

Minutes

Planning Committee Meeting

Wednesday, 22nd May 2019

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**City of Kingston
Planning Committee Meeting**

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The meeting commenced at 7.02pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

Present: Cr Georgina Oxley (Mayor)
Cr Tamara Barth
Cr Tamsin Bearsley
Cr Ron Brownlees OAM
Cr David Eden
Cr Geoff Gledhill
Cr George Hua
Cr Steve Staikos
Cr Rosemary West OAM

In Attendance: John Nevins, Chief Executive Officer
Jonathan Guttman, General Manager City Development
Ian Nice, Manager City Development
Natasha Corponi, Communications and Media Advisor
Phil DeLosa, Manager Governance
Stephanie O’Gorman, Governance Officer
Gabrielle Pattenden, Governance Officer

1. Apologies

There were no apologies submitted to the meeting.

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Staikos

Seconded: Cr Brownlees

That the Minutes of the Planning Committee Meeting held on 20 March 2019 be confirmed.

CARRIED

3. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest

There were no Conflicts of Interest submitted to the meeting.

4. Planning and Development Reports

4.1 Town Planning Application Decisions - April 2019

Moved: Cr Eden

Seconded: Cr Hua

That the report be noted.

CARRIED

4.2 KP-2018/459 - 64 Pier One Drive Patterson Lakes

It is recorded that Andrew Doran spoke on behalf of the objectors in relation to this item.

It is recorded that Amber Zuchowski spoke on behalf of the applicant in relation to this item.

Moved: Cr Eden

Seconded: Cr Bearsley

1. That the Planning Committee determine to issue a Notice of Refusal to Grant a Permit **to Grant a Permit** for the Reduction in Car Parking at 64 Pier One Drive Patterson Lakes on the following grounds:
 - a) The proposal would detrimentally affect the amenity of the Neighbourhood.
 - b) The proposal is contrary to the Endeavour Cove Comprehensive Development Plan.
 - c) The proposal constitutes an over-development of the site.
 - d) The proposal would cause traffic congestion and is inconsistent with the car parking requirements under the Endeavour Cove Comprehensive Development Plan.
2. That officers immediately obtain advice on non-compliance associated with works required under Planning Permit KP2013/645 at the intersection of McLeod Road and Pier One Drive, Patterson Lakes.

Further that upon receipt of advice a discussion be held with Ward Councillors on the appropriate form of enforcement action should this be deemed necessary.

CARRIED Unanimously

4.3 KP-2018/723 - 422 Nepean Highway and 1 Thomas Court, Parkdale

It is recorded that Greg Smith spoke on behalf of the objectors in relation to this item.

It is recorded that Vaughan Connor spoke on behalf of the applicant in relation to this item.

Moved: Cr West

Seconded: Cr Staikos

That the Planning Committee determine to issue a Notice of Refusal to Grant a Permit to develop the land for twenty-two (22) dwellings, removal of an easement and alter access to a road in a Road zone category 1 at 422 Nepean Highway & 1 Thomas Court, Parkdale on the following grounds:

1. The proposal is contrary to the policy outcome contained within Clause 21.05 and Clause 22.11 of the Kingston Planning Scheme.
2. The proposed design response fails to provide an acceptable outcome with regards to Neighbourhood Character.
3. The proposal fails to provide an appropriate landscape outcome for the subject site.
4. The proposal would detract from the amenity of the locality and the streetscape.
5. The proposal would generate unreasonable off-site amenity impacts.

Cr Hua left the meeting at 7:46pm.

Cr Hua returned to the meeting at 7:50pm.

CARRIED

4.4 KP-2017/858 - 433 Boundary Road Heatherton

It is recorded that Harry Diakos spoke on behalf of the applicant in relation to this item.

Moved: Cr Staikos

Seconded: Cr Brownlees

That the Planning Committee determine to Grant a Permit to develop and use the land for a wholesale plant nursery on land affected by a Land Subject to Inundation Overlay, to display advertising signage, to create and alter access to land adjacent to a Road Zone Category 1 at No. 433 Boundary Road, Heatherton, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the development plans submitted to Council on the 12 November 2018 and landscape plan 14 May 2018, but modified to show:
 - a. the provision of a landscape plan in accordance with the submitted development plan and the City of Kingston Landscape Plan Checklist, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - ii. a survey, including, botanical names of all existing trees to be retained or removed on the site including street trees;
 - iii. the delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works;
 - iv. a range of plant types from ground covers to large shrubs and trees, species must comprise a minimum of 100% indigenous species by total numbers and plant type and of the EVC type for the subject land;
 - v. the provision of ten (10) indigenous canopy trees to be planted within the front setback of the site and spaced out over the length of the landscape buffer running along the front of the site. These ten (10) trees must be capable of reaching a minimum mature height of 15 metres and minimum width of 6 metres with species to be approved by the authorised officer;
 - vi. all trees provided at a minimum of 2 metres in height at time of planting, medium to large shrubs to be provided at a minimum pot size of 200mm;
 - vii. the provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements;
 - viii. the location of any tree protection measures including for street trees accurately drawn to scale and labelled and notations referring to any

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- endorsed Tree Management Plan; and
- ix. the landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

 - b. the requirements of VicRoads, as specified under Condition 3 of this permit;
 - c. the requirements of Melbourne Water, as specified under Condition 4 of this permit;
 - d. the provision of a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height; and
 - e. directional signs within the car parking area and each accessway;

Endorsed Plans

- 2. The development and/or use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. Conditions required by VicRoads
 - a) Before the development starts, a Transport Impact Assessment Report (TIAR) must be submitted to VicRoads for approval. The TIAR must in accordance with VicRoads "Guidelines for Transport Impact Assessment Reports for Major Use and Development Proposals". This report must address traffic and access issues arising from the proposed development on this site, predicted traffic generation and the impact of the development on the existing arterial road network in all relevant peak periods, in particular, its impact on Boundary Road, nearby intersections and access points to abutting land. The report is to include detailed consideration of Data and analysis of current existing conditions, including, but not limited to:
 - i. Traffic generation and distribution for the proposed use; including predicted peak hour traffic volumes along the network;
 - ii. Anticipated U turn movements by southbound traffic along Boundary Road, in order to access the site, at the existing right turn lane facility, located approx. 40 metres south of the southern boundary;
 - iii. Anticipated right turn/ U turn movements at Boundary Road and Old Dandenong Road intersection,
 - iv. The report must also identify any mitigation works required on the arterial road network (Boundary Road) in accordance with the Austroads guidelines; in particular, the following intersections:
 - a. Possible extension of the existing right turn facility along the southbound carriageway of Boundary Road to facilitate U-turn movements in order to access the subject site while travelling from North;
 - b. Possible extension of the existing right turn/ U-turn facility along

the northbound carriageway of Boundary Road.

- b) Subsequent to the approval of the TIAR and prior to the commencement of any roadworks, a scaled Functional Layout Plan (FLP) showing the proposed access arrangements and associated works, must be submitted to and approved by the Roads Corporation. The plans must be drawn to scale with dimensions and must be *generally in accordance with* the Site Plan (Job No. 17-11, Drawing TPA03 dated 1 November 2017 prepared by Studio Abode), but modified to include:
 - i. proposed access points to the subject land along Boundary Road including features such as pavement, kerb / shoulders, line marking, power poles, trees and other road furniture within 100 metres of the proposed access points.
 - ii. Left-turn deceleration lane on Boundary Road north bound carriageway to facilitate entry/exit at the proposed access point located at northern boundary;
 - iii. Proposed access point (exit only) at the southern boundary of site;
 - iv. Other mitigating works on the arterial road network as per the findings of the TIAR, to the satisfaction of VicRoads;
 - v. Signage and line marking plan;
 - vi. Functional stage road safety audit;
 - vii. Revised Functional Layout Plan (FLP) as per the findings of the functional stage road safety audit and any recommended mitigating works on the arterial road network (Boundary Road) as requested by VicRoads;
 - viii. Swept path analysis for the appropriate design vehicle for all movements associated within all the proposed access points, including how the largest design vehicle that could be reasonably anticipated to use the site may enter and exit the development in a forward direction.
- c) Subsequent to the approval of Functional Layout Plan (FLP) and prior to the commencement of any roadworks, the applicant must submit the detailed engineering design plans along with detailed design stage road safety audit to VicRoads for review and obtain written approval. The detailed design plans must be prepared generally in accordance with the approved functional layout plan and functional stage road safety audit;
- d) Prior to the commencement of the use of the development hereby approved, all roadworks as required by VicRoads must be completed generally in accordance with approved Functional Layout Plan (FLP) and detailed design plans to the satisfaction of VicRoads and the Responsible Authority and at no costs to VicRoads;
- e) Where the proposed roadworks, including footpath and nature strip, lie within the tree reserve, a widening of the road reserve will be required, at no cost to VicRoads. The developer must engage a licensed surveyor to prepare a Plan of Subdivision showing the affected land labelled "ROAD", which is to be vested in the Roads Corporation upon certification of the Plan of Subdivision, without any encumbrances. Subsequent to the registration of the plan, the subdivider must ensure that the original Certificates of Title that issues in the name of the Roads Corporation, are

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posted to: VicRoads - Property Services Department, 60 Denmark Street KEW, 3101.

- f) No work may be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant Act or regulations created under those Acts.

4. Conditions required by Melbourne Water

- a. The building setbacks shown to site boundaries must not be further reduced without the further review and written approval by Melbourne Water, to ensure adequate open space areas to allow for the passage of overland flood flow.
- b. The finished floor levels of the buildings must be constructed no lower than 17.9 metres to Australian Height Datum (AHD).
- c. The carpark area must be designed and constructed to comply with Melbourne Waters safety criteria.
- d. Prior to the commencement of works, detailed construction/ engineering plans must be submitted to Melbourne Water for further approval. The plans must show the existing and proposed surface levels to Australian Height Datum, driveway carpark and drainage details and the 1 in 100 year flood level for the overland flow paths.
- e. Any new fencing must be open style (50%) of construction or timber paling to allow for the conveyance of overland flow.
- f. Any new or modified stormwater connection to Melbourne Water's drainage system must obtain separate approval from Melbourne Water's Asset Services Team.
- g. Any new building/structure including footings, eaves etc must be set outside any drainage easement or a minimum 1.5 metres laterally clear of the outside edge of the Clayton South drain, whichever is greater.
- h. Any new landscaping located within five (5) metres of the Clayton South Drain must comply with Melbourne Waters planting guidelines.
- i. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

Use

5. The use would operate seven (7) days per week during the following hours:
- Monday to Friday: 7:00am to 7:00pm; and
 - Saturday and Sunday: 8:00am to 5:00pm.

Street Trees

6. Tree Protection Fencing is to be established around the two southern-most street trees prior to demolition and maintained until all works on site are complete.
- a. The fencing is to be a 1.8 metre high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting.

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- b. The fencing is to encompass the entire nature strip with each end 3 metres from the base of the tree.
7. Prior to the removal of the two most northern street trees *Melaleuca armillaris* from the Boundary Road nature strip, payment must be made to Kingston City Council's customer service in accordance with Council's Street Tree Removal Procedures. This fee includes the removal and replacement of this tree/s and that must be undertaken by Council at the expense of the Developer/Owner.

Drainage and Water Sensitive Urban Design

8. Unless with prior written consent of the Responsible Authority, before the development commences the following Integrated Stormwater Management (drainage) documents must be prepared, by a suitably qualified person, to the satisfaction of the Responsible Authority:
- a. Stormwater Management (drainage) Plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.
 - b. Prior to submitting detailed plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
 - c. The stormwater management (drainage) strategy must include a report with MUSIC modelling results demonstrating water sensitive urban design treatments that achieve Victorian best practice objectives. These may include the use of an infiltration or bio-retention system, rainwater tanks connected for reuse, or other treatments to the satisfaction of the Responsible Authority.
 - d. The water sensitive urban design treatments as per Conditions 8a, 8b, & 8c above must be implemented on-site, unless an alternative agreement for stormwater quality in-lieu contribution is reached with the Responsible Authority.
9. Stormwater (drainage) works must be implemented in accordance with the approved stormwater management (drainage) plan and to the satisfaction of the Responsible Authority including the following:
- a. All stormwater (drainage) works must be provided onsite so as to prevent overflows onto adjacent properties.
 - b. The implementation of stormwater (drainage) detention system which restricts stormwater discharge to the maximum allowable flowrate calculated as per Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
 - c. All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.

Parking and Traffic Management

10. Before occupation of the development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must

be:

- i) Constructed to the satisfaction of the Responsible Authority.
- ii) Properly formed to such levels that they can be used in accordance with the plans.
- iii) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.
- iv) Drained to the satisfaction of the Responsible Authority.
- v) Line-marked to indicate each car space and the nominated unit, all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.
- vi) In accordance with any Council adopted guidelines for the construction of car parks.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

11. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority, to prevent damage to fences or landscaped areas.
12. Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
13. The loading and unloading of goods to and from vehicles must only be carried out in the designated areas on the land.

Sustainable Design Assessment (for medium developments)

14. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of a Sustainable Design Assessment (SDA) to be prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. The SDA must include, but is not limited to, detailing initiatives for stormwater harvesting, insulation, building materials, daylighting, collective rainwater tanks and/or individual rainwater tanks, public and private landscape irrigation and car washing, energy efficient concepts, glazing and internal ventilation and the like.

Infrastructure and Road Works

15. Any relocation of pits/power poles or other services affected by this development must be relocated to the satisfaction of the relevant servicing authority and the Responsible Authority, at the cost of the owner/developer.
16. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
17. All reinstatements and vehicle crossings must be constructed to the satisfaction of the Responsible Authority.
18. Vehicle crossings and other reinstatements must be constructed to council's industrial strength specifications.
19. All redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of the Responsible Authority.
20. All front and side fences must be contained wholly within the title property boundaries of the subject land.

General amenity conditions

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21. The amenity of the area must not be detrimentally affected by the development, through the:
 - i) Transport of materials, goods or commodities to or from the land.
 - ii) Appearance of any building, works or materials.
 - iii) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - iv) Presence of vermin.
 - v) Any other way.
22. The development and use of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard any nuisance shall be assessed in accordance with the Australian Standards AS1055 and AS2107 relating to the measurement of Environmental Noise and recommended sound levels.
23. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
24. Before occupation of the development hereby permitted, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
25. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the Responsible Authority's satisfaction.

Signage

26. No signs or other advertising or identification may be erected or displayed on the site without written Council consent.
27. The location and details of the sign(s) as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 - a. All signs must be located wholly within the title boundary of the land and must not protrude above the overall height of the building.
29. The sign(s) must not be located within or encroach onto the road reservation.
30. Signs must not be illuminated internally or by external lights except with the prior written consent of the Responsible Authority.
31. No sign(s) or other advertising or identification may be erected or displayed on the site without written Council consent.
32. The sign(s) must not be animated and no flashing or intermittent lights may be displayed.
33. The intensity of the light on the sign(s) must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area all to the satisfaction of the Responsible Authority.
34. Once the erection of the sign(s) has commenced it must be continued and completed to the satisfaction of the Responsible Authority.
35. The sign(s) shown on the endorsed plans must be constructed to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.

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36. This permit (or part of the permit that relates to advertising signs) expires 15 years from the date of issue of the permit.

Time limits

37. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
38. In accordance with Section 68 of the *Planning and Environment Act 1987* (The Act), this permit will expire if one of the following circumstances applies:
- The development and/or use are not started within two (2) years from date of this permit.
 - The development is not completed within four (4) years from the date of this permit.
 - The use is discontinued for a period of two (2) years.

In accordance with Section 69 of The Act, the responsible authority may extend the periods referred to if a request is made in writing:

- before the permit expires; or
- within six (6) months after the permit expiry date, where the use or development allowed by the permit has not yet started; or
- within twelve (12) months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

Note: Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

Note: Any buildings and works (including eaves) to be located within an easement requires separate consent from Council and/or the relevant service authority. This will need to be obtained prior to the issue of a building permit.

Note: Prior to the commencement of the development you are required to obtain the necessary Building Permit.

Note: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

Note: The applicant/owner must provide a copy of this planning permit and any endorsed plans to any external contractor to ensure that all trees to be retained on site are protected during any works.

Note: The fee for removal of the street tree(s) from the nature strip is **\$2396.50** (including GST), payable to Kingston City Council's Customer Service Department - refer to cashier code "STRE". Customer Service will confirm payment to the Parks Department. The removal of the tree requires a minimum of 2 weeks notice from the Developer/Owner.

Note: Before removing / pruning any vegetation from the site, the applicant or any contractor engaged to remove any vegetation, should consult Council's Vegetation Management Officer to verify if a Local Laws Permits is required for the removal of such vegetation.

Note: Any landscape plan prepared in accordance with conditions must comply with Council's Landscape Checklist.

Note: The allocation of street numbering and addressing of properties is vested in

Council. Any reference to addressing or dwelling/unit/apartment and street numbers or street names on any endorsed plan is indicative only. The onus is on the Permit Applicant/Land Owner to contact Council's Property Data Department to determine the official dwelling/unit/apartment street numbers, street name details and the like for the approved development.

If the Permit Applicant/Land Owner adopts the street numbering or addressing from the endorsed plans, or where advertising and/or sales transact (off the plan) prior to Council's official allocation of the street numbering and addressing, it will be viewed to be non-compliant with the guideline and standard applied (Australian/New Zealand Standard for Rural & Urban Addressing / AS/NZS 4819:2011).

VicRoads Notes:

The preparation of the functional layout plan, detailed engineering design and the construction and completion of all work must be undertaken in a manner consistent with current VicRoads' policy, procedures and standards and at no cost to VicRoads. In order to meet VicRoads' requirements for these tasks the applicant will be required to comply with the requirements documented as "Standard Requirements - Externally Funded Projects" and any other requirements considered necessary depending on the nature of the work.

Functional layout plan may need to be amended to accommodate any changes that may arise during the detailed design stage review; in response to the road safety audit; in relation to services and their relocation; vegetation; drainage; treatment of hazards within clear zones and other matters.

Plans of subdivision under Section 35 of the Subdivision Act must not be used to vest land as road or reserve in the Roads Corporation.

The proposed development requires works within in the road reserve. Separate approval under the Road Management Act may be required from VicRoads (Roads Corporation). Please contact VicRoads prior to commencing any works.

Melbourne Water Notes:

The applicable flood level grades from 18.0 metres to Australian Height Datum (AHD) down to 17.0 metres to AHD at the western (rear) boundary and from 17.5 metres to AHD down to 17.0 metres to AHD at the eastern (front) boundary.

CARRIED

5. Confidential Items

Moved: Cr Gledhill

Seconded: Cr Staikos

That in accordance with the provisions of section 89(2) of the *Local Government Act 1989*, the meeting be closed to members of the public for the consideration of the following confidential items:

5.1 KP-2014/650/A - 165 - 169 Nepean Highway and 8 - 10 Lower Dandenong Road Mentone - Direction for VCAT Appeal

This agenda item is confidential in accordance with the Local Government Act s89(2) as it relates to proposed developments (s89 2e)

CARRIED

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The meeting was closed to members of the public at 8.04pm.

Procedural Motion

Moved: Cr Gledhill

Seconded: Cr Staikos

That the meeting be opened to members of the public

CARRIED

The meeting was opened to members of the public at 8.10pm.

The meeting closed at 8.10pm.

Confirmed.....

The Mayor 19 June 2019