

Panel Presentation

AMENDMENT C103

Macedon Ranges Planning Scheme

14 April, 2016

Kyneton Shire Offices

1 The Amendment

Amendment C103 proposes to rezone land at 2 – 8 Maxwell Street Kyneton, previously used for a municipal swimming pool, from Public Park and Recreation zone to the General Residential 1 zone.

The land is bounded to the north and east by General Residential Zone, and to the west and south by Public Park and Recreation Zone, being the Kyneton Botanic Gardens and the Campaspe River floodplains environs. The site has frontages to Maxwell Street to the north, and Mollison Street to the west.

2 Common Ground

There is common ground that:

- 1) Under the circumstances that Council has resolved to sell the land, a residential rezoning is indicated.
- 2) The Kyneton Structure Plan identifies the land as a strategic redevelopment site, with potential for higher yield development.
- 3) The land is contaminated and requires remediation.

3 Changes Requested At Exhibition

In its submission, the Association requested that:

- 1) The appropriateness of GRZ1 zoning, particularly in terms of preserving neighbourhood character, be reassessed;

- 2) High quality design and development standards, which reflect and respond to the site's multiple sensitivities and location within the Village East neighbourhood character precinct, be prepared and be included in a Design and Development Overlay schedule, and
- 3) The Design and Development Overlay schedule be applied via Amendment C103 concurrent with any rezoning.

4 Lack of Appropriate Process

The C103 Explanatory Report states, at page 2, that a set of Urban Design Principles have been prepared for the site to 'provide guidance' to prospective purchasers.

"The Urban Design Principles will form part of the Vendors Statement when the site is marketed for sale."

The Urban Design Principles (a letter signed by the Shire's CEO), were attached to the Explanatory Report as Appendix 1.

In response to a C103 Panel Direction (10h), for information about how the Urban Design Principles will be implemented beyond the sale of the site, Council has responded in its Part A submission that it wishes to maintain the arrangement proposed in the amendment:

*"These guidelines will be utilised by Council's Statutory Planning Department when assessing any future planning permit application for the redevelopment of the site."*¹

The Association submits that the amendment fails to make proper use of the Victoria Planning Provisions. Development controls that are not proposed to be put in the planning scheme are provided in support of the rezoning, but carry no statutory weight and are not legally required to be applied to the development of the land, should the rezoning succeed. The VPPs include mechanisms that appropriately apply development controls, but these do not form part of the amendment.

In addition, while vendors will still be required to give a signed vendor's statement to prospective purchasers before the purchaser signs the Contract of Sale, changes to the Sale of Land Act in October 2014 removed the requirement for a vendor's statement to be attached to Contracts of Sale.

The Association submits that in relying upon a letter which will form part of the vendor's statement to set design and development requirements for the site, the amendment fails engage in an appropriate planning process or make proper use of the VPPs.

5 THE AMENDMENT DOES RESPOND TO THE SITE'S SENSITIVITIES

In its submission, the Association argued that the site is strategic not only in terms of development potential, but also in terms of sensitivity.

In Amendment C99 the site is included in the Township Residential Village East character precinct, which has the following requirement at Strategy 8.8:

¹ Page 44, paragraph 270

“Support greater housing diversity on the former Kyneton Swimming pool site that integrates with the surrounding residential areas in terms of scale, layout and design.”

The Association submits that this requirement, while relevant, fails to address other significant sensitivities.

The site:

- a) Is directly opposite the state significant Kyneton Botanic Gardens (**HO 165, Victorian Heritage Register**), and is within a heritage precinct created to protect the Gardens’ environs. HO19 is applied to the site’s titles with frontage to Mollison Street for this purpose.
- b) Has frontage to a Road Zone 1, and is located at one of the town’s major road – and rail – gateways.
- c) Shares a boundary with the town’s premier recreational, open space, landscape and environmental corridor: the Campaspe River environs.
- d) Currently presents a low scale, low key, permeable character to the street, compatible with surrounding low scale residential development. Period homes are to the north, along Mollison Street.



Figure 1 HO19 applied to the subject site. Inset, HO 165 applied to the Kyneton Botanic Gardens

5.1 Proposed GRZ1 Zone

The proposed GRZ1 zone is applied across the town today. It implements default ResCode standards, which have produced suburban outcomes and over-development that has damaged rural and town character in all of the Shire’s settlements.

The Association submits that the Structure Plan and character protection amendments currently on foot are evidence of the need for improved development controls over those provided by GRZ1 and the default ResCode standards proposed for this strategic site.

We further submit that the potential conflict created by proposed GRZ1 zoning in C103, and C99’s application of the Village East character precinct (synonymous with GRZ5 zoning), needs to be resolved.

5.2 Urban Design Principles

The letter at provided at Appendix 1 to C103 promotes the site as “*could be capable of accommodating built form up to the maximum*”, and this ‘vision’ is reflected in the development standards in the Urban Design Principles:

- 2.5 metre setback from Maxwell Street at its Mollison Street end, extending to a 7.5 metre setback at the site’s eastern Maxwell Street boundary;
- Clause 55 default setbacks (including to the boundary) along the site’s eastern boundary;
- No blank walls or solid fences to the Campaspe River PPRZ to the south, but no setback is specified either.
- 5 – 10 metres frontage setback from Mollison St (i.e. opposite the Botanic Gardens);
- Maximum height of Clause 54 and 55: default 9m.

The Association submits these Design Principles offer even less in terms of development standards than GRZ1 and default ResCode. For example, even GRZ1 requires a minimum 6m setback from RDZ1.

6 The Amendment Does Not Meet Strategic Requirements

Although the Kyneton Structure Plan supports residential redevelopment of the site, it also has other requirements that are not met in the amendment.

“Promote redevelopment of strategic sites with significant infill potential in a way that retains heritage buildings (where appropriate) and achieves higher yields, whilst maintaining neighbourhood character values.”²

“Promote high quality architecture and urban design at key gateway locations”³

“Develop policy/guidelines and planning regulations to ensure new residential areas reflect and incorporate the valued character attributes of Kyneton (e.g. street setbacks, subdivision patterns, view lines, streetscape character and detailing).”⁴

“Consider the introduction of appropriate planning controls over the Farming Zone land abutting the Campaspe River to the west and south of the Township (generally bounded by Mollison Street to the east, the railway line to the south, Flynn’s Lane to the west and the Campaspe River to the north.) to protect landscape views to the west and south, particularly from the Botanic Gardens, and the rural character approach from the south along Mollison Street into the Town Centre of Kyneton and from the west.”⁵

² 4.1 Strengthening Town Character

³ 4.2 Action 6 Community Development and Place Making

⁴ 4.1 Strengthening Town Character

⁵ 5.4.4 For further investigation, page 14



Figure 2 Structure Plan's identification ⁶ of the Mollison Street entry as a key gateway site

7 The Amendment Does Not Satisfy State and Local Policy Requirements

State Policy (SPPF)

SPPF, Clause 10.04 Integrated decision making has the following requirement:

“Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.”

The Association submits that the rezoning and the outcomes the amendment seeks are not the product of integration of policies relevant to redevelopment of the site, and in this regard the amendment does not meet this State policy requirement.

It is further submitted that the amendment does not satisfy the following State and local policy requirements:

SPPF, Clause 11 Settlement

“Planning is to recognise the need for, and as far as practicable contribute towards:”

⁶ Strategic Framework Map, page 2

“A high standard of urban design and amenity”

“Protection of environmentally sensitive areas and natural resources”

SPPF, Clause 15 Built Environment and Heritage

“Planning should ensure all new land use and development appropriately responds to its landscape valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.”

“Planning should achieve high quality urban design and architecture that:

“Contributes positively to local urban character and sense of place.”

“Reflects the particular characteristics, aspirations and cultural identity of the community.”

“Planning is to recognise the need for, and as far as practicable contribute towards:”

“A high standard of urban design and amenity”

“Protection of environmentally sensitive areas and natural resources”

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LPPF, Clause 21.08-1 Heritage Conservation

Objective

To protect and enhance important heritage features and values for residents, visitors and future generations.

Strategy 1.2

Protect public views of heritage places...

Strategy 1.3

Ensure development of land adjoining or nearby a heritage building or place has regard for any likely impacts on the heritage building or place.

LPPF, Clause 21.08-3 Built Environment

Overview

The high landscape qualities of the Shire and the built form of its towns must be appropriately controlled to ensure development is sustainable and respects character.

Objective 2

To protect and enhance the existing character and form of the Shire’s towns.

Strategy 2.2

Encourage development that respects the distinctive character and defining attributes of each settlement.

Strategy 2.3

Ensure development in sensitive areas respects its context and the preferred character of the area.

SPPF: Clause 15.01-1 Urban Design

“Require development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.

LPPF, Clause 21.08 Built Environment and Heritage

Implementation

Apply the Design and Development overlay in appropriate areas to protect and enhance existing character by specifying requirements for design and built form of new development.

8 Conclusion

Amendment C103 claims strategic justification for high density redevelopment from the Kyneton Structure Plan, but it doesn't respond to the other requirements that document has for how this land is to be redeveloped.

C103 is put forward without proper process or appropriate development standards, and fails to make proper use of the VPPs. As proposed it will be incapable of producing the outcomes required by State and local policy. The Association submits that taken together the amendment also does not implement the objectives for planning in Victoria:

Section 4 Objectives (Planning and Environment Act)

The objectives of planning in Victoria are—

- (a) To provide for the fair, orderly, economic and sustainable use, and development of land;*
 - (b) To provide for the protection of natural and man-made resources...*
 - (d) To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*
 - (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
 - (g) To balance the present and future interests of all Victorians.*
- (2) The objectives of the planning framework established by this Act are—*
- (a) to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;*

8.1.1 MARRA Request to Panel:

- A.** The rezoning not be approved unless a Design and Development overlay and more appropriate zone and ResCode controls are included in the amendment and the planning scheme.