

STRATEGY AND POLICY REVIEW COMMITTEE
4 FEBRUARY 2008 **POLICY AND PLANNING**

A1	AMENDMENT C57 (PART 2) - CONSIDERATION OF SUBMISSIONS
LOCATION/ADDRESS:	ORMOND ROAD AND ST KILDA STREET, ELWOOD
RESPONSIBLE EXECUTIVE DIRECTOR:	GEOFF OULTON - EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT AND PLANNING
AUTHOR:	SUZY THOMAS - STRATEGIC PLANNER
FILE NO.:	66/04/71
ATTACHMENTS:	ATTACHMENT 1 – TABLE (COMPARISON OF EXHIBITED CONTROLS, PANEL RECOMMENDATIONS, AND PROPOSED CONTROLS)

1. EXECUTIVE SUMMARY

- 1.1. Amendment C57 (Part 2) proposes to introduce a new schedule to the Design and Development Overlay (DDO18) at Clause 43.02 of the Port Phillip Planning Scheme. The DDO18 reflects the outcomes of the Ormond Road Urban Design Guidelines and applies to the residential precinct of Ormond Road, between Pine Avenue and St Kilda Street, including 473 and 475A St Kilda Street.
- 1.2. Amendment C57 (Part 2) was placed on public exhibition on 15 November 2007 for a period of one month. Notices were sent to all properties affected by the amendment as well as the immediately abutting properties. Notices were also placed in the Government Gazette and the local newspapers.
- 1.3. Following exhibition of the amendment, a total of twelve (12) submissions were received – 3 submissions (from South East Water, Department of Sustainability and Environment, and VicRoads) offered no objection, whilst the remaining 9 submissions opposed the amendment. Of the 9 submissions opposing the amendment, 8 submissions are identical 'form letters' that have been signed individually.
- 1.4. After consideration of all submissions, it is recommended that no change be made to the proposed DDO18 provisions and that Council request that the Minister for Planning appoint an independent Panel to consider and review the submissions.

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2. BACKGROUND AND CONTEXT

- 2.1. In January 2006, Council commenced preparation of the Ormond Road Urban Design Guidelines, to guide built form within the retail areas of Elwood Junction and Elwood Village and the residential areas in between.
- 2.2. Council adopted the Guidelines in September 2006 and resolved to implement the findings of the Guidelines by an amendment to the Port Phillip Planning Scheme, known as Amendment C57.
- 2.3. The amendment proposed a new schedule to the Design and Development Overlay (DDO18) at Clause 43.02 of the Planning Scheme. The DDO18 applied to the two retail precincts (Elwood Junction and Elwood Village) and the two residential precincts within Ormond Road. Amendment C57 also proposed to rezone the land at 129 and 131 Ruskin Street from a Business 1 Zone to a Residential 1 Zone.
- 2.4. Amendment C57 was exhibited during November and December 2006, during which submissions were invited from the public. Following exhibition, Council considered all submissions and resolved to refer them to an independent Panel appointed by the Minister for Planning.
- 2.5. The Panel hearing was conducted in May 2007 and the report of the Panel was received in July 2007. The Panel recommended that Council consider adopting changes to the DDO and also recommended that further notice be given in relation to changes affecting the residential precinct between Pine Avenue and St Kilda Street.
- 2.6. Council considered the Panel's recommendations at the Strategy and Policy Review Committee meeting on 6 August 2007. In the Ordinary Meeting of Council on 27 August 2007, Council resolved to separate the amendment into two parts as follows:
 - 2.6.1. **Amendment C57 (Part 1)**, incorporating the commercial areas of Elwood Junction and Elwood Village and the adjoining residential area along Ormond Road, between Byrne Avenue and Beach Avenue.
 - 2.6.2. **Amendment C57 (Part 2)**, incorporating the residential area along Ormond Road, between Pine Avenue and St Kilda Street and including 473 and 475A St Kilda Street.
- 2.7. Council resolved to adopt Amendment C57 (Part 1) with changes and forward this to the Minister for Planning for approval. Council also resolved to give further notification of Amendment C57 (Part 2), as a result of the changes recommended by the Panel for this precinct.

3. AMENDMENT C57 (PART 2)

- 3.1. The key changes to the controls are summarized as follows:
 - Increase in height from 3 storeys (9 metres) to 4 storeys (13 metres).
 - The 4th storey setback so that it is not visible from standing eye level on the opposite side of the street, or the rear building line of adjoining residential properties.

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- Increase in the front setback to a minimum of 6 metres, as a mandatory requirement.
- Mandatory landscaping of the front setback area.
- Side setbacks to accord with Rescode.

The following table provides a more detailed description of these changes (a full description of all the changes, as they relate to the exhibited controls, the controls recommended by the Panel, and the proposed controls, are included in the table at Attachment 1).

	Controls originally exhibited under Amendment C57	Controls recommended by the Panel	Controls proposed under Amendment C57 (Part 2)
Height	Building must not exceed a maximum height of 9 metres (3 storeys)	Buildings must not exceed an overall height of 13 metres (4 storeys).	Same as recommended by the Panel.
		The front wall of buildings must not exceed a height of 10.5 metres (3 storeys).	Variation to the Panel recommendation: The front wall of buildings must not exceed a height of 10 metres (3 storeys).
	Above a height of 6 metres, buildings must be setback so that they are not apparent from standing eye level on the footpath directly opposite the site, or the rear building line of adjoining residential properties.	New development must be setback above a height of 10.5 metres such that it is not visible from standing eye level at the rear building line of any adjoining residential property.	Variation to the Panel recommendation: New development must be setback above a height of 10 metres such that it is not visible from standing eye level at the rear building line of any adjoining residential property.
		Any 4th storey must be setback from front and side street boundaries such that it (and any associated balustrading) is not visible from standing eye level on the footpath directly opposite the site.	Same as recommended by the Panel.
Front Setback	New development should be setback from the street boundaries in accordance with Clause 55.03-1 (Street setback objective) of the Port Phillip Planning Scheme.	Buildings must be setback from the front boundary a minimum distance of 6 metres or that distance required by Clause 55.03-1 of the Port Phillip Planning Scheme, whichever is the greater.	Same as recommended by the Panel.
Landscaping	Front setbacks should provide for landscaping.	Front setbacks must be landscaped.	Variation to the Panel recommendation: Front setbacks must be landscaped, and should not be used for carparking.
Side Setbacks	Side setbacks must conform with the character of the area.	The height and setback of a building from a boundary with any residential property should accord with Clause 55.04-1 (side and rear setbacks objective) and Clause 55.04-5 (overshadowing open space objective) of the Port Phillip Planning Scheme.	Same as recommended by the Panel.

- 3.2. In line with the recommendations of the Panel, Amendment C57 (Part 2) was re-exhibited for a period of one month, from 15 November to 17 December 2007. Notices were sent to all property owners and occupiers affected by the amendment, to the owners and occupiers of abutting properties, and to all owners and occupiers who made a submission to the

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Submitter: VicRoads **Property:** General

Submission:	Officer comment and recommendation
<i>"VicRoads has assessed the proposal and does not object to the proposed planning scheme amendment."</i>	Submission noted. Recommendation: No change required.

Submission 4

Objection

Submitter: Owner **Property:** Unit at 145 Ormond Rd, Elwood

Submission:	Officer comment and recommendation:
<p>The submission states:</p> <p><i>"As a local community member, I am extremely concerned that the development will deeply undermine the character of Elwood Village. Recent development on Ormond Road and in the village has already affected the unique community feel of Elwood.</i></p> <p><i>I am deeply concerned by the deterioration of Elwood Village and believe it is the role of the Council to preserve and protect the heritage of our community for future generations. This development does nothing to maintain the natural character of Elwood and I urge the panel to reject the proposal."</i></p>	<p>It is assumed that reference to "the development" refers to the proposed DDO controls. The submission states that <i>"the development will deeply undermine the character of Elwood Village"</i>. Amendment C57 (Part 2) applies only to the residential precinct of Ormond Road between Pine Avenue and St Kilda Street, and not Elwood Village. The DDO controls for Elwood Village have been finalised as part of Amendment C57 (Part 1). These controls were sent to the Minister for Planning in October 2007 and are awaiting approval. No further submissions can therefore be made, or considered by Council, in relation to Amendment C57 (Part 1) and the controls for Elwood Village.</p> <p>The submission further states that <i>"This development does nothing to maintain the natural character of Elwood and I urge the Panel to reject the proposal"</i>. The proposed DDO controls have evolved from the recommendations of the Panel and will ensure that new development is of a scale and siting that relates to the existing built form of the area, which includes 2 and 3 storey buildings and a 4 storey building currently under construction at 475A St Kilda Street. As such, there will be no detrimental effect on neighbourhood character or the streetscape.</p> <p>The controls will prohibit buildings of more than 4 storeys, while height and setback requirements will ensure that a 4th storey (if proposed) will not be visible in the public or private realm (on the footpath directly opposite the site or from the rear of adjoining residential development).</p> <p>Recommendation: No change.</p>
<p><i>"Increased traffic has resulted in heightened risk to pedestrians, and motorists accessing or leaving from existing properties, due to speeding vehicles on Ormond Road. This increased traffic has made parking a serious issue around the area. I am aware that there is grave concern from Elwood RSL patrons that parking will be further limited by this development."</i></p>	<p>The proposed DDO controls do not address car parking issues. The parking implications associated with new development will continue to be assessed using existing local policy and the parking provisions at Clause 52.06 of the Planning Scheme. The amendment will not change this discretion.</p> <p>Recommendation: No change.</p>
<p><i>"As a resident opposite the proposed site, I am deeply concerned by the noise and danger on the streets to residents and pedestrians during construction posed by heavy equipment."</i></p>	<p>The submitter's reference to "the proposed site" is assumed to mean 144 Ormond Road, which is occupied by the RSL. The submission intimates that construction works will be occurring on this site, however there is no current planning application for redevelopment.</p> <p>If redevelopment of this site was proposed, any danger to residents and pedestrians associated with construction works would be managed through the building permit process, in accordance with the Building Regulations 2006. Noise issues associated with construction works would be managed through Council's Local Laws.</p>

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	Recommendation: No change.
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Submission 5

Objection – Form Letter

Submitter: Owners/occupiers **Properties:** 146, 148, 150, 156, 170, 175 & 195 Ormond Rd; 1 Pine Ave, Elwood

Submission:	Officer comment and recommendation:
<p>The 8 letters are all identical in content and can therefore be considered collectively. The submitters object to the recommendations by the Panel and in particular, the mandatory height of 3 storeys being increased to 4 storeys, and setbacks above 2 storeys being increased to above 3 storeys.</p> <p>The submissions state:</p> <p><i>"We don't believe the panel has considered the impact such a change would have on the existing single storey residential houses that dominate this strip. 26 single storey houses line this precinct, two double storey flats, three 3 storey flats and one 4 storey overwhelming eyesore of a new construction. The ugliness and intrusive presence of this building at the corner of St Kilda Street and Ormond Road is a perfect example of how potentially damaging this new proposal is to the future of our village."</i></p> <p>The submission further states that buildings of this nature would destroy the character of Ormond Road and the <i>"high three storey setbacks will create an imposing, intrusive environment that would compromise what attracted most people to live in Elwood."</i></p>	<p>The precinct contains predominantly single storey dwellings on the south side of the street, while the north side of the street contains a mix of single, double and 3 storey buildings, with a 4 storey building currently under construction at 475A St Kilda Street.</p> <p>The Panel recommended that the height in this precinct be increased from 3 storeys (9 metres) to 4 storeys (13 metres). The Panel also recommended that the front wall height of new development be allowed up to 3 storeys, rather than requiring the front wall to be setback above a height of 2 storeys. To offset the increase in the front wall height and overall height, the Panel further recommended that front setbacks be a minimum of 6 metres and that the front setbacks be landscaped (a mandatory requirement).</p> <p>The increase in the overall height to 4 storeys and the increase in the front wall height should not be considered in isolation, but rather needs to be considered in conjunction with the other changes to the DDO, in particular the mandatory 6 metre minimum front setback. The front setback would offset the increase in the front wall height while landscaping would soften the appearance of new development and would contribute to the leafy character that is a feature of the precinct. In addition, the front façade of buildings would need to be highly articulated and maintain some reference to the design detail of heritage buildings within the precinct by employing features such as porches, bay windows, overhanging eaves, recesses, projections and changes of material and colour. Any new development would not create an imposing, intrusive environment, but rather would add to the diversity and interest of the existing building stock, which includes 2 and 3 storey buildings.</p> <p>Notwithstanding the above, it is noted that the development potential of many of the properties in the precinct are significantly constrained, either due to existing heritage controls or the narrow width of properties.</p> <p><u>Heritage controls:</u> A Heritage Overlay (HO) extends from 169 to 183 Ormond Road (on the north side of the street) and on 473 St Kilda Street. All properties are identified as 'significant' heritage properties. The Heritage Policy at Clause 22.04 of the Planning Scheme explicitly discourages demolition of heritage properties and encourages any new development to be respectfully and harmoniously integrated with the surrounding character. Any redevelopment of these properties would therefore be far more constrained than those properties outside the HO, particularly given that all properties are graded as 'significant' (the highest grading afforded in the municipality).</p> <p><u>Lot size:</u> Of the remaining properties outside the HO, approximately half have a width of 10 metres or less. A 4 storey development would not be feasible on these lots unless there was significant site consolidation, given the setback requirements specified in the DDO.</p> <p>The submissions cite concerns regarding the <i>"ugliness and intrusive</i></p>

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	<p><i>presence</i>" of the building at 475A St Kilda Street and <i>"how potentially damaging this new proposal [the amendment] is to the future of our village"</i>. The building at 475A St Kilda Street was approved prior to the preparation of the Ormond Road Urban Design Guidelines, upon which the DDO is based. Given that this development was not assessed against the Guidelines or DDO, it should not be used as an example of how new 4-storey developments might look in the Ormond Road streetscape.</p> <p>Recommendation: No change.</p>
<p><i>"The panel notes that the 'urban form is notably lower than that already occurring within this precinct of Ormond Road...' and hence it 'seems illogical...buildings should be constrained to a greater degree'."</i></p>	<p>It is useful to provide additional context to the comments made by the Panel and referenced in the submissions. The Panel was concerned that the controls originally exhibited (maximum height of 3 storeys) would result in an urban form that is notably lower than that already occurring within the precinct. The Panel further commented:</p> <p><i>"We would observe also that the built form outcome would also be lower or less intense even than the existing development in the hinterland to the Ormond Road precincts. In the hinterland there are already new robust three storey multi unit forms as well as older two storey flats with large rising roof forms closer to the beach. It seems illogical in the Panel's view that land in a precinct located within close walking distance of commercial neighbourhood facilities, on a main road and which already contains a series of three storey flat buildings should be constrained to a greater degree than other land occurring outside of the defined 'Activity Centre' boundary."</i></p> <p>The Panel's view has merit. Given that the precinct is located on Ormond Road, adjacent to Elwood Village, it is expected to accommodate some of the additional housing growth projected for the municipality. This growth however, should not be at the expense of neighbourhood character.</p> <p>The proposed DDO controls have been carefully drafted to ensure that neighbourhood character would not be adversely affected by new development – although the DDO would allow developments of up to 4 storeys, a 4th storey would need to be setback so that it is not visible from the footpath directly opposite the site or from the rear of adjoining residential development. As such, a 4th storey would have little impact in the Ormond Road streetscape as new development would generally appear as 3 storeys. Given that the precinct already contains 2 and 3 storey buildings, it is considered that new development would not be out of context with the existing built form. The DDO requirement for buildings to be setback a minimum of 6 metres from the front boundary would further reduce the visibility of new development, while mandatory landscaping would ensure that the leafy character of the street was retained through the provision of a consistent pattern of landscaped frontage.</p> <p>Recommendation: No change.</p>
<p><i>"We believe that the change in heights help define where the residential area begins and where the activity centre ends. This certainly may help late night patrons clearly identify a residential area."</i></p>	<p>The proposed controls would still provide a transition in building height, scale and form between the precincts. Under Amendment C57 (Part 1), buildings in the retail precincts are required to be constructed to the front boundary (no setback), have a front wall height of between 7.5 and 10 metres, and have a 4th level (if proposed) setback so that only the fascia and eaves are visible from the opposite side of the street. Under the proposed controls for the residential precinct, buildings would be required to have a front setback of a minimum of 6 metres which must be landscaped, have a front wall which does not exceed 10 metres in height (the front wall may be less than this height), and have a 4th level (if proposed) setback so that it is not visible from the opposite side of the street.</p> <p>The differences in the controls for the retail and residential precincts</p>

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	<p>would ensure that there is a clear distinction between the retail strip and the residential area.</p> <p>Recommendation: No change.</p>
<p><i>"We are encouraged by the panel's Amendment C57 (Part 1) limiting buildings to four storeys only in the business zone and would hope that they share the intent to keep Elwood's special charming village free from overdevelopment. A walk down Ormond Road from Pine Avenue on the beach side to St Kilda Street would take you past well cared for, recently renovated houses that contribute significantly to the pleasant, friendly atmosphere that the residents of Elwood work hard to maintain. We hope you will reconsider this recommendation and maintain the mandatory height of 3 storeys and setbacks above a height of 2 storeys for this residential precinct."</i></p>	<p>The introduction of the proposed DDO into the Planning Scheme does not imply that all properties within the precinct will be redeveloped with 4 storey buildings – as previously noted, the development potential of properties within the HO are significantly constrained, while the narrow width of many properties precludes any substantial development.</p> <p>The DDO does however, acknowledge that this precinct, being adjacent to the neighbourhood activity centre of Elwood Village and on a public transport route, is able to accommodate some medium density housing in accordance with the directions of Melbourne 2030 and provides the opportunity for this to be achieved. It also recognizes the precinct's important neighbourhood character elements through the Preferred Character statements and Design Objectives of the DDO to ensure that any new development is consistent with the character of the area. The Requirements of the DDO help to achieve the preferred character and will ensure that any new development makes a positive contribution to the streetscape and area in general.</p> <p>Recommendation: No change.</p>

5. RECOMMENDED OPTION

5.1. In accordance with Section 23 of the *Planning and Environment Act 1987*, after consideration of all submissions, Council must:

- "(a) change the amendment in the manner requested; or*
- (b) refer the submission to a panel appointed under Part 8; or*
- (c) abandon the amendment or part of the amendment."*

5.2. It is recommended that no change be made to the amendment documentation, and that Council request the Minister for Planning appoint an independent Panel and refer all submissions to the Panel.

5.3. Criterion for recommendation

5.3.1. The submissions request that the height specified in the DDO be a maximum of 3 storeys (9 metres), with setbacks above the second storey. It is not recommended that the amendment documentation be amended in the manner requested, for the reasons outlined in the table to Section 4.3.

5.3.2. Requesting a Panel to hear all submissions made to the amendment will allow for an independent assessment of the issues raised.

5.4. Sustainability assessment

Social Pillar	Amendment C57 (Part 2) builds on the community's aspirations for the residential precinct of Ormond Road and attempts to reflect local values within a municipal and metropolitan planning framework.
Economic Pillar	<p>The inclusion of a Design and Development Overlay into the Port Phillip Planning Scheme will provide an additional tool to be used in the assessment of applications, thereby decreasing the uncertainty on planning outcomes by both applicants and the community.</p> <p>The proposed provisions will provide guidance to Council planning officers for determining applications and should therefore reduce appeal costs (to both Council and applicants) associated with decisions.</p>
Environmental Pillar	Amendment C57 (Part 2) provides for urban consolidation and additional development opportunities along Ormond Road, which is recognised as part of the Principle Public Transport Network (PPTN) in <i>Melbourne 2030</i> . The location of new housing in proximity to bus routes, shops and services, provides good opportunities for greater public transport use.
Cultural Pillar	The amendment will provide direction for the future built form of this precinct, which builds on the existing heritage and neighbourhood character attributes of the area.

5.5. Policy and legislative implications

Amendment C57 (Part 2) proposes to introduce a new planning control for determining development applications in the amendment area, in the form of a Design and Development Overlay (Schedule 18). The provisions have been developed in recognition of existing Council policies and strategies relating to the Elwood area. No changes to existing planning policy are required.

The amendment is consistent with Council's adopted Housing Strategy 2007, in relation to the direction for housing growth and change in the municipality. The Housing Strategy recognizes that incremental change can occur within Ormond Road through well design medium density "infill" development on sites fronting Ormond Road and Glen Huntly Road, proximate to the Elwood Junction and Elwood Village activity centres. The Strategy also recognizes that the height, scale and massing of new development needs to be in accordance with the Design and Development Overlay and, where applicable, the Heritage Overlay.

5.6. Risk implications

There are no substantial risks to Council associated with the recommended option. If Council resolves to adopt the recommendation, an independent

Panel appointed by the Minister for Planning will hear all submissions to the amendment. The role of the Panel hearing is to give submitters an opportunity to be heard in an informal, non-judicial manner, and to give expert advice to Council about the amendment and about submissions referred to it.

Any recommendations made by the Panel will be reported back to Council for consideration.

5.7. Resource implications

Council would be responsible for Panel costs, including any expert witnesses. This has been accounted for in the 2007/08 budget.

The additional resource implications to Statutory Planning will be minimal, as multi-unit development applications already require a Planning Permit. The amendment will provide a clearer basis for the assessment of proposals.

6. ALTERNATIVE OPTIONS

6.1. The two alternative options available to Council are:

6.1.1. Change the amendment in the manner requested in the submissions.

6.1.2. Abandon the amendment or part of the amendment.

6.2. Changing the amendment in the manner requested by the submissions is not recommended by Council officers, as it would result in DDO provisions that do not achieve the desired character for the retail and residential precincts or reflect the core ideals of Melbourne 2030. Furthermore, changing the amendment as requested would be contrary to the Panel's report and recommendations (Panel Report of July 2007).

6.3. Abandoning the amendment (or part thereof) is also not recommended. The Ormond Road Urban Design Guidelines, on their own, have no statutory weight and cannot be used as a basis for decision-making. Without the Guidelines to influence and direct new development in the form of a DDO, no certainty is provided to the community, developers or the Council in relation to appropriate development opportunities and outcomes.

7. PARTICIPATION AND ENGAGEMENT

7.1. Internal

7.1.1. The Ward Councillor and Mayor – Janet Cribbes, and the coordinator of the Elwood neighbourhood statutory planning team, have been consulted in relation to the submissions received to the amendment.

7.2. External

7.2.1. The Department of Planning and Community Development was consulted extensively prior to exhibition of Amendment C57 (Part 2).

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- 7.2.2. A notice was sent to all affected owners and occupiers of Amendment C57 (Part 2) and communication was undertaken through Councils internet page and local media.

8. IMPLEMENTATION

- 8.1. It is recommended that Council write to the Minister for Planning and request that a Panel be appointed to consider submissions to Amendment C57 (Part 2). All submitters to the amendment will be informed if a Panel is appointed and will be given the opportunity to be heard.

9. RECOMMENDATION

That the Strategy and Policy Review Committee recommend to Council that:

- 9.1. The Council, having considered the submissions received to Amendment C57 (Part 2), resolve to:
- 9.1.1. Request that the Minister for Planning appoint an independent Panel to review submissions to the amendment in accordance with Part 8 of the *Planning and Environment Act 1987*.
 - 9.1.2. Refer all submissions, and any late submissions received, to the Panel to be appointed by the Minister for Planning.
 - 9.1.3. Inform all submitters of Council's decision.