5.2  1 PRICE STREET OAKLEIGH SOUTH– USE OF THE SITE FOR A TRANSFER STATION
(TPA/39902:RS:HM)
Ward :  Oakleigh
Responsible Director:  Paul Kearsley
Reason for Council Consideration:  Council/Community Interest
Cost of Development :  Nil
Statutory Processing Date :  14 March 2012
Pre-Application Meeting :  No

**RECOMMENDATION**

Council having caused notice of planning application No. 39902 to be given under section 52 of the Planning and Environment Act 1987 and having considered all the matters required under section 60 of the Planning and Environment Act 1987 decides to **refuse** the application for the planning permit under the provisions of the Monash Planning Scheme in respect of the land known and described as 1 Price Street, Oakleigh South for the use of the site for a transfer station and for materials recycling on the following grounds:

1. The proposed use will have an adverse impact on the amenity of nearby properties, in particular with regard to noise, odour, emissions to air, land or water, vibration and dust.
2. The proposal is not consistent with the purpose of Clause 52.45 of the Monash Planning Scheme relating to Resource Recovery.

and directs that the Applicant and each objector be given a notice of the Council’s decision to refuse the permit.

**BACKGROUND**

Council records indicate demolition of a warehouse building in 2011. The previous history of the site is understood to be akin to warehouse type uses.

The subject site is to the west of Price Street with the site being an irregular shape having a total area of 2243sqm. A single storey brick veneer building extends along the front (Price Street) boundary for 108 metres with a double front gate providing access to the site.

Centrally within the subject site is a large open sided steel shed with a smaller one to the rear of this toward the north west boundary. Building scrap materials are scattered throughout the site. Some materials are contained within skips and others are in mounds on the ground. A number of skips are contained throughout the subject site with, some containing materials and others are empty.
Council’s Investigation Officers inspected the subject site on 31 May 2011, following a complaint being received from a neighbouring property stating that the site was being used as a skip/recycle site, dumping rubbish on their premises which was smelly and unsightly. Officers attended the site and noted that the use of the site for operating a skip bin company and using the land to store rubbish recovered from building sites on the open ground required a planning permit as it was defined as materials recycling and transfer station. The Officers requested the occupiers lodge a planning permit or cease the use.

A contravention notice was issued on 13 September 2011 to the owners and occupiers as no application for the use had been received. A further inspection was undertaken on 10 October 2011 were it was noted that work had been carried out to clear the rubbish and that the use appeared to be for the bin storage however after further investigation, the use to store rubbish was still continuing. An application for the use of the site for materials recycling and transfer station was submitted on 15 November 2011. Council has suspended any further enforcement action pending the outcome of this application.

Surrounding uses are consistent with the Industrial Zone however it is attuned more to light industry with the closest residential zone being 105 metres to the east. The use of the premises continues to operate.

**PROPOSAL**

The application is for the use of the site for:

- Skip bin hire.
- Storage of empty skip bins.
- Housing of vehicles.
- Overnight storage of covered mixed waste bins if the tip is closed on pick up.
- The sorting of non-hazardous designated recyclable waste and some household items into bins for delivery to recyclers (eg. Plastics, glass, metal, paper, concrete, soil, bricks, tiles, timber and green waste).

Clause 74 of the Monash Planning Scheme defines a “Transfer Station” as:

“Land used to collect, consolidate, temporarily store, sort or recover refuse or used materials before transfer for disposal or use elsewhere.”

The applicant has stated that there will be no processing of any recycling materials on the property and there is no access to the public for disposing of waste materials. Bin hire is restricted to non-putrescible, non-hazardous commercial and industrial, construction, demolition and household disposal waste.
Recyclable materials will be separated on site and distributed into bins designated for the specified material and transported quickly off to appropriate recyclers. Materials planned for recycling include concrete, metal, tiles, paper, timber, bricks, glass, green waste, soil, plastic and tyres.

It is proposed that the hours of operation will be from:

- Monday to Friday 7am – 5pm
- Saturday 7am – 1pm

POLICY IMPLICATIONS

State Planning Policy Framework

- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
  - Clause 17.01 Commercial (Business)
  - Clause 17.02 Industry
    - Clause 17.02-2 Design of industrial development
- Clause 19 Infrastructure
  - Clause 19.03-5 Waste and resource recovery

Local Planning Policy Framework

- Clause 21 Municipal Strategic Statement
  - Clause 21.01-3 Municipal Overview
  - Clause 21.05 Economic Development
  - Clause 21.07 Business Parks and Industry
- Clause 22.03 Industry and Business Development and Character Policy
  - Clause 22.03-4 Decision guidelines (IND2)
- Clause 22.04 – Stormwater Management Policy

Clause 33.01 Industrial 1 Zone. The purpose to this zone is:

- 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 manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

Comment

A permit is required for a use as transfer station under Section 2 of this zone. The land is in excess of 30 metres from the nearest residential zone and as such the use is not prohibited.

Clause 43.02 Design Development Overlay. The purpose to this overlay is:
To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To identify areas which are affected by specific requirements relating to the design and built form of new development.

Comment
No permit is required as no buildings or works are proposed.

Relevant Particular Provisions

Clause 52.06 Car Parking. The purpose to this Clause is to ensure that car parking facilities are provided in accordance with:

- The State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies.
- Any parking precinct plan.

To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality.

To ensure that the design and location of car parking areas:

- Does not adversely affect the amenity of the locality, in particular the amenity of pedestrians and other urban design
- Achieves a high standard of urban design
- Creates a safe environment for users, particularly at night
- Enables easy and efficient use
- Protects the role and function of nearby roads
- Facilitates the use of public transport and the movement and delivery of goods

Comment
The use of the site as a ‘transfer station’ is not a specified use under this zone. Where a use is not specified in the table at Clause 52.06-5, an adequate number of car spaces must be provided to the satisfaction of the responsible authority.

The operation of the site will employ two full time drivers, one part time driver/office manager and a part time administrator with no public enquiries on site. The provision of 5 car spaces on site would satisfy parking requirements. There is an ability to provide these car spaces on site.

Clause 52.10 Uses with Adverse Amenity Potential: The purpose of which is to define those types of industries and warehouses which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood.
The threshold distance for recycling and resource recovery is dependent on the processes to be used and the materials to be processed or stored and has a threshold distance of 100 metres from a residential area. The subject site is 105 metres from a Residential 1 Zone.

Clause 52.45 Resource Recovery: The purpose of which is to facilitate the establishment and expansion of a Transfer station and/or a Materials recycling facility in appropriate locations with minimal impact on the environment and amenity of the area.

CONSULTATION

Notification

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land
- Placing a sign on site

The notification has been carried out by Council on behalf of the applicant. Council has received a total of 45 objections.

The objections can be summarised as follows:

1. Insufficient setback from residential zone
2. Health and safety concerns
3. Air pollution
4. Noise pollution
5. Attraction to birds, rats and flies
6. Increased traffic
7. Fire hazard
8. Insufficient information relating to application
9. Notification of application
10. Assessment of off-site impacts should be prepared
11. Not consistent with the objectives of planning in Victoria.

Referral

The application was referred internally to the traffic and drainage departments who have no objection to the granting of the permit subject to conditions being placed on a permit, if issued. Council’s Transport Engineers have advised that parking restrictions do not apply along the Price Street frontage of the site. Therefore, parking demands anticipated to be generated due to the small number of proposed number of staff on site could be adequately accommodated by the available on-site parking.
The application was also required to be referred to the EPA under Section 55 of the Planning and Environment Act 1987. The EPA does not object to the proposal subject to appropriate conditions being incorporated on any permit that is to issue.

**ASSESSMENT**

The site is currently operating without planning approval. An application for planning approval is required for the use of the site as a ‘transfer station’. The proposed use requires Council assessment to ensure that the use of the site is in a manner which does not affect the safety and amenity of the local community. The site is surrounded by the Industrial 1 Zone and is located 105 metres to the west of a Residential 1 Zone.

In the past 2 years, the Department of Planning and Community Development amended the definitions within Planning Schemes so as to better define the use of a waste transfer station and materials recycling. In doing this, the Planning Scheme was amended to require planning approval for the use of a waste transfer station, acknowledging in turn that these uses had the potential for adverse amenity impact. There are varying cases through VCAT where this has been the case. It is not considered that an arbitrary figure of 100 metres as opposed to 105 metres from a Residential zone, given the potential impacts is the only relevant assessment. This is just one matter that Council must consider in its assessment of the application.

Clause 52.10 Uses with Adverse Amenity Potential of the Monash Planning Scheme requires that for refuse and used material storage, sorting and recovery in a transfer station provide a threshold distance of 100 metres from a Residential 1 Zone. The proposal technically satisfies this threshold requirement as it is 105 metres from the nearest Residential 1 zone. The application has received 45 objections relating to the proposed use with EPA Victoria requiring 20 conditions be placed on any permit if issued. The site has been operating as a ‘transfer station’ without planning approval with a compliant received in 2011 relating to smell and amenity concerns.

The application is to use the site for recycling of concrete, metal, tiles, paper, timber, bricks, glass, green waste, soil, plastic and tyres with no processing of any recycling materials on the property and no access to the public for disposing of waste materials. Bin hire is restricted to non putrescible, non-hazardous commercial and industrial, construction, demolition and household disposal waste.

Modern planning seeks to locate activities that are likely to be in conflict into separated localities. As previously stated 45 objections have been received relating to the proposal and a neighbouring property lodged a complaint last year relating to amenity impacts both visual and through odour prior to the
lodgement of a planning application. Issues with this particular use of the site have been established.

Access to the subject site can be along residential routes to the east which intersect with the industrial area or from surrounding industrial routes. Travel through the residential area would not be supported as it would create further noise, air and amenity impacts to this area. Access to the site would be encouraged from North Road or pollution with the direction of vehicles containing the skips to be diverted to the industrial area only roads. The use of access through residential areas would not be supported due to increased noise.

Council is not satisfied that the proposal will not further exacerbate existing amenity impacts through noise, odour, emissions to air, land or water, vibrations and dust to surrounding residential and industrial land. The quantity of goods to be on site at any one time has not been detailed within the application. It is not considered that this site, (although is zoned Industrial), is suitable from an amenity and accessibility perspective. There are more suitable sites within the Municipality that can more readily cater to this type of use, whilst avoiding the issues that a use such as this can present upon the proximate Residential area.

**CONCLUSION**

Advisory Note 28 relating to Amendment VC69 Waste Transfer and Materials Recycling Facilities provides the responsible authority with the ability to properly assess each proposal to reduce their impact on the surrounding community. The proposed use has already established that there is an impact on the amenity of the area as a complaint was received prior to a planning permit application being received with the use of the surrounding industrial land more attuned to light industrial. It is considered that the proposed use of the site will adversely impact on the amenity of the surrounding residential environment and neighbouring sites and accordingly should be refused.
ATTACHMENT 1

LOCALITY PLAN

SUBJECT SITE

NEighbourHOOD PLAN
Site Plan