

**STATUTORY PLANNING COMMITTEE**  
**14 APRIL 2008**

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<b>B2</b>	<b>365-385 FERRARS STREET, ALBERT PARK</b>
<b>ADDRESS:</b>	<b>365-385 Ferrars Street, Albert Park</b>
<b>PROPOSAL:</b>	<b>Development and use of part of the eastern side of the former Albert Park railway station building as a child care centre and kindergarten including;</b> <ul style="list-style-type: none"><li>• <b>construction of portable classroom buildings,</b></li><li>• <b>construction of landscaping and play areas;</b></li><li>• <b>construction of external toilet (retrospective);</b></li><li>• <b>waiving of car parking requirements</b></li></ul>
<b>WARD:</b>	<b>Emerald Hill</b>
<b>NEIGHBOURHOOD:</b>	<b>Albert Park</b>
<b>TRIGGER FOR DETERMINATION BY STANDING COMMITTEE:</b>	<b>More than 15 objections</b>
<b>APPLICATION NO:</b>	<b>1161/2007</b>
<b>APPLICANT:</b>	<b>Children's Garden of Eden</b>
<b>EXISTING USE:</b>	<b>Education Centre</b>
<b>ABUTTING USES:</b>	<b>Light rail line, roads and dwellings</b>
<b>ZONING:</b>	<b>Public Use Zone 4</b>
<b>OVERLAYS:</b>	<b>HO 119</b>
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL:</b>	<b>Expired</b>
<b>RESPONSIBLE EXECUTIVE DIRECTOR:</b>	<b>Geoff Oulton, Executive Director Community Development and Planning</b>
<b>AUTHOR:</b>	<b>Bruce McConchie, Urban Planner</b>

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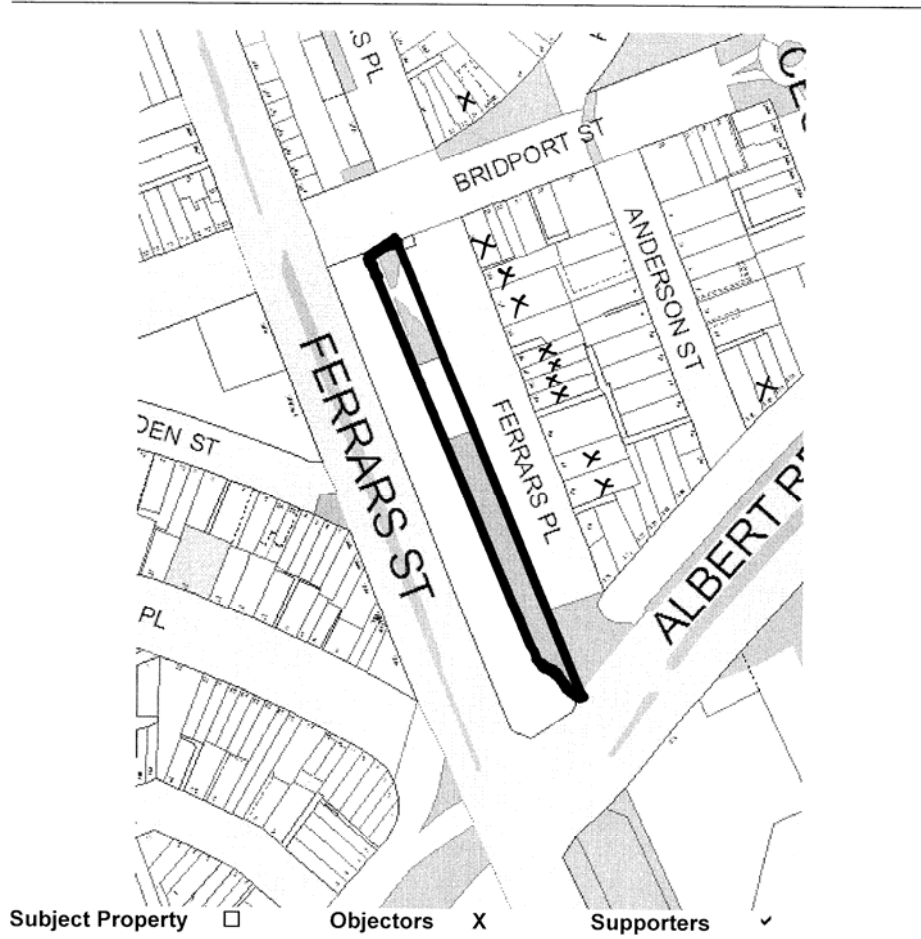
**1. EXECUTIVE SUMMARY**

- 1.1. The application proposes the use of that part of the former Albert Park railway station situated on the east side of the light rail line as a child care centre for 42 children and kindergarten for 40 children, plus associated works as described in the preamble. A waiver of all car parking requirements is also sought. The proposed use and dispensation from the car parking requirements of the Planning Scheme require approval.
- 1.2. The proposal includes buildings and works in addition to the use of the land, but because this site is listed on the Victorian Heritage Register, Heritage Victoria is the Responsible Authority for dealing with such matters. Permit P12365 was issued on 2 January 2008 for the proposed buildings and works, less a canopy over the station entrance which was required to be deleted by condition of that permit.
- 1.3. The proposal has received 21 objections, relating to car parking, noise, hours of operation, traffic, historically inappropriate works, conflict with neighbourhood character, safety, inappropriate commercial operations, need not overriding amenity, and the possibility of contamination of the site.
- 1.4. It is recommended that the application be supported.
- 1.5. Conditions of permit can be imposed relating to noise, hours of operation and traffic and parking which would reasonably limit any amenity concerns.
- 1.6. It is recommended that a Notice of Decision to Grant a Permit be issued.

<b><u>KEY ISSUES</u></b>
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| 1. Amenity impacts<br>2. Parking/Traffic<br>3. Heritage impacts |
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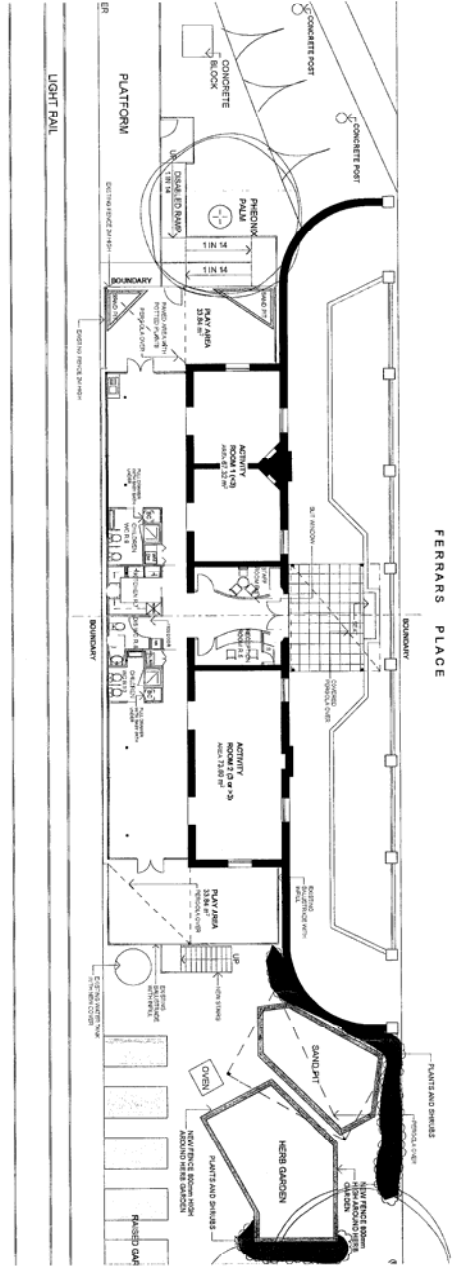


Subject Property  Objectors X Supporters ✓

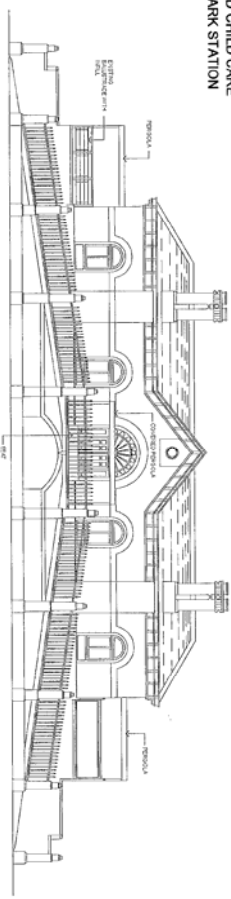




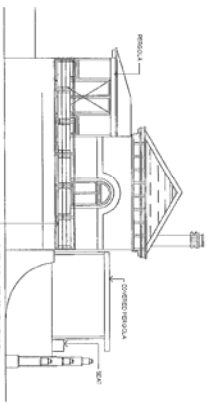
PROPOSED CHILD CARE  
 ALBERT PARK STATION



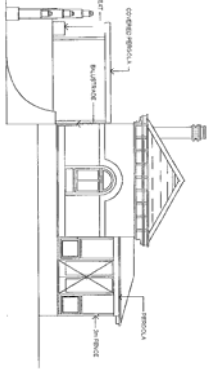
FERRARS PLACE PROPOSED ELEVATION  
 SCALE 1:100



PROPOSED EAST ELEVATION  
 SCALE 1:100



PROPOSED NORTH ELEVATION  
 SCALE 1:100



DATE		REVISION		APPROVED BY		DRAWN BY		CHECKED BY	
1	10/10/07	1	10/10/07	1	10/10/07	1	10/10/07	1	10/10/07
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10	10/10/07	10	10/10/07	10	10/10/07	10	10/10/07	10	10/10/07



**2. PROPOSAL**

- 2.1. It is proposed to establish an extended hours kindergarten and child care centre on the station premises, based on the Rudolph Steiner educational principles. It would utilise both the existing station building and two portable buildings to be installed at the southern end of the site.
- 2.2. A total of eighty two children are proposed to be accommodated at any one time. The service would comprise four activity rooms, one of which would accommodate a group of twenty child care children (0-3 years old), and the other three would accommodate groups of twenty, twenty and twenty-two kindergarten children (3-6 years old).

The kindergarten activities would be sessional, from 9am to 12 noon and 12.30pm to 3.30pm Monday to Friday, but the child care activities would run continuously from 6.30am to 6.30pm Monday to Friday and on Saturdays between 8.30am and 5.30pm.

- 2.3. A total of thirteen full time staff will be employed, plus two part time staff (cook and gardener).
- 2.4. In addition to the primary use of the site, the applicant proposes that some evening activities ancillary to the principal use and normal to a centre such as this would take place, such as staff development classes, parent information sessions and parent/teacher meetings. These would be expected to be low key in nature and possibly irregular in their occurrence, and it is considered that these activities and their effect on the amenity of the area should be monitored and regulated by application of the "general amenity condition" recommended in this report.
- 2.5. Other activities proposed are:
- Festivals on four weekend days per year (either Saturdays or Sundays)
  - An annual open day (day of the week unspecified)
  - A parents working bee on one Saturday per month.
- 2.6. Externally, various outdoor play areas are proposed, plus a herb garden, an animal enclosure, a water feature and a variety of landscaping works. An existing "environmental toilet", apparently constructed without a permit and the subject of long running planning enforcement procedures is also shown on the submitted plans.

A canopy was originally proposed to be erected over the station entrance, but this was refused by Heritage Victoria, who are the Responsible Authority for buildings and works, as the station is listed on the Victorian Heritage Register.

- 2.7. No car parking is provided, and the applicants are seeking a full waiver of any car parking requirements. In this respect it is noted that the Planning Scheme has no specified parking ratio for a child care centre or a kindergarten, therefore an adequate number of spaces must be provided to the satisfaction of the Responsible Authority.

- 2.8. Drop-offs and pick-ups are expected to generally take place on Ferrars Place, and the applicants requested that 8 metered carspaces in that street be converted to non-metered spaces for short term, non-metered use. As noted in the comments from Council's Traffic Engineer, this was opposed on a number of grounds.
- 2.9. Specific details of provisions for loading and unloading activities and for waste management were not provided with the application. Therefore, conditions have been recommended covering these matters, if a permit is to be issued, in order to avoid detriment to neighbouring residents.

### **3. SUBJECT SITE AND SURROUNDS**

- 3.1. The subject site, facing Ferrars Place, is part of the former Albert Park Railway Station complex. It is used as a permaculture garden and has a permit for an education centre, No. 865/2005, which was issued 22 December 2005. The site is occupied by the historically significant station building, situated centrally on the site and comprising four main rooms with an enclosed area between these and the edge of the platform. Land to the north and south of this building is landscaped and various external structures, including the environmental toilet referred to above, exist in these areas. The site as a whole is elevated above the Ferrars Place level.
- 3.2. Objectors have raised questions about the continuing validity of permit 865/2005 due to alleged non-compliance with conditions and failure to submit amended plans as required.  
  
Condition 1 of the permit specifies that the use may not commence until amended plans have been submitted and approved, showing "an on site bicycle parking space". Such plans have not been submitted however and the permit also specifies that it will expire on 22 December 2007 if the use and development had not commenced by that date. On the face of it therefore it would appear that the permit has in fact expired, although it is believed that activities associated with the permit have taken place. Although the question of compliance is not directly relevant to the current application, this matter can be investigated as a separate exercise.
- 3.3. The buildings on the western side of the rail line, fronting Ferrars Street, are used as a retail plant nursery, an office and an art gallery, and have a permit for use as a café.
- 3.4. Ferrars Place has a wide road reserve, with houses along the western side, and the railway station reserve occupying the whole of the eastern side. The area south of the station building is fenced off from Ferrars Place by high cyclone wire.
- 3.5. Car parking on the western side of the street is wholly by permit, with all day ticket parking on the eastern side, apart from two small sections of permit parking on either end. Around fifty all day spaces are provided. Inspections have generally shown vacancies available in the ticket parking area.

- 3.6. Whilst Ferrars Place may appear, to a certain extent, to be a limited access and partially enclosed square, vehicles can in fact enter from the north from Bridport Street and exit via Albert Road to the south; ie. they do not have to exit via the way they came in.

**4. ADVERTISING/OBJECTIONS**

- 4.1. The proposal was advertised to abutting and nearby properties, along with signs being placed on the site, and a total of 21 objections were received.
- 4.2. The objections raised the following key grounds. Officer response and assessment of the objections is set out in Section 7 of this report.

- Noise, from children, parents and vehicles
- 6 30am start too early
- Saturday operations unacceptable
- Lack of car parking in an area already under pressure
- Traffic associated with pick-ups and drop-offs would be detrimental to Ferrars Place and potentially dangerous to residents and children
- A commercial development of this nature is inappropriate on land zoned Public Use and in proximity to a wholly residential locality
- Scale too large (82 children)
- Additional buildings proposed are historically inappropriate
- The use of the site and the proposed new buildings would be out of character with the neighbourhood
- Need for childcare should not override amenity concerns
- Use of a possibly contaminated site for a child care centre is unacceptable.

A discussion of the objections is provided later in this report.

- 4.3. A consultation meeting was held on 19 February 2008 attended by most objectors, several supporters and the applicant and their planning consultant. At the meeting it was confirmed that the principal issues of concern were matters of heritage, scale, hours and days of operation, parking, traffic flow and pick up/drop off issues, and the suitability of this site for commercial operations.
- 4.4. At the meeting the applicant indicated that there was some scope to address key concerns, and in a submission received 4 March 2008 agreed to a number of potential planning permit conditions relating to bicycle parking, landscaping and screening, materials and finishes of the new building, and noise and general operations.

With regard to noise and operational matters, the specific suggestions were:

1. *Limitation of child numbers in the morning period. The centre aims to cater for shift workers in the area that require such care, but as they are limited in numbers we would accept a condition limiting child numbers to 25 prior to 7:30 am. This will stagger the arrival of patrons and ensure activity is limited at this time of day.*
2. *A patron management plan, in the form of an information pack for parents informing them of obligations regarding child behavior, details of available parking and preferred means of access to the centre.*
3. *Deliveries to the site can occur outside peak times, generally during the middle of the day to ensure that residential amenity is appropriately considered.*

4.5. Six of the original objectors lodged further submissions after the consultation meeting. These generally expressed disappointment at the lack of any significant modifications to the proposal (particularly in relation to client numbers), and reiterated the issues of concern previously expressed. The restrictions imposed under the current planning permit (No. 825/2005 – Education Centre) were also raised.

4.6. Several of the objectors recommended that the following conditions be imposed on any permit that may be issued

- *Maximum of 42 children or as many as can be housed in the existing building.*
- *Opening at 8.00 in the morning*
- *No Saturday operations*
- *No extra buildings*
- *Off street parking to be provided by the applicants in accordance with Council's guidelines.*
- *Pick-up and drop-off only to be allowed in Ferrars Street*

## **5. REFERRALS**

### **5.1. Traffic and Parking.**

The application was accompanied by a traffic and parking report prepared by TTM Consulting Pty. Ltd. This concluded that:

*The proposal for an 82 place child care centre is appropriate in a traffic engineering context for the following reasons:*

*The waiver of on-site parking spaces is appropriate as parking surveys confirm that there is adequate on-street parking to accommodate the parking demand generated by the proposal and the use of these spaces will not impact on the existing availability of parking spaces for nearby residents*

*Traffic generation to and from the site can be adequately accommodated within the surrounding street network.*

Council's Traffic and Parking Management Department responded as follows:

Existing:

*Employment training centre (Education Centre) without off-street car spaces.*

Proposed:

Child care centre for 82 children and approximately 13 staff, without off-street car spaces.

Parking and traffic comments:

On street parking within a reasonable walking distance (distance of up to 250m) from the site is utilised at a rate of 50 - 80% during the usual business hours of 9am to 5pm, Monday to Friday and occasionally on Friday and Saturday evenings, especially when there are events at the Sports and Aquatic Centre.

Public transport is good with tram and light rail services a short distance from the site.

Car parking requirements:

The proposal requires the following parking provisions, using empirical rates that we have been using in the CoPP for last 3 years:

82 children @ 0.12 parent spaces per child.....	= 10 spaces
13 staff @ 0.08 spaces per staff member.....	= 1 space
Total required:.....	11 spaces
Total proposed:.....	0 spaces
Shortfall:.....	11 spaces

However, there are credits from the approved use as an education centre (to be replaced by the current proposal), which will reduce the shortfall. While no information is provided on the current use in terms of the number of students, which makes it impossible to work out the current credits, I expect that the shortfall of 11 for the child care would be reduced down to at least 5 if not less. The residential area is well protected from parking infiltration by very restrictive car parking arrangements.

The submitted TE report is recommending changing of 8 currently metered parking spaces to a short term non metered restrictions. While I have no major issues with the application, the applicant needs to realise that these are the current conditions that they want to get a permit for and that we will not change the 8 car spaces for the following reasons:

- do not want to encourage people to drive to the centre
- do not want to lose revenue to Council from the metered spaces
- these are existing conditions that the applicant needs to take into consideration

Bike storages or at least lockers are required.

Please make the applicant aware of these requirements, should issue of planning permit be considered for the proposal, as I would not want them to come back to us requesting the parking change.

Additional Comments 19/3/08

I have been asked to advise on the possibility of having some short term parking - pick up/drop off zone introduced in Ferrars Street in front of the site.

I have investigated this suggestion and it is possible to change the existing 2 hour parking to 5 or 10 minute parking for 3 - 4 spaces in front of the site in Ferrars Street to provide for easier pick up and drop off of children for the centre. No parking changes will be supported in Ferrars Place as stated in my previous comments.

Planner's Comment

*Changing parking restrictions is an administrative task, with powers delegated to Council's Manager, Sustainable Transport. Reference to Council for a formal decision is not required.*

5.2. Children's Services.

Council's Children's Services Department provided the following response to this application:

*The outdoor play space appears to be well designed and meets the COPP Municipal Early Years Plan to maximise the use of natural materials in children's spaces, places, activities and programs.*

*Minimum staffing requirements are:*

- *9 for the 42 children under 3*
- *3 for 40 children over 3*

*This does not include relief staff to cover staff breaks or planning time, cook if meals provided or coordinator/manager of the centre.*

*Traffic issues*

- *Traffic impact has been identified for children attending child care and extended hours kindergarten, however if children are attending on a sessional basis there will also be a drop off and pick up impact for approx. 30 minutes at the beginning and end of each session.*

*Recommendation to developers:*

- *Seek input from the Victorian Department of Education and Early Childhood Development regarding compliance with Children Services Regulations 1998.*

**6. PLANNING CONTROLS**

6.1. Clause 36.01: Public Use Zone 4 – Transport.

Development and use of the land for a for a child care centre (which includes a kindergarten) requires a planning permit, as the use would not be conducted by or on behalf of a public land manager under the relevant provisions of the Local Government Act 1989. A planning permit is required to construct a building or construct or carry out works.

Before deciding on an application, the responsible authority must consider, as appropriate:

- *The decision guidelines at Cl. 65*
- *The SPPF and LPPF, including the MSS and local planning policies.*
- *The movement of pedestrians, cyclists and vehicles providing supplies, waste removal, emergency services and public transport,*
- *The provision of car parking,*
- *The interface with adjoining zones, especially the relationship with residential areas,*
- *The streetscape, including the conservation of buildings, access from the street front, protecting active frontages, the treatment of the fronts and backs of buildings, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road,*
- *The storage of rubbish and materials for recycling,*

- *Defining the responsibility for the maintenance of buildings, landscaping and paved areas,*
- *The availability of connection to services,*
- *The design of buildings to provide for solar access,*
- *The effect that existing uses may have on the proposed use,*
- *The drainage of the land,*
- *The interim use of those parts of the land not required for the proposed use.*

6.2. Clause 43.01 - Heritage Overlay No. 119

A permit is required to demolish or remove a building, construct a building, externally alter a building by structural work, rendering, sandblasting or in any other way, construct or carry out works, externally paint a building, externally paint an unpainted surface in a HO area.

Heritage Victoria is the responsible authority in regard to construction, demolition or alteration of buildings, and related matters, for this site.

Clause 43.01-2 specifies that no permit is required under the Port Phillip Planning Scheme to develop a heritage place if a permit for the development has been granted under the Heritage Act 1995. Permit P12365 was issued by Heritage Victoria on 2 January 2008 for the following purposes:

*Development of the “down” side building and platform; internal alterations to the heritage building, landscaping, and construction of portable buildings, as shown on the plans endorsed by Heritage Victoria as part of this permit.*

6.3. Clause 52.06 - Car Parking

The Planning Scheme has no specified parking ratio for child care centres or kindergartens. Therefore an adequate number of spaces must be provided to the satisfaction of the Responsible Authority. Council’s Traffic Department has adopted empirical rates that have been in use over the last 3 years as follows

- 0.12 spaces per child for parent parking
- 0.08 spaces per staff member

Using these rates a total of 11 spaces are required for these uses.

6.4. Clause 52.34 – Bicycle Parking

The Planning Scheme has no specified bicycle parking ratio for child care centres and it is left to the Responsible Authority to establish its own requirements in this regard.

6.5. Municipal Strategic Statement/Local Policy

The Municipal Strategic Statement has a number of broad objectives relating to the proposal, although there is no specific policy relating to “public use” land:

<b>Clause</b>	<b>Issue/objective</b>	<b>Officer comment</b>
21.03-1 (Key issues)	Limited access of parts of Port Phillip to local shopping facilities, and community facilities such as child care and health services.	The provision of child care facilities in this location will increase the access of residents in the Albert Park area to this type of service.
21.03-1 (Key issues)	Residential amenity impacts associated with proximity of residential areas to areas of commercial, industrial, retail, entertainment and recreational activity.	The Officer Assessment in Section 7 below deals with the various amenity issues raised by objectors to this development and with any other relevant considerations of this nature. The report concludes that, subject to a number of recommended conditions, that the amenity of the local area will not be compromised by the proposed development.
21.05-1 (Residential Land use Objectives)	Ensure that non-residential uses (such as service stations and medical centres) continue to be limited in established residential areas and located on main roads.	The subject site is adjacent to, but not within, a zoned residential area. It is located on land zoned for Public Use, and is bounded on the west side a light rail reserve and then a declared Main Road. Direct pedestrian access from this road is available to the site. Whilst the site is situated opposite land used for residential purposes, it is also close to the Bridport Street commercial area.
21.05-1 (Residential Land use Objectives)	Ensure that new non-residential uses, where permitted, do not result in a loss of amenity for residential properties, particularly as a result of increased traffic and parking demand.	The proposed centre would be subject to a range of operational conditions aimed at reducing or eliminating any potential sources of detriment to residential properties in the area.

## 7. OFFICER'S ASSESSMENT

An assessment of the proposal has been made against relevant Council policies and strategies and the objections received. This assessment, set out below, judges the impact of the proposal against these and any other relevant criteria.

Whilst the first part of the analysis relates to development (under the control of and approved by Heritage Victoria), it is considered important to review those aspects in order to put the proposal into an overall context, and to determine whether they will have any detrimental impact on the local community, as distinct from the use of the land itself. It is also noted that a planning permit is required for the construction of a building and the carrying out of works under the Public use Zone.

### 7.1. Commercial use of land zoned Public Purpose

With respect to Public Use land, the fact is that much land in Melbourne with a similar public use reservation is used for a wide range of activities unconnected to the original purpose of the reservation. This represents a practical and contemporary way to manage changes to land use demand, by way of permits and conditions, without the need for cumbersome and time consuming changes to the zoning of the land.

The uses on the opposite side of the rail line are a prime example. The general test is not whether an enterprise is commercial, but whether it is a net provider of some wider community benefit (in comparison to say a purely retail shop). It is considered that the current proposal does meet this test and, subject to appropriate conditions, would be a satisfactory occupier of this site.

### 7.2. Heritage and design, urban character, local context

All works, including landscaping, are subject to the conditions imposed by Heritage Victoria in its permit issued on 2 January 2008.

The heritage façade of the original station building would be retained, and a canopy originally proposed to be erected over the station entrance has been eliminated pursuant to condition 1 of the permit.

The portable buildings proposed to be erected on the southern end of the site, close to the light rail line have been approved, and the landscaping provided for in the submitted plans should largely conceal these structures from the view from Ferrars Place.

There would be some change in impact in terms of the relationship of the proposal to its surroundings, in view of the other buildings and works to be introduced to the site; however their impact will be reduced by landscaping and the low rise nature of the portables.

It is also considered that the southern end of the site will be visually improved by the proposed works, as this area is currently in a rather unkempt condition and its appearance detracts from, rather than enhances, the amenity of the area.

It considered that given the nature of the works and the landscaping treatment proposed, that the additions will be recessive to the dominant public façade of the station precinct and sympathetic to it.

It is not considered that the proposed works will be out of context with local character or the immediately surrounding heritage places. The setbacks, scale and form of the portables are considered appropriate and low key, and these and related works have been approved by Heritage Victoria.

It should be acknowledged that the station and its surrounding land is not a museum piece, but a community asset that must adapt to current needs that provide for its upkeep, in order to retain this important building.

With regard to the form and location of building works, play areas and landscaping, this objective would be achieved. The works would be low rise, setback from the principal boundary and respectful of the abutting neighbours. They would also achieve a significant improvement to the appearance of the site, particularly the southern section.

### 7.3. Parking and traffic

It is important, particularly in a largely residential area, to discourage new development which may result in adverse amenity impacts from increased traffic and car parking demands. Traffic and car parking issues are consistent areas of objector concern, and are often coupled with the issue of hours of operation. These matters are discussed below.

As noted in Section 5.1 above, the Planning Scheme does not specify parking requirements for a child care centre or a kindergarten, and the amount of parking, if any, is to be to the satisfaction of the Responsible Authority. Council's Traffic Engineer (TE) has assessed demand on the basis of empirical standards established through experience of other similar applications. The assessment was as follows:

<i>82 children @ 0.12 parent spaces per child</i>	<i>= 10 spaces</i>
<i>13 staff @ 0.08 spaces per staff member</i>	<i>= 1 space</i>
<i>Total required:.....</i>	<i>11 spaces</i>
<i>Total proposed:.....</i>	<i>0 spaces</i>
<i>Shortfall:.....</i>	<i>11 spaces</i>

The TE considered that the shortfall could be reduced to five by application of existing-use parking credits for the education centre, approved under Permit 865/2005. In response to that application, demand was assessed, on the basis of student/staff numbers, as thirteen spaces, which however the TE concluded could be absorbed on-street in the area. The TE is of the view that any shortfall in respect of the currently proposed use could also be accommodated on-street in the immediate vicinity. As noted, the Ferrars Place paid-parking area is quite substantial and generally under occupied.

Proposals for conversion of eight Ferrars Place permit spaces to short term parking were opposed, as short term pick-up and drop-off activities could in fact occur in the paid spaces without fee, and would also impact on Council's parking meter revenue. The Department also advised that it would be acceptable to change the existing 2 hour parking for 3 - 4 spaces in front of the site in Ferrars Street to 5 or 10 minute parking to provide for easier pick-ups and drop-offs of children for the centre. This would be for specified periods in the morning and

afternoon. Notwithstanding this, the proposal could still be accommodated within the existing on-street parking restrictions.

It is emphasised that the Albert Park railway station was a public transport facility for many years, attracting daily parkers, delivery vehicles, short term vehicles including taxis, and through traffic seven days a week. This role continues in a reduced capacity today with the conversion of the line to light rail. The proposed use will certainly attract traffic, but it will tend to be concentrated at the start and end of sessions, rather than a continual flow. Also, with Albert Road available for through movements on Ferrars Place, the noise and potential hazards of U-turning vehicles will be avoided or at least reduced.

As part of any permit issued it is considered that a "green transport plan" should be required, possibly included in the proposed "management plan".

#### 7.4. Hours of operation

The child care and kindergarten operations are proposed to operate Monday to Friday from 6.30am to 6.30pm, and on Saturdays from 8.30am to 5.30pm.

Additionally, the centre is proposed to open two evenings per week between 6.30pm and 10.30pm for a limited range of activities associated with the principal use, accommodating a maximum of 60 adults at a time, as discussed in Section 2.4 above.

Also, festivals are proposed on 4 weekend days per year, plus an annual open day and a parents working bee on one Saturday per month.

After the consultation meeting the applicant advised that although the centre aims to also cater for shift workers, they would accept a condition limiting child numbers to 25 prior to 7:30am, in order to stagger the arrival of patrons and ensure activity is limited at that time of day. If a permit is issued it is considered that such a condition should be imposed (refer to recommended Condition 3).

With respect to the weekend working bees, four festivals and one open day per year, it is not considered that would be likely to cause detriment to neighbouring residents, and no objection to these are seen. It is also relevant to bear in mind the long history of public use of this asset and its currently approved use as an education centre.

As regards the Saturday child minding operations, the level of activity is likely to be lower than during the week, with less associated vehicular traffic, and no reason is seen why the amenity of Ferrars Place or the surrounding area would be compromised, particularly with the later start and earlier finish (8.30am to 5.30pm, compared to 6.30am to 6.30pm Monday to Friday).

With respect to evening meetings and the like, it is considered that if these are restricted to activities strictly ancillary to the principal use of the site as a child care centre and kindergarten, that the general amenity condition recommended below would be a suitable tool for monitoring and regulating these activities. ,

7.5. Other amenity aspects (including noise, overlooking, scale of operations, waste management, loading and unloading)

Noise

Noise from the internal operations of the centre is not considered likely to be a problem, given the width of Ferrars Place, the nature of the likely noise and the various acoustic impediments that would be present on the site. It is noted that VCAT has considered the matter of noise from child care centres on a number of occasions but has generally been of the view that noise from a well run centre would not normally be expected to be a problem for neighbours.

Whilst the activities of the children may be audible outside the site to a degree, this is unlikely to be of significant volume or of a detrimental nature by reason of the particular characteristics of the sound, and in any event schoolyard noise is a normal event in an urban location.

Traffic noise would occur, but not continually or to a significant degree, and of a level not excessive for an inner city location, particularly one directly opposite a light (but ex heavy) railway station. It is nevertheless considered that a Management Plan for the centre should be required, and that this should include an appropriate advice package to be given to all adults associated with the use on traffic/noise/parking and other relevant matters so as to minimise any nuisance to residents.

Overlooking

The location and layout of the site would prevent any overlooking of neighbouring properties, and no reason is seen why residents in the locality would suffer detriment for this reason as a result of the proposed development.

Scale

The scale of any new use should be appropriate to the area in which it is located, regardless of whether the area is residential, commercial or industrial, or is used for some other purpose.

The proposal as advertised is for a broadly based kindergarten and child care centre. It requires a wider range of staff skills and facilities than either activity alone, and the applicant is of the view that it would not be a practical proposition to establish such a use with the 50% reduction in numbers suggested by some objectors.

Aside from the question of financial viability associated with a reduction in numbers, the practical benefit of such a reduction to the nearby residents is doubtful. It is considered that once the basic use is established, the difference between a 40 place and an 82 place facility is only going to make a relatively marginal difference to the external impact on the area.

For example, regardless of child numbers, pick-ups and drop-offs would occur during the same time periods each day, and the number of additional vehicles over those times if the numbers were not reduced (which in real terms would not be large) would have little additional impact, if any, on the amenity of the area.

In this case it is not considered that given all relevant circumstances the impact of an 82 child centre would be unacceptable, and thus a reduction in numbers as suggested is not supported.

Need versus amenity

Several of the objectors raised the point that the need for such a centre should not override amenity considerations, and this is clearly a correct statement of basic town planning principles. This report concludes however that amenity considerations will not be overridden, as the location, scale, nature, and relevant permit conditions should work together to ensure that the proposal is a suitable neighbour to the residential uses in the area.

Waste Management

An operation of the scale proposed is likely to generate a fairly substantial amount of waste. It is therefore considered appropriate, in order to eliminate the possibility of detrimental impacts on the area, to require as a condition of permit submission of an adequate waste management plan prepared in accordance with Council's Community Amenity Local Law No:1. See recommended Condition 13.

Loading and unloading

Delivery operations to the site, depending on the number, scale, type of vehicles involved and delivery hours, could potentially have detrimental effects on traffic flow, parking and general amenity. A condition specifically limiting delivery hours to between 10.00am and 6.00pm on weekdays is recommended.

7.6. Use of a possibly contaminated site

It is not known whether any contamination of the site exists, and it is important to note that the subject land is not affected by an Environmental Audit Overlay. The Department of Human Services would not agree however to licence any proposed child care centre where a danger of contamination was considered possible, and it is considered that this aspect of the proposal is best dealt with by that Department.

**8. ENVIRONMENTAL ASSESSMENT**

The permit applicant has not submitted a specific sustainability statement, and although no concerns are felt generally in regard to the environmental sustainability of this project, it is considered that one should be required by condition of permit, and when approved be endorsed as part of any permit.

**9. COVENANT**

There is no restrictive covenant on title.

## **10. CONCLUSION**

- 11.1. Whilst Council is not the responsible authority for the proposed buildings and works, their nature and extent is supported, and it is considered that the Heritage Victoria permit will ensure a net improvement in the appearance of the site, without any detriment to its heritage characteristics or to the amenity of the area.

On the basis of the proposed numbers of children and staff, Council's Traffic Engineer is satisfied that any shortfall of car spaces can be accommodated on street without detriment to traffic flow, parking availability or the amenity of the local residents.

- 11.2. Traffic to and from the centre would be largely limited to relatively small periods of time at the start and end of sessions, and would not be spread continually over the opening hours of the centre. Given the amount of paid parking in the immediate vicinity, plus the possible conversion of five car spaces on Ferrars Street to short term parking, it is not considered that pick-up and drop-off activities will impact on orderly traffic flow in the immediate area.
- 11.3. Subject to the recommended conditions, covering in particular hours of operation, child numbers, and the preparation and distribution of a Management Plan, it is considered that the proposed development would integrate appropriately with the neighbourhood and would provide a substantial benefit to the community in terms both of child care and the conversion of a partially derelict site into an attractive community asset.
- 11.4. Subject to the conditions as noted, it is recommended that a Notice of Decision be issued.

## **11. OPTIONS**

- Approve as recommended.
- Approve with changed conditions.
- Refuse - on key issues.

## **12. RECOMMENDATION: NOTICE OF DECISION**

That the Responsible Authority, having caused the application to be advertised and having received 21 objections is of the opinion that the development and use of the eastern side of the former Albert Park railway station site as a child care centre and kindergarten, including construction of portable classroom buildings, construction of landscaping and play areas, construction of an external toilet (retrospective) and waiving of car parking requirements, will not cause material detriment to any person other than the applicant.

That a Notice of Decision to Grant a Permit be issued for development and use of the eastern side of the former Albert Park railway station site as a child care centre and kindergarten, including construction of portable classroom buildings, construction of landscaping and play areas, construction of an external toilet (retrospective) and waiving of car parking requirements, generally in accordance with the endorsed plans and subject to the following conditions.

1. Before the development and use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) Deletion of the canopy proposed to be erected above the station entrance.
  - b) Provisions for bicycle parking.
  - c) Location of waste and recycling facilities.
2. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
4. Hours of operation and the maximum number of children present shall be as follows:
  - (a) The child minding and kindergarten services may only operate between the hours of 6.30am and 6.30pm from Monday to Friday and between the hours of 8.30am and 5.30pm on Saturdays.
  - (b) A maximum of 25 children may occupy the site between 6.30am and 7.30am on any weekday.
  - (c) A maximum of 82 children may occupy the site at any time that this permit allows the use to be conducted.
  - (d) On 5 Sundays per calendar year the land occupied by the Child Care Centre and Kindergarten can be used in association with the use hereby permitted for a festival or open day between the hours of 9.00am and 6.00pm with the written permission of the Responsible Authority.
5. All external materials finishes and paint colours are to be to the satisfaction of the Heritage Victoria and must not be altered without the written consent of that Authority.

6. Prior to the commencement of the development hereby permitted, a landscape plan and schedule must be submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of the permit. Landscaping in accordance with such approved plan and schedule must be completed before the commencement of the occupation of the building hereby permitted.
7. Prior to commencement of the use hereby permitted a Patron Management Plan satisfactory to Council shall be submitted. This plan should be in the form of an information pack for parents informing them of obligations regarding child behavior, hours and days of operation, details of available parking and restrictions thereon, public transport availability, preferred means of access to and from the centre and any other relevant matters. When approved the Management Plan shall be endorsed as part of the permit.
7. No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the buildings on the site unless otherwise agreed to in writing by the Responsible Authority.
8. Any plant and equipment proposed on the roof of any building must be screened in a manner to complement the appearance of the building to the satisfaction of the Responsible Authority.
9. Prior to the commencement of the works permitted by this permit a sustainability statement detailing sustainable design strategies to be incorporated into the development to the satisfaction of the responsible authority.
10. Before the use commences, a green travel plan to the satisfaction of the Responsible Authority, prepared by a suitably qualified professional, must be submitted to and approved by the Responsible Authority. The green travel plan must provide detailed advice regarding how traffic movements and staff parking will be managed and ensure an alternative, non-private vehicle transport modes will be encouraged and ensured. The plan should also identify specific opportunities for the provision of more sustainable transport options and encouragement of their use. The plan must include but not be limited to:
  - (a) Tram, train and bus timetables to be installed in prominent locations in public areas (on notice boards, etc).
  - (a) Bicycle parking areas to be installed in well secured and prominent locations.
  - (b) Signs to be installed in prominent locations advising of the location of existing and proposed share car schemes, bicycle parking facilities, tram stops, taxi ranks, railway stations, bus stops and bicycle paths.
  - (c) Establishment of a car-pooling database for users of the centre.
  - (d) Specific targets to guide the plans ongoing implementation.
  - (e) Identification of persons responsible for the implementation of actions.
  - (f) Estimation of timescales and costs for each action.
  - (g) A plan for monitoring and review of the Travel Plan on an annual basis for at least three years.

11. Before commencement of the works, a construction management plan must be prepared, including a works program, with the objective of minimising the impact of construction works on the nearby residential properties to the satisfaction of the responsible authority. The plan must specify the means of reducing the construction impact (at the cost of the applicant) of dust and noise on the nearby properties, and must provide that hours of work be in accordance with any relevant Local Law.
12. All lighting of external areas must be suitably baffled so as not to cause nuisance or annoyance to nearby residential properties.
13. Deliveries of goods to the site may only take place between 10.00am and 6.00pm on weekdays.
14. No delivery activities may affect the amenity of the area by reason of noise.
15. Prior to commencement of the use hereby permitted an adequate Waste Management Plan in accordance with Council's Community Amenity Local Law No. 1 must be submitted to and approved by the Responsible Authority. The plan must specify:
  - (a) Location of rubbish and recycling bins.
  - (b) Contract collection arrangements (if relevant).
  - (c) Bin collection times.
16. The amenity of the area must not be detrimentally affected by the use or development through the:
  - (a) Transport of materials, goods or commodities to or from the land.
  - (b) Appearance of any building, works or materials.
  - (c) Emission of artificial light.
  - (d) Presence of vermin.or in any other way.
17. Without the further consent of the Responsible Authority, no form of public address system, loud speakers or sound amplification equipment shall be used on the premises so as to be audible outside the premises.
18. The permit holder must ensure that the level of noise emitted from the premises does not exceed the permissible noise levels of mechanical equipment as specified in the *"State Environment Protection Policy N-1 Control of Noise; Industrial, Commercial and Trade Premises; within the Melbourne Metropolitan Area"*.
19. This permit will expire if one of the following circumstances applies:
  - (a) The use is not started within 2 years of the date of this permit.
  - (b) The use is not completed within 2 years of the date of commencement.

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within three months afterwards.

**Permit Notes**

This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

The applicant/owner would provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

The developer shall show due care in the development of the proposed works so as to ensure that no damage is incurred to any adjoining properties.

Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

Permit required for signs

This permit relates only to the use and development of the land and does not comprise an approval for the erection of any advertising signs. The location and details of any advertising signs to be erected on the land and not exempt pursuant to the Port Phillip Planning Scheme, must be the subject of a separate planning permit application.