

Planning and Environment Act 1987

Panel Report

Warrnambool Planning Scheme Amendment C102

678 – 688 Raglan Parade, Warrnambool

5 December 2017

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Panel Report pursuant to section 25 of the Act

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A handwritten signature in black ink, appearing to read 'Michael Kirsch', with a long, sweeping horizontal stroke extending to the right.

Michael Kirsch, Chair

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List of Abbreviations

CFA	Country Fire Authority
EAO	Environment Audit Overlay
MUZ1	Mixed Use Zone Schedule 1
PUZ1	Public Use Zone Schedule 1

Overview

Amendment summary

The Amendment	Warrnambool Planning Scheme Amendment C102
Brief description	Rezone land from Public Use Zone Schedule 1 to Mixed Use Zone Schedule 1 and apply the Environmental Audit Overlay
Subject land	678-688 Raglan Parade, Warrnambool
The Proponent	Country Fire Authority
Planning Authority	Warrnambool City Council
Authorisation	Authorised by letter dated 28 April 2017
Exhibition	8 June to 10 July 2017
Submissions	Paul Auchetti, Principal, Warrnambool Primary School

Panel process

The Panel	Michael Kirsch
Directions Hearing	Not required
Panel Hearing	Warrnambool, Friday 1 December 2017
Site inspections	Unaccompanied, Thursday 30 November 2017
Appearances	Warrnambool City Council represented by Andrew Nield and Julie Glass Country Fire Authority represented by Ian d'Oliveyra (Network Planning Consultants Pty Ltd) Warrnambool Primary School represented by Peter Auchetti (Principal)
Date of this Report	5 December 2017

Executive summary

(i) Summary

Warrnambool Planning Scheme Amendment C102 (the Amendment) applies to the Country Fire Authority (CFA) fire station site on Raglan Parade, Warrnambool. The site is surplus to the CFA's requirements and the Amendment seeks to rezone it to the Mixed Use Zone Schedule 1 (MUZ1) and apply the Environmental Audit Overlay (EAO).

In accordance with the requirements of the Victorian Government Land Monitor, the site was offered for purchase to various public agencies, but without success. The CFA is now considering the private sale of the site, necessitating its rezoning from the current Public Use Zone Schedule 1 (PUZ1).

The Warrnambool Primary School objected to the Amendment and sought the retention of the site in public ownership. It submitted that the site should be used to improve the school's student drop off and pick up arrangements, and potentially for a multi-use community facility.

The ownership of the site is not a relevant factor in the Panel's consideration of the planning merits of the Amendment, while the sale of the site is principally a matter for the CFA and the Victorian Government Land Monitor. The Panel also notes that the public agencies that might have an interest in the site and in some form of public use declined the opportunity to purchase it.

In terms of the Amendment, the Panel is satisfied that the proposed MUZ1 is appropriate given the location of the site and that the EAO is warranted because of the past use of the site.

(ii) Recommendation

Based on the reasons set out in this Report, the Panel recommends that Warrnambool Planning Scheme Amendment C102 be adopted as exhibited.

1 Introduction

1.1 The Amendment

(i) Amendment description

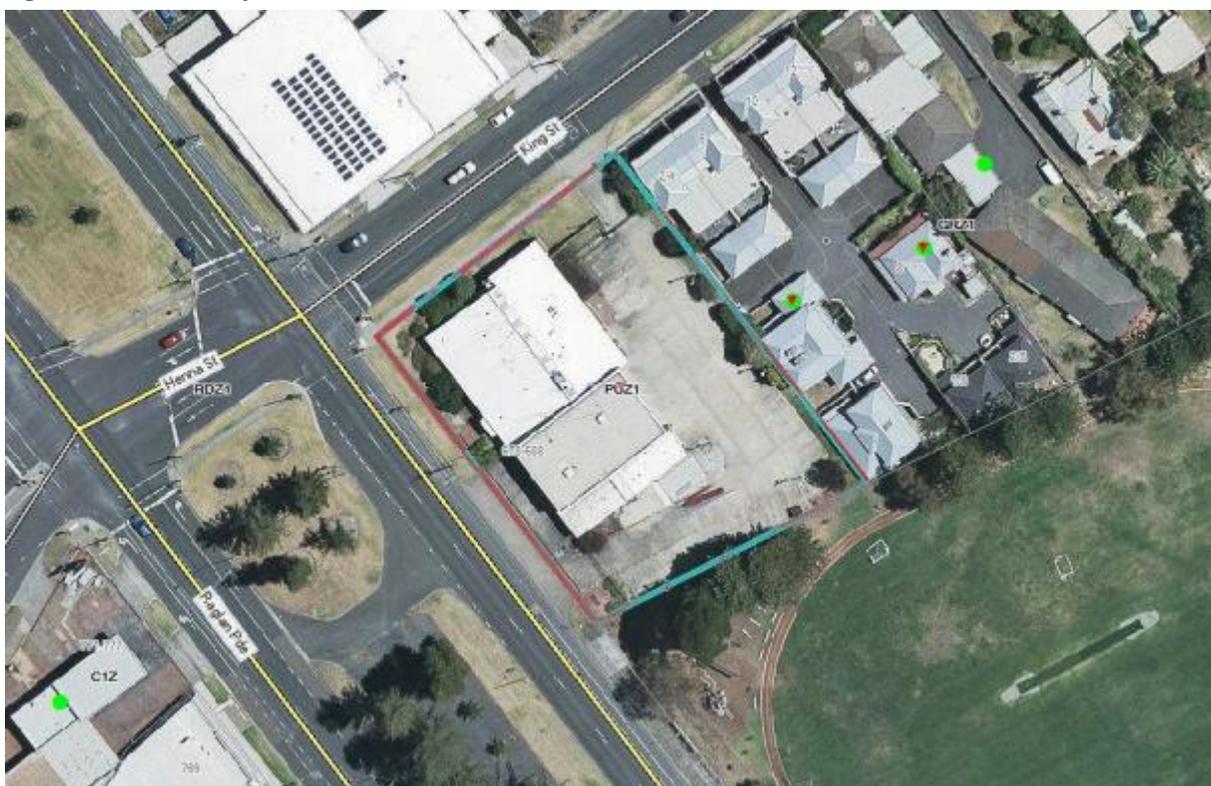
The Amendment proposes to rezone 678-688 Raglan Parade, Warrnambool land from PUZ1 to MUZ1 and apply the EAO.

The site is owned by the CFA which was represented by Mr d'Oliveyra (Network Planning Consultants Pty Ltd) at the Hearing.

(ii) The subject land

The Amendment applies to the site shown in Figure 1.

Figure 1 The subject site



The site is located on the north-western edge of the Warrnambool City Centre, on the corner of Raglan Parade and King Street. It is within a 'mixed-use' area that includes commercial and residential uses, and abuts the Warrnambool Primary School to the south-east.

The site is a freehold lot with an area of approximately 3,300 sqm. It was formerly used as a CFA fire station that was constructed circa 1970. The site was vacated in November 2016 when the CFA relocated to a new facility at 61-65 Mortlake Road, Warrnambool. The fire station buildings have been retained on site.

1.2 Background to the proposal

Mr d'Oliveyra advised that the site is surplus to the CFA's requirements and has been identified for possible sale in accordance with the requirements of the Victorian Government Land Monitor. He also advised that in order to dispose of the land, the 'public use' zone needs to be replaced with a zone suitable for private ownership. This has necessitated the proposed Amendment.

Mr d'Oliveyra advised that the MUZ was identified as the preferred zone following discussions with Council officers. He submitted that the MUZ is appropriate given the 'mixed use' character of the general area, and is consistent with the strategic directions in the Warrnambool Planning Scheme and the Warrnambool City Centre Revitalisation Structure Plan (2012). The Structure Plan includes the site within a broader 'mixed use precinct'.

The Amendment also proposes to apply the EAO because of possible site contamination resulting from the CFA's use of the site.

2 Planning context

Council provided a comprehensive response to the Strategic Assessment Guidelines as part of the Explanatory Report and in its submission at the Hearing.

The Panel has reviewed Council's response and the policy context of the Amendment, and has also had regard to the relevant zone and overlay controls.

2.1 Policy framework

(i) State Planning Policy Framework

Council submitted that the Amendment is supported by the following clauses in the State Planning Policy Framework:

- Clause 11 Settlement
- Clause 13 Environmental Risks
- Clause 17 Economic Development.

(ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following clauses in the Local Planning Policy Framework:

- Clause 21.10 Municipal Profile
- Clause 21.02-1 Activity centres
- Clause 21.04-3 Soil degradation
- Clause 21.08-1 Commercial
- Clause 21.11-1 City Centre.

Council also submitted that the Amendment is consistent with the Warrnambool City Centre Revitalisation Structure Plan that is included as a reference document in the Municipal Strategic Statement.

2.2 Planning scheme provisions

The purposes of the proposed MUZ are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.

To provide for housing at higher densities.

To encourage development that responds to the existing or preferred neighbourhood character of the area.

To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

The purposes of the proposed EAO are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.

The EAO requires that before a 'sensitive use' commences, either:

- *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*

2.3 Ministerial Directions

Ministerial Directions

Council submitted that the Amendment meets the relevant requirements of:

- the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act
- Ministerial Direction 1 (Potentially Contaminated Land)
- Ministerial Direction 11 (Strategic Assessment of Amendments).

2.4 Discussion and conclusions

The Panel is satisfied that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Frameworks, and is consistent with the relevant Ministerial Directions. In particular, the use of the MUZ is consistent with the strategic directions in the Warrnambool Planning Scheme and the Warrnambool City Centre Revitalisation Structure Plan (2012). The use of the EAO is appropriate in light of the former CFA use of site and the possibility that the site may have been contaminated.

The Amendment is well founded and strategically justified, and the Panel is satisfied that it should proceed.

3 Discussion of issues

3.1 Issues

The issues are:

- whether the site should be used as a 'drop off and pick up area' associated with the adjoining Warrnambool Primary School
- whether the site should be available for a 'multi-use' community facility.

3.2 Submissions

Peter Auchettl (Principal, Warrnambool Primary School) advised that he represented the Warrnambool Primary School Council which objected to the Amendment. He submitted that the site should remain in public ownership, potentially for "*volunteer fire fighting services*" and also be used to augment the School's existing student drop off and pick up arrangements that are focussed on Jamieson Street. He indicated that this would help address safety issues associated with the current arrangements and noted that private owners would be unlikely to provide the school with access to the Amendment site.

Mr Auchettl also advised that there had been discussions between various agencies and organisations, including Deakin University, about using the site for a multi-purpose community facility.

Mr Auchettl concluded that retaining the site in public ownership would facilitate these proposals.

Mr d'Oliveyra (on behalf of the CFA) advised that the site had been offered to various Government agencies, including the Department of Education and Training, in accordance with the requirements of the Victorian Government Land Monitor. Although the Department had initially been interested in purchasing the site, it subsequently withdrew that interest.

In response to Mr Auchettl's submission, Mr d'Oliveyra submitted that:

- *The land is not suitable for use as a student pick-up and drop-off site, given its remoteness from the school buildings (on the opposite side of the playing field) and the lack of safe and effective off-street parking facilities on it. In this regard:*
 - *The front driveway apron is designed to operate only as an exit route for emergency vehicles onto the adjacent Highway, under carefully controlled conditions.*
 - *The rear service yard is a locked-off high security compound that is not and never has been available for public use.*
 - *If the land were to continue to be used by the CFA (as the submitter wishes) it would almost inevitably require the rear service yard to remain under its current management regime - and particularly so if it were to be re-used as a fire station.*

- *If the land were to be encumbered so as to give the school a right to use it for these purposes, this would seriously limit the adaptive use potential of the land, and thus unreasonably diminish its value.*
- *The CFA has developed a replacement fire station nearby in Mortlake Road which, in operational terms, is infinitely superior to the disused fire station on the subject land. There are no plans to establish a separate (second) fire fighting service in Warrnambool, and it would not be proper for the Panel to make any findings in this regard.*

Council noted that the site was surplus to the CFA's requirements and that it had been offered to Government agencies, including the Department of Education and Training. The Department did not make a submission on the Amendment and has not sought to acquire the property.

In terms of the rezoning, Council noted that the Ministerial Direction on the Form and Content of Planning Schemes includes:

A planning scheme may only include land in a Public Use Zone, ... if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council.

In this context Council submitted that it was appropriate to replace the site's PUZ1.

Council supported the application of the MUZ1, submitting that it is consistent with the strategic planning directions for this area in the Warrnambool Planning Scheme and the Warrnambool City Centre Revitalisation Structure Plan.

In response to Mr Auchetti's submission, Council noted that *"rights of access are a private issue between neighbours, which cannot be achieved through the amendment process. Removing the land from the PUZ1 will not prevent the school negotiating private access arrangements with any future land owner"*.

3.3 Discussion and conclusions

The CFA has determined that the site is surplus to its requirements and intends to dispose of it in accordance with Government policy relating to the disposal of publicly owned land. As part of this process, Government agencies, including the Department of Education and Training, were offered the site but declined the opportunity to purchase it.

The CFA is now investigating the private sale of the site, necessitating its rezoning through Amendment C102.

The School objected to the Amendment in support of its view that the site should be retained in public ownership and used to augment student drop off and pick up facilities, possibly as part of a multi-use community facility. While the Panel acknowledges these matters, they are primarily related to the ownership of the site not the planning merits of the Amendment. The ownership issue is not something that the Panel can usefully comment on, other than to note Mr d'Oliveyra's advice that the CFA is proceeding in accordance with the requirements of the Victorian Government Land Monitor.

In terms of the Amendment, the Panel is satisfied that the proposed MUZ1 is an appropriate zone given the location of the site and that the EAO is warranted because of the past use

of the site. The Panel also notes that the MUZ1 will not preclude the type of uses and activities discussed by Mr Auchettl.

3.4 Recommendation

The Panel recommends that Warrnambool Planning Scheme Amendment C102 be adopted as exhibited.