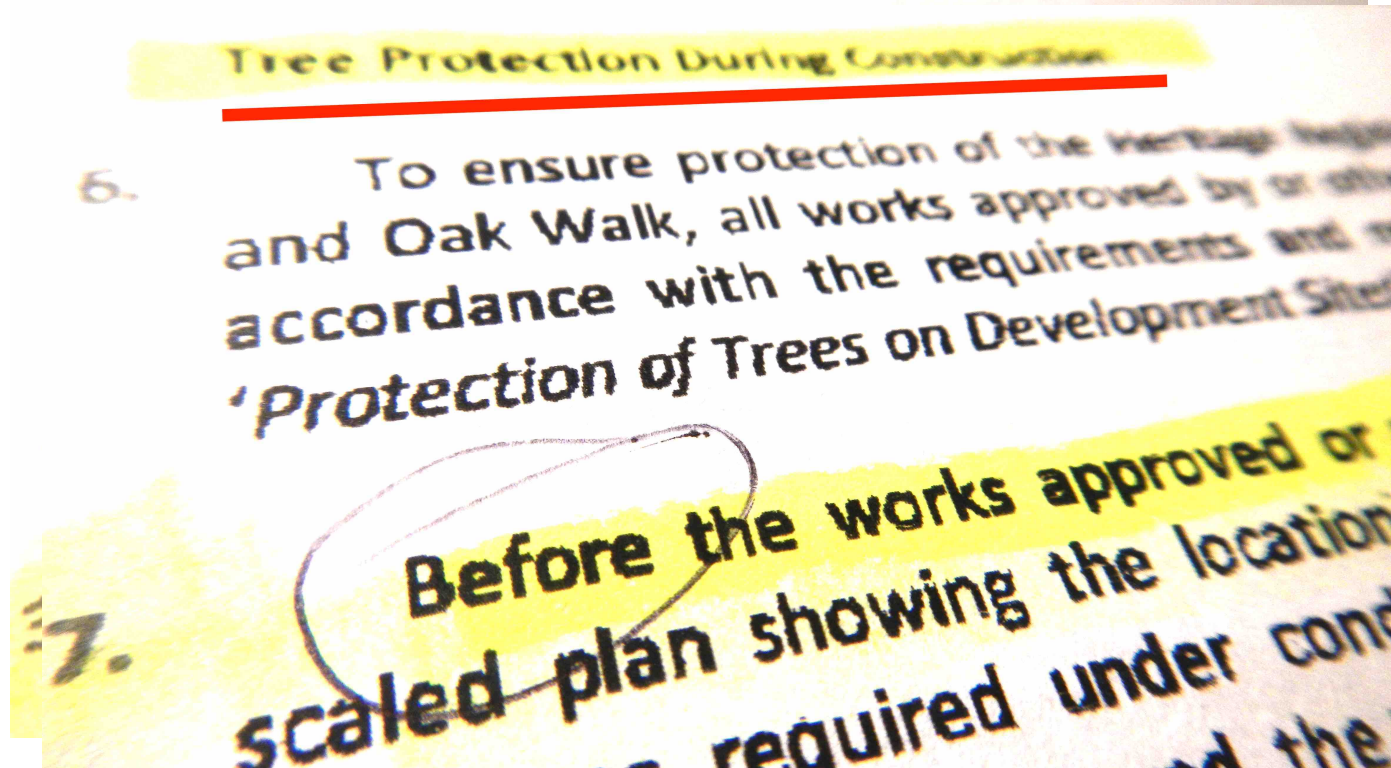


### 3. Tree Plans Before the works begin...



# Heritage

## Permit P26760 with Conditions

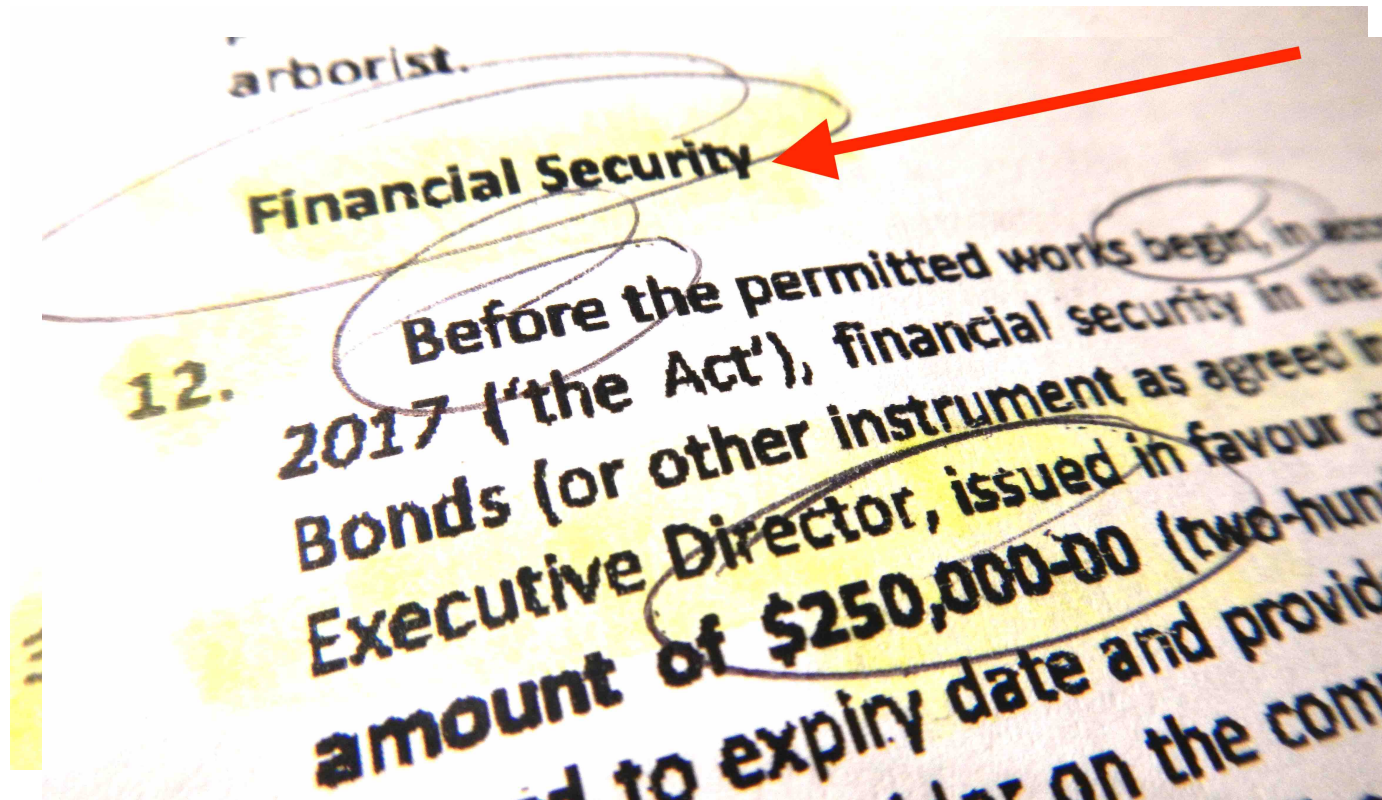


**4. Tree Protection Fences Plan  
Before the works approved...begin...**



# Heritage

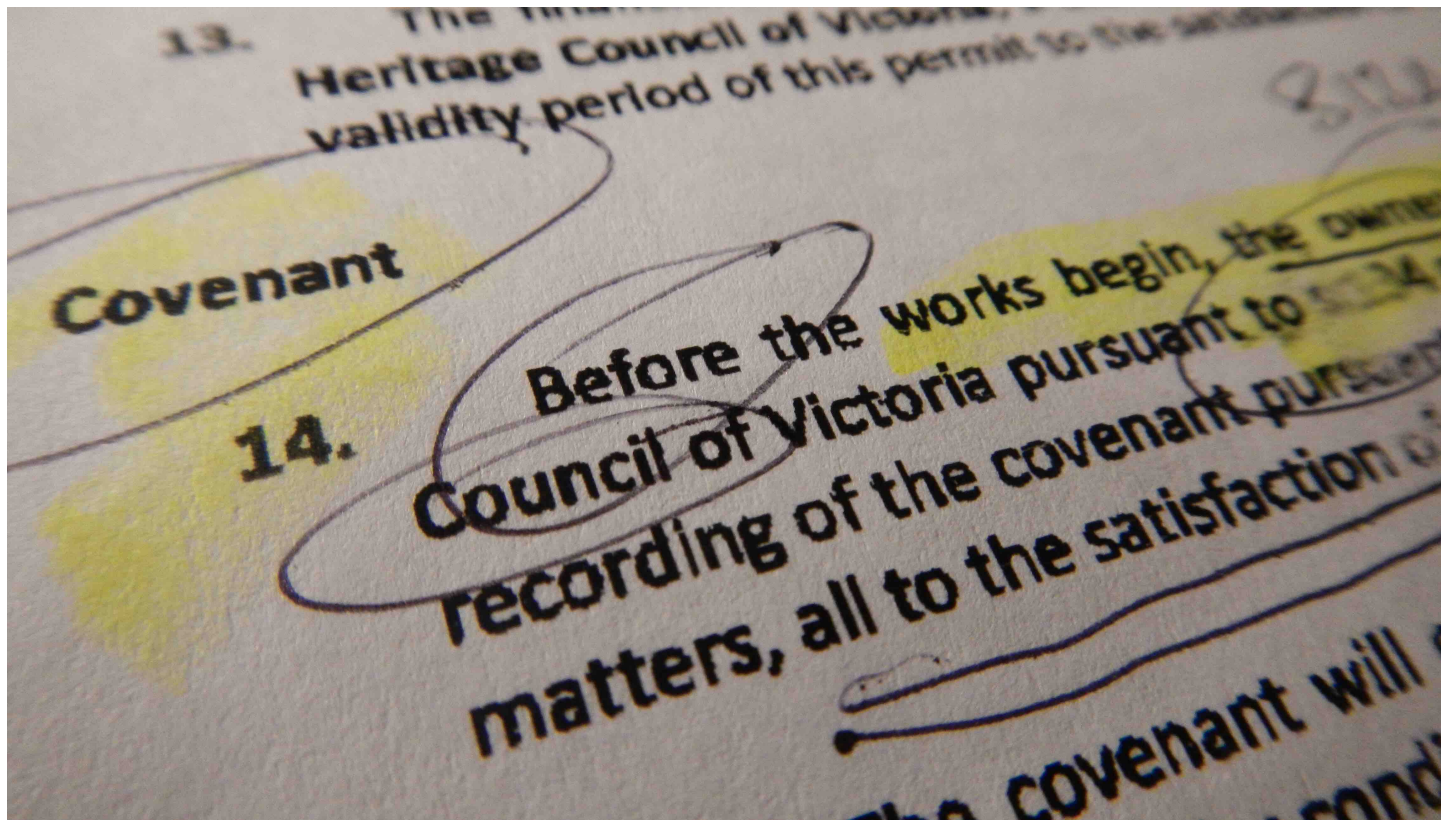
## Permit P26760 with Conditions



**5. Financial Security (No.1).. \$250,000  
Before the permitted works begin...**

# Heritage

## Permit P26760 with Conditions

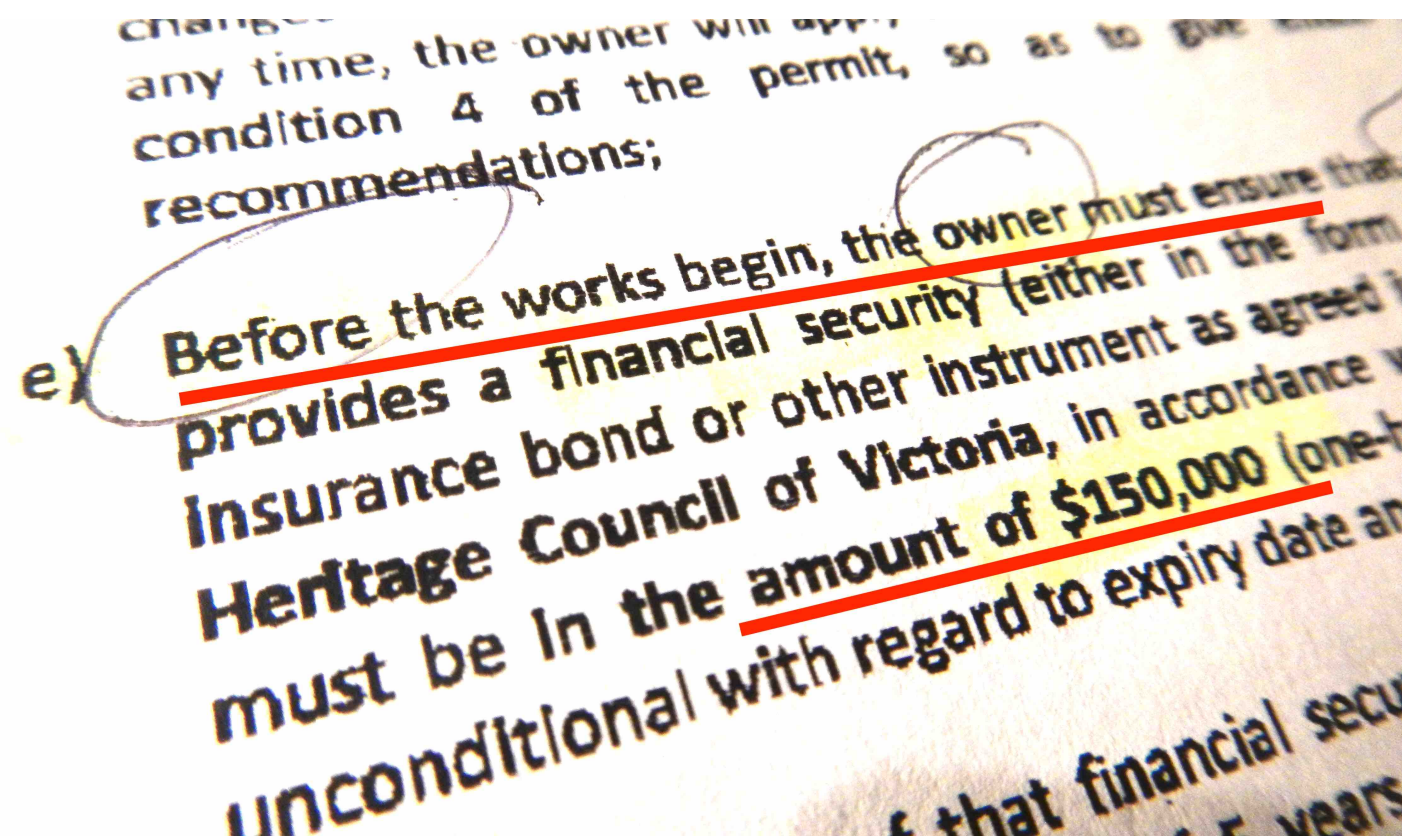


### 6. Covenant

Before the works begin, the owner..

# Heritage

## Permit P26760 with Conditions



**7. Financial Security (No.2) \$150,000**  
**Before the works begin, the owner..**



# Heritage Act 2017 \_ Sect 137

## Notice of Covenants

### 137 Notice of covenants

- (1) If a land owner has agreed to enter into or vary a covenant under section 134 or 135, the Heritage Council or the National Trust, as the case requires, must publish a notice to that effect in—
  - (a) the Government Gazette; and
  - (b) a newspaper circulating generally in the area in which the land concerned is situated.

***The Heritage Council.  
must publish a notice...***

•

# Heritage Act 2017 \_ Sect 137

## Notice of Covenants

- (2) A notice under subsection (1) must contain the following—
- (a) the location of the land;
  - (b) details of the proposed covenant or variation of the covenant;
  - (c) a statement that written submissions concerning the proposed covenant or variation of the covenant may be made to the Heritage Council within 28 days after the publication of the notice in the Government Gazette.

*written submissions ..  
may be made to the Heritage Council...*



# Heritage Act 2017 \_ Sect 137

## Notice of Covenants

- (3) If the Heritage Council considers that owners of land in the vicinity of the land concerned may be affected by the proposed covenant or variation of a covenant, the Heritage Council may—
  - (a) give notice of the details of the proposed covenant or variation of a covenant to those owners; or

*If...owners of land in the vicinity..  
may be affected ...*

.

# **Proposed Resolution**

- **This Public Meeting calls on the Minister for Planning to explain when Heritage Victoria:**
  - 1. Will be adequately resourced to proactively inspect and monitor compliance with heritage permits ?**
  - 2. Will have access to adequate and comprehensive legal aid in order to defend its heritage permit decisions against powerful developers and government agencies ?**



# Main Drive 2018



# The New Committee

- Brian Walsh President
- Lindsay Grayson Vice President
- David Pym Treasurer
- Ann Brewer Secretary
- Max Jackson Committee Member
- Margaret Ryan Committee Member

PART 2

**PUBLIC MEETING**



Tonight's Discussion

**Planning and Heritage**

**Protection**

**on**

**Trial**

# **Guest Speakers**

**Clifford Hayes MP**

*MLC Southern Metropolitan Region*

**Cr Phillip Healey**

*Studley Ward*

*Boroondara Council*

**Guest Speaker**

**Clifford Hayes MP**

*MLC Southern Metropolitan Region*



**Guest Speaker**

**Cr Phillip Healey**

***Boroondara Council's Perspective***

# **Resolutions Passed**

- 1. That the Victorian Government and Development Victoria must immediately cease all further development at the Kew Cottages Development site.**
- 2. That the Victorian Government must immediately reinstate Boroondara Council as the Planning Authority for the Kew Cottages site.**
- 3. That the Victorian Government must ensure that Heritage Victoria is provided with adequate funding to both:**
  - proactively inspect and monitor compliance with heritage permits; and to**
  - properly enforce and defend its decisions in the public interest.**

Proposed. Lindsay Grayson

Seconded. Brian Walsh

Passed. Unanimously

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26 Feb  
2019

*Planning & Heritage on Trial*



# Sunday 19th March 2017

MARCH 19, 2017 \$3.30 RRP

INDEPENDENT. ALWAYS.

# sundayage



**THE NEW BALANCE**  
Does working less work?  
**EXTRA**



**ANNABEL CRABB**  
Mal from Snowy River  
**METRO**



**COMIC BONDS**  
Teaming up for laughs  
**M MAGAZINE**

## ‘I think I’ve been treated shabbily’

Meet James Bradley, the 92-year-old war veteran the federal government wants to deport.  
**NEWS PAGE 11**



James and Peggy Bradley and, inset, Mr Bradley in naval uniform during the war.  
Photo: Dominic Lortimer

## Where’s the money from Kew Cottages?

**Exclusive**  
**Royce Millar**

The Kew Cottages redevelopment was supposed to be a three-way winner.

The 480 residents with intellectual disabilities living at the prime site in Melbourne’s inner-east would be rehoused in new accommodation; the government’s joint venture partner would make a

handy profit for his trouble; and the state would cover the cost of relocating the former residents and share in the profit, yielding millions of extra dollars to pour back into wider disability services.

Ten years later, as the deal comes to an end, there appears to be one clear winner - Lang Walker, the multi-billionaire property developer from Sydney’s north shore.

Those with disabilities who lived

on the site are understood to be happy enough with the outcome, though their former parkland home is now an enclave for the well-heeled.

But the mini bonanza for other disability services never eventuated.

For the state, revenue from the sale of houses with price-tags up to \$2.85 million has fallen well short of the more than \$100 million public cost\* of rehousing the former Kew residents. The “profit-share” deal

with the developer was a fiasco. Mr Walker has made profits, but just how much is unclear. From the accounts they appear modest, but property experts say they may in reality be in the hundreds of millions of dollars. Neither Mr Walker nor the government will discuss costs or private profits.

The state’s poor financial outcome from Kew raises questions about the contracting and

management of public-private ventures - especially when big political donations are in play. And it raises the question: how could a government do so badly on its own premium real estate in a well-serviced location overlooking the Yarra River and central city amid tree-lined streets and private schools?

**Continued Page 8**



# **Kew Cottages deal must be examined**

Editorial 19.3.17

The logo for 'THE SUNDAY AGE' newspaper. The word 'THE' is in black, 'SUNDAY' is in red, and 'AGE' is in black. Above the word 'SUNDAY' is a small crest featuring a crown and two lions. Below the text is a large, faint watermark of the coat of arms of the Commonwealth of Australia, which includes a shield with a star, a lion, and a unicorn, topped with a crown.

THE SUNDAY AGE

*...At the very least, the auditor-general should be asked to examine the circumstances surrounding the deal.*

Editorial 19.3.17