

METROPOLITAN PLANNING AUTHORITY

Closing Submission

to Planning Panels Victoria for

Amendment C190 to the Casey Planning Scheme

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1. Introduction

These closing submissions are made on behalf of Metropolitan Planning Authority (**MPA**) in respect of proposed Amendment C190 (**Amendment**) to the Casey Planning Scheme.

The MPA opened its case by noting that the Amendment that is carried forward with strong policy support and no fundamental opposition to its progression. The Panel has now heard the submissions of the parties and all of the evidence. No party has challenged the amendment in a way which would threaten its progression or the appropriateness of delivering a new urban community within the Brompton Lodge area.

Accordingly the core recommendation that this Panel should make is that Amendment C190 to the Casey Planning Scheme be adopted.

There are a range of issues before the Panel that have been raised in the course of submissions.

These submissions seek to confirm the position of the MPA in respect of those outstanding matters of detail which go to the form of the final amendment.

The outline of submission now follows.

2. The Proponent position upon DCP matters

It is necessary that the MPA express its disappointment with some of the matters advanced on behalf of the Proponent in the course of the hearing.

The Panel is referred to submission 11 on behalf of the Proponent and the limited issues that it sought to advance. In so far as it could be said to relate to matters concerning the DCP, it was confined to the apportionment of the Chevron Avenue upgrade and an enquiry concerning the scope of the Cranbourne-Frankston Road intersections.

As a matter of record it is appropriate to note that at the time the MPA took control of the amendment¹ the MPA, the Council and the Proponent all communicated, considered and agreed that a DCP was the appropriate mechanism to deliver the infrastructure associated with the Amendment.

Having reached this position the MPA progressed the Amendment in that form in the full knowledge of the Proponent and Council.

The Proponent belatedly asserts that the MPA's conduct is inconsistent with other practices and infers this is inappropriate². Notably none of the circumstances, documents or particular characteristics of the two amendments referred to was put before the Panel.

Given the above it is simply inappropriate for the Proponent to contend that MPA has acted unreasonably when what it did was give effect to the wishes of the Proponent and not party asserts that the DCP is not at least a potential mechanism for delivery of infrastructure. The Panel should disregard these criticisms of the MPA and place no weight on the references to the Lincoln Heath South PSP and the Payne's Road PSP.

¹ Part A Submission, Page 4 – 12 November 2013.

² Paragraph 10.21 of the Proponents written submission.

Turning to the merits of the Proponent's arguments on DCP matters, at its highest the position expressed is that there exists a potential alternative mechanism to deliver the intersections (which it acknowledges will need to be delivered by it whatever the mechanism) .

The MPA join with the Council in highlighting that the DCP guidelines relied upon by the Proponent do raise the potential for the use of 173 agreements, but qualify the circumstances to where there exists mutual agreement³. The DCP Guidelines 2007 (Guidelines) state:

A voluntary agreement for the provision of infrastructure is appropriate when the parties agree to a mutually acceptable outcome. [Emphasis Added]

A section 173 agreement is an agreement between the landowner and the responsible authority. It is clear from the submissions of the City of Casey that no mutual agreement exists. Quite properly an inference can be drawn from the evidence of Mr Walsh and the submissions of the proponent⁴ that it is steeling for an attack on the scope of works provided at the time of permit application. It is of no surprise in these circumstances that the Council does not want the agreement option and in the absence of a meeting of minds on this issue no voluntary agreement can be realised.

In determining whether an agreement or DCP is appropriate in the current circumstances⁵ it is appropriate to consider the form of agreement that would be required. In this respect the Guidelines state⁶:

A voluntary agreement can provide for:

- the costs and standard of infrastructure provision
- the timing of the provision of infrastructure
- the parties' obligation to provide the infrastructure
- timing of payments towards infrastructure
- the refund of cash contributions if infrastructure is not provided
- the upfront provision of infrastructure by one landowner and the reimbursement of the cost by other landowners as they develop, or
- works-in-kind in lieu of a cash contribution.

The MPA has considered what would be appropriate for inclusion in an agreement in respect of C190 to secure infrastructure which will be delivered over 10 or more years.

The MPA submits that it would necessarily contain the following aspects:

- It would need to be entered into by the owners. That is all of the owners and not just the owners who are present in the context of this hearing. A DCP was exhibited to the owners of the land who have not made submissions or appeared at the hearing.
- The agreement would need to require the delivery of the intersections. There would necessarily be a level of uncertainty in the agreement where the Proponent is seeking to defer all intersection treatment formations until later in the development scenario.

³ DCP Guidelines 2007, Page 5.

⁴ Paragraph 10.24

⁵ Where there will on all parties view be a DCP administering at least some road projects.

⁶ Page 6.

- The agreement would need to contemplate a payment or WIK process that accounts for the prospect of a single developer.
- Noting the number of current titles, and the development timeframe the agreement would need to include a payment process that accounts for multiple owners and developers.
- It would require a mechanism within the agreement that ensures that there is equitable cost of delivery apportioned across the land. That is a fundamental principle of delivering infrastructure for which the benefit is shared.
- The Agreement would need to trigger payment or delivery which might include a trigger for delivery following of nominated infrastructure following development of a designated number of lots, a designated number of hectares, or a temporal control.
- there would need to be provisions concerning Council's management of funds collected under the agreement from owners not personally delivering an intersection and how it would hold and apply those funds from the potentially multiple contributing parties.
- it would have the usual machinery clauses.

What is evident is that a section 173 agreements to appropriately be the mechanism that secures this infrastructure delivering common benefit on the basis of equitable distribution, it would need to address all of the matters which ordinarily form part of a DCP.

Given there is already a DCP prepared there exists no tenable basis for the creation of dual mechanisms of a section 173 agreement and DCP (and associated inefficiencies).

Plainly put the Proponents proposal would add administrative costs and uncertainty to the process and does not represent a considered response to the circumstances.

the MPA notes that the Proponent has not advanced any statutory drafting amendments in form of the schedule or the like that would give effect to something other than a voluntary agreement.

In conclusion the idea 'floated' by the Proponent late in the preparation of this amendment is unresolved, inefficient and is should not the form the basis of any recommendation of the Panel.

Costings

In its submission the proponent has made a series of bare assertions concerning costings of projects within the DCP⁷. The Panel should place no weight on these submissions.

No written costings, charge sheets, documentation, qualifications of the persons responsible for the figures put forward were provided. This is notwithstanding that a representative of the firm has been present for much of the hearing. There is no evidence to substantiate the claims made, let alone any evidence that has been properly tested under cross examination.

The Proponent had the opportunity, as is common in DCP Panel hearings, to call evidence concerning the costings of items or, in respect of the more recent items to advance some proper detail of its concerns.

⁷ Paragraph 10.26 to 10.27.

It has noted MPA consider it is appropriate to draw an adverse inference given that the proponent has looked at the issue costings and then not adduced any evidence.

The Panel should disregard the Proponent's submissions on costings.

The role and meaning of the DCP guidelines

In its questioning of Mr O'Brien, the proponent sought to put text from the Guidelines to the witness seeking concessions that the guidelines were inconsistent with the PSP area funding the intersections within Ballarto Road⁸. It was inferred, effectively, that the DCP *must* apportion the costs amongst users it is presumed on a traffic usage basis.

The MPA makes four observations concerning this matter.

Firstly the MPA acknowledges that external apportionment is a difficult concept. One of the inherent difficulties on the concept is that like many planning concepts it needs to be applied to the facts of the matter and cannot be the subject of a rigid interpretation. As a matter of law to adopt the approach put forward by the proponent would be to elevate the Guidelines to legislation. Clearly this is not an appropriate outcome. Rather a careful application to the facts is required to properly assess apportionment considerations on the facts.

Secondly the response of Mr O'Brien is entirely correct. If the guidelines were applied as an inflexible rule it would never be the case that a PSP area would fully upgrade an intersection or provide infrastructure (or indeed facilities) off the PSP area itself. There will always be some regional traffic, or regional population in the area that will derive a benefit from the DCP items funded in a new community without making its own contribution. This is however consistent with the objectives of Planning in Victoria as set out in the Planning Scheme⁹ which include:

- To protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community.
- To facilitate development in accordance with the objectives set out in the points above.
- To balance the present and future interests of all Victorians.

Thirdly, again as put by Mr O'Brien, in the absence of construction of the full length of Ballarto Road, the role of the connectors through the PSP area will be elevated as persons from the Settlers Run and Botanic Ridge area will use the PSP¹⁰ as a bypass route to the Western Port Highway. In this way the benefit conferred by the construction of these projects extends beyond a simple estimate of traffic volumes to an assessment of traffic function and desire lines. Yes, others will use Ballarto Road, but in doing so other amenity and risk issues within the PSP are addressed.

⁸ The section put was understood to be at Page 13 of the Guidelines: *'For the purposes of calculating levies in a DCP, the costs of infrastructure projects are shared amongst all the likely users. The likely users will include existing and future development. In this way, new development will not be charged for the whole cost of an infrastructure project that others will use and costs are distributed on a fair and equitable basis'.*

⁹ Clause 01.

¹⁰ And Chevron Avenue.

Fourthly, the position of the MPA in its treatment of a precinct at the periphery of urban development is not novel and is one which has the support of previous Panel reports. The Advisory Committee considering Development Contributions in 2012¹¹ noted this trend:

Where these works are on the boundary of a planning unit and adjacent to another existing or proposed planning unit, the cost should be shared equally (adjusted for the length of common frontage where necessary). Intersections at the corner of a planning unit may be externally apportioned up to 75% as appropriate. Where the boundary of the planning unit abuts a growth boundary or an existing area, the cost may be fully apportioned to the planning unit. The Committee acknowledges that this raises equity issues, but this approach is consistent with some recent GAA prepared DCPs and has been generally accepted by Panels on the basis that future residents of the planning unit will also use road infrastructure external to the planning unit and to which they will make no contribution. [Emphasis added]

The Committee also noted that:

Where infrastructure is required external to the planning unit, and it can be demonstrated that it is only required because of the development in the planning unit, full costs should be apportioned to the planning unit regardless of any minor or incidental benefits which may flow to users external to the planning unit;

The facts of this matter are one example where these principles, particularly the first, apply. This logical inclusion PSP comes after the preparation of the Cranbourne West PSP and development of areas such as Settlers Run and Botanic Ridge. This PSP constitutes the ‘agent of change’ and is appropriately responsible (and the beneficiary) for the cost of constructing its intersections and the improvements to Ballarto Road.

Woodlands Road

A series of questions were raised by the Proponent of Mr Butler concerning the planning for Cranbourne West and in particular the likelihood that Woodland Road will be extended to the north.

The MPA adopts the position expressed by Mr O’Brien in response to questions by it agreeing that in effect there could be no sensible traffic basis upon which this connection will not occur. The PSP area is siting its community infrastructure to the north in Cranbourne West and no connections will be realised through the Amstel Golf Club as it is outside the UGB.

People must traverse across for the purpose of schools and other community uses. PTV have proposed their bus route through this area.

The Panel should in considering this Amendment ensure that its consideration provides for this likely extension.

¹¹ Standard Development Contributions AC - Report 1 (AC) [2012] PPV 152 (18 December 2012), Section 10.4(ii)

DCP costings

The MPA has commissioned costings of the items of infrastructure identified in the traffic witness statements and in the conclave.

These costings broadly confirm the costings provided earlier.

The MPA confirms that the costings premised on the DCP standard costing sheets prepared by Cardno are:

PROJECT SCENARIOS	Contribution p.net developable ha
Exhibited Rate	\$290, 901.00
All new projects*– 100% apportionment	\$344,790.00
All new projects – 100% apportionment of all items except 50% of Chevron Avenue	\$340,098.00
All new projects – 65% apportionment of Ballarto Road projects, 50% Chevron and 100% of all other road and infrastructure items	\$321,420.00

3. Residential Growth Zone

Submissions in respect of the application of the Residential Growth Zone have been made by both the City of Casey (**Council**) and the Proponent.

At the outset it is appropriate to note that all parties agree that the Residential Growth Zone ought to be applied within the growth area. This is consistent with the extract from Plan Melbourne referred to in the MPA's Part B submissions¹². The difference pertains only to the scope/breadth of the application of that zoning being:

- The MPA contends for the RGZ to all of the residential precinct.
- The Council contends for RGZ to part of the precinct being all residential land within 400 metres of the Activity Centre;
- The Proponent contends for RGZ application in accordance with Appendix E to its submission.

There are two issues that the MPA must respond to in respect of the application of the RGZ. The first is whether its application of the RGZ would result in a transformation of the proposal.

The second issue is the merits of the application itself.

¹² At Page 34.

These matters are dealt with in turn.

A succinct consideration of the application of transformation principles was recorded by a Panel comprised of Messrs Keaney, Czarny and McCulloch in respect of Proposed Amendments C73 and C198 to the Greater Geelong Planning Scheme¹³. There the Panel was faced with a range of changes it proposed following the close of the hearing. The Panel stated¹⁴:

There is a fundamental difference between ‘transforming’ an amendment and ‘modifying’ an amendment. The usual practice applied in Panel hearings is that modifications to amendments are acceptable so long as they do not result in a ‘transformation’ of the proposal. A ‘transformation’ is considered to be a changing of the amendment in a fundamental way so that, in effect, it becomes a different amendment.

A transformation is something quite different from that originally proposed. For instance, the introduction of new zonings, especially where the new zones would enable unanticipated development, or more intensive use of land, would usually be a ‘transformation’ of the Amendment. A transformation of an amendment will normally require re-notification.

The MPA adopts this test and it then falls to this Panel to consider whether in practice this change would ‘enable unanticipated development, or more intensive use of land’.

The MPA submits that on any reading, it would not.

The Amendment documentation constitutes the PSP, the DCP, the NVPP, the zone controls and other materials.

Importantly the anticipated development details are within the PSP document as to the form of proposed development, the anticipated yield and the areas where different types of development are detailed. The intensity of the proposed development is settled within the PSP, not with the applied zone¹⁵. The matters are details in much greater particularity than would be the case in an amendment which simply rezoned land from one zoning control to the next.

Consistent with the argument put by the MPA in its opening, the PSP and the UGZ are key documents that describe and guide development within the PSP area and any proper reading of the amendment confirms what is proposed. The generic purposes of the State standard provisions do not.

It is then necessary to examine the machinery clauses within the RGZ and GRZ to examine whether there are any material differences. Of course both zones permit residential uses with a maximum

¹³

[http://dsewebapps.dse.vic.gov.au/Shared/ats.nsf/\(attachmentopen\)/0363469AD6F560FECA2577A40029FB11/\\$File/Greater+Geelong+C73+&+C198+Panel+Report.pdf?OpenElement](http://dsewebapps.dse.vic.gov.au/Shared/ats.nsf/(attachmentopen)/0363469AD6F560FECA2577A40029FB11/$File/Greater+Geelong+C73+&+C198+Panel+Report.pdf?OpenElement)

¹⁴ At Section 10.6 on Page 131.

¹⁵ Which again may be different to the translatory zone at the end of the PSP.

discretionary height of 13.5 or 9 metres. Where development is guided by the PSP and subject to a requirement of 'generally in accordance with' this is not material.

In terms of alternate uses, the only potentially material as of right use¹⁶ would be food and drink premises and (shop up to 100 sqm) but that is only where the site abuts a road zone and is within 100 metres of a commercial or mixed use zone.

In the circumstances of the Amendment and the configuration of the PSP this change is not material. Nor does it necessarily translate to the final zones to be applied once the PSP is exhausted.

No 'unanticipated' development will be realised by the proposed change in zoning and the proposed change does not constitute a transformation.

The second issue for consideration is the position of the Council the merits of the application of the RGZ. The MPA notes that much of the Council's argument is premised on zone purposes and to this extent the MPA simply notes its disagreement with the Council's approach and that the Council did not grapple at all with the MPA's argument concerning the application of purposes in its submissions.

The MPA notes the submission of Casey concerning the Ministerial direction 16¹⁷ and observes the operation of MD16 to be as follows.

Section 7(5) and 7(6) of the Act provides that:

(5) The Minister may issue directions or guidelines as to the form and content of any planning scheme or planning schemes.

(6) A planning authority must comply with a direction of the Minister under subsection (5).

MD16 states that:

.....

6. A planning authority must apply the residential zones in either the following two

ways:

- a) by applying the General Residential Zone to all residential land in a municipality (other than to land zoned Mixed Use, Township or Low Density Residential), or
- b) by applying the three residential zones.

¹⁶ i.e. use which would not require the operation of the permit process and the assessment of general in accordance.

¹⁷ Paragraph 51 of the written submission.

7. A planning authority must use a housing strategy to inform the balanced application of the three residential zones as detailed above in point 6 b).

It follows that the planning authority must be *informed* by the housing strategy. The word informed means to give the character to, quality of or essence of a matter. It is clearly not a mandatory application of a housing strategy. Rather it constitutes a 'consideration' in the mix.

The Casey housing strategy has relevant text at 5.2 and page 22. At section 5.2 the Housing Strategy states¹⁸:

In terms of identifying suitable areas for more intensive, diverse housing it is important to understand walkable catchments and the distances people are willing to walk to services. A 400m distance equates to about a five-minute walk and an 800m distance is equivalent to a ten-minute walk and these are generally taken as an acceptable distance for people to walk to high quality public transport and shops. Detailed mapping considers the genuine walkability for existing pedestrian connections, typology and physical barriers.

The analysis has taken distances of 400m and 800m from transport and services and used this to identify accessible locations. This translates to preferred locations for more intensive and more diverse housing.

The table at Page 22 then determines the application of the RGZ by reference to the proximity to and categorization of activity centres. For a neighbourhood activity centre the distance is understood to be approximately 400 metres and the distance for a centre of the next scale it is 800 metres. The MPA notes this constitutes an approximation on the words of the document itself – not a rule.

The MPA does not support the submission that one would limit the RGZ in this context to 400 metres for a number of reasons:

- The Housing Strategy, while an adopted document is not yet the subject of an authorized amendment, let alone does it form part of the Planning Scheme. Little weight can be placed on a document of this nature irrespective of how it was prepared.
- On its own terms the distances in the Strategy are approximate. Different centers will have different performance on walkability and accessibility in part depending on geography, age and whether they were appropriately structure planned. Not all areas are equal. In the case of the PSP area, the Panel is considering a PSP area with confined boundaries and which has been designed in accordance with the Precinct Structure Plan Guidelines to have very high levels of permeability.
- The rigid approach proposed by the Council would produce nonsensical outcomes. The accepted 400 metre application would result in a sliver of no more than 50 meters of GRZ at the northern aspect of the development.
- The application in accordance with the Housing Strategy would result in an inconsistency with the Requirements (R6) a requirement that the Council itself does not contest.

¹⁸ Page 19.

- Almost all land is within the 800 metre bench mark and the application of the position of the Council would unnecessarily elevate the approximate figures within the table at Page 22 of the Housing Strategy above their station.

The MPA maintains that the applied residential zone should be the RGZ. This is consistent with the approach it will be adopting for all future growth areas.

4. Proposition for creation of a wildlife corridor

The case has been advanced by the City of Frankston and other community groups that the PSP should secure a wildlife corridor in part through the PSP area¹⁹. It is the submission of the MPA that the position advanced is flawed.

In summary:

- nothing has been advanced during the hearing that altered the position of the State in policy. That is the policy position currently settled assessed corridors as having low strategic merit. At its highest the position put is that there may be a review on foot²⁰.
- All of the ecological evidence in favor of corridors has been presented with an ecologically focused view on the realization of corridors without any of the ordinary planning balancing of objectives required.
- An inconsistent approach is advocated in respect of corridors and corridor widths with the effect that there is really no clear direction that Panel can make in terms of corridor provision.
- There was little if any challenge or testing of the evidence advanced by Mr Harvey or Mr Brennan.
- No funding arrangements are identified and absent these it is impossible to assess the costs and benefits.

Before the MPA proceeds to the details on this matter, it notes the following a cost matters for consideration:

The distance between the southern corridor to the eastern corner of the site is approximately one kilometre. The other internal extensions proposed would be in the order of 100-150 metres. The distance from corridor to the eastern roundabout is estimated at 750 metres.

The MPA has assessed in general the impacts upon cost of a corridor on the exhibited DCP rate if more land take is required. The changes in rate are:

- 10Ha nda lost - \$333,583.22
- 5Ha nda lost - \$310,775.67
- 3Ha nda lost - \$302,502.66

¹⁹ It is stated to be in part because in reality any corridor on the PSP can only ever be a piecemeal contribution.

²⁰ Mr Nicholls slides and the email partly included from the department.

These financial imposts constitute only part of the equation. The success, if any, of a corridor is directly related to predator management within that area²¹. No process or management has been identified for this. The above also assumes that there is no compensation to the affected land owners.

The MPA's submission is that the Panel should not depart from the approved SBB strategy in the context of a PSP Panel hearing. The SBB strategy was formulated after considered and lengthy deliberations that went to the formation of that document and submission to the Commonwealth. If in the future policy is amended, then there exists an opportunity for the corridor to be realised by other means. This could be through the land to the north²² or through the PSP in a different process subject to an appropriate and detailed consideration of all the issues at that time.

In a sense the submissions to this Panel are unfair. The submissions seek to elevate the Panel hearing to a quasi-reconsideration of the SBB Strategy where arguments were advanced and abandoned. This is not the time or the place. The Panel cannot evaluate with the limited material the costs of the actions, nor can it evaluate the potential wasted costs if the SBB strategy actions adopt a different path.

The Panel is again taken to the cost benefit strategy in the SBB Strategy. This is the policy. The evidence from the City of Frankston confirms that neither translocation, having twice the cost and benefit nor predator control strategies having in excess of 5 times the benefit are part of the current program of the Council.

If it is the case that the SBB is near extinction in the Pines, the best application and cost to the community might be to treat that place and utilise a combination of techniques.

To the extent the strategy has been supplemented, it was supplemented in respect of specific sites and at a time when Brompton Lodge was/was not within the Urban Growth Zone. These areas are fundamentally different as confirmed in the evidence of Mr Harvey and Mr Brennan. The supplement is specific to other sites. Particular note is made of the sentence relied upon by Mr Nicholls on Page 4 of the Supplement:

The Victorian government, through DEPI, will investigate other opportunities to enhance habitat connectivity between the Royal Botanic Gardens Cranbourne and other important populations and habitat for Southern Brown Bandicoot outside the south-eastern growth corridor, as a priority.

This does not say more than the Victorian Government will investigate connectivity between important populations.

The submitters cannot turn this Panel hearing into a secondary process in lieu of the government undertaking its investigation.

²¹ As indicated by Dr O'Malley and others.

²² Dr O'Malley's preference.

That said, it should be noted that the MPA has not prepared a PSP which is not alive to the utilization of those areas within the PSP that could accommodate flora and fauna.

The Panel is referred to Guideline 24 which states “Street trees and public open space landscaping should contribute to habitat for indigenous fauna species, in particular animals and birds that use trees as habitat”. The MPA can amend this to refer to ground dwelling fauna species, such as the Southern Brown Bandicoot.

It is appropriate that these are objectives and not requirements on the basis that the appropriateness of meeting competing demands for the space is a matter properly considered at this hearing and best considered at the time of a permit application.

Ultimately the view taken by the Frankston City Council and others does not adequately examine, evaluate or provide for a coherent assessment of the planning benefits and disbenefits of foregoing developable land in lieu of providing these links with only circumstantial potential for benefit.

It is submitted that on this basis the current controls within the PSP are adequate and that this Panel should not recommend further changes.

The second matter that stands to be addressed is the notion of provision of a corridor along Cranbourne-Frankston Road within the 10 metres it proposes though the benefits of it are unclear absent a comprehensive predator control process and fencing..

The proposed buffer is for urban design reasons of transition between the green wedge land and the urban land is at 10 metres²³.

In summary it is the MPA’s position that:

- The MPA supports the concept of a tree/landscape reservation along Cranbourne-Frankston Road for the purposes of visual amenity and providing a landscape buffer to the green wedge areas to the south of Cranbourne-Frankston Road.
- This reservation was always envisaged for this interface and was noted on the exhibited version of the PSP on Plan 2, Future Urban Structure Plan. No width was identified for this however.
- The purpose as put forward by the City of Casey was to provide a visual buffer to the areas of the south.
- The MPA considers that provision of a 10-11 metre treed landscape reservation, between the arterial road reservation of Cranbourne-Frankston Road and future frontage road reservations is more than adequate to meet the purposes of a visual transition from green wedge land to urban development.
- Providing for a landscape reservation between an arterial road and local frontage road is not standard practice in growth area planning. The MPA considers therefore that the proponent’s offer of an uncredited 10 metre tree reservation is generous. This land will be transferred to the City of Casey at no cost to Council.
- The MPA considers that two rows of trees and a shared path could be accommodated within a 10/11 metre reservation subject to the following:

²³ Subject to resolution of gradient. The MPA position is that width should be 10 metres except where a greater width is necessary to accommodate gradient.

- ○ Tree planting sections must be at least 3 metres.
- ○ The gradient of the tree planting areas should not exceed a level of 1:3. (This applies to
- ○ The shared path must provide at least a 1 metre verge between the shared path and any change of gradient for safety purposes.
- ○ The frontage road reservation must provide a verge of at least 1.5m to incorporate any necessary drainage features.
- Council's argument that trees cannot survive in steep gradients is misleading. There are plenty of examples of treed landscaping where trees survive on steep gradients, including the vegetated buffer along waterways.

Conclusion

The MPA thanks the Panel for its participation in the Panel hearing and commends the Amendment to it.

21 April 2016

HARWOOD ANDREWS

On behalf of the Metropolitan Planning Authority