

01 KEW RESIDENTIAL SERVICES URBAN DESIGN FRAMEWORK

FILE NO: 40/403/00070

On 17 October 2003, in a Media release issued by the Minister for Community Services one day before its release, Council became aware that the State Government had developed an alternative vision plan for the Kew Residential Services Site.

Later that day, Council received a letter from VicUrban written on behalf of the Department of Human Services providing detail of the State Government plan. That letter seeks Council's support for the substitution of that plan in place of Council's adopted UDF, as the basis of the amendment currently being prepared by Council.

The letter also seeks Council's commitment to timeframes, which would see a final Council resolution on the amendment (following consideration of the report of the expected independent panel hearing) by June 30. It is possible that should Council reject these proposals, the Minister for Planning may use her statutory powers to call the matter in and exhibit the State Government proposal.

It is not considered appropriate that the Minister should use those powers in the interests of the State Government as a developer in this case.

RECOMMENDATION

That Council:

- A. Write to the Premier and advise the following:
 - 1. Confirm that the amendment process will be concluded by 30 June 2004 as requested by the State Government provided the government ensures that the appointment and scheduling of hearings by any Independent Panel appointed is expedited.

2. The information contained in Minister Garbutt's media release is factually incorrect and grossly misleading in that;
 - The government is proposing to reduce the amount of public space on site from 50% to 27% and has not declared this to the community;
 - The Minister claims that the original UDF "allowed for 1600 dwellings" whereas it did not in fact, specify any number; The number of dwellings and their height is totally within the control of the developer (State Government) subject to the design principles of the UDF being met;
 - Council's UDF does not require high density living as alleged by the Minister. It allows the site to be developed with single and double storey buildings and the government's revised UDF is not necessary to achieve this outcome;
 - The government has not declared its intention to increase building heights on the most visually sensitive part of the site from 3 storeys to 5 storeys;
 - The Minister has attempted to create the impression that the government has reduced building heights from 7 storeys to 5 storeys when this was in fact done by Council as part of its adoption of the UDF.
3. The government's objective to increase the amount of land for development on the site at the expense of public open space is unacceptable.
4. Attempts to gain community acceptance for significant reductions in public open space by raising community fears about high density living is both disingenuous and irresponsible having regard to this government's commitment to Melbourne 2030;

5. That the UDF was developed by a community based working group with a period of 18 months of community involvement. At no stage in this process did the four State Government representatives on the working group raise any substantive objection to the public open space requirement.
6. The conflict of interest arising from the fact that the State Government is both owner and developer in this case demands that the highest standards of public accountability be applied and that the government subject itself to the same independent process as any other developer in this State.
7. The planning scheme amendment process Council is about to commence allows the State Government to formally propose its changes to an Independent Panel for proper consideration and Council invites the Government to submit its revised UDF to the panel for consideration at the appropriate time.
8. Given the above, there is no justification for Council being replaced as the planning authority and any attempts to circumvent due process by replacing Council's adopted UDF with the Government's and replacing Council as the planning authority for the sake of increasing financial returns on this site will be vigorously resisted.

B.

1. That Council's Chief Executive Officer and Director Urban Planning as appropriate be authorised to arrange for public notice of Amendment C38 to be given in accordance with section 19 of the Planning and Environment Act 1987. ("the public notice")
2. Council delegate to the Chief Executive Officer and Director Urban Planning as appropriate:
 - (a) the function of considering submissions made in response to the public notice; and

- (b) after considering all submissions made in response to the public notice, the powers, discretions and functions in section 23(1) of the Planning and Environment Act 1987.

And in the exercise of these powers the delegate must consult with the Special Planning Advisory Group of Councillors in determining whether to refer the amendment to an Independent Panel.

- 3. That an Instrument of Delegation be sealed to give effect to the delegation made in this resolution.

RESPONSIBLE PHILLIP STORER -
DIRECTOR: DIRECTOR, URBAN PLANNING

FILE NO: 40/401/00070

1. **Title**
Kew Residential Services (KRS) Urban Design Framework.
2. **Purpose**
To inform Council as to the contents and implications of and approach of State Government in releasing a the new plan released by the State Government for the Kew Residential Services site on 18 October 2003..
3. **Policy Implications**
Defined in a report to the Urban Planning Special Committee on Monday 4 August 2003 relating to this matter.
4. **Relevance to Council Plan**
Defined in a report to the Urban Planning Special Committee on Monday 4 August 2003 relating to this matter.
5. **Background**
Following the State Government's announcement in late 2001 of its intention to redevelop the Kew Residential Services site, Council initiated a process of preparing an Urban Design Framework to guide redevelopment of this significant 27ha site. Council established a community based Working Group to assist in the preparation of the Urban Design Framework (UDF). A more detailed background is provided in **Attachment 12**. Council adopted a modified version of the Working Group's draft UDF by Council on Monday 4 August 2003.

On Friday 17 October 2003, Council became aware that Minister for Community Services, the Hon. Sherryl Garbutt, had announced the release of an alternative plan prepared by the State Government. (**Attachment 2**.) Subsequently, Council received correspondence from the Minister, and from VicUrban (on behalf of the DHS) which seek Council's agreement to the exhibition of a planning scheme amendment that includes the modified plan, and its support and commitment to meeting specific timeframes in the consideration of the amendment. (**Attachments 3 and 4**).

Whilst it is easy to see the influences of the Council adopted UDF in the State Government plan, there are several key changes that challenge the fundamental core of the work undertaken by the Working Group, and the critical issues identified by key stakeholders during then development of the UDF.

These changes particularly relate to a significant reduction in public open space (from 50% to 27%), unsubstantiated yield estimates (from 450 up to 800 dwellings), a significant increase in building area at ground floor level, and reduced buffers to adjoining land uses.

6. Issues

Attachment 5 provides an assessment of the Minister's Media release. **Attachment 6** provides an analysis of the State Government proposal and plan, and of the options available to Council. **Attachment 7** contains the Council adopted UDF plan.

The revised plan has emerged, in spite of the transparent findings of the previously agreed upon UDF process of which the DHS was an active participant, they were actively involved in, through three membership of this Working Group, along with an additional representative from the Department of Sustainability and Environment. It is disappointing that these concerns have emerged now.

The proposed significant reduction in public open space, misleading information regarding building heights and the incorrect assertion that the UDF allowed a particular number of dwellings raise serious concerns about the bona fides of the government in this matter. The seeming threat of use of Ministerial powers to have the Minister replace Council as the planning authority in these circumstances emphasizes the difficulties which arise where the government assumes the role of landowner, developer and planning authority.

The State Government appears to be attempting to pre-empt Council's consideration of its request by distributing an information leaflet over the weekend.

The Government has the opportunity to submit its proposal to the process being conducted by Council and attempts to force Council to adopt the government's revised UDF are equally improper and contrary to due process.

7. Consultation

No consultation has been undertaken by DHS in the development of its alternative plan. Significant community consultation with all key stakeholders occurred as part of the Council run 18 month UDF. Consultation would occur during the exhibition of an amendment.

8. Financial and Resource Implications

Council set aside funds for the planning scheme amendment in its 2003/4 budget.

9. Conclusion

Council should act to facilitate the exhibition of its UDF based amendment so that the certainty sought by all stakeholders affected by the redevelopment of this site is delivered. In this regard, it is proposed that Council delegate certain authorities relating to the preparation and exhibition of the amendment, the consideration of submissions and the calling for an independent panel hearing as discussed in **Attachment 6**.

MANAGER: NOEL MATTHEWS – MANAGER, STRATEGIC PLANNING
REPORT OFFICER: TOM HARRINGTON - SENIOR STRATEGIC PLANNER

ATTACHMENT 1 - Background

The Premier's statement

On May 4, 2001 The Premier The Hon. Steve Bracks announced the redevelopment of Kew Residential Services, formerly known as Kew Cottages.

Announcement of UDF

Following the Premier's announcement, Council initiated a process in co-operation with the Department of Human Services of preparing an Urban Design Framework to guide redevelopment of this significant 27ha site. Council established a community based Working Group to assist in the preparation of the draft UDF.

The working group comprised Councillors (3), community representatives (4), Council officers (2), and State Government representatives (4).

Urban Design Framework (UDF)

The UDF process allowed Council, its community and other key stakeholders to outline their vision as to how a site should be developed. The process of preparing an UDF is an exercise in planning from first principles. It is a process based on how planning should occur and one which demonstrates best practice and leading edge planning processes.

Background documents supporting the UDF were:

- Kew Cottages Conservation and Management Plan Final Draft, April 2002
- Preliminary Site Report – Boroondara KRS Working Group March 2002
- Kew Cottages Site Precinct (Morphology) Study, May 2002
- Preliminary Environmental site assessment and geotechnical investigation Kew Cottages, April 2002

A draft Urban Design Framework was formally released for community consultation in late February 2003.

Council approval of KRS Urban Design Framework

Council's Urban Planning Committee approved the UDF on 4 August 2003. Amendments to the UDF were made at this meeting to address further concerns raised by the community. These amendments were made to deliver further certainty to the community, ensuring that the UDF would not be exploited by the development industry in the future redevelopment of the site.

Release of State Government Plan

The State Government publicly released their plan proposing significant changes to Council's adopted UDF for the site on the 17 October 2003, in spite of the findings of an 18-month Urban Design Framework process that they have actively participated in and contributed to without prior consultation or advice to Council and contrary to due process.

Additionally, the State Government attempted to set a 31 October deadline for Council's response and has attempted to pre-empt Council's consideration by distributing a leaflet on the weekend.



Media release

From the Minister for Community Services

EMARGOED until 6am on Saturday, 18 October 2003

BRACKS GOVT RELEASES NEW PLAN FOR KEW RESIDENTIAL SERVICES

Community Services Minister, Sherryl Garbutt, today released a new Bracks Government planning framework for the redevelopment of Kew Residential Services.

Releasing the new Urban Design Framework (UDF), Ms Garbutt said the new plan would provide high quality housing for people with disabilities and preserve the character of the local Kew neighbourhood.

The new plan builds on an earlier Urban Design Framework developed by a working group involving representatives from Boroondara Council, the Department of Human Services, Kew Parents and the local community.

While accepting the need for the Kew Residential Services (KRS) redevelopment, Boroondara Council passed the framework in August with significant changes.

"After considering the views of the council and the community, the Bracks Government has now developed a framework that recognises their concerns and goes most of the way towards meeting their requirements," Ms Garbutt said.

"Under this new plan, the housing density on the site will be significantly reduced and there is a maximum building height limit of five storeys – down from seven storeys proposed by Boroondara Council's working group.

"The redevelopment of Kew Residential Services will ensure people with disabilities will have better housing, better support services and a better life in the community."

Ms Garbutt said the majority of housing on site would be low-rise in keeping with the character of the local neighbourhood.

"Currently, the grounds of the institution are not available for public use, but the new framework will provide significant public open space to be enjoyed by local people and retains heritage trees," she said.

"The new redevelopment of Kew Residential Services is a project of statewide significance and we want the planning process to move in a timely fashion to give certainty to residents, their families and the local community."

Key features of the new Bracks Government Urban Design Framework include:

- The number of dwellings will be significantly reduced. The original UDF allowed for 1600 dwellings – the new plan allows for between 50 and 800 dwellings.

Media contact: Sarah McKinnon 9651 5799 or 0409 008 412

www.vic.gov.au

ATTACHMENT 2

Page 2

- A three storey maximum height across the majority of the site with most allotments being developed as individual one and two storey dwellings rather than apartment blocks;
- Restricts maximum building heights to 5 storeys -- down from seven storeys proposed by the Boroondara Council's working group;
- Provides a significant amount of open space (about 27 per cent of the site) and provides links to neighbouring open space along the Yarra;
- Retention of heritage trees including the two major avenues of trees;
- Protects the character of the neighbourhood including managing traffic and preventing vehicle access to Wills Street.

"The Bracks Government has made a commitment to provide sport and recreation facilities on site, which the local community will be able to access," Ms Garbutt said.

"We have also committed to building 20 houses for the 100 residents with disabilities who will live on site in the new development.

"The new plan provides for three groups of houses located close together depending on the individual needs of KRS residents."

The new Urban Design Framework will form the basis of the planning scheme amendment, Ms Garbutt said.

"The Bracks Government will work collaboratively with the City of Boroondara in progressing the new Urban Design Framework," she said.

The Kew redevelopment was announced in May 2001 and would move 380 residents into local community housing with intensive, 24-hour support over the next four to eight years. Another 100 residents will remain on site in new purpose-built housing.

All proceeds from the sale of the 27-hectare site will pay for the redevelopment.

The KRS planning process is expected to be completed in late 2004. Construction on the KRS site is expected to begin in early 2005 and will take place progressively over the following two or three years.

Level 11, 360 Elizabeth Street
GPO Box 2428V
Melbourne Victoria 3001 Australia
Telephone +61 3 9664 8444
Facsimile +61 3 9662 1666
www.VicUrban.com

17 October 2003

Mr Peter Johnstone
Chief Executive Officer
City of Boroondara
Private Bag 1
CAMBERWELL VIC 3124

Dear Mr Johnstone

KEW RESIDENTIAL SERVICES

I am writing on behalf of the Department of Human Services (DHS) to seek your agreement to a proposed approach for taking forward the rezoning of the KRS site in a manner which respects both the concerns of the community as well as meeting the need to provide certainty to the people with disabilities, residing at KRS, concerning their future accommodation, in accordance with Government commitments.

DHS considers that the process of developing the Urban Design Framework through the working group was very effective, as it was based on first principles and objectives being logically translated into a development framework. We believe that the framework provided a basis for achieving a good development outcome which also met the need for DHS to accommodate about 100 of the current residents on site, as well as realising returns to provide accommodation, for the residents who are moving to other parts of the community. At the same time, we recognise that there were considerable community concerns, which were reflected in Council's resolution to change a number of key aspects of the framework.

We have given serious consideration to the issues underlying the Council decision and we accept that there is a need to vary the proposals, so that those community concerns are respected and addressed. We believe that there is a development solution, which provides an acceptable outcome on all these matters, albeit with some variation to some of the specifics. VicUrban has prepared a modified Urban Design Framework (UDF) for DHS, which we propose should form the basis for a Planning Scheme Amendment. The plan reflects much of the Council adopted framework within the exception of the expectations by Council of 50% open space. We would be happy to discuss this framework, which we believe will deliver certainty for the community as well as for DHS.

The key aspects of the proposed modified UDF are as follows:

Building heights

Maximum building heights have been reduced to no more than five storeys, with transition between building heights and with greater mix in building heights.

Development yield

While the UDF does not specify development yield (as this is something that would be determined by specific proposal from developers, at a later stage) the development yield is significantly reduced as a result of the height reduction.

Accommodation for KRS residents

It is not appropriate, in a planning instrument, to specify the exact location of housing for people with disabilities. However, as part of the review process, DHS has ensured that the framework provides an appropriate basis for the provision of 20 dwellings for people with disabilities, on site, recognising the need for these to be on the ground level to meet disability standards and requirements as well as being consistent with the development on other parts of the site. The framework will also enable some grouping of housing for people with disabilities where appropriate.

Access to Wills Street

No vehicular access or connection will be provided to Wills Street from the proposed redevelopment.

Open space

A significant amount of open space has been retained, recognising that there is a trade-off between development density and open space. While this does not meet the 50 per cent open space requirement proposed by Council, it provides an opportunity for both active and passive open space areas that will be attractive and useable and, importantly, provides links between this site and the significant adjacent open space areas.

Site coverage

The proposed framework does not establish a percentage of site coverage, however, you should note that we consider the requirement for 50 percent site coverage to be unrealistic, especially as there is already a very generous public open space provision. The UDF does not address site coverage as this is usually addressed at the planning permit or building approval stage for individual lots, having regard to the design objectives and guidelines developed for the site and the effect of visual bulk of the buildings and whether this is acceptable in the neighbourhood.

External impacts

We accept that it is important for external impacts, such as traffic, to be managed and that we would agree to a requirement for these issues to be examined and tested to be incorporated in the planning framework.

A schematic plan representation of building heights, under our revised proposal, for the UDF is attached. Also attached is an information brochure. You will see from this that there have been some significant modifications from the original proposal, which we believe represents a very serious attempt to address the issues, which have been raised by the community.

We believe that our proposal presents a viable way forward, which overcomes the key concerns raised with respect to the original UDF and we also recognise that the statutory planning process will provide further opportunities for public scrutiny as well as review by an independent panel. We therefore seek your support in obtaining Council agreement to the exhibition of a Planning Scheme Amendment that includes a modified UDF as discussed above and provides an appropriate zoning framework for the future redevelopment of the site.

In seeking agreement to an amendment, we would also seek Council's support and commitment to the timeframe for the decision making processes. As you know, the UDF process took almost twice as long as originally anticipated and agreed by Council. Obviously ongoing delays would have a serious impact on our ability to deliver more appropriate residential solutions for the residents of KRS. It is vital that these residents, their family members and the local community have certainty as soon as practicable. We believe that the length of time already invested in the development of the UDF, has enabled extensive airing

and consideration of key issues and that this should, therefore, help to expedite the statutory planning process. We believe that the proposed timetable, set out below, provides an opportunity for extensive public and Council involvement, whilst at the same time avoiding excessive delays.

Proposed timetable

Planning Scheme Amendment to go on exhibition	Mid November 2003
Exhibition closes	Mid December 2003
Council consideration and decision no later than	Mid February 2004
Review by independent panel	March 2004
Council consideration of panel report	May 2004
Council recommendation to Minister	June 2004

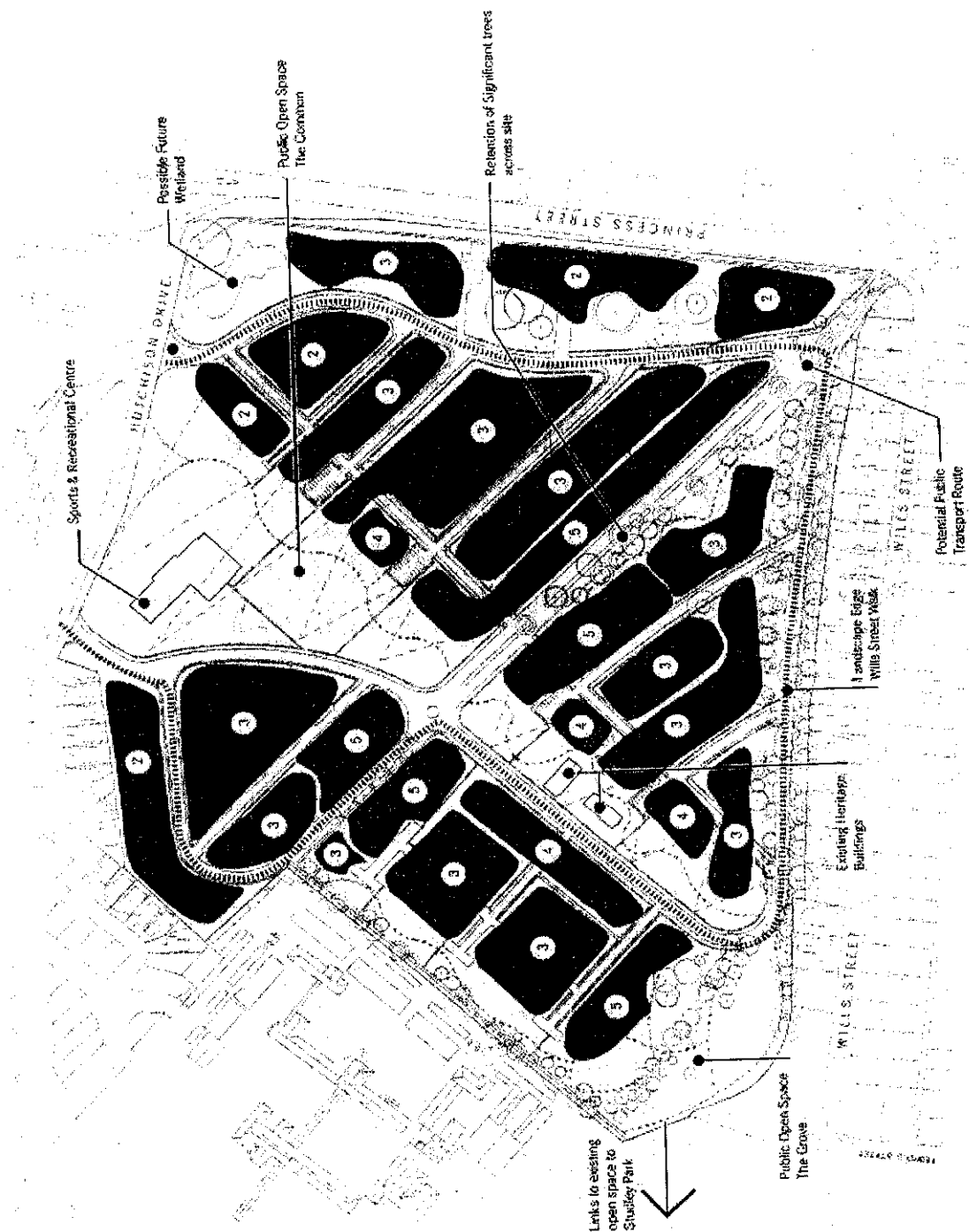
Our proposed approach represents a genuine attempt to resolve the current impasse and to move towards a solution, which appropriately balances the needs and aspirations of Council, the community and the KRS residents. I trust that you will find this an acceptable way forward. In order to help us achieve some certainty concerning this issue, we seek your response and, we hope, agreement in principle, to our proposals, including the timetable, by no later than 31 October 2003.

Yours sincerely



Mark Whinfield
Manager, Urban Development

Attach



**Attachment 4 - Copy of letter from Minister for Community Services dated 16 October
(received 21 October) detailing State Government proposal.**

Minister for Community Services

555 Collins Street Melbourne 3000
PO Box 4057 Melbourne 3001
DX: 210098

(03) 9616 7500 (Tel)
(03) 9616 7818 (Fax)

☐ URGENT
☐ CONFIDENTIAL

Fax

To:	Ms Judith Voce, Mayor City of Boroondara	From:	James O'Brien
Cc:		Date:	21/10/03
Fax:	9278 4456		
Pages:	3 including cover sheet		
Subject:	Kew Residential Services		

Dear Ms Voce

Please find attached a copy of the letter sent to you last week, concerning Kew Residential Services, which I understand that you have not received.

Yours sincerely


James O'Brien
Chief of Staff



Minister for Community Services

The Hon Sherry! Garbutt MP

555 Collins Street
GPO Box 4057
Melbourne Victoria 3001
DX210081
www.dhs.vic.gov.au
Telephone: (03) 9616 7500
Facsimile: (03) 9616 7818

15 October 2003

Ms Judith Voce
Mayor
City of Boroondara
Private Bag 1
CAMBERWELL VIC 3124

Dear Mayor,

I am writing to you to outline the Government's revised plans for the redevelopment of Kew Residential Services (KRS). I seek your agreement to a proposed approach for taking forward the rezoning of the site in a manner which respects both the concerns of the community as well as the requirements of the Government.

As you are aware, the Bracks Government has a very strong commitment to the redevelopment of KRS, which is a major component of the State Disability Plan.

Vic Urban has written to Council officers detailing a new plan which it is proposed could form the basis for a Planning Scheme Amendment to be exhibited by the Council. The Vic Urban letter also advises of the Government's expected timeline for the completion of the planning process by June 2004 to enable the redevelopment to proceed in a timely manner.

The plan reflects much of the Council adopted framework with the exception of the expectations by Council of 50% open space and 50% coverage of individual building lots.

Under the new plan, the number of dwellings on site has been significantly reduced. The original framework allowed for up to 1600 dwellings - the new plan allows for between 450 and 600 dwellings to be built on site.

In recognition of concerns about building heights the plan restricts building heights to a maximum five storeys. Most buildings on site will be low-rise homes - consistent with the character of the surrounding neighbourhood.

Due to the high level of interest in the community in the redevelopment, the Government will be releasing information in the near future on the revised plans. This will explain the changes proposed and will invite further comments from the community as part of the development of a planning scheme amendment.



I trust that you will find this an acceptable way forward. In order to help us achieve some certainty concerning this issue, we seek your response and, we hope, agreement in principle, to our proposals by 31 October.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sherryl Garbutt'. The signature is fluid and cursive, with the first name 'Sherryl' being more prominent than the last name 'Garbutt'.

Sherryl Garbutt MP
Minister for Community Services

ATTACHMENT 5 – Assessment of Minister for Community Services Media Release

Comment on the Media release follows:

1. *"Releasing the new Urban Design Framework (UDF), Ms Garbutt said the new plan would provide high quality housing for people with disabilities and preserve the character of the local Kew neighbourhood."*

Comment:

The Council adopted UDF specifically requires these outcomes.

In order to ensure that an informed and suitable response to the needs of these residents would be addressed as part of the future vision for the site, the City of Boroondara ensured that members of the Department of Human Services, and the Kew Parents Association were included in the Working Group that contributed to the establishment of the UDF.

The UDF requires housing to be designed specifically for the needs of existing residents. The UDF specifically requires the construction of at least 20 dwellings to accommodate the needs of residents that are to remain on the site.

2. *"While accepting the need for the Kew Residential Services (KRS) redevelopment, Boroondara passed the framework in August with significant changes."*

Comment:

Council initiated the development of the UDF in conjunction with key stakeholders in good faith. All issues addressed in the Council decision were discussed openly in the Working Group meetings

It is of some concern that the revised plan has emerged now. This is despite the transparent Urban Design Framework process of which the DHS was an active participant, through three members of the Working Group, along with an additional representative from the Department of Sustainability and Environment.

No State Government representative spoke against the Council report considered on 4 August 2003 when the opportunity to do so was clearly provided. Further, no more sophisticated argument was offered by State Government representatives on the Working Group on the issues of open space and site coverage other than to say the appropriate time to look at these issues was at the planning scheme amendment stage. These matters could have been debated through the Working Group or Council meeting process.

There is absolutely no basis for the government to imply that it was taken by surprise or unable to express views opposing any aspect of the UDF prior to its adoption.

3. *"After considering the views of the council and the community, the Bracks government has now developed a framework that recognises their concerns and goes most of the way towards meeting their requirements"*

Comment:

The Council adopted UDF was produced through a process of extensive consultation with the community including the development of a draft by the community based working group. The DHS plan has been developed without any consultation with key stakeholders, and fails to deliver on critical outcomes sought by those stakeholders (for example, a minimum 50% public open space, and reduced building height in the south west corner of the site).

It is difficult to see how the Minister can claim to have considered "the views of the Council and the community" when no attempt was made to seek those views about the revised UDF. It is equally confusing to understand how the revised framework "recognizes their concerns and goes most of the way towards meeting their requirements" when the government proposes to reduce the amount of public open space on site from 50% to 27%.

4. *Under this new plan, the housing density on the site will be significantly reduced and there is a maximum building height limit of five storeys – down from seven storeys proposed by Boroondara Council's Working Group.*

Comment:

In adopting the UDF in August 2003, Council reduced the maximum height to five storeys, down from the seven storeys recommended by the Working Group (which contained 4 State Government representatives). It is disingenuous to compare the height of the revised plan with the recommendations of the working group rather than the plan actually adopted by Council.

It is interesting to note the pretence in this statement that the government has reduced the maximum building height. By contrast the Minister's statement makes no reference to the government's proposal to increase the building height on the most visually sensitive part of the site from 3 storeys to 5 storeys.

The UDF developed by Council limited density to the capacity of the site and the surrounding area. The UDF included an objective that the total number of dwellings would be a product of the achievement of other principles for the development, such as the capacity of the road network to deal with additional traffic, the need for adequate open space within the site, and the need to accommodate the needs of those existing intellectually disabled residents who are to remain on or continue to visit the site. No dwelling yield has ever been discussed by the Working Group, or proposed in the Council UDF, therefore, contrary to the Minister's statements, it could not be "significantly reduced", or for that matter, significantly increased.

5. *The redevelopment of KRS will ensure that People with disabilities will have better housing, better support services and a better life in the community.*

Comment:

The Council adopted UDF also specifically requires this outcome.

6. *Ms Garbutt said that the majority of housing on the site would be low rise, in keeping with the character of the local neighbourhood.*

"..... most allotments on the site would be developed as one and two storey dwellings, rather than apartment blocks."

Comment:

The UDF adopted by Council already provides for and requires this outcome.

Under the State Government Plan, more of the site is proposed for development, and building heights are to be increased in the most visually significant part of the site, near its abuttal to Yarra Bend Park.

After significant consultation with its community, and responding to concerns by Parks Victoria and the Yarra Bend Park Trust, the maximum building height of this building envelope was reduced from 5 to 3 storeys. The plan put forward by the State Government increases the height in this location to 5 storeys.

The stated preference for one and two storey dwellings is a remarkable response given the State Government's commitments in Melbourne 2030 to housing choice and diversity, and the need to provide more housing in established areas. Limiting development to one and two storey dwellings seems to ignore core elements of the government's strategy. This statement is also contradicted by the plan submitted by VicUrban, which provides many opportunities for apartment style living.

In making these comments the government is clearly attempting to create the impression that Council's adopted UDF would result in high density living, that this is a bad thing and the surrounding community should be relieved because the government is going to provide low density living on the site. The government seems to be hoping that surrounding residents will be prepared to accept substantially less public open space on the site in return for low rise development.

As has been pointed out on many occasions, there is nothing in the Council adopted UDF which prevents low rise development. In fact, the UDF will accommodate single storey development only on the site if that is the choice made by the government as developer. No change is required to the UDF to achieve a low density outcome unless the government's focus shifts to revenue in which case the desire to dramatically reduce the amount of public open space on site to accommodate more dwellings can be explained.

7. *Currently the grounds of the institution are not available for public use, but the new framework will provide significant public open space to be enjoyed by local people and retains heritage trees.*

Comment:

The Council adopted UDF opened the site to the public in the first instance. It requires a minimum of 50% of the site be set aside as public open space (exclusive of roads and road reserves).

The State Government has reduced this amount to "about" 27% but makes no mention of this in the Minister's media release. The public open space requirement was a significant consideration in Council's support for the UDF and a desire to reduce the requirement from 50% for the sake of creating increased revenue is an unacceptable trade off.

Both the UDF and the plan released by the State Government are intent on the protection of major avenues of trees that exist on the site at present. However Council's UDF goes further to ensure the protection of other significant and canopy vegetation that currently exists on the site.

8. *The new redevelopment of Kew Residential Services is a project of statewide significance and we want the planning process to move in a timely fashion to give certainty to residents, their families and the local community.*

Comment:

All parties have been committed to moving this project forward in a timely fashion and remain so. Council's primary focus remains one of achieving the best outcome for all residents. The language used in this statement appears to be paving the way for the government to circumvent the rights and processes of the democratically elected local government and its community by replacing Council as the planning authority.

Council is poised to exhibit its amendment for the site in November, and the timeframes associated with this exhibition were discussed with senior VicUrban representatives within the last three weeks and were agreed as being satisfactory.

9. *The number of dwellings will be significantly reduced. The original UDF allowed for 1600 dwellings – the new plan allows for between 450 and 800 dwellings.*

Comment:

Refer response to point 4. This is a blatant misrepresentation.

The Council approved UDF did not specify a number of dwellings. There is nothing in the Council approved UDF that would lead to the 1600 figure mentioned. The UDF includes an objective that the total number of dwellings is determined by what local infrastructure and the site would allow consistent with meeting the principles set out for the entire UDF.

Any reference to dwelling numbers without demonstrating how much an outcome will meet the design objectives and infrastructure capacity for the site is totally misleading.

It is significant that this analysis has not been provided for any of the dwelling numbers mentioned in the State Government plan.

Whether the UDF will accommodate 1600 dwellings or 100 dwellings cannot be determined unless a detailed design is prepared.

It is instructive that the government is suggesting the site can support between 450 and 800 dwellings. In a press release dated 4 May 2001, announcing the KRS development, the Premier said, "a new residential subdivision would also be built as part of the development and up to 250 new homes would be built and sold to the general community. These are wildly different estimates, and the impacts of a 250 dwelling, 450 dwelling development or 800 dwelling development will be quite different. No analysis of why any figure is appropriate has been provided.

There is nothing in the UDF which prevents the government from building the 250 dwellings specified by the Premier when this project was announced provided the design objectives are met. Given that the government is both owner and developer this outcome is entirely within their control.

10. *"The new Urban Design Framework will form the basis of the planning scheme amendment... The Bracks Government will work collaboratively with the City of Boroondara in progressing the new Urban Design Framework"*

Comment:

This statement makes it clear that the Minister not seeking to consult with Council but is attempting to pre-empt Council's deliberations.

Council has previously sought the assurance of the Minister for Planning that normal planning processes will apply to the redevelopment of the KRS site. This assurance has not been given.

Other matters raised in the Media release

Building Setbacks

The Media release also contemplates reducing the setbacks of building envelopes from the Kew Gardens Estate. The UDF requires a setback from the Kew Gardens estate of approximately 20 metres for buildings on the KRS site.

ATTACHMENT 6 – Assessment of the State Government proposal and plan

Introduction

VicUrban, on behalf of the Department of Human Services, has developed an alternate plan for the redevelopment of the KRS site. In its letter to Council of 17 October 2003, VicUrban seeks Council comment on two proposals. These are:

1. Council's agreement to the exhibition of a planning scheme amendment that includes the modified State Government plan, and
2. Council's support and commitment to a timeframe for the decision making processes as follows:

Planning Scheme Amendment to go on exhibition	Mid-November 2003
Exhibition closes	Mid-December 2003
Council consideration of submissions made to amendment	Mid February 2003
Review by Independent Panel	March 2004
Council consideration of Panel's report	May 2004
Council recommendations forwarded to the Minister	June 2004

An assessment of the key differences between the VicUrban plan and the adopted Urban Design Framework approved by Council is set out below.

Assessment of the State Government plan

General

The State Government proposal essentially consists of a plan and some limited material. It is focused on issues of yield, height and open space. The Council adopted UDF also dealt with a significant range of additional issues ranging from site accessibility for all (i.e. consideration of the mobility needs of the intellectually disabled) to sustainable design. The State Government plan is silent on the vast majority of objectives agreed by the Working Group and Council in the adopted UDF.

Comment

The various principles, objectives and plans combine to form the UDF, and are the product of significant and transparent professional and community input. The UDF is a package and a product of all of its parts. No one part can or should be considered in isolation.

Open Space

State Government plan:

- *"The plan reflects much of the Council adopted framework within the exception of the expectations of Council of 50% open space".*

- *"A significant amount of open space has been retained, recognising that there has been a trade-off between development density and open space. While this does not meet the 50 per cent open space requirement proposed by Council, it provides an opportunity for both active and passive open space areas that will be attractive useable, and importantly, provides links between this site and the significant adjacent open space areas."*
- *The open space provided includes roadways, with the existing Main and Lower Drive's used as thoroughfare for vehicles.*

Council adopted UDF:

- *"... any such open space would be expected to be a minimum of 50% of the site area (excluding roads and road reserves), and increase in amount the more intensive and substantial (i.e. building volume, building height) the development proposed."*
- *Main and Lower Drives are dedicated to pedestrian / cycle paths, and conservation. No vehicular access is contemplated.*

Comment:

The State Government proposal contemplates a significant reduction in the amount of publicly accessible open space on the site, reducing the amount of land provided for this purpose by 23% to "about 27%" (source – Statement 2 – Ministers media release).

The implications of this are self-evident, and the proposals are an inadequate response to the work of the working group and the concerns of the community.

Site Coverage:

State Government proposal

- *"... we consider the requirement for 50% site coverage to be unrealistic, especially as there is already a very generous public open space provision. The UDF does not address site coverage as this is usually addressed at the planning permit or building approval stage for individual lots, having regard to the design objectives and guidelines developed for the site and the effect of visual bulk of the buildings and whether this is acceptable in the neighbourhood."*

Council adopted UDF

- *"Establish a percentage for site coverage of developable land on the site, arrived at by interpreting the principles and objectives in the draft UDF and informed by Council's Medium Density Housing policy."*

Comment:

Given that the Council adopted UDF does not specify a site coverage maximum, VicUrban's comments are difficult to comprehend.

Certainly the UDF contemplates a minimum of 50% public open space, however, the site coverage of the remainder of the site will be a product of the quality of the design response, guided by the principles and objectives of the UDF and by Council's Medium Density Housing Policy.

Building Height

State Government proposal

- *"Maximum building heights have been reduced to no more than five storeys, with transition between building heights and with greater mix in building heights."*
- *"... the development yield is significantly reduced as a result of the height reduction"*
- *The maximum building height for the envelope in the south-western corner of the site that is closest to Yarra Bend Park is increased from 3 to 5 storeys in height.*

Council adopted UDF

- "No building on the site shall exceed 5 storeys in height."
- "That the height of the building envelope in the south western corner of the site adjoining Yarra Bend Park be reduced to 3 storeys."

Comment:

The building height proposed is generally the same as that approved in the Council adopted UDF.

Whilst development yield would be affected by reduced floor space, building height is but one of a number of objectives that must be considered. The yield of the site will be a product of these considerations. It would appear that the 450 to 800 lot yield contemplated by the VicUrban plan has been developed without any regard to these matters, which is poor planning and quite disappointing.

The proposals in the VicUrban Plan to build over more of the site could be seen as compensating for the reduced building height, however, this is at the expense of the important buffers provided at the site's interface with adjoining residential areas, and contrary to the objectives of the UDF.

Finally the increase in height of the building in the south west corner of the site abutting Yarra Bend Park from 3 to 5 storeys was considered inappropriate by Council due to its potential visual impact on Yarra Bend Park and the Willsmere Towers.

Accommodation for existing residents

State Government plan

- *"It is not appropriate in a planning instrument, to specify the exact location of housing for people with disabilities. However as part of the review process, DHS has ensured that the framework provides an appropriate basis for the provision of 20 dwellings for people with disabilities, on site, recognising the need for these to be on the ground level to meet disability standards and requirements. As well as being consistent with the development on other parts of the site. The framework will also allow some grouping of housing for people with disabilities where appropriate."*

Council adopted UDF

- *"Within the site context there will be at least 20 single storey houses provided to adequately meet the housing needs of existing KRS residents who will remain on site."*

Comment:

The Council adopted UDF provides for the same potential outcome as the VicUrban plan.

Access to Wills Street

State Government plan

- *"No vehicular access or connection will be provided to Wills Street from the proposed development."*

Council adopted UDF

- The UDF does not contemplate vehicular access or such a connection to be provided to Wills Street.

Comment:

The Council adopted UDF provides for the same potential outcome as the VicUrban plan.

External impacts

State Government plan

- *"We accept that it is important for external impacts, such as traffic, to be managed and that we would agree to a requirement for these issues to be examined and tested to be incorporated into the planning framework."*

Council adopted UDF

- *"that new development demonstrate that the local road network has the capacity to cope with additional movements to and from the site."*

- “To ensure that traffic associated with the proposed redevelopment only accesses Hutchinson Drive and Princess Street, and that the existing level of service on nearby residential streets is not affected by the development of the site.”
- That new development demonstrate that Princess Street and Hutchinson Drive has the capacity to cope with additional movements to and from the site.
- That the following addenda be attached to the UDF:
 - a) Investigate traffic issues on Princess Street/Kew Junction/Chandler bridge corridor.

Comment:

The Council adopted UDF provides for far more rigorous assessments in relation to traffic, as well as a variety of other matters related to transport. The VicUrban proposal is silent on many of these.

Summary

In response to VicUrban’s request in relation to timeframes, the project planning undertaken by Council officers to progress the UDF based amendment also targeted a November exhibition date. Provided the process remains transparent and inclusive, the resolution of the exhibition of the amendment, the likely subsequent panel hearing, and Council’s consideration of the Panel’s report by June 30 would benefit all affected by the redevelopment of this site. There are no objections raised to the timeframe commitments proposed in the VicUrban letter.

The State Government plan in many regards could be viewed as moving into the next level of detail contemplated by the Council adopted UDF. However, the State Government plan does this with little backing by way of consultation with key stakeholders, and little apparent regard to the objectives and principles of the UDF. Further, it departs from some quite significant components of the Council adopted UDF, particularly in relation to building height, open space and setbacks from adjoining development.

In this regard, the State Government plan is not consistent with the work of the Working Group, the Council adopted UDF or community sentiment expressed through the development of the UDF. The changes proposed are significant. They could not be considered as minor changes to the UDF.

Options

The challenge now for Council and its community is that the State Government has indicated that this plan will be exhibited, suggesting the potential for some form of Ministerial action if Council were to decline the State Government requests.

Prior to discussing the options available a brief summary of the amendment process is provided as follows:

- Council resolves to place a proposed amendment on public exhibition for one month inviting submissions.
- Once submissions have been considered Council may make changes to the amendment, retain it as exhibited or abandon the amendment.
- If changes to the amendment are proposed or Council wishes to proceed with the amendment as exhibited despite opposition, the Council must request the Minister for Planning to appoint an Independent Panel. (Section 23 Planning and Environment Act).
- The panel considers all submissions made in relation to the exhibited amendment at a public hearing and provides a written report and recommendation to Council.
- Upon receipt of the panel report Council may:
 - adopt the amendment without changes.
 - adopt the amendment with changes.
 - abandon the amendment.
- If Council proposes to adopt the amendment in any form, it must be referred to the Minister for approval. If the amendment is to be abandoned Council is required to notify the Minister.

The Planning and Environment Act provides the Minister with the power to "call in" a matter and to replace Council as the planning authority. These powers can be exercised where the Minister forms the view that a particular matter raises issues of state significance, state or regional policy or where undue delay has occurred in the planning process.

Council has several options.

- It could elect to accede to the State Government's request. However in doing so, it would effectively be disregarding significant components of the work undertaken by the Working Group and with the community that has culminated in the adopted UDF. It is likely that this would meet with significant and justified criticism from those stakeholders, and undermine similar processes Council is undertaking on land elsewhere in the City. The State Government UDF would also need to be modified to reflect all of the other objectives and principles contained in the Council approved UDF (i.e. accessibility for all, sustainable design, etc). Council would need to support the changes proposed.
- It could exhibit both proposals, or exhibit "options" within the amendment based on Council's UDF which contained the varying aspects of the State Government Plan. However, this undermines the integrity of the work that has culminated in the Council adopted UDF, and would be likely to cause significant confusion in the community. Such an approach gives legitimacy to the proposed changes including the reduction in public open space and Council is then placed in a position of having to argue against the government's UDF.

- It could elect to stop work on all proposals, and further meet with the State Government to explore options. This would delay the exhibition of any amendment, and would do little to provide any certainty and closure for the key stakeholders, the existing site residents and neighbours to the site. Given the government's approach to the revised UDF this option is of little benefit unless either Council or the government is prepared to modify its position on the public open space requirement.
- Council could continue with the exhibition of its own amendment. This approach allows the government to oppose Council's proposed amendment and to advocate for changes reflecting the government's revised UDF. This is the process any other developer in this state is required to pursue because it enables consideration by an independent body. This independence is essential to the community's ability to have trust in the integrity of the planning process.

Preferred Option

It is considered that Council should behave in a manner which respects the integrity of planning process and keeps faith with decisions made following extensive community consultation.

Given that the Independent Panel process allows the government to advocate for its preferred outcome little justification is seen for attempts to circumvent due process. As it should be possible for Council to meet the timelines sought by the government, there is no validity in concerns about undue delays as a basis for a Ministerial "call in".

The exhibition of the amendment as proposed by Council to reflect Council's adopted UDF will enable both the State Government and Council to meet the above tests in full view of the community.

To give effect to this outcome in the most expeditious way, it is proposed that Council delegate the authority to prepare and exhibit the amendment implementing the UDF adopted by Council to the Chief Executive Officer and the Director Urban Planning.

In addition, to expedite the calling of an independent panel under Section 23 of the Planning and Environment Act it is also proposed that Council delegate the authority to consider submissions received during the exhibition period and to refer the matter to panel to the Chief Executive Officer and the Director Urban Planning on the basis that having considered these submissions, there is no reason to abandon the amendment.

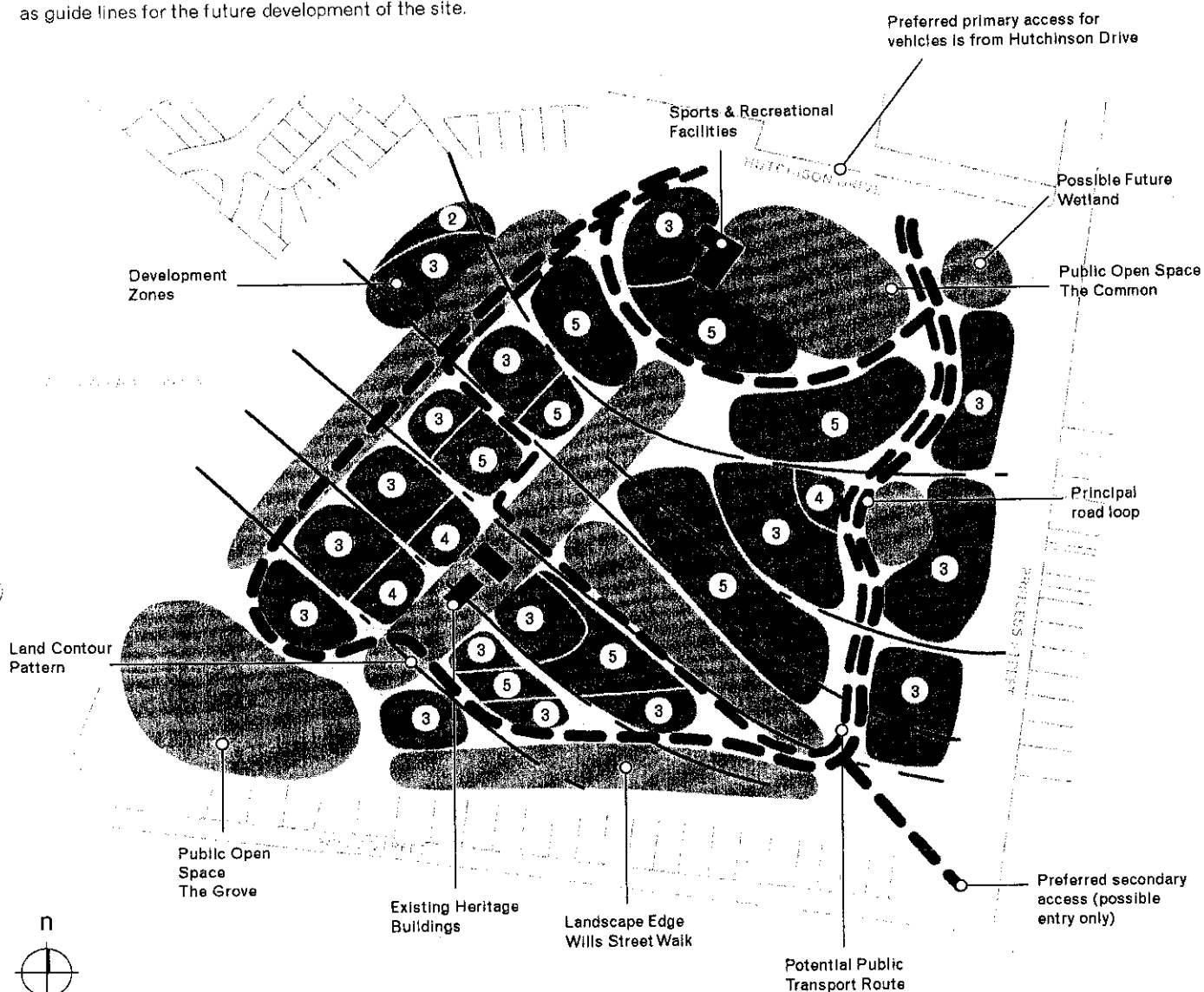
A summary of submissions would be circulated to all Councillors upon conclusion of the exhibition period for information and Councillors will be kept informed of the status of the process.

Kew Residential Services Draft Urban Design Framework

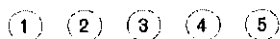


THE FRAMEWORK PLAN

This plan shows the principles agreed by the working group as guide lines for the future development of the site.



Legend



Indicates the MAXIMUM building height (storeys)

