



**Special Meeting of Council  
22 February 2012**

# **Notice Paper**

**For a Special Meeting of**

**Bayside City Council**

**Wednesday 22 February 2012**

**at 6.30pm**

**Council Chamber  
Civic Centre  
Brighton**

## **To: Mayor and Councillors**

In accordance with Section 84 of the Local Government Act 1989, a **Special Meeting of Bayside City Council** will be held in the **Council Chambers, Civic Centre, Brighton on Wednesday 22 February 2012 at 6.30pm** for the purpose of transacting the following business:

### **BUSINESS OF MEETING**

#### **Apologies**

#### **Declaration of Interests**

- 1. Bayside Planning Scheme Amendment C90 – Black Rock Village Structure Plan**

Adrian Robb  
**Chief Executive Officer**

7 February 2012

## 1.0 Bayside Planning Scheme Amendment C90 – Black Rock Village Structure Plan

City Strategy / Urban Strategy  
FOL/11/264

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### 1. Purpose of the Report

To consider all submissions received in relation to Amendment C90 and to confirm Council's position on the amendment.

### 2. Background

Amendment C90 proposes to introduce new controls into the Bayside Planning Scheme to implement the Black Rock Neighbourhood Activity Centre Structure Plan. The following changes to the Black Rock Shopping Centre area are proposed under the Structure Plan:

- Deletes the current Design Development Overlay 1 (DDO1) that restricts buildings to a maximum of two storeys with an attic and introduces a new Design and Development Overlay (DDO8) that will restrict buildings to a maximum of 3 storeys (*11m on flat land and 12m on sloped land*) to enable development of shop top housing and/or offices;
- Rezones the west side of Bluff Road and the south side of Balcombe Road from Business 2 (*primarily an office zone*) to Business 1 (*primarily a retail zone where office is discretionary at ground floor level*) to encourage ground floor retail uses with active shopfronts that contribute to street life within the centre;
- Extends the existing Business 1 Zone at the rear of 1 Karrakatta Street to include the whole land parcel within the single zone;
- Rezones 581-589 Balcombe Road from Business 2 Zone to a Mixed Use Zone to allow for a mixture of residential and commercial uses;
- Rezones the public car parks from Business 2 to Business 1 to be consistent with the overall zoning of the shopping centre. The layout and use of the car parks will remain unchanged;
- Rezones land fronting Beach Road (on the east side) north of Balcombe Road and at 2-6 Sylvia Crescent from Residential 1 Zone to a Mixed Use Zone. This will enable a greater variety of commercial uses to face the foreshore and improve the centre's tourism and recreation role;
- Requires that new development provide car parking on site at the following rates:
  - new shops @ 3 car spaces per 100 m<sup>2</sup> of floor area instead of 8 per 100 m<sup>2</sup> currently required under the planning scheme; and
  - new restaurants @ 0.2 of a car space per seat instead of 0.6 per 100 m<sup>2</sup> currently required under the planning scheme.

Car parking rates for all other uses including dwellings will be as currently required by the Planning Scheme.

*Note: (The Planning Scheme currently requires 2 spaces per dwelling in a Business Zone and 1-2 spaces per dwelling in a Mixed Use Zone depending on the number of bedrooms).*

Amendment C90 was authorised by the Department of Planning and Community Development (DPCD) on 30 August 2010 and was placed on public exhibition from 10 March 2011 until 31 August 2011.

The exhibited amendment documents are contained in Attachment 1.

### 3. Discussion

The Black Rock Structure Plan was exhibited to the public from 17 March 2011 to 13 May 2011, through the provision of letters to all land owners and occupants within and directly adjacent to the Black Rock Structure Plan area. Notice of the amendment was published in the Bayside Leader newspaper and on Council's website.

On 14 June 2011 Council resolved to extend the public exhibition of Amendment C90, as follows:

- Written notification of the amendment to all land owners and occupants within the suburb of Black Rock;
- Extension of the closing date for receipt of written submissions about the amendment to Wednesday 31 August 2011;
- The installation of two noticeboards (900mmX1800m) at the Black Rock Shopping Centre car parks notifying the community of the amendment;
- Public notice of the extension of the amendment exhibition period within the Bayside Leader newspaper on 5 July 2011; and
- Undertake community meetings in relation to the Amendment.

The following community consultations were held in relation to the Amendment:

- On 23 and 26 July 2011 Council Officers visited twenty four residential properties with views of the bay that may be affected by the increase in building height allowed for in the Black Rock Village under the amendment.
- A meeting with the Black Rock Village business operators on 17 August 2011.
- A public meeting with the Black Rock community on 24 August 2011 with in excess of 150 people in attendance.

Council received a total of 293 submissions on behalf of 355 people in relation to the amendment. Of these, 4 submissions were supportive of the amendment and 289 submissions objected to the Amendment. Councillors have been provided with copies of all submissions received.

A summary of the issues raised by supporting and objecting submissions is provided below. The following indicators are used to identify the number of submissions Council received related to each issue:

\*\*\* A **High** number of submitters (ie: more than 40) raised the issue.

\*\* A **Moderate** number of submitters (ie: between 10 and 40) raised the issue.

\* A **Low** number of submitters (ie: less than 10) raised the issue.

#### 3.1 Submissions in support of the Amendment

- Will encourage the renewal and modernisation of buildings within the Black Rock Village. \*
- New housing above shops could add vibrancy and provide support for businesses. \*
- Provide more people with the opportunity to live near the beach. \*
- Increased height will make the provision of basement car parking for new development more commercially viable. \*
- Higher density development in activity centres is better than allowing it to spread throughout Bayside. \*
- Rezoning of parts of the shopping centre from a Business 2 zone to a Business 1 zone to encourage ground floor retail uses with active shopfronts, was supported. \*
- Support was expressed for retail uses on the west side of Bluff Road being encouraged to face Beach Road. \*\*

### **3.2 Submissions Against the Amendment**

The concerns raised by 289 submitters to the amendment are summarised under the following headings and indicators are used to show the level of community concern over each issue.

#### **Strategic Justification**

- The amendment has not been sufficiently justified in terms of housing trends and office demand. \*
- The centre is large enough to service local needs and there is no need to expand it. \*\*
- Higher density development should be located in other parts of Melbourne. \*\*

#### **Proposed Change in Height Controls**

- Potential loss of views to Port Phillip Bay as a result of increased heights in the centre. \*\*\*
- Existing bay views have attracted new residents to the area. \*\*
- It is not consistent with the objectives of the Bayside Coastal Strategy 1997 and the Victorian Coastal Strategy 2002 in terms of maintaining views to and from the bay. \*
- The proposed building height increases will not maintain a pedestrian scale along Beach Road.\*
- Residents have purchased in Black Rock on the basis of the existing DDO1 provisions which residents expected would be maintained. \*\*\*

#### **Property Values**

- Loss of bay views will reduce land values in the area. \*\*

#### **Amenity Impacts**

- Loss of the low rise character of Black Rock. \*\*\*
- Loss of the coastal village feel. \*\*\*
- Loss of the streetscape character of the village. \*\*
- Loss of sunlight and the open visual appeal of the shopping centre. \*\*
- Infringes on the amenity of existing residential areas. \*\*
- New development in the Sandringham shopping centre has ruined the character and amenity of the centre and there is concern that this may happen to Black Rock. \*\*
- Beach Road should remain within the DDO1 to maintain the public vista along the foreshore. Buildings in excess of the current 9m will appear imposing compared to the rest of the built form along Beach Road. \*
- The building heights allowed under DDO8 will be out of character with the surrounding area. \*\*\*
- Liberalisation of height and setback requirements at Southbank resulted in overdevelopment and loss of amenity with commercial occupancy rates lower than in the CBD. \*
- The provisions of the proposed DDO8 overlay will create an area that is out of character with the neighbouring parts of Black Rock. \*\*\*

#### **Proposed Re-zonings**

- The proposed Mixed Use zoning of residential land fronting Beach Road and Sylvia Crescent will disadvantage property owners who bought into a residential neighbourhood and expected it to remain so. \*
- Two residents of the proposed Mixed Use Zone on land fronting Beach Road and Sylvia Crescent object to the rezoning from Residential 1 as they consider it will affect their amenity by allowing abutting commercial uses. \*
- Beach Road and Sylvia Crescent cannot accommodate traffic and parking associated with new commercial uses fronting these roads. \*\*

- Any commercial rezoning in Sylvia Crescent and Karrakatta Street will intrude on the streetscape and reduce residential amenity of the north side of the streets. \*
- Two residents of the apartment block at 1 Karrakatta Street object to the rezoning of the rear of their land from Residential 1 to a Business 1 Zone as it may allow commercial uses to emerge on the site which they contend would diminish their amenity. They bought their apartment on the basis of its residential zone and expected it to remain that way. \*
- Residents adjoining 1 Karrakatta Street object to the rezoning of the rear of 1 Karrakatta Street and are concerned that the adjoining car park may be redeveloped in a manner that will reduce their residential amenity. \*

### **Infrastructure Concerns**

- Traffic congestion and car parking availability within the existing centre needs to be improved before consideration is given to new development. Building more apartments will create more parking and traffic congestion problems. \*\*
- The empirical evidence and the lack of public transport does not support a reduction in car parking provisions. Strip shopping centres rely on parking to prosper. \*\*
- Potential loss of convenient parking. \*\*\*
- Potential to increase traffic congestion in the centre and surrounding streets. \*\*\*
- Bayside's shopping centres have insufficient car parking provision to maintain the liveability and attractiveness of the centres. No attempt is made to provide adequate provision for parking and road usage. \*
- The reduction of car parking provision for new shops and restaurants will reduce the amenity of the centre. \*
- The Black Rock village is unsuitable for significant increased development due to the lack of public transport servicing it. \*\*
- It is already difficult to park in the centre. Car parking rates for new shops and offices should not be reduced. \*\*\*
- The proposed decrease in car parking requirements under the structure plan contradict survey results indicating high occupancy rates in the centre car parks.\*
- The CPG, Black Rock Neighbourhood Activity Centre Economic Review states, in the section headed, "Pedestrianisation" that: "*Much of Australia is in transition from the car reliant past to a pedestrianised future*" and that "*people are awakening to the benefits of commuting by foot and public transport*". To support this claim the CPG report quotes increased pedestrian traffic in Melbourne's CBD shown under the "The Places for People 2004 study. However, the CPG report fails to mention the sustained increase in automotive usage in all Australian capital cities. The Bureau of Infrastructure, Transport and Regional Economics states in a 2008 report; "*total motorised travel in urban Australia has grown almost tenfold over 60 years,*" mostly from private vehicular use with a similar rate of increase projected from 2008-2020. \*
- Concerns about how the infrastructure needs of the new population will be met. \*
- Black Rock already relies too heavily on the foreshore for open space and the foreshore only provides passive open space opportunities. There is insufficient open space in Black Rock to service the population increase associated with more development. \*

### **Meeting with Black Rock Business Operators**

A meeting attended by eighteen (18) Black Rock business operators was held on 17 August 2011. The feedback provided indicated the following:

- The amendment would not improve patronage of the centre.
- Supportive of the change in zoning from Business 2 to Business 1 on Bluff Road and Balcombe Road to encourage active shopfronts and retailing.

- Strong opposition to any reduction in the provision of on site car parking for new shops or restaurants and they were concerned that resident traffic and parking from shop top housing would compromise customer convenience and parking.
- Concerned that redevelopment would result in loss of leases as they believed that building owners would speculate on opportunities to redevelop as a result of the Amendment.
- To a lesser extent there was also some concern that the amendment may compromise the “coastal village” appeal of the centre due to potential increased building heights.

### **3.3 Consideration of Submissions**

Due to the large number of opposing submissions (289) received, the issues raised by the submitters have been summarised and considered under the following headings:

#### **Strategic Justification**

##### Expressed Concerns

- *The amendment has not been sufficiently justified in terms of housing trends and office demand.*
- *The centre is large enough to service local needs and there is no need to expand it.*
- *Higher density development should be in other parts of Melbourne.*

##### Officer Response

It is State Planning Policy that provision for future housing needs be met within or close to activity centres to maximise use of the services available.

Under the Black Rock Village Structure Plan provisions, new infill housing may be developed at the Black Rock Shopping Centre at the third floor level. The structure plan was prepared as part of Council's overall strategy of meeting the State's Government's future population projections for municipalities. Provisions facilitating urban growth at Bayside's Major and large Neighbourhood Activity Centres have been previously approved by Council on this basis. The provisions of the Black Rock Village Structure Plan were tailored to take into account the sensitive coastal location of Black Rock Village and the lack of fixed rail public transport.

The Black Rock Village centre is considered a suitable site for new infill development. New residents located at the Black Rock Village Shopping Centre can effectively provide for their convenience needs without reliance on private vehicular transport. The centre is serviced by three arterial roads which are designed to take high volumes of traffic. These main roads will provide new residents with suitable access routes to work and other services thereby making it a suitable location for infill housing.

Nonetheless, it is noted that the Black Rock shopping centre is serviced by buses which are a less convenient and accessible form of public transport than trains. On this basis, the structure plan is limited to a relatively modest level of new development confined to the shopping centre area. Residential areas outside the centre remain lower density incremental growth areas.

## **Proposed Change in Height Controls**

### **Expressed Concerns**

- *Potential loss of views to Port Phillip Bay as a result of increased heights in the centre. Existing bay views have attracted new residents to the area.*
- *It is not consistent with the objectives of the Bayside Coastal Strategy 1997 and the Victorian Coastal Strategy 2002 in terms of maintaining views to and from the bay.*
- *The proposed building height increases will not maintain a pedestrian scale along Beach Road.*
- *Residents have purchased in Black Rock on the basis of the existing DDO1 provisions which residents expected would be maintained.*

### **Officer Response**

In response to significant resident concerns that height control changes proposed under the structure plan would diminish existing views of the bay, Council officers visited 24 properties east and north east of the Black Rock Village, accompanied by property owners. Properties visited were located east of the centre to Prospect Street and north east of the centre to Iona Street. The site visits indicated that substantial views of the bay are enjoyed by a significant number of residents in this area. The views are largely available from second storey habitable room windows and balconies due to the downward slope of the land toward the bay and the large number of older style single storey dwellings in the neighbourhood and the single storey shops in the centre. The inspections indicated that the increase in height allowable under the structure plan would obscure existing views of the bay from residential areas directly east and north east of the structure plan area. However, the site visits also indicated that new double storey houses developed under the current height controls (of DDO1) have substantially reduced the bay views of directly adjacent dwellings. It is considered that in the long term, as older style single storey dwellings or shops are replaced with modern two storey buildings, future bay views from the area will be reduced even if no change were proposed to the existing height controls in the structure plan area.

*(Refer to Attachment 2 for a sample of photos taken during site visits)*

The Black Rock Village Shopping Centre and the surrounding residential land is currently covered by Design and Development Overlay 1 (DDO1) which restricts the height of development to two storey excluding an attic or basement. The existing objectives of DDO1 do not require or seek the protection of views of the beach from private property. The overlay only seeks to protect the views from Port Phillip Bay to Bayside's urban area, as outlined below;

*"To protect and enhance the foreshore environment and views of Bayside from Port Phillip Bay."*

Furthermore, the Victorian Civil Appeals Tribunal (VCAT) has previously determined that no one has an absolute right to a view. This means the affect of development on views from private properties cannot be used as the basis for determining a planning matter and resident concerns over loss of views from their properties is not a relevant planning consideration in determining the impact of the amendment on the area.

## **Property Values**

### **Expressed Concerns**

- *Loss of bay views will reduce land values in the area.*

### Officer Response

Planning decision making is made on the basis of community need and an analysis of the benefit and cost to the community of any specific planning policy. The Victorian Civil Administrative Tribunal (VCAT) and Planning Panels Victoria (PPV) have held that the impact of planning policy or planning decisions on property values cannot be taken into account when considering the merits of either a planning scheme amendment or a planning permit application.

In the Ballarat Planning Scheme Amendment C58 the Planning Panel did not consider arguments solely related to possible devaluation of property values. The Panel found that "*the impact of changes to planning controls on individual property values is not a matter that is relevant in the assessment of those controls.*" Furthermore, the *Planning and Environment Act 1987* makes no provision for compensation to land owners or developers who may feel aggrieved by a planning decision or by planning policy. Generally, matters of compensation only arise when private land is acquired for a public purpose.

### **Amenity Impacts**

#### Expressed Concerns

- *Loss of the low rise character of Black Rock.*
- *Loss of the coastal village feel.*
- *Loss of the streetscape character of the village.*
- *Loss of sunlight and the open visual appeal of the shopping centre.*
- *Infringes on the amenity of existing residential areas.*
- *New development in the Sandringham shopping centre has ruined the character and amenity of the centre and there is concern that this may happen to Black Rock.*
- *Beach Road should remain within the DDO1 to maintain the public vista along the foreshore. Buildings in excess of the current 9m will appear imposing compared to the rest of the built form along Beach Road.*
- *Liberalisation of height and setback requirements at Southbank resulted in overdevelopment and loss of amenity with commercial occupancy rates lower than in the CBD.*

#### Officer Response

Inspection of the Black Rock Village Centre and photos taken from nearby residential areas confirm the low rise coastal village feel of the shopping centre area. The shopping centre is characterised by single and double storey buildings and significant views of the bay are afforded by the wide open junction of main roads at the two roundabouts fronting the foreshore. Residents and business owner concerns that high rise style development will ruin the existing character and feel of the centre are noted. Any comparative advantage that the Black Rock shopping centre obtains due to its coastal village feel should not be compromised by over development.

Under the structure plan, Design and Development Overlay 8 (DDO8) proposes to allow new three storey buildings with a preferred height of 9m and a maximum height of 11m, or up to 12m where the land has a significant slope. This is proposed to replace the current Design and Development Overlay 1 which allows two storey buildings with an attic and/or a basement up to 1.2m above ground level. A review of building permits issued in the area over the last ten years indicates that development under the existing Design and Development Overlay 1 has generally reached maximum heights of 9m with a few exceptions built at a maximum height of 10m within the local area.

Built forms within the structure plan area will change over time. The three storey development allowed by the proposed amendment will encourage greater building bulk than the two storeys with a basement and attic currently allowed under existing provisions. The new built form at the third level proposed under the structure plan provisions is consistent with the type of commercial built forms generally characteristic of shopping centres and is not considered an excessive or unsuitable allowance in a shopping centre area.

The requirement under the structure plan for the third storey to be recessed by 4m from the front and rear will assist in reducing the visual bulk of any new development.

Recent residential development along Beach Road is already characterised by relatively dominant built forms. Therefore, it is considered that the proposed change in built form allowed for under the structure plan does not represent a substantive change to the character of the built form in the immediate area.

Front elevations have been prepared showing the potential visual impact of the Black Rock Structure Plan controls on new development within the Black Rock Shopping Centre compared to development allowable under the existing controls.

*(Refer to Attachment 3 for depiction of building elevation under proposed and existing controls)*

Levels taken of the Black Rock Shopping Centre area indicate that it is not characterised by significant slope, and therefore, there is not a need to include an increase in building height (12m) to accommodate sloping land. On this basis building height may be restricted to a maximum of 11m.

*(Refer to Attachment 4 for relative levels of land in the shopping centre)*

According to housing modelling undertaken by CPG Consultants, implementation of the Black Rock Village Structure Plan would yield a total of 74 additional dwellings within the structure plan area with potential for up to 130 dwellings if various sites within different ownerships were consolidated. The proposed change in the height controls under the structure plan is the minimum change to height controls that can be made to viably provide for additional dwellings at the third storey level at the Black Rock Shopping Centre. Essentially, the structure plan seeks to replace attics as a third level with a dwelling on the third level to facilitate urban growth at the shopping centre.

The Black Rock Village Structure Plan provides, apart from the iconic gateway sites, for the third storey element of buildings along Bluff and Balcombe Roads to be setback 4m from the property frontage to maintain wide vistas and views of the bay along Balcombe and Bluff Roads. The third storey front setback proposed under the structure plan provisions should provide visual relief from any “tunnel” effect, maintain sunlight to the shopping centre and minimise any possible “wind tunnel” effect. Shadow diagrams have been prepared to measure the impact on the amount of sunlight available to the shopping centre that may result from the recessed third storey allowed under the structure plan. The diagrams indicate that an additional third storey with setback will not significantly impact on the sunlight available to the shopping centre as the third storey is required to be setback from front and rear boundaries to assist in maintaining the “open village” feel of the shopping centre.

*(Refer Attachment 5 for shadow diagrams depicting the effect of the current and the proposed controls)*

Under the structure plan provisions, the iconic gateway buildings at 1, 2-4 Bluff Road and 613 Balcombe Road are exempt from providing the third storey 4m front setback required of the other buildings in the structure plan area. The iconic gateway sites provisions could be altered to require the 4m front setback at the third storey level so that this requirement is uniformly provided by all development along Bluff Road and Balcombe Road. This change will ensure there is no interruption to views afforded by the vistas provided along these roads. Maintenance of widened vistas at the upper level of new development provided by the 4m front setbacks will further assist in preserving the coastal “open” feel of the centre.

Many of the lots within the Black Rock Village shopping centre abut rear lane ways or car parking areas which form a buffer that protects the residential amenity of adjacent residential properties. The impact of the proposed controls on loss of privacy will be minimal with current controls enabling two storey development with attics which already have the potential for overlooking. The 4m setback requirement from rear boundaries under the structure plan provisions is designed to limit the potential for overshadowing. Measures can be required to reduce overlooking and overshadowing as part of any permit applications for specific developments.

### **Proposed Re-zonings**

#### Expressed Concerns

- *The proposed Mixed Use zoning of residential land fronting Beach Road and Sylvia Crescent will disadvantage property owners who bought into a residential neighbourhood and expected it to remain so.*
- *Two residents of the proposed Mixed Use Zone on land fronting Beach Road and Sylvia Crescent object to the rezoning from Residential 1 which will affect their amenity by allowing abutting commercial uses.*
- *Beach Road and Sylvia Crescent cannot accommodate traffic and parking associated with new commercial uses fronting these roads.*
- *Any commercial rezoning in Sylvia Crescent and Karrakatta Street will intrude on the streetscape and reduce residential amenity of the north side of the streets.*
- *Two residents of the apartment block at 1 Karrakatta Street object to the rezoning of the rear of their land from Residential 1 to a Business 1 Zone as it may allow commercial uses to emerge on the site which would diminish their amenity. They bought their apartment on the basis of its residential zone and expected it to remain that way.*
- *Residents adjoining 1 Karrakatta Street object to the rezoning of the rear of 1 Karrakatta Street and are concerned that the adjoining car park may be redeveloped in a manner that will reduce their residential amenity.*

#### Officer Response

The rezoning of the Residential 1 land to a Mixed Use Zone along Beach Road and Sylvia Crescent was designed to encourage a mix of commercial uses with residential uses on Beach Road and increase the centre's exposure to the bay.

Reconsideration of the Mixed Use rezoning may be appropriate, given that:

- VicRoads have expressed concern that new commercial development on Beach Road north of Balcombe Road may pose capacity issues on Beach Road due to the potential for an increase in parked cars near the Balcombe/Beach Road roundabout.
- Recent development of residential units along Beach Road makes the likelihood of new commercial uses being developed facing the foreshore unlikely.
- A number of land owners who bought their properties on the basis that they would be living in a residential area, characterised by residential development and residential amenity oppose the rezoning.
- Encouragement of limited types of commercial uses can be achieved more simply under the current Residential 1 Zone with policy guidance (Cl. 22.07 Discretionary Uses in Residential Areas). Discretionary uses in a Residential zone can include a food and drink premises.

In light of the above points, it is considered appropriate that the proposed Mixed Use rezoning of residential land in Sylvia Crescent and Beach Road be abandoned from the amendment. The other sites proposed to be rezoned under the amendment can still be implemented.

The proposed rezoning of land from Residential 1 to Business 1 at the rear eastern part of 1 Karrakatta Street resulted in two submissions received from existing owners of apartments within the eastern part of the building that is currently zoned Residential 1. The submitters were concerned that the proposed rezoning of this part of the building to Business 1 to accord with the zoning of the majority of the building to the west would allow commercial uses to be developed which may infringe on their current residential amenity. Whilst this may be a valid concern, it should be noted that most of the land parcel is already zoned Business 1 and the existing apartment building on the site has been sited according to Business 1 Zone provisions. Since the majority of the existing building is zoned Business 1, it is already possible for businesses to develop within those parts.

It is planning practice that all land within one parcel be placed in the same zone and there is little justification for not rectifying this planning anomaly. Given that some landowners are concerned that they will be disadvantaged by the change in zoning status of their apartments, it is recommended that this matter be referred to Planning Panels Victoria to further consider their concerns.

Concerns expressed by adjoining land owners regarding potential redevelopment of the car park at 1 Karrakatta Street were unfounded since the car park is outside the structure plan area and no change to the existing Residential 1 Zone is proposed.

### **Infrastructure Concerns**

#### Expressed Concerns

- *Traffic congestion and car parking availability within the existing centre needs to be improved before consideration is given to new development. Building more apartments will create more parking and traffic congestion problems.*
- *The empirical evidence and the lack of public transport does not support a reduction in car parking provisions. Strip shopping centres rely on parking to prosper.*
- *Potential loss of convenient parking.*
- *Potential to increase traffic congestion in the centre and surrounding streets.*
- *Bayside's shopping centres have insufficient parking provision to maintain the liveability and attractiveness of the centres. No attempt is made to provide adequate provision for parking and road usage.*
- *The reduction of car parking provision for new shops and restaurants will reduce the amenity of the centre.*
- *The Black Rock village is unsuitable for significant increased development due to the lack of public transport servicing it.*
- *It is already difficult to park in the centre. Car parking rates for new shops and offices should not be reduced.*
- *The proposed decrease in car parking requirements under the structure plan contradict survey results indicating high occupancy rates in the centre car parks.*
- *The CPG, Black Rock Neighbourhood Activity Centre Economic Review states, in the section headed, "Pedestrianisation" that: "Much of Australia is in transition from the car reliant past to a pedestrianised future" and that "people are awakening to the benefits of commuting by foot and public transport". To support this claim the CPG report quotes increased pedestrian traffic in Melbourne's CBD shown under the "The Places for People 2004 study. However, the CPG report fails to mention the sustained increase in automotive usage in all Australian capital cities. The Bureau of Infrastructure, Transport and Regional Economics states in a 2008 report; "total motorised travel in urban Australia has grown almost tenfold over 60 years," mostly from private vehicular use with a similar rate of increase projected from 2008-2020.*
- *Concerns about how the infrastructure needs of the new population will be met.*
- *Black Rock already relies too heavily on the foreshore for open space and the foreshore only provides passive open space opportunities. There is insufficient open space in Black Rock to service the population increase associated with more development.*

Officer ResponseCar Parking and Traffic Management

Car parking studies undertaken by consultants as part of the development of the Black Rock Village Structure Plan indicated that the amount of car parking currently used by patrons of the centre for shops and restaurants is characterised by the rates (*of 3 car spaces per 100 sqm of shop floor area and 0.2 car spaces per seat for restaurants*) proposed under the structure plan. On this basis, the consultant's report advised that the proposed reduction in provision of on-site car parking for new shops/shop floor space and restaurants will not reduce the level of car parking available at the centre. Given that business operators and patrons of the centre expressed concern that current car parking provision is already problematic, a further review of the parking studies associated with the structure plan was conducted in December 2011.

Analysis of car parking and traffic was undertaken to ascertain whether local and arterial roads can cope with both existing traffic demands and the projected additional traffic associated with the structure plan.

The assessment undertaken by consultant Traffic Engineers, O'Brien Traffic indicated the following:

- Traffic volumes along existing local access roads including Karrakatta Street, College Grove and Sylvia Crescent are well within acceptable limits for those streets. Having regard to the location of the study area with excellent access to a range of daily needs it was anticipated that new unit/apartment style dwellings would generate no more than 5 trips per household per day. Although it was considered unlikely that sites under different ownerships would be consolidated to achieve 130 additional dwellings, a conservative approach of 130 dwellings @ 5 trips per day was adopted. This translated to 650 trips per day. Assuming that these trips would be evenly distributed in the areas east and west of Bluff Road and South of Balcombe Road, a maximum of 216 additional trips per day could be expected in surrounding local roads associated with new residential development under the structure plan. It was considered that this additional traffic would have minimal impact on these local roads excluding the matters raised by VicRoads detailed later in this report.
- Bluff Road, Balcombe Road and Beach Road are main arterial roads managed by VicRoads. VicRoads have not expressed any concern with the structure plan in this regard. The addition of 216 trips per day on any of these roads due to new development under the structure plan will have no significant impact on traffic congestion along these roads.
- It is recommended that laneways at the rear of the shops be widened from 3m to 5m as each property is redeveloped to enable two way traffic movement along the rear of each property and to provide loading facilities and garbage collection at the rear of each property. Direct access to these laneways from arterial routes should be restricted to one way entry and egress due to restricted sight distances. No direction was given indicating when these restrictions should be implemented.
- Sylvia Crescent is not considered to have a width that is suited to accommodating commercial traffic and loading bays if the south side of the street is rezoned to Mixed Use and fully developed for commercial purposes.
- The empirical parking analysis undertaken in July 2009 as part of the amendment is likely to have underestimated car parking demand for specific uses by not taking into account the existing on site car parking currently used at the Black Rock Village Shopping Centre.
- While the consultant disagreed with the approach taken by the 2009 CPG parking study, parking rates recommended in the structure plan were considered to be more appropriate than the Planning Scheme rates particularly since many trips to the centre from new residential development under the structure plan would be on foot.

## Referrals

### Council Traffic Engineer

Council's Traffic Engineer reviewed the amendment and the 2011 O'Brien Traffic Report and advised:

- Nearby local streets can accommodate traffic generated from the structure plan without adversely affecting nearby residential areas.
- Improved access arrangements are required along rear laneways to service the new development. An easement of carriageway should be provided by each property to the satisfaction of Council's Traffic Engineer. Generally easements of carriageway should be required as follows:
  - To enable a 5.5m wide access lane along the rear of properties at 4-18 Bluff Road, 592-606 Balcombe Road and 1-35 Bluff Road. For all other properties in the shopping centre, the width of the carriageway easement will be determined by the number of properties likely to require future access.
- Sylvia Crescent is considered wide enough to service residential and office development. However, it is not considered suitable for providing on street loading bays in addition to parking.
- The reduced car parking rate (*from 8 car spaces per 100sq.m of floor area to 3 car spaces per 100sqm of floor area*) for additional shop floor space proposed under the structure plan is considered appropriate. However, the reduced car parking rate (*from 0.6 of a car space per seat to 0.2 of a car space per seat*) for additional restaurant floor space proposed under the structure plan is considered low. On this basis it is considered appropriate to continue the current practice of car parking provision in accordance with the specific requirements of each development application.
- New development at the Black Rock Shopping Centre will need to use private garbage contractors to collect garbage from the rear laneways.

### VicRoads Comments

The following comments were received by VicRoads in relation to the amendment:

- An increase in traffic will occur which could decrease safety at the two roundabouts at Bluff/Balcombe Roads and Beach/Balcombe Roads.
- Bus, bicycle and pedestrian modes of transport in the Black Rock Village area are to receive a higher priority than other transport modes according to VicRoads Network Operating Plan and it is important that the amendment does not hinder these modes of transport.
- Increased retail development on Beach Road north of the roundabout could lead to capacity issues at Beach Road through Black Rock due to the potential for parked vehicles on Beach Road north of the Balcombe Road roundabout.
- Increased retail development along Beach Road north of Balcombe Road may lead to the crossing of Beach Road by pedestrians in an unsafe manner.
- There is a concern that an increase in traffic exiting laneways onto the main roads will pose an increased risk to pedestrians. As the Black Rock Village is a pedestrian priority zone, measures must be taken to increase pedestrian safety.

Despite some inconsistencies in traffic engineering responses to the amendment, there was consensus on the following traffic management and car parking assessment of the amendment.

The width of Sylvia Crescent cannot accommodate loading facilities for commercial uses associated with a Mixed Use zone on the south side. Therefore, the proposed rezoning to Mixed Use on the south side of Sylvia Crescent should be abandoned in favour of Council's existing discretionary uses policy and retention of the Residential 1 Zone as previously discussed. The amendment will not adversely affect traffic congestion in the other nearby local neighbourhood streets.

Concerns regarding the functioning of the main roads adjacent to the shopping centre were limited to traffic safety issues. VicRoads alluded to the potential for disruption caused by car parking on Beach Road associated with additional commercial uses in the proposed Mixed Use Zone on Beach Road north of Balcombe Road. Based on VicRoads traffic safety concerns, the objections of current landowners and recent residential redevelopment in the area, it is considered that the proposed Mixed Use Zone along Beach Road should be abandoned in favour of retaining the Residential 1 Zone and using Council's existing discretionary uses policy.

In accordance with the advice of Council's traffic engineer and the lot access objective of Clause 56.06-8 of the planning scheme (requiring 5.5m width for an access rather than 5.0m), improved access arrangements for Right-of-Ways should be inserted in the local policy. Vehicular movements directly resulting from new development under the structure plan will be managed by a requirement that where new development occurs or where development of additional floor space requires additional on site car parking, an easement of carriageway shall be provided by each property to the satisfaction of Council's Traffic Engineer. Generally easements of carriageway should be required, as follows:

*To enable a 5.5m wide access lane along the rear of properties at 4-18 Bluff Road, 592-606 Balcombe Road and 1-35 Bluff Road. For all other properties in the shopping centre, the width of the carriageway easement will be determined by the number of properties likely to require future access.*

Pedestrian safety hazards associated with increased use of laneway exits onto main roads can be alleviated by restricting access to laneways from the main roads to one way when more than 10 properties along the rear lanes have been developed. Exits from laneways would then be facilitated along the access ways of the Council car parks.

An increase in traffic at the Bluff/Balcombe/Beach Road intersections may reduce traffic safety at the roundabouts according to VicRoads. It should be noted that pursuant to the Road Management Act 2004, the roundabouts sit within arterial roads being the responsibility of VicRoads. VicRoads did not indicate any intersection alterations or improvements they may be considering implementing to address this matter and they have not objected to the amendment on this basis. Therefore it is recommended that the issue of traffic safety at the roundabouts be referred to and addressed by a Planning Panel.

Current Planning Scheme car parking requirements for shops were considered to be excessive by both the consultant and Council's traffic engineers. An appropriate car parking rate for restaurants could not be agreed upon and the car parking "needs" evidence (empirical data) for the centre identified in the structure plan was inconclusive. Given community concern over any reduction in car parking provision for new development, the lack of agreement amongst the traffic engineers on new rates and the lack of suitable evidence justifying reduced car parking requirements under the structure plan, the proposed reduction in on site car parking rates for shops and restaurants, should be abandoned. Continuation of the current system where applicants can apply for a planning permit to reduce car parking requirements under the planning scheme, is most appropriate.

#### Drainage

Council's Asset Management Department have advised that they do not foresee any particular impediments to providing adequate drainage to new development proposed under the Black Rock Village Structure Plan.

Entrances to basement car parks should not be located at low points in streets to minimise the potential for polluted surface over flow from basement car parks running into Council drains. This issue can be managed by inserting a provision in the local policy or by a planning permit condition that new or additional development provide survey evidence indicating that the entrance to any basement car park is not located at the low point of the street.

### Open Space

The Black Rock Village Centre is well serviced by passive open space due to its close proximity to the foreshore, however as pointed out in submissions, active open space is located some distance from the area.

All new residential development will be required to provide a public open space contribution toward the provision of open space in the local area in accordance with the *Subdivision Act 1988*. Due to the built up nature of the Black Rock area and high land values, the purchase of land for active open space in close proximity to new development near the shopping centre is extremely costly. Whilst Black Rock residents may need to travel some distance to access active public open space, the distance to be travelled is not considered excessive.

As indicated above, drainage management and open space requirements shall be addressed by planning permit conditions. However, Council's Drainage Engineer may require an insertion in the local policy to manage drainage associated with any new proposed basement car park. It will state that applications for new development or additional development that require basement car parking shall provide survey evidence to indicate that an entrance to any basement car park is not located at the low point of the street.

### **3.4 Summary of Submission Analysis**

The amendment has attracted substantial comment and interest from the local community. Concerns that the amendment will reduce property values in the area or will diminish bay views are not planning grounds for Council to consider in determining its position on the amendment.

The amendment's impact on the character and amenity of the area is addressed by the structure plan controls. However, given the substantial amount of concern expressed in relation to these issues the following further changes to the provisions should be made to minimise these impacts:

- alteration of provisions in the DDO8 to iconic gateway buildings to require recessive third storey front setback (4m);
- alteration to built form requirements to remove allowance for buildings on sloping land to reach a height of 12m.

There was community support for the proposed rezoning of the west side of Bluff Road and the south side of Balcombe Road from a Business 2 Zone to a Business 1 to further encourage retailing in the centre.

There were no objections to the rezoning of 581-589 Balcombe Road from Business 2 to a Mixed Use Zone to allow for a mixture residential and commercial uses.

There were a number of objections from landowners to the proposed rezoning from a Residential 1 Zone to a Mixed Use Zone to land along Beach Road and Sylvia Crescent. Further investigation of traffic safety and road capacity issues associated with these rezonings indicates that the proposed rezoning to Mixed Use on the south side of Sylvia Crescent should be abandoned in favour of Council's existing discretionary uses policy. Further, the proposed rezoning to Mixed Use Zone along Beach Road should also be abandoned in favour of using Council's existing discretionary uses policy.

There was a significant amount of community concern that the amendment would impact on car parking availability at the Black Rock Village and with its potential to impact on traffic in nearby local and main roads. Further investigations undertaken regarding car parking and traffic management issues indicated that the following alterations to the amendment should be made to address the community's concerns:

- The proposed reduction in on-site car parking rates for shops and restaurants in the local policy, should be abandoned.
- Impacts of the amendment on traffic safety at the Bluff Road/ Beach Road/ Balcombe Road roundabouts should be referred to a Planning Panel for further investigation.
- Insertions in the local policy should be added to require that, where new development occurs or where development of additional floor space requires additional on site car parking, an easement of carriageway shall be provided by each property to the satisfaction of Council's Traffic Engineer. Generally easements of carriageway should be required, as follows;
  - *to enable a 5.5m wide access lane along the rear of properties at 4-18 Bluff Road, 592-606 Balcombe Road and 1-35 Bluff Road. For all other properties in the shopping centre, the width of the carriageway easement will be determined by the number of properties likely to require future access.*
- When more than 10 properties abutting the rear lanes have been developed, consideration should be given to restricting direct access to the laneways from the main roads by only allowing vehicles to enter one way with exiting vehicles required to use access ways within Council car parks.
- Insertion of a provision in the local policy or insertion of a planning permit condition that new or additional development provide survey evidence indicating that the entrance to any basement car park is not located at the low point of the street.

## **4. Implications**

### **4.1 Policy**

Progressing Amendment C90 supports:

- Strategy 3.1.4 of the Council Plan which specifies that; *housing will meet the diverse and changing community needs over time and be located to support sustainable living; and*
- Strategy 3.1.3 of the Council Annual Action Plan 2011-2012 which requires finalisation of the Black Rock Village Structure Plan, Amendment C90.

Amendment C90 provides for additional urban infill development at the Black Rock Village centre. It is consistent with State Planning Policy in that councils are to provide for the future housing needs of all Victorians and that future housing needs be met within or close to activity centres to more efficiently service the needs of future households.

### **4.2 Legal/Statutory requirements**

The process undertaken in relation to Amendment C90 has met all the statutory requirements for exhibiting an Amendment pursuant to the *Planning and Environment Act 1987*.

### **4.3 Financial and resource implications**

Costs associated with progressing Amendment C90 have been provided for within the 2011/2012 budget. Council may need to consider providing funds in the 2012/2013 budget if the amendment progresses into the next financial year.

Once inserted into the Bayside Planning Scheme, the Black Rock Structure Plan provisions will be administered by Council's Statutory Planning Department. If significant development occurs, Council's Asset Management Department will need to implement access restrictions to the laneways to maintain pedestrian safety at main road access points.

#### **4.4 Environmental impacts**

It is expected that the provisions of the Black Rock Village Structure Plan will have no impact on vegetation cover or on the landscaped environment of the area. Vegetation cover is not a particular characteristic of the shopping centre and the adjoining residential areas on Beach Road and Sylvia Crescent.

New built forms associated with the structure plan are not considered to be unreasonable within the shopping centre area nor are they considered to be out of character with many of the more recent residential development along Beach Road.

#### **4.5 Social impacts**

It is considered that population growth, facilitated by the structure plan, at the Black Rock Village Centre and immediately adjacent to it will increase patronage at the centre and strengthen the centre's ability to service the local convenience retailing and recreational needs of the Black Rock population.

### **5. Consultation and engagement**

The amendment has been exhibited in accordance with the *Planning and Environment Act 1987*, with the methods of communication employed exceeding the statutory requirements. Council received a total of 293 submissions on behalf of 355 people in relation to the amendment. Of these, 4 submissions were supportive of the amendment and 289 submissions objected to the Amendment. Submissions are provided to Councillors and summarised earlier in the report.

Submitters to the amendment also have the opportunity to participate in a panel hearing process, if Council determines that a panel should be appointed.

### **6. Summary**

Council exhibited the proposed Bayside Planning Scheme Amendment C90 Black Rock Village Structure Plan in accordance with the *Planning and Environment Act 1987*. In response to substantial community concern, the following alterations to the amendment are recommended:

- Amend provisions in the DDO8 to iconic gateway buildings to require recessive third storey front setback (4m);
- Amend built form requirements to remove allowance for buildings on sloping land to reach a height of 12m.
- Abandon the proposed reduction in on site car parking rates for shops and restaurants in the local policy.
- Abandon the proposed rezoning of properties from Residential 1 to Mixed Use along Beach Road and in Sylvia Crescent in favour of using Council's existing discretionary uses policy.
- Refer traffic safety issues at the Bluff Road/ Beach Road/ Balcombe Road roundabouts to a planning panel for further investigation.
- Insert in the local policy that, where new development occurs or where development of additional floor space requires additional on site car parking, an easement of carriageway shall be provided by each property to the satisfaction of Council's Traffic Engineer. Generally easements of carriageway should be required, as follows;

- *to enable a 5.5m wide access lane along the rear of properties at 4-18 Bluff Road, 592-606 Balcombe Road and 1-35 Bluff Road. For all other properties in the shopping centre, the width of the carriageway easement will be determined by the number of properties likely to require future access.*
- When more than 10 properties abutting the rear lanes have been developed, consider restricting direct vehicular access to the laneways from the main roads.
- Insert in the local policy or as a planning permit condition, that new or additional development provide survey evidence indicating that the entrance to any basement car park is not located at the low point of the street.

It is now appropriate for Council to request the Minister for Planning to appoint a panel to consider the submissions received.

## Recommendation

That Council:

1. receives all submissions made in response to the statutory exhibition of Bayside Planning Scheme Amendment C90 which implements the Black Rock Village Structure Plan;
2. refers all submissions to an independent panel for consideration;
3. requests the Minister for Planning to appoint a panel in accordance with part 8 section 153 of the *Planning and Environment Act 1987*, to consider the submissions received in response to exhibition of Amendment C90;
4. modifies the amendment by making the following changes;
  - amend the provisions of the proposed DD08 to require a 4m recessive third storey front setback to iconic gateway buildings to require recessive third storey front setback (4m);
  - amend built form requirements of DD08 to remove allowance for buildings on sloping land to reach a height of 12m.
  - abandon the proposed reduction in on-site car parking rates for shops and restaurants in the proposed Cl. 22.13 Black Rock Neighbourhood Activity Centre, local policy.
  - abandon the proposed rezoning of properties from Residential 1 Zone to Mixed Use Zone along Beach Road and in Sylvia Crescent.
  - refer traffic safety issues at the Bluff Road/ Beach Road/ Balcombe Road roundabouts to a planning panel for further investigation.
  - Insert a provision in the Cl. 22.13 Black Rock Neighbourhood Activity Centre, local policy, stating that where new development occurs or where development of additional floor space requires additional on-site car parking, an easement of carriageway shall be provided by each property to the satisfaction of Council's traffic engineer. Generally easements of carriageway should be required as follows:
    - To enable a 5.5m wide access lane along the rear of properties at 4-18 Bluff Road, 592-606 Balcombe Road and 1-35 Bluff Road. For all other properties in the shopping centre, the width of the carriageway easement will be determined by the number of properties likely to require future access.
  - When more than 10 properties at 4-18 Bluff Road, 592-606 Balcombe Road or 1-35 Bluff Road have been developed in accordance with the structure plan, consider restricting direct vehicular access to the laneways from the main roads.
  - Insert in the Cl. 22.13 Black Rock Neighbourhood Activity Centre, local policy, that new or additional development provide survey evidence indicating that the entrance to any basement car park is not located at the low point of the street; and
5. Advises all submitters accordingly.