



BOROONDARA
City of Harmony

**FINAL SUBMISSION TO
SELECT COMMITTEE ON
PUBLIC LAND DEVELOPMENT
AS ADOPTED BY COUNCIL ON 15/10/07**

October 2007

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1 INTRODUCTION

On 7 May 2007, the Legislative Council agreed to appoint a Select Committee of 7 members to examine the sale and development of public land in Victoria. This is an all-party Committee of the Upper House.

The Select Committee is to inquire into:

- a. *the sale or alienation of public land for development;*
- b. *the sale or alienation of public open space for the purposes of private development; and*
- c. *the sale and development of public land and the relationship to the Melbourne 2030 policy and Green Wedges.*

On 5 June 2007, the Committee called for written submissions to be lodged by 28 September 2007 and foreshadowed further public consultations and hearings later this year and early next year. A public hearing has since been scheduled in relation to the Kew Residential Services site on 26 September 2007.

The City of Boroondara welcomes the establishment of the Select Committee inquiry into the sale and development of public land, and the opportunity to make a formal submission to the Committee.

The Government's Asset Management Policy "*Sustaining our Assets*" released in 2000 states:

"The key objectives of asset management are to enable the Government to meet its service delivery objectives effectively and to provide a foundation for economic growth".

The Government Land Monitor has established policy relating to the sale of land (refer *Policy and Instructions for the Purchase, Compulsory Acquisition and Sale of Land, August 2000*). The disposal of public land can occur by sale to another government agency which identifies the land as being required for its purposes. In the event that another Government agency does not identify a requirement for the land, it may then be offered to the Council of the municipality where the Council requires the land for public purposes. In the event that the land is not required for purchase by another government agency or the local government, it may then be offered to the Commonwealth. It may also be disposed of by public auction, tender or other public process.

Under current policy, sale of land to a Council is required to be conducted at not less than market value assessed by the Valuer General. The sale of land to local government where the land is to be used for a purpose other than public purposes also requires the approval of the Minister.

The current process for disposing of assets is characterised by:

- An incremental site by site approach;
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- The decision about whether the asset is surplus to Government requirements being made on the basis of the requirements of an internal government agency process;
 - The provision of minimal information in relation to the property and its existing condition (for example information on structural condition);
 - Transactions based on “market value” as assessed by the Valuer General;
 - Councils are often told that a public sale process will proceed unless they respond by a specified date. A limited amount of time is provided for Council to decide whether to pursue purchase. There is no regard for lead times associated with formal Council reporting processes; and
 - Councils are confronted with having to make decisions about complex property matters in unrealistic time frames and with limited opportunity to undertake their own investigations.

Council seeks to emphasise that public land is a community asset - a public asset where the government of the day is a custodian on behalf of the community. In many instances, communities retain strong links to these assets. It is Council's submission that such community assets should not be treated merely as “real estate” available to be traded incrementally on a site-by-site basis as a surplus commodity at highest market value. Asset disposal often terminates Government control of a particular asset, and disposal usually means the asset is no longer available to the community.

The Municipal Association of Victoria (MAV) has previously made representations to Government in this regard. In 2004, the MAV State Council resolved:

- *That the MAV request the State Government to change its practice of requiring local government to purchase state owned community assets to retain them for community use, often when these facilities were built and financed in the first instance by that community.*
- *Further that the MAV request State Government to work with local government to develop a fair and sustainable process for retention of community assets for community purposes, particularly in instances where Councils express a willingness to develop and manage these assets.*

This submission is structured to inform the Committee of recent public land management issues within the City of Boroondara with specific reference to four sites:

- Kew Residential Services Site;
- Former Hawthorn Police Station;
- Camberwell Railway Station; and
- Former Kew Police Station and Court House.

For each site, the submission documents the key aspects of each site history and outlines a number of observations which are relevant to the deliberations of this Committee's inquiry.

2 THE KEW RESIDENTIAL SERVICES SITE

The Kew Residential Services (KRS) site is a 27 hectare site located in Princess Street, Kew. It is bounded by Princess Street to the east, Wills Street to the south, the Willsmere apartments and Yarra Bend Park to west and Hutchinson Drive to the north. The site was located within a Public Use Zone 3 (PUZ3) – Health and Community Use provision, and for many years had been occupied by Kew Cottages.

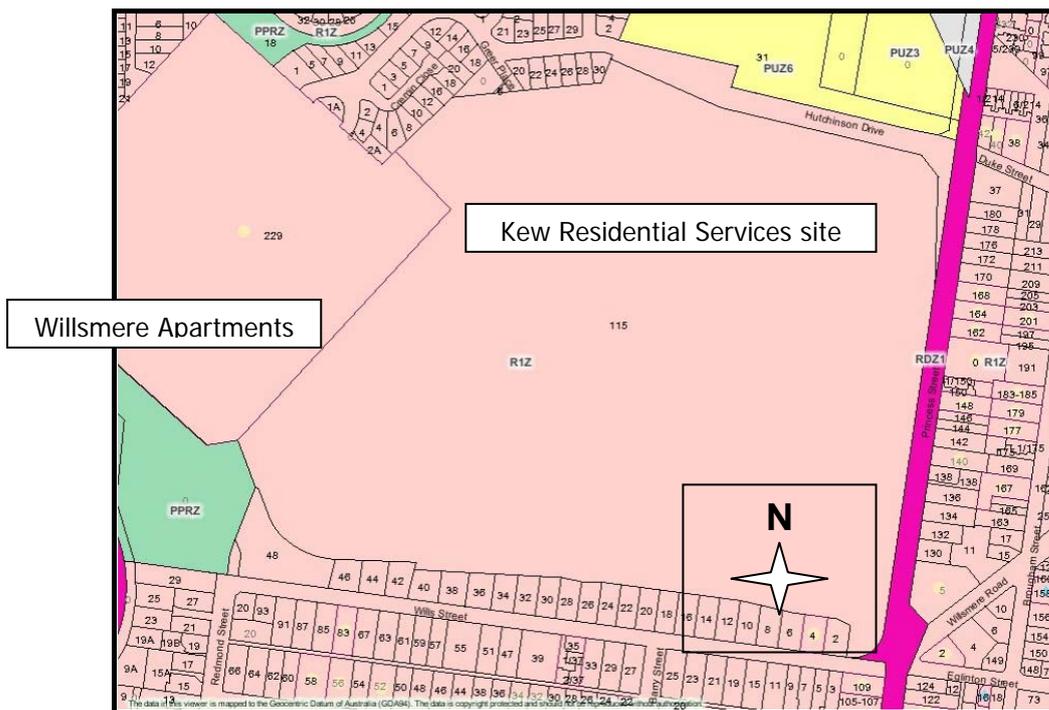


Figure 1: Site Plan, Kew Residential Services site

The redevelopment of Kew Cottages was announced by the Premier in May 2001. The purpose of redevelopment was to facilitate de-institutionalisation of residents. It was stated at the time:

“The land will be sold and the proceeds used to build 20 new homes for 50-100 residents on-site. The remainder of the 462 residents will relocate to new supported homes where they will be closer to family and friends in suburban or rural Victoria”.

Although the site is now an important location for new residential development within Boroondara, it is restricted by a number of factors which affect the way in which it can, and should be developed. These constraints include:

- Distance from the Kew Junction Activity Centre;
- Steep topography;
- Poor accessibility to some forms of public transport (particularly fixed rail);
- The cultural heritage and landscape significance of some elements of the site. On 1 December 2004, the KRS site was formally included on the Victorian Heritage Register. Heritage Victoria’s registration generally

accorded with the vision for the KRS site expressed through Council's KRS Urban Design Framework (UDF), August 2003;

- Proximity to heritage and landscape assets off-site – in particular the Willsmere Towers and proximity to Yarra Bend Park; and
- The presence of phytothora cinnimomi (a soil born disease affecting vegetation discovered on site in 2006).

In some cases, these constraints are at odds with the State Government's *Melbourne 2030* strategy which seeks to:

"Provide appropriate housing for forecast increases in population; ensure that growth is directed to strategic locations with good access to services and transport; ensure a range of housing opportunities within established residential areas meet changing lifestyles and housing needs; promote walking, cycling and public transport as viable transport alternatives; and build better and more sustainable neighbourhoods."

The construction of Stage 1 commenced in 2006, with 74 lots on the eastern periphery (Princess Street) edge of the site. Future stages will be completed over the next 7-8 years.

A summary chronology of the site history is provided in **Attachment 1**. Following is an outline of the key steps in the planning process, and consideration of some of the key matters arising from the site history relevant to the Committee inquiry.

2.1 Key Milestones in the KRS Site Planning Process

2.1.1 Preparation of Council Urban Design Framework

Following the State Government's announcement in late 2001 of its intention to redevelop the Kew Residential Services site, Council initiated a process of preparing an Urban Design Framework (UDF) to guide redevelopment of this significant 27ha site. Of note, Senior State Government representatives of the Department of Sustainability and Environment, Department of Human Services, and the URLC (later VicUrban) participated in this process. The Working Group met on 11 occasions over a 17 month period. A series of background reports were prepared and community feedback was obtained in preparing and assessing the draft UDF. The KRS UDF was intended to provide the fundamental background to the development of planning scheme controls for the redevelopment of the site.

In August 2003, Council adopted the UDF. Some of the key outcomes were:

- Open Space - At least 50% of the land was required to be provided as public open space.
 - Building location and height - The UDF identified areas where building could be located and appropriate heights limits.
 - Protection of Assets – Including canopy trees, heritage buildings and other items of cultural heritage significance.
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- Traffic – Development on site limited by the capacity of the site and surrounding area.

On 17 October 2003, the Minister for Community Services announced the release of an alternative plan prepared by State Government in the form of a UDF. The alternative plan contained several significant departures from the UDF developed by the Working Group, and that adopted by Council.

2.1.2 Planning Scheme Amendment C38

In late October 2003, Council commenced exhibition of a planning scheme amendment to rezone the KRS site from Public Use Zone to Residential 1 Zone and to apply a Design and Development Overlay to implement the Council adopted UDF. The amendment process proposed by Council allowed for public submissions and would have allowed for review by an Independent Panel. Amendment C38 reflected the vision arising from the 18 months of work dedicated by Council and the community to the development of the UDF.

2.1.3 Planning Scheme Amendment C53

On 12 November 2003, the Minister for Planning approved Amendment C53 to the Boroondara Planning Scheme. The effect of this amendment was to make Cocunil's amendment redundant. Amendment C53 was introduced without any consultation with the Council or the local community.

The Explanatory report for Amendment C53 stated:

“Ultimately the redevelopment of KRS will create a new residential community that has the potential to make a major contribution to the achievement of the directions and policies in Melbourne 2030 and provide new housing in a community setting for KRS residents”.

The key features of the Minister for Planning's Amendment C53 were:

- To zone the land Residential 1, and to introduce a Development Plan Overlay (DPO), a Heritage Overlay (HO) and a Vegetation Protection Overlay (VPO).
 - To include reference to a Government Urban Design Framework (the key differences from Councils' adopted UDF related to reduced open space and changes to building heights and setbacks) and required that the Development Plan be generally in accordance with the KRS UDF October 2003.
 - To make the Minister for Planning the Responsible Authority for the site, so that it would be the Minister who would approve the subsequent Development Plan and permit applications.
 - No opportunity for any further community input (i.e. notice to the community of the Development Plan and permit applications) and the ability for third party review of decisions at VCAT was removed.
 - The Council was provided only 28 days to comment on the Development Plan.
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- The Council was not formally provided with the opportunity to comment on permit applications.

The role of the City of Boroondara in relation to further input on the development planning for the site is set out in the Decision Guidelines relating to the DPO3. The Decision Guidelines states:

'Before deciding on a development plan, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- *The Kew Residential Services Urban Design Framework, October 2003.*
- *The views of the Boroondara City Council, if received within 28 days of the date that Council is provided with the development plan'.*

This was the extent to which the Minister's amendment provided for any formal planning role by Council.

On 8 March 2006, Planning Scheme Amendment C65 was approved by the Minister for Planning to take away height limitations introduced by Amendment C53 by modifying Schedule 3 to the Development Plan Overlay

2.1.4 Heritage Registration

In October 2004, the City of Boroondara supported Heritage Victoria's registration of the Former Kew Cottages site and on 1 December 2004, Council was informed that the place was formally included on the Victorian Heritage Register. Heritage Victoria's registration generally accorded with the vision for the KRS site expressed through Council's KRS UDF, August 2003.

2.1.5 Heritage Victoria Permit

Under Section 71 of the Heritage Act 1995, Heritage Victoria notified the City of Boroondara of the Heritage Permit Application and provided Council with the opportunity to make a submission. Council received notification from Heritage Victoria on Friday 9 September 2005 that it had issued a conditional heritage permit under Section 74 of the Heritage Act 1995. The permit allowed the "demolition of three Heritage Registered places known as B2, B4, and B5, relocation of three memorials, removal of specified vegetation, and approval of the layout for the site". The permit also granted approval for Stages I and II of the residential development in the north-eastern portion of the site.

2.1.6 Walker Development Plan

On 6 June 2005, Council received the Walker Development Plan (WDP) for the redevelopment of the KRS site. Council was provided with only 28 days (in the circumstances extended to 35 days), in which to comment on the Development Plan and, during that time, Council sought feedback from the community.

Due to the insufficient level of detail provided, Council was unable to provide meaningful comment on the Plan. Council commenced action at the Victorian Civil and Administrative Tribunal in June 2005 after the Walker Corporation's initial plan for the site failed to address the requirements of the Boroondara

Planning Scheme. Council later withdrew this action after changes were made to demonstrate that the Walker Development Plan (WDP) December 2005 met the requirements of the Scheme.

On 20 March 2006, the WDP December 2005 was approved by the Minister for Planning. Council managed to ensure that the WDP December 2005 contained definitive commitments to:

- Increased public open space (30% of the site);
- A reduction in the number of dwellings on the site (a maximum of 520);
- A commitment to the retention of significant vegetation; and
- The protection of the significant views and vistas.

This was a clear demonstration of Council's ability to work constructively with a developer and the community to deliver improved outcomes on this site. In spite of some of the difficulties in planning for the future of this site, Council continued to seek a positive working relationship with the Walker Corporation.

2.1.7 Permissions granted to date

Subsequent to the approval of the Walker Development Plan, the Minister for Planning has issued planning permits allowing for the development of Stage 1.

Permit No	Allowing	Date
20060415	Temporary Information Studio	8 August 2006
20060315	Subdivision of land	23 August 2006
20060364	Native Vegetation Removal	22 September 2006
2006465	Temporary Advertising Sign	28 November 2006
20060396	Dwellings on lots less than 500sqm	23 February 2007

Heritage Victoria has issued the following permit.

Permit No	Allowing	Date
P10367	Development of Stage 1	13 April 2006

Council has sought to comment on each application, and provide comment on plans submitted under permit condition to both the DSE and Heritage Victoria.

2.1.8 Certification

As required under the provisions of the Subdivision Act, Council is required to certify the Plan of Subdivision once it accords with the permit for subdivision permits issued by the Minister for Planning. There is no ability for Council to change critical decisions made by the Minister in this permit. Council has issued the following certification.

Reference No	Allowing	Date
SubCer06/00176	Stage 1 Certification	14 February 2007

2.2 Key matters arising from the Kew Residential Services site

As previously outlined, Council did not oppose the sale of the KRS site, but sought to achieve an appropriate planning framework to manage future land use and development. Having regard to the sites planning history the following are the key matters:

- 1) The planning process used by the Government to facilitate the development of the site.
- 2) The ongoing management of the sites redevelopment.
- 3) The failure to secure improvements to community infrastructure and to assess the social impacts of the development outcomes in the context of the broader community.
- 4) The lack of transparency of the Government's dealings with Walker Corporation in relation to the transfer of land. There has been no disclosure of the Government's agreement with the Walker Corporation.

2.2.1 The Planning Process

The planning process used for the KRS site "imposed" a development outcome. In particular, the planning arrangements put in place by Government did not allow for proper public scrutiny of the KRS development proposal, or for proper input by the City of Boroondara. The Government had chosen to make itself development facilitator, planning authority, responsible authority and financial beneficiary in relation to the site.

The key feature of the planning process included:

Replacement of Council's Urban Design Framework (UDF)

The Government UDF differed from the Council adopted UDF in several critical areas. During the consideration of the Council's UDF a key matter was the amount of public open space to be provided on site. The Council Working Group position in relation to open space provision was to make a generous provision of open space and to establish a percentage site coverage of developable land on the site. Council's adopted UDF sought that 50% of the site be retained as open space, whilst the Government's UDF required that 27% of the site be retained as open space.

Council, in preparing the preparing and adopting its UDF, recognised that the KRS site made a significant contribution to open space in this part of the municipality. Whilst the site was used by DHS, members of the community could readily access the open space on the site. The site also made a strong visual contribution in presenting a green and treed environment with built form sited within a "parkland" landscape setting. The provision and distribution of open space on the site was also recognised as being important in the context of the sites proximity to Yarra Bend Park.

The open space proposed by the Walker Development Plan is largely "privatised", as a key component of the open space is located along a central spine with directly abutting residential properties. It is Council's view that the site offers opportunities to provide open space in a more natural setting and that

greater emphasis should have been given to retaining the “parkland” quality of the landscape setting.

A second key difference between the Council adopted UDF and the Government UDF related to development yield and built form. The Government UDF allowed for a greater dwelling yield (estimated at an additional 400 dwellings to a total of around 800 dwellings). The Government UDF also increased building height on the highest part of the site from 3 to 5 storeys and reduced building setbacks from the adjoining Kew Gardens estate.

A further concern was the reliance on the 5-way Princess Street roundabout in the Government’s UDF as the preferred form of access to the site. Council and the community were adamant that main access to the site should have been via an alternate location on Hutchison Drive to the north. Instead, the Government’s UDF allowed access via the hazardous 5-way roundabout intersection.

Removal of the ability for Council to control and manage the future development of the site through Amendment C53

Amendment C53 made the Minister for Planning the Responsible Authority for the site. Council was removed from any future decision making role concerning the planning of this key redevelopment site.

Amendment C53 reduced Council’s formal planning role to commenting on the Development Plan for the site within a period of 28 days. Even accepting the Minister had become the Responsible Authority for the site, there were several deficiencies with this arrangement:

- The 28 day time period allowed for Council to formally comment was manifestly inadequate to allow for a rigorous assessment of the proposal or for Council to undertake a proper community consultation process to inform the community of the proposal.
 - Council had no formal ability to require further information in relation to its assessment of the adequacy of the Development Plan and needed to commence Declaration applications before VCAT to achieve an adequate level of information in the submitted Development Plan.
 - Once Council provided comment on the Development Plan, there was no mechanism binding the Responsible Authority (Minister for Planning) to respond to Council’s comments or demonstrate how they would be addressed.
 - Council is denied any formal role in relation to the assessment of permit applications and plans which follow from the approval of the Development Plan.
 - Council is not formally required to be informed of decisions made by the Minister for Planning in relation to approvals and site management.
 - Council’s ability to enforce compliance with the planning scheme is diminished. As Council is not the Responsible Authority for the site it does not have legal standing to instigate enforcement action.
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Requirements provide little certainty of a development outcome or the protection of significant assets on the site

Amendment C53 failed to provide sufficient certainty concerning the planned development outcome intended for the site:

- Requirements of the DPO were written generally ensuring that any development submitted by the Walker Corporation could be considered.
- There were no requirements imposed on the developer requiring contributions to on-site or off-site infrastructure not associated with current KRS residents (i.e. upgrades to roads, schools, kindergartens, child care).
- Through Council's insistence, it took three attempts for the Walker Development Plan to provide the necessary information to meet the requirements of the Development Plan Overlay and other scheme requirements.
- The approved Walker Development Plan establishes a target of 30% open space provision. It is yet to be demonstrated how this target will be met and what form the open space will take.
- General requirements within the Development Plan Overlay did not require a developer to ensure that the design of new dwellings relate to their surrounds.
- The approved Walker Development Plan does not include definitive commitments. It appoints a maximum number of dwellings but does not nominate a definite number of lots or dwellings. It includes statements relating to tree protection but does not show the location of trees that need to be protected.

No opportunity for community input into the Planning Scheme Amendment, Development Plan, or permit applications. The opportunity for review of any subsequent decisions by VCAT was removed.

A key feature of the planning framework for the KRS site is the removal of any opportunities for public participation in the planning process and the level of certainty provided to the Minister for Planning as Responsible Authority.

Specifically, no formal opportunity was provided to the community to comment on the Walker Development Plan or any subsequent permit applications. Whilst Council did provide limited opportunity for community review during preparation of comments within the 28 day time frame specified, this is not considered adequate community consultation for a development proposal on a key strategic site.

The planning framework introduced by the Minister for Planning also removed opportunity for review of decision on the Development Plan and subsequent permit applications by VCAT.

2.2.2 Ongoing Management of the Site's Redevelopment

A key issue in relation to the management of the site's development has been a failure by the Department of Planning and Community Development (DPCD) to work in partnership with Council.

Over the life of this project, Council has committed a senior staff member to this project for an average of two days per week in an effort to ensure a quality outcome on this important site.

From Council's perspective, the arrangements made for the redevelopment of the Kew Residential Services site have compromised Council's ability to achieve the best possible planning outcome for the community. There is an inherent tension between Government's development facilitation role and its role as planning authority. There are serious questions about the extent to which the Government is receiving impartial advice, and the extent to which the development facilitation role is compromising the quality of decision making. There are also limitations on Council's ability to intervene.

As an example, during the construction of Stage 1 there have been a number of vegetation protection matters where this conflict has compromised site outcomes. These are summarised as follows:

Removal of the Bishop Pine

The Bishop Pine tree (*Pinus muricata*) at KRS was included on the National Trust Register of Significant Trees (Victoria), and was covered by the Vegetation Protection Overlay (VPO). In early 2006, the Bishop Pine was found to be infected with *Phytophthora cinnamomi*, a soil born disease. After a long decline, the tree was removed on 15 June 2006. New requirements were imposed on the Walker Corporation by Heritage Victoria through permit conditions to reduce the risk of spread of this disease to other trees on and off the site.

It is Council's position that inadequate steps were taken at an early stage to determine the cause of the decline in this most significant tree. Council obtained its own independent arborist advice regarding the tree. Once the presence of the disease was known, Council obtained evidence of careless work practices which could have led to the spread of the disease on site. Steps to treat the disease and contain its spread through hygiene management procedures and associated works were not implemented as a high priority by Walker Corporation or the DSE.

Removal of Yellow Box (Tree 658)

A tree referred to as Tree 658 – a 'Yellow Box' was proposed to be removed by Walker Corporation. The tree was not included in the Vegetation Protection Overlay by the Minister for Planning as part of Amendment C53. A February 2006 Council "Inventory and Assessment of Flora and Fauna in Boroondara" undertaken by Dr Graeme Lorimer identified the Yellow Box tree as being of biological significance as a rare species linked to remnant vegetation on the site and Yarra Bend Park. Council sought the retention of the tree and wrote to the DSE on 27 October 2006, requesting that the tree be included within the VPO. On 2 March 2007, the DSE advised Council by email that the tree had been

removed. Despite the case put forward by Council, the DSE were of the view that "We had no compelling justification to seek its further retention".

Breach of Arboricultural Management Plan and Walker Development Plan

On 25 January 2007, DSE, Heritage Victoria and Walker Corporation were notified by Council that tree protection fencing had been moved and earthworks had been undertaken within tree protection zones. In Council's view, the works posed a serious threat to the long-term health of remnant vegetation on this site. The vegetation was protected under the VPO and was required to be retained and protected as a condition of permit issued by Heritage Victoria. Council met with representatives of the DSE on site on 12 February 2007, and wrote to the DSE on 16 March 2007 to determine what course of action would be taken. Council was informed on both occasions that the DSE was investigating the matter. Whilst tree protection fencing was subsequently re-instated, there has to date been no prosecution of earth works breaches or enforcement action under the Planning and Environment Act by the Minister for Planning as responsible authority.

Despite Council not having any status as a 'Responsible Authority' and no ability to make planning decisions relating to the sites development, Council has continued to work constructively with the Walker Corporation to achieve some positive site planning outcomes. The Department has to some extent been reliant on the positive benefits of this working relationship to assist in the overall management of the project.

Over the life of this project, Council has committed a senior staff member to this project for an average of two days per week in an effort to ensure a quality outcome on this important site even though Council has no planning role.

Council has also recently sought to establish a Memorandum of Understanding with the Major Projects Victoria, Walker Corporation, and the DSE. This measure has not been formalised as Major Projects Victoria was unwilling to include the DSE as part of this agreement.

2.2.3 Failure to Secure Improvements to Community Infrastructure and Properly Assess the Social Impacts of the Development Outcomes

The development of KRS will result in a maximum of 520 new dwellings over the next 7-8 years. This will add a substantial number of residents to the community of Kew. Should the Walker Corporation build to the maximum extent shown in the Walker Development Plan December 2005, the projected population increase, assuming an occupancy rate of 2.9 persons per dwelling, will be 1508. This may be reduced if Walker Corporation and the Government develop the site to their current market projection of only 340 dwellings. However, even with a yield of 340 new dwellings, this will place significant stress upon local infrastructure.

The provision of new housing for KRS residents on the site and in other preferred locations will be a major social benefit derived from the sale and redevelopment of KRS. Whilst it is not known how much new housing has been provided in the

broader community as a direct consequence of the sale of the site, it is proposed to construct 20 Community Residential Units as part of Stage 1 of the redevelopment. The location of these units is clustered toward the site interface with Princess Street. To date only one unit has been completed and a number are under construction.

Apart from the actual provision of the Community Residential Units, there has been no detailed consideration of the broader social planning impacts of the development. There has been no Social Impact Assessment at any time during the development planning process. The planning scheme amendment (Amendment C53) introduced by the Minister for Planning did not include any formal planning requirement for either the provision of community facilities or any financial contribution to community facility provision.

At a broader level, the new community will not live in isolation from the established residential community. The integration of the new community with the existing established community is required. The site should therefore not be considered as an "island".

There needs to be greater consideration of likely impacts on broader community service provision including matters such as demand for childcare places, impacts on kindergarten and school enrolments, and improved public transport provision for this new residential community. Council has consistently advocated for the need to improve public transport provision to the site, and to ensure that roads are designed to facilitate bus access.

The Government has made no commitment in this regard and continues to focus community benefit outcomes around the de-institutionalisation of the former residents of Kew Cottages. Council does not dispute this need, but does seek to bring to the attention of the Committee the social needs of the broader community in Kew. Further consideration is required concerning:

- Social planning implications of the site development and the opportunities to build the capacity of the new residential community on the site;
- The integration of the new residential community on the KRS site with the established residential community of Kew;
- The impacts on broader community service provision and the planning of service improvements to address issues such as child care and public transport; and
- The appropriate level of contribution which should be made by the Government and developer toward community service provision.

2.2.4 Lack of Transparency in State Government dealings with Walker Corporation

There has been no disclosure of the actual agreement between the Walker Corporation and the State Government, or of the financial arrangements relating to the sale and development of the land. It is important that these arrangements are disclosed in the interest of good governance and facilitating a proper evaluation of community benefits arising from the sale. In a press release dated

3 June 2005, the Minister for Community Services, Sherryl Garbutt, provided the following commitment:

“It is estimated that the Government will receive around \$80 million from the sale and residential development. The final commercial proposal will be independently valued by the valuer general”.

It is unclear however how much Walker Corporation stand to make from this sale and how much the Government stands to gain. This is important, as the community is entitled to know what amount of the revenue derived from the sale of the land has been allocated to improvements to disability services and the provision of accommodation. In the same press release, the Minister for Community Services provided the following commitments:

- *“This major development will provide 20 houses for 100 residents with intellectual disabilities on the KRS site. Another 73 houses are being built for 380 people with intellectual disabilities in the wider community...”.*
- *“Every cent raised from the redevelopment will go towards providing high quality housing and support services for KRS residents and other people with a disability in the community”.*
- *“People with disabilities in particular will benefit from a new \$3 million community leisure centre”.*

Council is keen to ensure that the Government delivers on each of these public commitments.

It is also noted the Government and Walker Corporation have made unusual arrangements relating to the sale of land on this site. A temporary crown reservation affects the site due to its former use as an institution. On 19 October 2006, the temporary reservation affecting the site was lifted, but only for the Stage 1 development area. As far as Council is aware, the balance of the site remains as Crown Land.

There also needs to be greater transparency of process in relation to sale of public land. Open and transparent asset management processes are necessary to ensure proper accountability and to ensure the proper evaluation of public benefits derived from such sales.

In relation to the Kew Residential Services site, there has consistently been an unwillingness by Government to disclose the financial arrangements between the Government and the developer, or to release details of the development agreement. The financial return to the Government arising from this land sale and the specific disability service improvements which proceeds from the sale have funded are unknown.

3 FORMER HAWTHORN POLICE STATION

The former Hawthorn Police Station site is at 616 Glenferrie Road Hawthorn. It is located to the southern end of the Activity Centre, outside the core retail area. The site area is 963m² and comprises Crown Allotment 65A and 65B on LP 27640.



Figure 2: Location of Former Hawthorn Police Station

The Glenferrie Activity Centre was designated a Major Activity Centre by the State Government in its final *Melbourne 2030* policy (without any consultation with Council). *Melbourne 2030* provides a strong policy emphasis on increasing the supply of housing within Activity Centres and seeks to:

“Build up activity centres as a focus for high quality development, activity and living for the whole community”, and

“Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport”.

State Planning Policy (Clause 12.01) also directs planning authorities to locate new housing in or close to Activity Centres that offer good access to services and transport.

Council has sought to advocate that the Former Hawthorn Police Station site should be used to achieve social or affordable housing in the Activity Centre, consistent with policy objectives of *Melbourne 2030*.

A summary chronology of the site history is provided in **Attachment 2**.

The Department of Treasury and Finance (DTF) notified Council that the former Hawthorn Police Station site was surplus to the State Government’s requirements in 2003.

In April 2004, Council wrote to the Minister for Human Services seeking the Ministers "views as to whether the land could be used for public housing or another public use...and whether the site should be used for an ongoing community role'.

In June 2004, Council received advice from Department of Human Services that 'the Office of Housing and officers from other programs within the Department of Human Services have examined the site for potential purchase and at this time have no interest in its acquisition for any of the Department's programs'.

This is the only explanation provided as to the basis on which the site was considered unsuitable for public housing.

In February 2005, Council resolved:

That the City of Boroondara prepare and exhibit a planning scheme amendment to rezone land at 616 Glenferrie Road Hawthorn from Public Use 7 Zone to Business 2 Zone and to include a Road Closure Overlay over the Government Road within the centre of the site.

That Council write to the Premier of Victoria stating the following:

- (a) Council is particularly concerned that the opportunity to provide social housing on the site is not being pursued despite a shortage of such accommodation in Boroondara and requesting that the Premier reconsider this position.*
- (b) That the State Government should adopt a whole of Government approach in demonstrating its commitment to the implementation of its own policy, Melbourne 2030 by requiring that part of the site be used for residential purposes.*
- (c) That the future use of part of the site for residential purposes be ensured by an Agreement under Section 173 of the Planning and Environment Act. This agreement must be exhibited with the planning scheme amendment and be registered on the Certificate of Title of the land prior to any sale.*

Just as the Government expects Local Government to implement *Melbourne 2030*, it is reasonable to expect the State Government to implement its own policies. In this context the following advice was provided to the Government in December 2005:

Boroondara City Council considers the site at 616 Glenferrie Road Hawthorn (former Police Station) represents an important opportunity to implement the directives of the Melbourne 2030 strategy with regard to the development of Activity Centres. The site is located within the Glenferrie Major Activity Centre and is therefore considered to be particularly suitable for some form of mixed commercial/residential use with the potential for a limited retail component. Given the site's close proximity to existing services and public transport, the provision of social housing must also form part of any proposal for the site's redevelopment. With regard to the built form outcome on the site, Council

considers it is critical that the development respond appropriately to its immediate site context. In this regard, any built form should not exceed three storeys, given that the abutting land to the south includes a single story building and the character of commercial development is generally of one and two story buildings within the locality. The height of the existing building on the subject site should provide a guide for any future redevelopment.

In October 2006, the DTF advised:

“As both the Department of Human Services (Office of Housing) and VicUrban have now determined that the site is unsuitable for social/affordable housing, and Boroondara have no interest in purchasing the site, VGPG intends to proceed with the sale of the property through a public tender process”.

Council did not seek to acquire the site. Thus a public tender process occurred in March 2007. It is understood the site is now subject of a contractual arrangement.

3.1 Key Matters arising from the former Hawthorn Police Station

It is Council's submission that the site at 616 Glenferrie Road, Hawthorn, was not surplus to community requirements. Whilst the site was disposed of for the most financially advantageous outcome for Government, there remains a great shortage of both social and affordable housing in Boroondara. It is difficult to identify sites suitable for the provision of social housing in established Activity Centres.

In deciding whether public land is surplus, Government needs to consider whether there are opportunities to improve delivery of *Melbourne 2030* outcomes including the provision of social and affordable housing in accordance with Policy Direction Number 6 “*A fairer city*” and Policy 6.1 “*to increase the supply of well located affordable housing*”.

The redevelopment of this site presented a key opportunity for the State Government to play a leadership role in implementing its own policy. This opportunity has been lost and the site is now no longer a community asset. The future development will depend largely on the private sector and market conditions.

In relation to the future management of this site, there is a need to ensure opportunities for public consultation are maintained in relation to its future development and use. Council will not support Ministerial intervention to rezone the site (noting that in Council's view the site is not of State or Regional significance). Council is prepared to consider a combined amendment and permit application using the provisions of Section 96 of the Planning and Environment Act. This process will allow Council to retain its role as both planning and responsible authority and will allow for community input before a final decision is made on the site's redevelopment.

4 CAMBERWELL RAILWAY STATION

Camberwell Junction is a designated Principal Activity Centre under *Melbourne 2030* policy and Council is undertaking the preparation of a revised Structure Plan to guide the future development of this Activity Centre.

Camberwell Railway Station is located adjacent to Burke Road and Cookson Street, Camberwell. It is located to the northern end of the retail core.

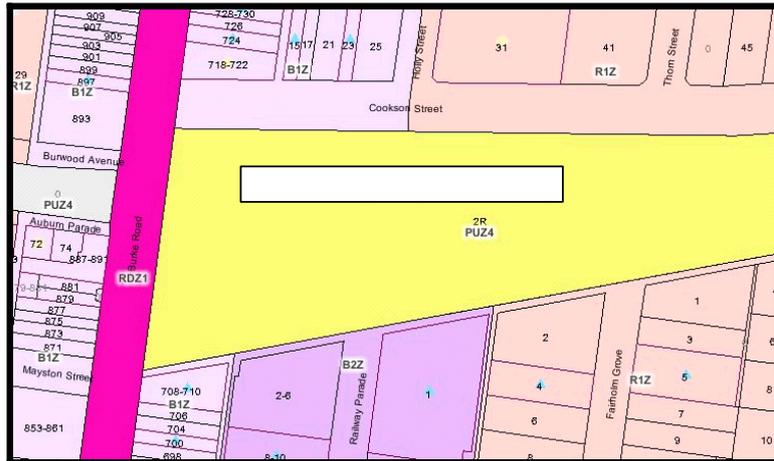


Figure 3: Location of Camberwell Railway Station

This site represents an opportunity for Government to demonstrate an ability to work with Council and the community to achieve an outcome which is consistent with *Melbourne 2030* and to provide for community uses (including a library facility on the site).

A summary chronology of the site history is provided in **Attachment 3**.

In 2002, the Government announced the appointment of a preferred tenderer (Tenterfield) to develop the airspace above the Camberwell Station site.

Boroondara requested that the State Government halt the tendering process to ensure that future planning of the Station would have regard to the views of all Boroondara residents and to State Government policy (*Melbourne 2030*).

In 2003, Council established a broadly based Working Group (including community and State Government representation) to develop an Urban Design Framework (UDF) for the Railway Station site. This was accompanied by extensive technical investigations.

In October 2004, Council undertook formal community consultation on the UDF Options developed by the Working Group. The UDF options identified alternative development approaches focused around the Station car park area.

During the consultation process, the Boroondara Resident Action Group (BRAG), proposed a lower scale development options focused around community and

civic uses. The BRAG model also included additional open space in the form of a public plaza area.

In May 2005, Council considered the outcomes of the UDF process and resolved to have further discussions with the State Government in relation to the preferred form of development for the site. Council's position in relation to the redevelopment of the Camberwell Railway Station car park site to the south of the station is that the site should incorporate a low scale, small footprint development outcome that incorporates community uses including public open space and the Camberwell Library.

Council has also supported the inclusion of the Station within a Heritage Overlay under the Boroondara Planning Scheme. The amendment process is detailed in **Attachment 3**. The Minister for Planning approved Amendment C55 in May 2007, although the final form of this amendment was not the same as that adopted by Council. Council is now seeking that a Conservation Management Plan and Disability Access Plan as required by the Incorporated Plan should be approved by Council, as Responsible Authority for the site, before any development plans of the site are finalised.

4.1 Key Matters arising from the Camberwell Railway Station site

The Camberwell Railway Station site represents an opportunity for State Government, in partnership with Council, to demonstrate its commitment to the community building aspects of *Melbourne 2030* (showcasing an outcome that includes community uses on the site).

It is submitted that current Government policy has not led to the effective utilisation of public land to assist implementation of *Melbourne 2030*. The Government has sought to impose the planning policy of *Melbourne 2030* on Local Government and frequently uses the policy as a basis for justifying particular development outcomes. The policy ought therefore to be given serious consideration when decisions are being made about the future use of public assets and the development and use of surplus public land.

The Camberwell Railway Station site (particularly the car park area to the south) provides an opportunity for the Government to demonstrate positive outcomes of *Melbourne 2030* in relation to provision of increased open space, community facilities (including a Camberwell Library and civic presence), high quality urban design, heritage protection etc. The redevelopment of the site should not be approached merely as the development of airspace for greatest financial return. *Melbourne 2030* should not be used simply to promote more intense development without regard to other "liveability" policy objectives.

It is not appropriate for the State Government to be seeking to implement a large scale development proposal (using *Melbourne 2030* policy as a basis) ahead of detailed Structure Planning work for the Camberwell Junction Activity Centre being completed.

It would seem that VicTrack is continuing to negotiate with its preferred tenderer and that at present it is likely that a permit application to develop the site is being prepared.

It should also be noted that at no stage has VicTrack made available the terms of any contract between itself and the preferred tenderer. This is again evidence of a lack of transparency surrounding the Government's dealings in relation to public land.

5 FORMER KEW POLICE STATION AND COURT HOUSE

The former Kew Police Station, Court House, and Post Office form a cluster of prominent buildings near the intersection of High Street and Cotham Road, Kew. The former Police Station and Court House buildings located at 188 High Street, Kew, are of State level cultural heritage significance and are included on the Victorian Heritage Register.

The site is approximately 1059m² in size and extends between High Street and Cotham Road, Kew. A location map is provided at Figure 4.

The buildings are included on the Victorian Heritage Register (No H944) and are classified by the National Trust of Australia (Victoria) (file B5560) and are on the Register of the National Estate (AHC No. 014229). The site is also within a Heritage Overlay under the Boroondara Planning Scheme.

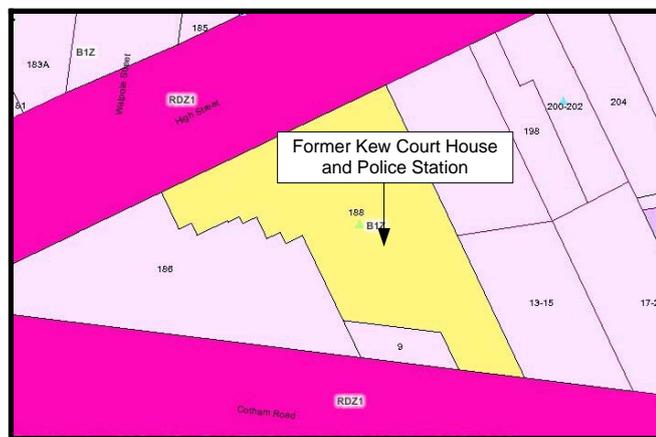


Figure 4: Location Map Former Kew Court House and Police Station

In April 2006, the State Government advised Council of its intention to sell the former Kew Court House and Police Station. There was strong community support for retention of the buildings as a public asset and made available for community use.

A summary chronology of the site history process is provided in **Attachment 4**.

Council acquired the property based on a "Community use valuation" for \$825,000 in March 2007. Council's purchase was motivated by the level of community support for the retention of the building as a centre for performing arts. There is a demonstrably strong level of community support for retention and restoration of the former Kew Police Station and Courthouse. Council was required to purchase this public asset to ensure that it remained available for public use. Had Council chosen not to pursue purchase of the site, its ability to remain available for public use would likely have been lost as the result of the property being placed on the open market.

The Kew Court House Restoration Appeal aims to meet the costs of restoration of the heritage buildings and cover the cost of the access requirements for the

return of the buildings to community use. The community-based appeal is seeking to raise \$2.1 million to restore the Court House and Police Station and create a cultural hub for the arts. Council has already pledged \$50,000 plus a substantial “in-kind” contribution toward the restoration of the complex. In addition, Council has obtained a Federal Government grant of \$330,000. To date, the State Government has not agreed to provide any financial assistance toward the cost of restoring the buildings, however, grant applications are currently being considered.

5.1 Key Matters arising from the former Kew Police Station and Court House

A number of matters require consideration in relation to Government policy and procedures arising from the sale of this community asset. They include:

- The basis on which it is expected that Local Government should purchase a public asset to ensure it continues to remain a public asset available for community use. In effect, Local Government is being asked to compensate State Government at so-called “market value” for public land so that it can remain in public ownership;
 - The process of the Government’s dealings with Council. For example, whilst Council was aware the site was going to become available at some point in time, there was a lack of notice to Council once a decision to sell had been made;
 - Councils are often told that a public sale process will proceed unless they respond by a specified date. Councils are confronted with having to make decisions about complex property matters in unrealistic time frames. There is little regard for lead times associated with formal Council reporting processes. In this case, Council was initially provided with two days to consider execution of a formal Contract of Sale (received 28 June 2006 with a requirement to sign by 30 June 2006). Negotiation concerning the terms of the Contract were ongoing between 28 June 2006 and 11 August 2006. The Minister for Finance then withdrew the property from sale on 11 August 2006;
 - The Government had taken no responsibility for managing these significant heritage buildings on behalf of the community and had let the buildings fall into disrepair. Council was not provided with time to pursue grant applications for restoration before being able to decide on purchase. Council was also provided with limited information on structural conditions and given minimal time to undertake its own investigations;
 - There was insufficient strategic consideration of the sites future use and options to properly plan for this use. For example, it may have been appropriate to include the toilet block to the Cotham Road frontage in the land transferred to Council, so as to facilitate more comprehensive site planning for the future community use of the site. This might also have contributed to opportunities for improved vehicular access and to upgrade the existing pedestrian link between High Street and Cotham Road through the site;
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- To date, there has been no financial recognition by the State Government of the cost of restoring the buildings, despite the building maintenance being neglected for many years whilst in State ownership. The State Government has been unwilling to enter into a partnership to achieve restoration of the buildings and to date has not contributed to the financial cost of the required works, despite representations to make application for funding grants; and
 - A restriction has been placed on the Crown Grant requiring that the land be used for community purposes. The State Government's position was that this restriction acknowledged the purchase at a discounted value of \$825,000. Council disputes that the actual purchase price represented any "discount" from market value taking account of the cost of building restoration and the imposition of the encumbrance limiting the future use of the building for community purposes.

A key question is whether the current process for decision making about disposal of public assets is responsive to the needs of Local Government.

The sale of the Kew Court House and Police Station was managed as a 'real estate transaction' rather than State Government working in partnership with the Local Government and the local community to achieve the restoration of important heritage buildings, to serve as a community facility into the future. The restoration of buildings will be of significant community benefit and will ensure long term retention of assets of State heritage significance.

This example also highlights the need for changes to Government policy and procedures to ensure a fair and equitable means of ensuring that public land can be transferred from State to Local Government to facilitate community use outcomes. To require that Local Government pay "market value" as the only mechanism to retain public land assets for long term community use is unsatisfactory.

6 CONCLUSION

Public land is a community asset. Current policy focuses on managing assets for service delivery and maximum financial return to Government in the short term, rather than emphasising ongoing community benefit and use in the long term.

There is a need for substantial policy reform in relation to:

- a) Management of public land;
- b) Processes for determining whether such assets should be made available for sale;
- c) Arrangements relating to the sale process; and
- d) The relationship between Government land and policy implementation.

More flexible arrangements for the ongoing management of public land are required where Local Government seeks to retain and manage assets for community use. There is a need to allow the transfer for public assets from State to Local Government without the need for Local Government to pay “market value” as assessed by the Valuer-General to retain assets in community use.

In summary it is submitted that:

- Public land should be regarded as a community asset to be held in public ownership for the long term whilst it is needed for community purposes;
 - There should be opportunity for greater Local Government and community input prior to any decision to declare public land surplus to Government requirements and prior to the decision to sell land. These decision processes are currently internal to State Government;
 - Proper notice should be provided to Local Government of an intention to dispose of properties;
 - Local Government should not be financially disadvantaged by having to purchase community assets at “market value” where it can be demonstrated that a public asset will continue to be used in the interests of the community;
 - More flexible arrangements are required to transfer land between the State and Local Government especially where an alternative community-based use is proposed;
 - State Government should take a “whole of Government” approach to management of assets, and there should be a greater emphasis on ensuring policy outcomes consistent with *Melbourne 2030*. There are opportunities for Government to ensure that development outcomes for sites demonstrate in a positive way the benefits of *Melbourne 2030*. For example, the former Hawthorn Police Station site could have been used to ensure housing provision in the Glenferrie Activity Centre; the Camberwell Railway Station site could be developed for open space and community facilities (including provision of a library facility) to demonstrate good urban design and liveability outcomes sought by *Melbourne 2030*;
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- There is a need to ensure Local Government retains planning control for the development approvals process in instances where public land is sold for development. There is also a need to ensure opportunities for public input and usual opportunities for the review of decisions are retained where public land is developed;
 - There is need to ensure that where surplus land is developed, there is proper consideration given to social planning implications of the development (including required community services and improvements to public transport); and
 - There needs to be a greater level of transparency concerning the Government's disposal of land and arrangements with developers of land. This will assist in the proper evaluation of public benefit.
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ATTACHMENTS

Summary Chronology of site history

- Attachment 1: Kew Residential Services Site**
 - Attachment 2: Former Hawthorn Police Station**
 - Attachment 3: Camberwell Railway Station**
 - Attachment 4: Former Kew Police Station and Court House**
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Attachment 1:	Kew Residential Services, Princess Street, Kew
May 2001	Premier announces intention to make KRS site available for redevelopment.
March 2002	Council and Working Group commence preparation of an Urban Design Framework for the site.
August 2003	Council adopted an Urban Design Framework for the KRS site.
October 2003	Government Urban Design Framework prepared.
October 2003	Council exhibits Planning Scheme Amendment C38 to translate the Urban Design Framework into planning scheme controls.
November 2003	The Minister for Planning approves Amendment C53 to the Boroondara Planning Scheme without notice.
December 2004	Kew Cottages is included on the Victorian Heritage Register (H2703).
June 2005	The first draft of the Walker Development Plan is submitted to Council for comment within 28 days.
June 2005	Council initiates proceedings at VCAT after it is asked to comment on a Development Plan of insufficient detail preventing any meaningful or real views to be developed about this plan.
August 2005	Kew Cottages is classified by the National Trust.
September 2005	Heritage permit for demolition of 3 heritage registered places and development of Stages 1 and 2 of the residential development.
October 2005	The Walker Development Plan is then revised and submitted to Council for comment. A further 28 days is provided.
December 2005	A further revised Walker Development Plan is submitted to Council. This plan is also submitted to the Minister for Planning for approval.
January 2006	Walker Corporation submits an application for native vegetation removal to the Minister for Planning.
March 2006	Planning Scheme Amendment C65 was approved by the Minister for Planning to modify Schedule 3 to the Development Plan Overlay to remove the mandatory height controls applicable to this site.
March 2006	The Minister for Planning approves the Walker Development Plan - December 2005.
April 2006	Heritage Victoria issues a permit allowing for development of the Stage 1 area.
June 2006	Bishops Pine removed due to <i>Phytophthora cinnamomi</i> .

August 2006	A permit is issued by the Minister for Planning for the subdivision of the Stage 1 development area.
August 2006	A permit is issued by the Minister for Planning for a temporary information studio.
September 2006	The Minister for Planning issues a permit allowing for native vegetation removal.
November 2006	The Minister for Planning issues a permit allowing for temporary advertising signage.
January 2007	Breaches of the Arboricultural Management Plan and Walker Development Plan occur as earthworks are undertaken inside tree protection zones.
February 2007	A permit is issued by the Minister for Planning for dwellings on lots less than 500sqm.
February 2007	Council certifies the Plan of Subdivision for Stage 1.
March 2007	Yellow Box tree (Tree # 658) removed.

Attachment 2: Former Hawthorn Police Station - 616 Glenferrie Road Hawthorn

- May 2003 Department of Treasury and Finance notified Council that the former Hawthorn police Station site is surplus to the State Government's requirements.
- February 2004 Tract Consultants lodged a request to Council to rezone land a 616 Glenferrie Road from PUZ7 to B2Z.
- Council sought further information (independent heritage assessment and clarification as to whether the land has been considered for public housing or another public use by the State Government).
- 8 April 2004 Council wrote to Minister for Human Services seeking the Ministers 'views as to whether the land could be used for public housing or another public use... and whether the site should be used for an ongoing community role'.
- 21 June 2004 Advice from DHS that the Office of Housing and officers from other programs within the Department of Human Services have examined the site for potential purchase and at this time have no interest in its acquisition for any of the Department's programs.
- August 2004 Heritage Assessment of the former police station and court house undertaken by Bryce Raworth, Conservation Consultant and Architectural Historian in August 2004.
- 30 September 2004 Tract consultants requested Road Closure over the Government Road within the centre of the site.
- Report to UPSC November 2004 deferred until Feb 2005.
- 7 February 2005 Council Resolution
- That the City of Boroondara prepare and exhibit a planning scheme amendment to rezone land at 616 Glenferrie Road Hawthorn from Public Use 7 Zone to Business 2 Zone and to include a Road Closure Overlay (RXO) over the Government Road within the centre of the site.
- That Council write to the Premier of Victoria stating the following:
- (d) Council is particularly concerned that the opportunity to provide social housing on the site is not being pursued despite a shortage of such accommodation in Boroondara and requesting that the Premier reconsider this position.
- (e) That the State Government should adopt a whole of Government approach in demonstrating its commitment to the implementation of its own policy,
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Melbourne 2030 by requiring that part of the site be used for residential purposes.

- (f) That the future use of part of the site for residential purposes be ensured by an Agreement under Section 173 of the Planning and Environment Act. This agreement must be exhibited with the planning scheme amendment and be registered on the Certificate of Title of the land prior to any sale.

23 October 2005	VicUrban Advised the Victorian Government Property Group (VGPG) that they do not wish to pursue acquisition of the property.
20 July 2006	Road closure of central access way through the site gazetted.
24 October 2006	Advice from DTF that: <i>“As both the Department of Human Services (Office of Housing) and VicUrban have now determined that the site is unsuitable for social/affordable housing, and Boroondara have no interest in purchasing the site, VGPG intends to proceed with the sale of the property through a public tender process”.</i>
February 2007	Section 29A Application for demolition of all buildings.
14 June 2007	Request from Contour Consultants acting on behalf of Asia Pacific Building Corporation Pty Ltd (under contract to purchase land from the Dept of Treasury and Finance) seeking that Council support for Ministerial amendment to rezone the land to Business 2 Zone.
10 July 2007	Response to Contour Consultants indicating that Council would not support a Ministerial Amendment to rezone site. Council is seeking a combined amendment and permit application under Section 96 of the Planning and Environment Act to allow Council to retain planning control as both planning and responsible authority.

Attachment 3: Camberwell Railway Station, Cookson Street, Camberwell

Planning Framework

1996	Discussion between PTC and Council officers re goods yard site, provision of train stabling facilities, car parking and broad concepts for commercial development of the site along the Burke Road frontage.
1997	PTC proceed with Stabling project, provision of approximately 80 car parking spaces, and foreshadow pursuing commercial development opportunities along the Burke Road frontage.
January 1999	PTC releases draft registration of Interest Brief for the commercial development of air space over the railway cutting at Burke Road, Camberwell.
March 1999	Council endorses draft planning framework for the Camberwell Railway Station and seeks to ensure adjacent property owners and occupiers are advised of PTC Registration of interest process. Council also seeks that PTC enter into a Section 173 Agreement or agree to an Incorporated Plan Overlay Control to give affect to planning framework principles.
April 1999	PTC release Registration of Interest Brief.
August 1999	Council writes to Victrack concerned at absence of comprehensive planning controls for the site.
February 2002	Following a public tender process, Victrack appointed a preferred developer status to Tenterfield Pty Ltd.
May 2002	Negotiations commenced between City of Boroondara, VicTrack and Tenterfield. A development proposal was formulated by Tenterfield and VicTrack.
March 2003	Council resolves to seek meeting with Minister for Transport. Concern that Government is not seeking to achieve site opportunities in relation to implementation of <i>Melbourne 2030</i> . Council requested the State Government halt the tendering process to ensure that future planning of the Station would have regard to the views of all Boroondara residents and to State Government policy (<i>Melbourne 2030</i>).
July 2003	Council proposes to form a Working Group including representation from State Government (DOI/DSE), Vic Track, traders, residents and Councillors/Council staff. Purpose of working Group is to develop a planning framework for the site taking account of <i>Melbourne 2030</i> .
March 2003	July 2004 UDF Working Group established. Working Group first met in January 2004.

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- October 2004 Formal community consultation on UDF Working Group Options occurred. Two options were put to consultation:
- No development.
 - A mixed use development option.
- Information on a third option proposing the development of the site for community facilities and disability access was also put forward by the Working Group.
- February 2005 Working Group recommends 2 options to Council, based around 'community' and 'mixed use' development options.
- April 2005 Community Submissions made to Council on the draft UDF options. The Boroondara Residents Action Group supported a low scale development for community facilities. Vic Track sought further modifications to the more intensive "development" option.
- 23 May 2005 Council considers UDF outcomes and resolves to seek discussions with Minister for Transport. Purpose of discussion is to seek that Minister direct VicTrack to ensure an outcome consistent with Governments own Melbourne 2030 policy and require inclusion of a public plaza, library facility and improved disability access. Council believes this is an opportunity for State Government to work in partnership with Council to demonstrate community building aspects of *Melbourne 2030*.
- October 2005 Camberwell Station precinct Development Working Group was established to examine preferred development options for Camberwell Station. The Working Group was chaired by Elana Ruben (VicTrack) and included DSE, DOI and City of Boroondara representatives.
- December 2005 Working group seek to obtain property consultant to undertake evaluations of the viability of various development opportunities for the Camberwell Railway Station.
- 2006 Working group process stalls – meetings not held whilst Heritage Overlay amendment is considered. Since adoption of the Heritage Overlay Amendment the Group has met on one occasion but the process remains stalled.

Consideration of Heritage Issues

- April 2004 National Trust wrote to Heritage Victoria stating that the Trust's expert Buildings Committee had recommended classification of the Camberwell Railway Station at a State level and was nominating it for inclusion in the Victorian Heritage Register.
- December 2004 Hearing before Registrations Committee of the Heritage Council.
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| 13 December 2004 | Heritage Victoria advises Council it has made a provisional determination to include the Station site on the Victorian Heritage Register. |
| 2 September 2005 | Hearing conducted to finalise the provisional determination to include the Station on the Victorian Heritage Register. |
| 11 November 2005 | Heritage Council advises Council that the Station is not of sufficient cultural heritage value to warrant inclusion of the place on the Victorian Heritage Register. Heritage Council recommends Station be included in Heritage Overlay under the Boroondara Planning Scheme. |
| March 2005 2006 | Council resolves to proceed with Amendment C55 to include Station site within a heritage overlay. |
| 21 April 2006 | Ministerial authorisation to prepare and exhibit planning scheme amendment C55 obtained. (Authorisation AO365). |
| June 2006 | Exhibition of Planning Scheme Amendment. |
| November 2006 | Planning Panel hears submissions in relation to amendment C55. |
| 22 January 2007 | Panel report received. |
| 26 February 2007 | Council adopts Amendment C55 in a modified form with changes to the Panel's recommendation. |
| 5 March 2007 | Adopted amendment submitted to Minister for approval. |
| 21 May 2007 | Minister for Planning approves Amendment C55 in a form that is consistent with the Panels recommendations. |
| 1 June 2007 | Amendment C55 gazetted. |
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Attachment 4: Former Kew Police Station and Court House – 188 High Street Kew

- 20 April 2006 DTF offer property at \$825,000 (excluding GST) on a restricted Crown Grant basis or \$925,000 on a terms basis (being 10% deposit with the balance payable over two years).
- 11 May 2006 Correspondence to Treasurer indicating Councils preparedness to purchase buildings for \$825,000 should the State Government be prepared to meet the cost of restoration.
- 17 May 2006 Council writes to Peter Costello MP and Petro Giorgio MP for help to identify Commonwealth funding that would be available to preserve the local history.
Council seeks meeting with Hon John Lenders regarding offer to purchase and to propose partnership between the City of Boroondara and State of Victoria.
- 25 May 2006 Correspondence from Minister for Finance indicating DTF Offer of 20 April 2006 is in accordance with government policy.
“Council has been offered opportunity to purchase the property directly from the State on a restricted basis which provides Council with an obvious financial benefit”.
Letter encourages Council to make application for funding of the refurbishment of the building from the Community Support Fund within the Department for Victorian Communities.
Property Group prepared to continue to withhold property from the market until 9 June 2006 to enable negotiations with Council to be completed on an unconditional basis.
- 2 June 2006 Council writes to Bob Stensholdt MP re proposed purchase of Kew Court House and Police Station and encloses application for Community Support funding (as suggested by Minister Lenders).
- 2 June 2006 Council seeks to establish partnership with State Government and community to raise funds for restoration. Meeting with officers of VGPG, Bob Stensholdt and Council officers.
- 7 June 2006 Council writes to Minister Lenders re outcomes of meeting with officers of VGPG and Bob Stensholdt. Also suggesting extended time frame for development of a partnership until 31 December 2006
- 8 June 2006 Letter from Minister Lenders confirming the Department of Treasury and Finance’s (DTF) offer to Council on 20 April 2006 at the amount of \$825,000 (excluding GST) on a restricted Crown grant basis or \$925,000 (excluding GST
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- on a terms basis (being 10% deposit with the balance payable over two years).
- The Property Group prepared to continue to withhold the property from the market until they receive your written agreement to the above proposal by 5:00pm Friday 9 June 2006.
- 9 June 2006 Letter from Mayor to Minister Lenders pointing out letters had “crossed” and seeking further advice on this matter.
- 13 June 2006 Minister Lenders advised that the DTF is prepared to withhold the property from the market until the extended date of Friday 23 June 2006. By this time, DTF will expect to have received your written agreement to the generous proposal outlined, in my previous letters, to purchase the property on an unconditional basis.
- 14 June 2006 Council writes to DTF re need for urgent maintenance on Kew Police Station and court house (including a hole in the roof, missing slate tiles, water penetration, fascia damage and blocked gutters).
- 16 June 2006 Council writes to Premier Bracks (cc Bob Stensholt) seeking establishment of partnership and additional time for the community committee to raise funds for the project and for Council’s application for Community Support funding to be considered.
- 16 June 2006 Council writes to Minister for Finance (cc Bob Stensholt) seeking an extended timeframe for the development of the partnership and raising of funds for restoration until 31 December 2006.
- 21 June 2006 Letter to Hon Tim Holding Acting Minister for Finance seeking to confirm delay of a sale until 31 December 2006.
- 23 June 2006 Letter from Director Property Group confirming terms of sale and allowing Council 6 months to obtain funding to meet redevelopment and operational requirements.
- Sale Price \$825,000.
- Deposit 2.5% on exchange of contract of sale.
- Settlement 31 December 2006.
- Council asked to confirm agreement to offer by 28 June 2006.
- 24 June 2006 Community fundraising campaign to restore the building launched by the Kew Historical Society Inc.
- 24 June 2006 Treasurer Brumby in a Television news interview on National Nine news stated.
- “We would want to see the community through the Council first purchase the building and then we are happy to work*
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- with them as owners in partnership to have the building properly restored”.*
- 25 June 2006 Treasurer Brumby reported in Sunday Herald Sun “ *the government was prepared to work with the Council and community groups to ensure the buildings were restored for community use and introduce the Council to possible funding sources”.*
- 28 June 2006 Council received an unsolicited Contract of Sale for the Kew.

Court House and Police Station from the DTF which required execution by 30 June 2006. The contract papers also identified asbestos contamination and other significant liability concerns.
- 29 June 2006 Rigby Cook Solicitors Acting for DTF, forward amended Title Plan incorporating the condition that ‘the land be used solely for community purposes’.
- 30 June 2006 Council Media Release “outrage over Bracks Government real estate ruse”.
- 30 June 2006 Letter from Council to Premier Bracks confirming that Council has agreed to purchase the buildings for \$825,000 but expressing concern about proposal that Council purchase property before funds are raised for restoration with a provision for Council to withdraw from the contract up until 31 December.
- 30 June 2006 Response from Director Property Group. Council provided with extended time frame to Thursday 31 July to execute Contract of Sale. Agreed to extend settlement period until 31 March 2007 to provide Council with opportunity to raise funds for restoration works to the buildings. All other sale conditions to apply including responsibility to “maintain the building in tenantable repair”.
- 5 July 2006 Council issues media release:

“the State Government’s contract would make Boroondara ratepayers accept unlimited liability for the neglected buildings from the time the documents were signed ...Under its own Heritage Act, the State Government has failed to meet its obligations to stop the buildings falling into disrepair ..The buildings have been lying idle for four years”.

Council seeking that State Government acknowledge its responsibility for the restoration and join Council and the community in a partnership approach to restore the historic building for community use.
- 11 July 2006 CEO and DCP met with Director of the Property Group, Peter Carroll to seek to resolve outstanding contractual issues and to discuss potential for a landswap.
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- Council agrees to pursue land swap. Council writes to Community Services Victoria.
- 14 July 2006 Letter to Victorian Government Property Group re urgent maintenance works. Concern about hole in slate roof allowing water and pigeon access. (Seal roof space and make water tight, protecting internal timber on windows and doors, water penetration, close off of services).
- 25 July 2006 Letter to Yehudi Blacher, Secretary Department for Victorian Communities seeking support for community support funding.
- 26 July 2006 Letter from CEO to Peter Carroll saying that Council is committed to the preservation of the former Kew Court House and Police Station for ongoing community use and awaits your further advice about the possible options we discussed for early resolution of the matter, particularly the possibility of a property swap involving the Department of Human Services.
- Letter talked about the maintenance of the building – of the view that urgent maintenance to all external woodwork is necessary to prevent further deterioration of these important historic assets.
- 1 August 2006 Letter from Premier responding to Councils letters of 16 and 29 June 2006. Advises Government has supported property's sale to Council on a "community use" valuation and is allowing for settlement to occur by 31 March 2007, with the provision for Council to withdraw from the contract of sale up to this time at no penalty. Also refers to Councils Community Support Fund application and possibility of applying for capital works grant funding through Heritage Victoria.
- 7 August 2006 Letter from Minister Lenders refers to Premiers letter of 1 August. Provides final extension for signing of contract provided until 11 August 2006. In absence of signed contract, DTF will revert to normal processes for the disposal of surplus land (ie sale of Kew Courthouse and Police Station on commercial basis).
- 9 August 2006 Rigby Cooke provide amended Contract of Sale to Council with request that the executed contract of Sale be returned by Friday 11 August 2006.
- 9 August 2006 Letter to Minister Lenders expressing concern about requirement for immediate exchange of contracts given the serious and promising negotiations underway as to alternative means by which we could achieve the transfer of the property to Council in a manner that protected the interests of both the State government and Council. Those discussions included a potential property swap.
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- 11 August 2006 Council advises Rigby Cooke that it is reviewing the amendments to the contract, and that execution of the contract will require a resolution of Council at its next formal meeting. The Mayor had also sought a meeting with Minister Lenders.
- 11 August 2006 Council informed that the Minister for Finance intends to put the Kew Court House and Police Station buildings on the market at close of business unless Council signs contract.
- 11 August 2006 Letter to Premier
- Council was however informed this afternoon by the Minister for Finance's representative that the Minister intends to put the Kew Court House and Police Station buildings on the market as at close of business today if Council does not sign a formal contract by then.*
- I write to seek your immediate intervention to prevent these historical buildings being lost to the community through the impossible timelines imposed for this transaction. I am particularly concerned that the Minister may not fully appreciate Council's desire to preserve this property for the community. Unfortunately I have not been able to secure a meeting with him.*
- Council has been engaged in productive negotiations with the State Government's solicitors and we are pleased that a number of unworkable clauses in the contract have been removed. There are only matters of detail remaining before Council is able to formally consider the contract for signing. Due process requires formal Council approval for such a significant transaction. The signing of the contract without Council resolution is prohibited under Council's delegations.*
- 15 August 2006 Minister Lenders issues press release advising that Court house will go to public auction
- The Department of Treasury and Finance will auction the former Kew Courthouse, following the refusal of Boroondara Council to commit to the purchase of the property, Minister for Finance, John Lenders said today.*
- Mr Lenders said Boroondara Council missed the deadline of August 11 to sign the contract for sale, despite the Government extending the original deadline more than once to allow the council more time.*
- 16 August 2006 Council issues press release re Government's withdrawal of property "Bracks Government dumps community for higher bidder".
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16 August 2006	Mayor writes to Premier expressing dismay at Minister Lenders press release and seeking a meeting to discuss.
21 August 2006	Council holds special meeting to formally consider the Contract of Sale for the Kew Courthouse buildings.
22 August 2006	Council writes to Minister Lenders advising of Councils Special meeting to consider the Contract of Sale for the Kew Court House buildings and decision to execute the Contract of Sale.
22 August 2006	Council writes to Premier advising of Special Council Meeting outcome and seeking that the State Government join in partnership with the Kew Court House Restoration Appeal on the community project.
25 August 2006	Letter from CEO to Director Property Group VGPG re amended title plan and proposing joint media release.
30 August 2006	Media Release from Minister for Finance accepting purchase by City of Boroondara – pleased that agreement had been reached and the contract of sale document finalised.
15 September 2006	Letter to Premier confirming contract of sale exchanged.
19 September	Letter from Minister for Finance responding to letter of 9 and 11 August. Refers to execution of Contract of Sale. Notes that “it is encouraging to note that the City of Boroondara has made application for funding from the Community Support Fund and Heritage Victoria”.
26 October	Letter from Premier re media opportunity for Minister Lenders.
31 October 2006	Council press release expressing disappointment over failing to achieve heritage grant.
3 January 2007	Letter to Premier Bracks seeking support for January 2007 application for community support funding.
23 February 2007	Letter to Treasurer Brumby seeking support for 2007 Community Support Fund application.
26 February 2007	Letter to local Members of Parliament seeking support for community support funding and enclosing Kew Court House and Police Station Project Summary.
13 March 2007	Council agreed not to exercise Special Condition 6 continued within the Contract of Sale that provided for Council to withdraw from the Contract of Sale and resolved to finalise purchase of the Kew Court House and Police Station immediately.
13 March 2007	Council entered into a MOU with Kew Historical Society Inc.
27 June 2007	Pratt Foundation pledge \$10K for Kew Court House restoration appeal.

28 June 2007 Funding outcome under Regional Partnerships Program –
in principle approval of \$330K.

September 2007 Council awaiting outcomes of two State Government grant
applications.
