

**Submission
No 38**

INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK

Organisation: Highett Community Response to the Graham Road Development

Date Received: 26 January 2022

Inquiry into the protections within the Victorian Planning Framework

Organisation Name: Highett Community Response to the Graham Road Development
Your position or role: Member

YOUR SUBMISSION

Submission:

To: Legislative Council Committee, State Government of Victoria

SUBMISSION

We make this submission on behalf of the 'Highett Community Response to the Graham Road Development' and the residents of Highett generally, into the adequacy of the Planning and Environment Act 1987, as it has been applied to the former CSIRO site in Highett, by Bayside City Council.

We submit that the council approval of the revised Development Plan proposed by Sunkin Pty Ltd for 1022 apartments on the CSIRO site in Graham Rd Highett has failed to adhere to the relevant planning scheme and zoning documents that are applicable to the site, namely RGZ3 and the Schedule 2 to clause 43.04 Development Plan Overlay (known and shown on the planning scheme map as the "DPO2") at p 580 of the applicable current local planning scheme (C162 Bayside) as approved by the Victorian Minister for Planning.

The council has approved this development above the agreed height limits by some 1-3 storeys to 5 to 7 storeys blocks. Their previous planning scheme documents state 4 storeys maximum. Further, the Plan as approved proposes multi-storey apartment complexes across the site, rather than concentrating taller apartment complexes at the northern end of the site.

At an "ordinary" council meeting on the 26th October 2021, Bayside Councillors voted 6-1 in favour of the Plan, with many arguing in favour of their vote to approve the Plan, that it was undesirable to contest the matter at VCAT due to the risk of VCAT members increasing, rather than reducing the height of the development. The council has failed to represent the community's opposition to the Plan by not contesting this Development Plan at VCAT.

Councillor El Mouallem was the sole dissenter at the Council meeting, but regrettably he was last to speak at the meeting, when his colleagues had already cast their vote – meaning that the opportunity was lost for his fellow councillors to change their vote. In stating his reasoning behind his vote, he made several key points including the lack of compliance of the plan with the intent and requirements of the DPO2 in not graduating significantly in height of the proposed dwellings towards the southern end of the site abutting the neighbourhood residential zone, and the impermissible inclusion of a sewerage/draining easement over a section of land dedicated to the provision of open space.

In voting to approve the Plan, Bayside Council have:

- Failed to take into consideration in a meaningful way the level and strength of community opposition to the Plan even in its marginally revised form as presented by Sunkin Pty Ltd (Over 820 submissions sent to Bayside City Council in a period of lockdown during a pandemic, at a time when many residents would have been unable to respond adequately due to home schooling and other additional pandemic related work-life pressures – with over 80% of the responses consistently opposing the scale, height and density of the proposed Plan), and consequently, failed to seek substantial changes to the Plan, which would have brought it into conformity with the relevant planning scheme documents prior to granting approval.
- Failed to protect the Highett Community. Bayside Mayor L. Evans at the General Council Meeting, 26/10/2021, said that councillors rejected the application based on community concerns. Bayside Councillors rejected the Andrew Bogut plan (VCAT subsequently approved) when there were 59 objections, 69.4% against and 26 in support. There were greater than 640 strong objections to the scale and form of the CSIRO Development Plan, clearly an imbalance and a complete contradiction of Mayor Evans comments. Bayside Council spent \$84000 and hired a QC on the Bogut VCAT case. A council officers report on the

CSIRO mentions there are no funds for a VCAT case.

- Failed to give adequate time for their own councillors to adequately inform themselves as to the Planning considerations relating to such a significant site and scale of the proposed development. Briefing documents were only provided to Councillors less than a week prior to the meeting on 26th October 2021, which is woefully inadequate given the scale and strategic importance of the development, noting that many of the Councillors do not have development backgrounds, and ought to be given additional time to consider and reflect on what is proposed, particularly in respect of such a major proposed development.
- In a video between the Mayor L Evans and CEO Mick Cummins prior to the upcoming General Council Meeting 26/10/2021, they discussed how high density at the CSIRO would provide future benefit to other areas of Bayside, not being overdeveloped, as well the CEO urged the councillors for a swift decision. This video was removed from the Bayside Website. We currently have a FOI request for this video, which we can forward when we receive it.
- Failed to require the Developer to conform with the DPO2 by submitting a compliant revised Plan.
- Caused or permitted a situation whereby the councillors collectively felt under pressure to decide and vote on the Development Plan on the date of the Meeting (26th October 2021), due to there being insufficient time to advertise and hold a possible additional Council meeting prior to the statutory deadline to make decide and vote from the date the Plan was first advertised for public submissions.
- Voted on the decision regarding the former CSIRO site at an “ordinary” council meeting, which had a full and extensive agenda, rather than holding a “special” council meeting on an earlier date dedicated to debating and considering it at length.
- In approving a development comprising 15 multiple storey towers of 5-7 storeys in height across the length of the site, and not graduated as envisaged by the DPO2, utterly failed to consider the impact on the existing neighbourhood character consisting of low scale developments of the considerable built form as proposed by the development, which is not adequately ameliorated by the setbacks proposed in the Plan.
- Neglected to commission and obtain an independent traffic assessment report to adequately scrutinise the true ability of the local roads to service the scale of the proposed development, as had been done previously for other local developments of a smaller scale.
- Failed to challenge or question the underlying assumptions contained within the traffic assessment report relied upon in support of the scale of the development as proposed by Sunkin Pty Ltd.
- Failed to realistically consider the roads adjacent to the site and the likely impact upon the roads to service the scale and density of the dwellings.

- Directly exposed the Neighbourhood Residential Zone to future traffic from the Highbett Activity Centre via the Development by permitting the developer to utilise a presently unused potential access road to the site via Middleton St, which is presently already close to if not over capacity within the Neighbourhood Residential Zone. It is unclear what if any limitations as to the manner of access, which will be permitted (eg. as one-way) or how the impact upon residents of Middleton and surrounding streets will be minimised, and there is no fixed or specific commitment to protect the Neighbourhood Residential Zone.

- Placed excessive and unrealistic reliance on the proximity of public transport to the site in approving the number of dwellings as proposed in the Plan, without having genuine regard to the reliability of this assumption.

- Failed to consider the other anticipated increased local traffic movements which would impact the site, including by Council's own admission, not even considering the increased traffic flow anticipated in relation to the "Ryman" development diagonally opposite the former CSIRO site upon which construction has already commenced, which Council had approved prior to consideration of the former CSIRO development plan.

- Failed to consider the opinions of the nearby residents living on the "Kingston" side of the railway lines, who will also be directly affected by the proposed development – noting that Kingston residents received no formal notice of the Development via letterbox drops.

- Relied upon irrelevant considerations in making the decision to concentrate development on the site to the degree as proposed by the Development Plan – namely the objective of Council to ensure protection of the balance of the General Neighbourhood Residential Zone in the municipality of Bayside from the need to provide additional housing in Bayside to the degree forecast by the State Government of Victoria in the area, as opposed to a genuine consideration of the suitability of the site to service the number of dwellings proposed and the likely impact on the amenity of local residents.

The attached submission clearly articulates the substantial and numerous community concerns in great detail.

We respectfully request the members of Legislative Council grant a revocation of the planning approval granted by Bayside City Council in consideration of the above matters concerning the lack of proper consideration and failure of due process in making the decision.

Thank you for your time in this matter.

FILE ATTACHMENTS

File1: [61f0c9520489f-Written Submission - Council Meeting 26 October 2021 - Final Version \(2\).pdf](#)

File2:

File3:

Signature:

[REDACTED]