

**5.1 AMENDMENT C82 TO THE MONASH PLANNING SCHEME –  
70 & 72 BATESFORD ROAD, 657 – 673, 675 – 685 & 695 WARRIGAL  
ROAD CHADSTONE**

(TP328:AJ:SYL)

Ward : Mount Waverley

Responsible Director: Paul Kearsley

Reason for Council Consideration: Strategic Planning/Amendment to the Monash Planning Scheme

***RECOMMENDATION***

*That: -*

- a) The submitters, who have made the request to modify Amendment C82 to allow the development of significant retail uses, be asked to provide the strategic justification to allow retail uses on the land. This retail study should determine what economic impacts are relevant having regard to other activity centres in the surrounding area and identify the appropriate floor area limit to be incorporated in the schedule to the B2Z-Business 2 Zone.*
- b) Following receipt of this assessment a further report should be made to Council for its assessment prior to re-exhibition of the amendment.*

***BACKGROUND***

At its meeting on 16 September 2008, Council determined: -

1. That the Minister for Planning be requested to authorise Council to prepare Amendment C82 to the Monash Planning Scheme.
2. That Amendment C82 be prepared as outlined in this report and, following authorisation by the Minister for Planning, be placed on public exhibition.
3. That following the completion of the public exhibition period a report be prepared that details all submissions received and provides further advice to Council in respect of Amendment C82.

Following the receipt of formal authorisation from the Minister of Planning on 29 October 2009, Amendment C82 commenced public consultation.

***PROPOSAL***

The amendment applies to land within the Holmesglen Neighbourhood Activity Centre (HNAC). [see Attachment 1]

Amendment C82 proposes the following: -

- Rezone the land at 70 & 72 Batesford Road, 657 – 673 & 675 – 685 Warrigal Road, Chadstone from an Industrial 1 (IN1Z) to a Business 2 Zone (B2Z). [see Attachment 2]

- Rezone the site at 695 Warrigal Road, Chadstone, from a Business 4 (B4Z) to a Business 2 Zone (B2Z).
- Replace the Design and Development Overlay 1 (DDO1) over all of the land with a new Design and Development Overlay 9 (DDO9).
- Introduce an Environmental Audit Overlay (EAO) over all of the land.
- Introduce a new existing and desired future character statement for all of the land (IND6) at clause 22.03.
- Make minor consequential changes to the Monash Planning Scheme.

The amendment will facilitate the redevelopment of the land for office, restricted retail and residential uses.

The current zoning of this land, which has remained in place for a number of years, appears to be no longer responsive to the needs of the current landowners and the wider community. The proposed Business 2 Zone is considered to be more appropriate for the land as it would broaden the mix of suitable, permissible uses.

### ***PUBLIC CONSULTATION***

Public exhibition of Amendment C82 was completed on 27 April 2009.

A total of 6 submissions have been received. A summary of the submissions and the issues identified is attached. [ATTACHMENT 3]

Two of the submissions, lodged on behalf of property owners directly affected by the Amendment, identified a need for the development of significant general retail facilities, i.e. shop type uses, on the land. This matter is discussed further in response to the specific submissions.

### ***COMMENTS ON SUBMISSIONS***

Submission 1: - from VicRoads.

VicRoads has no objection to the Amendment. However, it requests that the Schedule to the DDO9 include the requirement for a satisfactory Traffic Impact report to be submitted as part of any future development proposal.

Response:- The Schedule to the DDO9 should be modified to include the requirement of a Traffic Impact Report prepared to the satisfaction of the Responsible Authority and VicRoads.

Submission 2: - from the Department of Sustainability and Environment.

The Department has considered the Amendment and has no objection.

Response: No change to the Amendment documents.

Submission 3: - from a consultant on behalf of the landowner of 695 Warrigal Road. This site is directly affected by the Amendment.

The submission supports the direction of the Amendment, however a number of issues are raised.

It is submitted that the commercial reality of the site is that its redevelopment will need to include a combination of retail, office and residential uses, underpinned by a strong commercial anchor tenant such as a supermarket. Therefore to allow for optimal utilisation of the site, it is submitted there needs to be flexibility in the type and size of permissible uses in the Business 2 Zone.

The submission notes that allowing retail into the proposed Business 2 Zone would service the existing nearby community as well as new residents and businesses on the site.

The owner intends to develop the centre as a landmark site with high elements to capitalise on the dual main-road frontages. It is submitted that the building height and setbacks provisions should be discretionary rather than the proposed mandatory requirements. Mandatory provisions will have a detrimental affect on the capacity to develop the land. Council is urged to avoid the use of mandatory measures which would reduce the sites potential for achieving an outstanding design outcome.

Other concerns relate to the need to review the design objectives and decision guidelines of the schedule.

Response:- A shop use (general retail) would be prohibited in the proposed Business 2 Zone, unless the schedule to the zone is amended to define the maximum permissible retail floor area per property within the zone. Restricted retailing (e.g. bulky goods type uses) and food and drink premises are permissible within the proposed zone.

The development of further general retailing, including shop uses and large supermarkets in this location may be suitable. These uses would add to the range of services available in this neighbourhood activity centre.

However, prior to a final decision, a strategic justification for allowing retail uses on the land is required.

A retail study should be undertaken by the relevant landowners to determine what, if any, economic impacts are relevant having regard to other activity centres in the surrounding area and to identify the appropriate floor area limit to be incorporated in the schedule to the zone.

The setback and height controls proposed in the Amendment are considered to be appropriate. The Amendment does not propose to change any setback controls from what currently applies under the existing scheme. The proposed building heights limits are considered to be appropriate to ensure that the built form impact on the residential areas to the east are minimised.

It is considered that good design outcomes can be achieved within these limits.

Submission 4: - from a resident of Collins Street.

The submitter objects to the following components of the Amendment: -

- There is no prohibition of non-residential traffic access or egress to Collins Street
- or any new access points to Collins Street, creating noise issues.
- Insufficient front setback requirements, residential streets and noise issues.
- The building heights proposed to Collins Street frontage are excessive and should be reduced.

The submission also objects to any development which disadvantages residents in terms of loss of views, aesthetics, noise emissions, traffic, removal of vegetation, location of car parking, vehicle access, and the building of blank walls.

Response: No change to the Amendment documents.

The proposed DDO9 provides adequate provision to discourage non-commercial traffic access to Collins Street. Access will be an issue to be considered by Council as part of any applications for planning permit.

The proposed building height of 10.5 metres, being the equivalent of 3 storey residential development is considered to be appropriate. This height is not unreasonable opposite the existing residential area.

The proposed setback of 7.5 metres to Collins Street is typical of the existing dwelling setback to Collins Street.

The Amendment sets appropriate interface design parameters for future development. Any future development would have to specify design details, noise management, and vegetation removal requirements as part of the application for planning permit. All of this information would be subject to public consultation and consideration during the application for planning permit process.

Submission 5: - from a consultant on behalf of the landowner of 70 Batesford Road. This site is directly affected by the Amendment.

The submission supports the proposed rezoning and the need for an EAO. However, concerns exist with the DDO9. Specifically: -

- Active street frontages cannot occur where shop use is not permitted in the zone, and large setbacks are required.

- Design objectives are not considered to be appropriate for an activity centre where more intensive development including new landscaping and built form should occur.
- Mandatory controls are not warranted in this location, are too prescriptive and is inconsistent with existing accepted planning approaches.
- Mandatory controls could discourage appropriate development and inhibit efficient use of the land, and active street frontages.

It is also submitted that the proposed Industrial Character Type 6 over the land should be amended to be a Business Character area, to better reflect the desired mix of uses, including commercial uses. Given its location and intended function, its desired future character should place more emphasis on the creation of a functional adjunct to the activity centre, and less emphasis on landscaping.

Response: - Strategic justification for allowing retail uses on the land is required. (see response to submission 3 above)

Mandatory height and setback controls are considered to be appropriate (refer to response to submission 3 above).

The Design objectives are considered to be appropriate for this location. They provide a reasonable balance of development opportunity whilst ensuring an appropriate built form for a neighbourhood activity centre, in an attractive landscaped setting.

The existing character type for the area is proposed to be 'Industrial', given the sites original development as an industrial precinct, and the character elements which remain. The desired future character of the area states that the sites will develop with office, retail and residential buildings.

Submission 6:- from a resident to the west of the site.

The submission notes the Amendment provides an opportunity for purpose built student accommodation in this suitable location, where there is strong local demand. It also notes serious consideration should be given to see student accommodation included in future planning permit applications in the area

Response: - No change to the Amendment documents.

The Amendment will provide opportunities for the development of purpose built student accommodation. This use is currently prohibited by the current planning scheme provisions.

### ***AMENDMENT PROCESS - OPTIONS***

Following exhibition of an amendment to the Planning Scheme the Planning Authority has a choice to:-

- change the amendment in the manner requested by the submissions, or

- refer the submissions to a Panel appointed by the minister for Planning for review, or
- abandon all or part of the amendment.

A determination to refer an amendment to an independent panel for review does not indicate approval or support for the amendment. The amendment is referred to a Panel, without commitment by Council, as to its final decision.

Council has a further opportunity to decide on the application following presentation of the report of the Panel. The Panel report will detail the submissions, the matters discussed and make a recommendation to Council. Council is not bound by the recommendations of a Panel but must have regard to those recommendations in making its decision on the merits of an amendment.

In this instance, it is considered that further information is required to evaluate the potential to modify the provisions of the proposed B2Z-Business 2 Zone to allow for significant general retail use and development.

Modifying the amendment to include significant retail use would be a major change which would require the amendment to be re-exhibited.

The submitters, who have made the request, should be asked to provide the strategic justification to allow retail uses on the land. This retail study should determine what economic impacts are relevant having regard to other activity centres in the surrounding area and identify the appropriate floor area limit to be incorporated in the schedule to the zone.

Alternatively:-

- the amendment could proceed, without change, to a review Panel. Inclusion of significant retail use would then have to be considered as a new separate amendment at a later date.

or

- Council could determine that significant retail use is not appropriate for this land and advise all persons accordingly.

### ***CONCLUSION***

It is recommended that the submitters, who have made the request, should be asked to provide the strategic justification to allow retail uses on the land. This retail study should determine what economic impacts are relevant having regard to other activity centres in the surrounding area and identify the appropriate floor area limit to be incorporated in the schedule to the zone.

Following receipt of this assessment a further report should be made to Council for its assessment prior to re-exhibition of the Amendment.