

## **SUBMISSION TO SOCIAL HOUSING RENEWAL STANDING ADVISORY COMMITTEE**

### **DRAFT AMENDMENT C157 TO BAYSIDE PLANNING SCHEME – NEW STREET, BRIGHTON**

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#### **1. OVERVIEW**

- a. The proponent is proposing an irreversible sale of public land to private development in exchange for an insufficient increase (only 10%) in public housing units, at the time of a public housing crisis.
- b. For such a land sale, a rigorous, carefully considered approach is required to ensure not only the correct funding model to the public housing renewal is applied, but also appropriate plans are developed to put these in place at each affected site. However, in rushing through the process for political reasons, the proponent has provided an ill-conceived and unjustifiable planning amendment for the Brighton site. It proposes gross over-development driven by profit and yield that is not appropriate or responsive to the site or local context.
- c. Proposals do not respond to, nor respect local planning scheme requirements, site and local context, and, are inconsistent with Plan Melbourne in a number of policy areas.
- d. Exhibited documents are littered with errors, inconsistencies, omissions and misleading statements.
- e. As the flawed funding model, and thus the reasoning behind such an over-development of the site are to be disregarded by the SAC ToR, it therefore stands to reason that the amendment must purely be assessed by whether it is suitable for this site based on application of sound planning principles related to location and site context. This has not been achieved by the proponent.
- f. The current proposal will have lasting negative consequences not only for the site and existing and future public housing residents, but also on immediate neighbours and the surrounding neighbourhood in the precedent that it will inevitably set, and the poor planning outcomes it will engender.
- g. It should be noted that a Victorian Upper House Inquiry into the proposed Public Housing Renewal Program has commenced given serious cross-party concerns with proposals, such as the permanent loss of public housing land, the lack of transparency in the process and proposed over-development of each site.
- h. Given the above issues, and the rationale below, I urge the Standing Advisory Committee to recommend the following:
  - Reject the proposed planning scheme amendment
  - Retain Bayside City Council as Responsible Authority
  - Retain existing planning controls with no change in zoning
  - Retain third party appeal rights for the community

- Restart the planning process for the site that is based on meaningful community consultation; respects, incorporates and responds to site and neighbourhood context; and, provides best practice public housing outcomes.

## **2. PLANNING MINISTER AS RESPONSIBLE AUTHORITY AND LOSS OF 3<sup>RD</sup> PARTY APPEAL RIGHTS**

- a. This project is the sale of public land for primarily private development. There is an insufficient increase (only 10% increase) in social housing units (and potential decrease in numbers of bedrooms and thus occupants that can be housed). There is little to differentiate the proposed project from numerous other private developments across Melbourne – there is insufficient gain to the community. The case has not been made for the proposed amendment to be considered of State significance, thus enabling the Planning Minister to act as Responsible Authority, as required by the Planning and Environment Act 1987.
- b. Given the profit driven focus of the scheme for State government, the Minister making planning decisions is incentivized to approve more profitable, high yield schemes, rather than those providing good planning outcomes. There is significant potential for conflict of interest.
- c. Proposed DPO and Schedules, and their supporting documents, utilize loose terminology and a high level of ministerial discretion, instead of specific standards and targets, and contain numerous errors and omissions, including references to sites other than New Street, Brighton. These documents are not fit for the purpose of a ‘one-stop’ decision making process by the Minister who must rely on accuracy of their content, leading to lack of certainty, rigour and consistency in decision making across projects, causing potential delays.
- d. The removal of Third Party Appeals rights for the community is not justified and does not accord with intent of Planning and Environment Act 1987. Removal of Third Party Appeal rights will prohibit any check on poor decision-making and lead to poor quality development outcomes.
- e. The proponent has not appropriately reviewed the option of a fast-tracked planning process, retaining Bayside City Council as Responsible Authority, and providing the community an appeals process.

## **3. AMENDMENT OF PLANNING SCHEME**

### **a. Overview**

- i. The site is very narrow and located in the centre of a low-rise, low-density, residential neighbourhood, dominated by families (both within, and, neighbouring the public housing site) in close proximity to a kindergarten, primary school and parks.
- ii. The site is not within or adjacent to an activity centre. Access to the closest fringe of Glen Huntly Road precinct (600m) and Elsternwick station (850m) is across a ten-lane highway.
- iii. The current neighbourhood and existing site have a high level of open space allocation and permeability, which is responsive of

- the location adjacent to a flood-prone creek. This is not reflected in proposals.
- iv. The current demographic mix of residents, site layout and access allows for high-level of integration and connectivity between public housing residents and neighbouring community. The proposals will greatly diminish this.
  - v. Proposals do not respect site and local context, neighbourhood character, nor accord with local planning schemes and Plan Melbourne.
  - vi. Site constraints have not been appropriately factored into the proposal.
  - vii. Proponent's town planning, design framework and traffic reports contain:
    - Numerous errors and omissions;
    - References to other public housing renewal sites in Melbourne;
    - Utilize out-of-date data;
    - Are inconsistent with each other; and,
    - In some cases deliberately misinform readers.
  - viii. Impacts of the proposed development on neighbouring residents, traffic, flooding, sensitive environment and land uses have been downplayed or omitted.
  - ix. Inappropriate level of consultation was conducted with site residents and affected neighbours.
  - x. Consultation feedback not reflected in proposals.

**b. Town Planning Report**

- i. Proposals are inconsistent with Bayside City Council LPPF and MSS requirements. E.g. In complying with Neighbourhood Character and Density, amongst others. The development will be significantly at odds with other developments in Bayside municipality.
- ii. The proposals do not accord with numerous policies within Plan Melbourne.
- iii. The proponent has not explored how the current planning scheme, recently updated to reflect densification requirements of Plan Melbourne, may be utilized to redevelop the site in a manner that respects the site's context and surrounding sensitive uses. There has been no base-case assessment.
- iv. Proposals do not accord with many of the Design Principles as identified by the proponent.
- v. The proposals insufficiently consider site constraints, current demographic mix, neighbourhood context, and downplay or omit impacts.
- vi. Arguments for zoning change are yield and profit led. The proposals are reverse engineered.
- vii. Town Planning Report indicates closer proximity to services and transport nodes that exist in reality from the site.

- Distances have been underestimated by factors of hundreds of metres in some cases to imply closer proximity.
- viii. Grossly inadequate response to flood-risk and consideration for requirements of SBO. Impacts from flooding on the site and to neighbouring properties must be considered.
  - ix. No consideration for environmental impacts to Elster Creek.
  - x. No consideration is given to Heritage issues, including Cultural Heritage.

**c. Proposed use of Multi-Use Zone**

- i. Multi-Use Zone (MUZ) is sought purely to enable over-development of the site and breach height requirements in a sensitive low-rise residential neighbourhood that is not adjacent or in close-proximity to an activity centre. In affect, the proponent is proposing to create a new activity centre without the associated planning rigour.
- ii. An MUZ is inappropriate at this location and does not reflect existing or preferred neighbourhood character.
- iii. Use of the MUZ is inconsistent with Plan Melbourne 2.1.4.
- iv. The proposed MUZ allows uses incompatible with the abutting neighbourhood.
- v. Proponent has not placed any limitations on size and number of commercial/retail facilities at the site.
- vi. Insufficient infrastructure consideration and allocation for aspects such as waste management, car-parking and cycle parking provided to satisfy proposed zoning.
- vii. Heights and densities proposed are out of context for the site and far in excess of limits in existing Activity Centres within Bayside and neighbouring suburbs.
- viii. The existing Bayside Council planning scheme overlay allows for moderate growth in the neighbourhood, appropriate to its context, minimizing impacts on residents and local infrastructure. It is consistent and reflective of objectives in Plan Melbourne and Bayside MSS. The proponent has not assessed a 'base-case' scheme using current zoning nor proven a justifiable case for altering the zoning.

**d. Development Plan Overlay and Associated Schedules**

- i. The DPO and Schedules are deficient and contain numerous errors and inconsistencies, in some cases referencing other sites. E.g. Building height at interface B given as both 6 and 8 storeys. These documents are little more than cut and paste from other housing renewal scheme sites.
- ii. Documents imply that 'economic return' principle is to be prioritized above all other outcomes, including neighbourhood character and public housing objectives.
- iii. The DPO and Schedule wording is vague, lacks definable standards and will allow development outcomes that do not accord with the intent of the Design Framework, removing

- consistency of decision making – the documents are not fit for purpose.
- iv. Document fails to provide mandatory controls for, including but not limited to:
    - heights of built form (in metres – reflective of SBO requirements)
    - set-backs
    - public open space allocation and associated daylight exposure levels,
    - site permeability (i.e. water infiltration)
    - treatment of sensitive residential interface,
    - maximum number of units etc.
  - v. DPO and Schedules fail to define specific measures to minimize impacts on neighbouring sensitive residents from construction and operation of development. E.g. demolition, built form issues, use, access, landscape and flooding impacts amongst others.
  - vi. Interface treatment with direct sensitive neighbours afforded lowest level of controls. I.e. makes no mention of avoiding a three storey blank wall, location of service areas, waste storage etc.
  - vii. Set-backs from sensitive residential interfaces are inappropriately low given scale of development and high degree of impacts. These include, but not limited to:
    - Significant over-looking
    - Over-shadowing
    - Loss of visual amenity
    - Light and noise pollution
    - Set-backs at interface C are too small to provide meaningful use and will create 'blind-spots' for potential illegal activities along boundaries with neighbouring residents
    - Set-backs at interface C are not sufficiently sized for tree protection zones of existing large canopy trees on boundary of neighbouring properties.
  - viii. Development Concept Plan in Schedule 3 is not to scale, and not reflective of Design Framework intent in identifying limit of building zones, heights, access points, vehicular access and movements, thoroughfares, connectivity and extent of open space.
  - ix. Landscape and open space requirements are insufficient.
    - No real measures to protect significant trees
    - No definition of open space allocation and daylight access provision to it.
    - Open space provision fails to consider areas currently utilized by residents such as community garden, playgrounds and recreation areas.
    - Fail to identify and include tree protection zones of neighbouring trees

- x. Despite location of site, documents fail to require Flood Impact Assessment and Water Sensitive Urban Design Report (by suitably qualified specialists). They do not include Melbourne Water as a Referral Authority.
- xi. Sustainability requirements have not defined benchmarks and standards sought for compliance (i.e. Green Star, BESS, Liveable Housing etc.). They have not identified submission requirements, such as technical reports completed by suitably qualified professionals. Regulatory Authority must have suitably qualified staff to review submitted documents for compliance.

**e. Design Framework**

The document:

- Provides poor baseline assessment of existing site and neighbourhood context
  - Is not responsive to existing or preferred neighbourhood character
  - Provides no assessment of current and proposed site and neighbourhood demographic mix, which would inform design
  - Does not consider merits of current site layout in minimizing overlooking of neighbours, maximizing open space, and allowing connectivity to surrounding streets.
  - Does not reflect community consultation feedback
  - Misleadingly reports distances from site to services and transport links, underestimating them by several hundred metres.
  - Concept plans are too vague and are inconsistent with traffic report
  - Does not incorporate findings of arborists report
  - Mislabels site location images
  - Contains an out-of-date SBO reference and does not consider site or neighbourhood flood risk in design
  - Provides flawed shadow diagram and overshadowing analysis
- i. The Framework erroneously reports that the interface of public housing to Airlie and Salisbury streets is 'back of house', when in fact the opposite is the case.
  - ii. It erroneously states that existing pedestrian network within the site 'does little to encourage permeability'. The site is regularly used as a safe (low-traffic) access-way for site and neighbouring residents, including children to reach Elsternwick Primary School, North Brighton Kindergarten and Elsternwick Park via the canal Bridge.
  - iii. Does not identify preference for vehicular access/egress based on impacts.
  - iv. Proposed use of boundary-to-boundary podium car parking on a narrow and constrained site is at odds with proposals for pedestrian and cycle access through the site, open space and

- landscaping allocation, activated frontages, site permeability, connectivity, passive surveillance and site safety.
- v. Proposed podium adds unnecessary height and limits flood plain mitigation measures.
  - vi. Cross-sections do not indicate how ground level pedestrians and cyclists will permeate through the boundary-to-boundary car-parking podium and connect to existing streets.
  - vii. Shadow diagrams depicting a 3pm shadow at equinox are incorrect. These diagrams show shadows from 3 storey buildings halted exactly at the boundary fence of neighbours. The angle and length of these shadows is at odds with others from smaller buildings across the site and in the neighbourhood. Significant overshadowing of neighbouring properties will occur in winter months, from the various three, six, eight and nine storey towers.
  - viii. Given lack of clarity in DPO and concept plans, exhibited shadow diagrams will not be indicative of final site impacts where significantly greater built form and proximity to neighbours than those assessed can be proposed.
  - ix. Framework proposes excessive built form and excessive building heights out of character with neighbourhood, leading to:
    - Inadequate set-backs
    - Overshadowing
    - Overlooking
    - Visual amenity impacts
    - Light and noise pollution impacts
    - Insufficient public open space allocation
    - Traffic and parking impacts
    - Lack of site permeability in sensitive flood zone
    - Removal of high value trees and lack of opportunities for canopy planting
    - Reduction in passive surveillance and increases in 'blind spots'
    - Reduced integration and contact opportunities between site community and neighbouring residents

#### **f. Traffic Assessment**

The document:

- contains numerous errors
  - utilizes out of date data
  - is inconsistent with other reports
  - conducts insufficient traffic assessment to establish baseline conditions. I.e. no assessment of actual car ownership in public housing, key intersections not assessed, assessment times inconsistent with uses of road network and proximity to school and kindergarten
- i. Does not assess car-parking need from current dwelling mix

- ii. Insufficient car-parking and cycle parking allocation proposed inconsistent with current planning scheme, and at odds with proposed zoning and densities sought. This will cause significant parking issues in the neighbourhood.
- iii. Proposed decrease in allocation to public housing residents based on outdated ABS data, and not reflective of current site conditions, where majority of residents have at least one car. Residents often overspill current car parks into neighbouring Airlie, Salisbury and Brickwood Streets. Weekend visitors to the site exacerbate this.
- iv. Visitor provisions are inadequate
- v. Proposed traffic access and egress locations are inconsistent with Design Framework.
- vi. Vehicular site access from Airlie and Salisbury Streets will conflict with and encroach on the small open space area proposed.
- vii. Images of Airlie and Salisbury Streets are mislabeled
- viii. Report misleadingly indicates that Airlie and Salisbury Streets are consistent two-way streets. Both streets are too narrow for two cars to pass each other side-by-side if other cars are parked on street. This will cause significant congestion issues if main access to site is proposed from these streets.
- ix. Existing significant pedestrian traffic through site from neighbourhood not considered.
- x. Proposals will significantly increase traffic levels in a sensitive neighbourhood, and impact the safety of children accessing the primary school via Brickwood Street.

**g. Community Consultation**

- i. Inappropriate levels of consultation conducted with site residents – despite large community of non-English speakers, no translators provided in main proposal presentation session (5/6/17).
- ii. Consultations with site residents conducted by DHHS without independent third party to obtain ‘open’ feedback, without fear of consequence.
- iii. Inappropriate levels of consultation with neighbouring residents – only one chaotic ‘consultation’ session held, which many local residents could not attend. Residents were presented with fait accompli plans. Views were not recorded in many cases, and DHHS staff avoided or could not provide answers to virtually all community questions.
- iv. On-line survey was geared towards public housing tenants and made it difficult for neighbours to convey how proposals would impact them.
- v. Consultation report does not present any quantitative analysis or survey results, down-playing level of community objections
- vi. Even the meager results from the consultation have not been adequately incorporated or reflected within proposals.

**h. Arborists Report**

- i. Does not include assessment of trees immediately abutting the site on neighbouring properties. These have not been included in set-back assessments (they will need greater than 3m currently allocated) and there is significant risk that they may be missed from Tree Protection Zone inclusions by developers.
- ii. Report identifies high value trees for retention on site. However, design framework concept plans are not reflective of their retention value and subsequent DPO and controls are weak in detailing preference for their retention.

**i. Flooding and Water Sensitive Urban Design**

- i. Given the flood prone location adjacent to a canalized creek, this is a critical issue that proponent does not take into account in any of the reports exhibited. This is an appalling oversight that speaks volumes to the diligence of DHHS in producing this proposed amendment.

**j. Environmental Impacts**

- i. Environmental impacts to the sensitive Elster Creek from large-scale construction and operation of such a dense development not considered.

**k. Sustainability**

- i. No specific sustainability criteria or standards identified for application of sustainability at site within DPO or schedules.

**I. CONCLUSION**

Given the above, the current proposals must be rejected by Panel.