



Malvern East Group

MEG Supports *PLANNING BACKLASH*

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MEG Submission to Panel re Amendment C154 May 2012

MEG (Malvern East Group) was formed in 2005 in response to a number of residents wanting to know the process in opposing inappropriate development. We have a large (paid-up) membership with members spread throughout Malvern East.

Our objective is :-

to preserve and improve the general appearance and amenity of the area for the advantage of residents and to ensure that Malvern East retains its present residential character.

The Panel would be aware that this was an ambitious objective and our members have not always been successful in this age of development at any price known as 'planning by arithmetic.' However residents with Council support have had some successes and one such success was the case of Axtrim v Stonnington in December 2010 when VCAT issued a Refusal to Grant a Permit for 11-15 Chadstone Rd. to be used as a purpose-built, 3 storey, 100 unit student accommodation building. Our submission to Council re Amendment C154 quoted from that decision using the words of Council's Urban Designer...

Over a long period of time considerable effort has been applied to the planning and design of interfaces of the Chadstone Shopping Centre complex in order to preserve, as far as possible, the atmosphere and character of the immediately adjacent residential streets.

In the same case, expounding on his decision Member Bennett said...

*Compared with other activity centres (whether Principal or Major) it is unusual and indeed surprising to have retained **such a clear and functional demarcation** between the activity centre and the surrounding residential area.*

We submit to this Panel with that purpose in mind...i.e. to retain that **clear and functional demarcation** between CSC and the surrounding residential area. We are aware of the implications regarding development in and around a Principal Activity Centre but Chadstone is different from Stonnington's other Principal Activity Centre in Chapel Street Prahran/Sth Yarra and, indeed from other Principal Activity Centres, in that it is a "stand alone", car-based and **privately-owned** centre in the heart of a one and two storey residential area which is clearly separated from the Business 1 Zone and we request that in your consideration of C154 you retain this separation.

We have spoken with a number of MEG members in the residential area adjacent to CSC and they oppose the application for the massive increase in the building envelope but generally acknowledge that "money speaks" and that the applicants will get some of what they want even though they haven't yet used what they have already got. No doubt the Panel is aware that there is 16,000 sq.m of the existing envelope still to be developed.

Chadstone Rd. Curfew We are aware that the proponents have made some minor concessions ...i.e. the request to remove the curfew on Chadstone Rd. has been dropped

purportedly because of the concerted opposition from a large number of sources including Council. MEG believes that the original request was merely a diversionary tactic to take our minds off the massive increase in the building envelope sought in the Amendment.

Re-zoning of 2-4 Chadstone Rd. We are also aware that the application for re-zoning of the entire site at 2-4 Chadstone Rd. has been reduced to a request for a partial re-zoning to accommodate a slip lane. MEG supports Council in opposing any re-zoning of any part of a Res.1 Zone. Any such re-zoning creates an unacceptable precedent and brings the "stand alone" Activity Centre into the clearly defined residential area and constitutes "the thin edge of the wedge." If permitted it allows the applicant to have their other real estate acquisitions in the vicinity of the Centre to be re-zoned so that, slowly but surely, **the physical and functional demarcation** between the "stand alone" Activity Centre and Res.1 will be eroded. Added to this the planning and design of the interfaces with CSC in order to preserve the 'atmosphere and character' of the immediately adjacent residential streets will have been futile and the integrity of the Neighbourhood Character compromised.

Reduction in Car Parking We oppose the request for a retrospective reduction in parking requirements. The applicants have produced **no evidence** that a lowering of car parking ratios will result in a shift towards buses, cycling or walking which are the only alternatives available to those wishing to visit CSC. Indeed if other alternatives are not seriously considered and implemented the likelihood is that car traffic will increase commensurate with the increase in the centre. Inevitably this will impact even further on the residential area. MEG supports Council's position on this issue.

We would propose that the applicants adopt a system of payment for parking such as the one at Victoria Gardens Centre where **X** number of hours are free and there is a charge for subsequent time. This would tend to move the cars on more quickly (albeit marginally) and the circling of cars in and around the centre would decrease to some extent.

We do not believe that the Parking Guidance System instituted by the applicants is a feasible solution to the problems of parking at the Centre. Where there is a green light indicating an empty space cars converge on that lane and the usual practice will operate...i.e. the closest car with an indicator flashing will be first in and all the others will circle again looking for the next green light.

Some parking areas in CSC have time limits with a notice saying "Fines Apply"... (See Attachment 1). Stonnington does not issue fines on private property though in a phone call to Centre Management on May 7 MEG was informed that Stonnington did police this matter. A further call to the General Manager of Stonnington's Traffic & Parking Department confirmed that this was **not** the case. This had already been stated by Stonnington's Director of Planning and Community Development at a Focus Group meeting. Owners of private land can enter into a formal agreement with the R.A. with regard to the provision of parking services but the owners of CSC have not done this. For their information the method is outlined in the Road Safety Act. (See Attachment 2)

What then is the position? There is free parking at CSC. There are signs in some areas limiting the parking time but no action is taken to enforce this. A Parking Guidance System which will do what??? is about to start operating in part of the site. What purpose do the applicants have in mind with these signs and this guidance system? They are certainly not proactive in instituting a truly upgraded and extensive bus system nor are they pro-active in carrying out feasibility studies with regard to other forms of public transport. *We ask that the Panel presents this dilemma to the applicants and have them define their proposals and clarify the situation.*

Further to this we support Council's position regarding the preparation of an Integrated Transport and Access Plan and the preparation of a Transport Modal Shift Feasibility Study. It is in the interests of the community in which it exists and the wider community which it services that CSC undertakes and funds a feasibility study regarding accessing the site by other means.

Centralised Bus Exchange This "new" bus exchange offers one only extra bay and its distance from the shopping precinct is a disincentive for people to use buses. Further to this there is no indication of where the timetable will be situated. At the moment at the transit lounge near Coles there is an electronic schedule **outside** the lounge. Surely common sense would indicate that there should also be one inside.

Excessive Increase in the Building Envelope to the North and the South The building envelope granted in the last Amendment for CSC has not yet been fully developed. The applicants are silent on this matter. Why would they not build to that prior to asking for this massive increase? It would seem that there is no great need for an increase at all and certainly not for an increase of this size. The previous Amendment included a Planning Application. This application includes no such thing. Indeed it includes no detail whatsoever. The Panel, Council and ultimately the Minister are being asked to give approval for something they know nothing about. Where are the specifics?

To the north the requested building envelope is too close to single storey residences and presents an unacceptable bulk which Council calls "**an imposing and significant presence.**" The envelope requires modification, setbacks, design improvements and landscaping with mature evergreen trees.

Along the Princes Highway the applicants want to do whatever they like in a length of 400m with a depth of 100m. Again, the excessive envelope has the potential to impact severely on residents in adjacent streets. Clearly this cannot be allowed and we ask that the Panel refuses to give 'carte blanche' to the applicants and demands 'specifics.'

According to the Incorporated Plan Overlay the advertising of anything the applicants wish to do within the excessive building envelope they propose it is the prerogative of the Responsible Authority to undertake (or not) informal consultation in whatever way it wishes. As third party rights do not exist it is even more important that at this stage residents are given specific details about what the applicants will do within whatever envelope they are successful in achieving through this panel process.

Drainage Infrastructure There is an identified drainage problem downstream from the Centre. In Council's Notice Paper Feb.6/12 it is noted that the Melbourne Water main drain from CSC and surrounds causes flooding as far away as Millewa St. Melbourne Water and the applicants must resolve this. Enough underground tanks must be provided for the centre to become self-sufficient in water usage.

Water Usage It is time the applicants paid more than lip service to the manner in which water is used throughout the centre. Taps in the toilet areas are not sensor-activated. At Malvern Central all taps operate in this way, all toilets are dual flush and fully operational and the toilet areas are **clean**. This is a model that could easily be adopted and the sooner the better.

A 'GREEN' Chadstone (?) In 'Business Spectator' April 20/12...(See Attachment 3)

Shopping centre magnate John Gandel is one of the 10 richest people in Australia but he has barely uttered a word in public for more than a decade. This week he finally broke his silence to declare that his 'top priority' is not the threat of online retailing or the high dollar....actually it's the carbon tax."

This will impact on **air-conditioned centres** such as CSC and the financial impact will be passed on to tenants who will, in turn, pass this on to customers. Westfield in Sydney's CBD has achieved a 6 star rating. MEG asks what has the owners of CSC done or what do they propose to do to get anywhere near this?

One way to counter the impact of the carbon tax on tenants and customers of CSC and ultimately the community of Stonnington is for CSC to become a leader in the provision of

solar panels. All the car parks should be roofed instead of being open as they are now and on every other available roof solar panels should be installed.

MEG acknowledges that the landscaping at the Centre is superior to the landscaping in similar centres but we believe it could be improved by having evergreen canopy trees strategically placed throughout the site and with particular attention paid to the planting of pollution-absorbing trees. Along with the provision of solar panels and water-saving measures this would contribute greatly to Chadstone becoming **'green.'**

Community Benefit Clause There are various ways of benefiting the community in the event of the applicants achieving all (or even part of) what they have asked for in the Amendment. The Phoenix Park Community Centre and Library have resulted from contributions from the Gandel Group some years ago.

As well as becoming 'green' as suggested above developer contributions could be used to acquire open space within the immediate area...e.g. 11-15 Chadstone Rd. could be acquired and transformed into a 'pocket park' similar to Woodlands Park on the eastern side of the Centre.

A MEG member suggested something that would provide a more direct benefit to residents affected by the interminable extension of CSC and that is the proponents commence putting all wiring underground and slowly extend this throughout the immediate area.

At the moment Council is considering uses for the Bowen St. Reserve and the buildings on it. Improvements to the situation in that area could be carried out with the developers contributing part (or all) towards the necessary works that will be required after the community consultation has taken place.

Summary Virginia Trioli said in the 'Weekly Review' " May 9/12 (See Attachment 4)

densely populated communities such as inner-city or even outer suburbs, can be a thriving, energetic, stimulating place to live but they rely on a universally observed understanding of consideration in order to survive. If you are mindful of noise, of intrusion, of each other's space, everyone can get along just fine.....this kind of consideration is going to be crucial to avoid neighbourhood war.

So in conclusion we ask that the Panel in considering the applicants' proposed massive increase in CSC assesses first the adverse impacts on the immediate residential area and rejects it in its entirety or, at the very least, modifies the requested building envelope and insists on a greater effort by the applicants to accommodate the retention of **the physical and functional demarcation** between the centre and the immediate residential area and that consideration for its neighbours should be a primary concern of the owners of CSC.

Ann Reid (MEG Convenor) George Mackey (Co-Convenor)

ATTACHMENT 1



ATTACHMENT 2

Road Safety Act 1986 - SECT 90A

Definitions

90A. Definitions

In this Part-

council controlled area means an area in respect of which there is in force an agreement under section 90D;

driver, in relation to a motor vehicle that has been parked or left standing, means the person who was driving the motor vehicle when it was parked or left standing;

owner, in relation to a motor vehicle, has the same meaning as in Part 7;

parking services, in relation to land, means services in relation to the regulation or control of the parking of motor vehicles on the land including the issue of parking infringement notices;

public parking area means-

- (a) an area provided on land for the parking of motor vehicles by members of the public on payment of a charge; or
- (b) any area that is prescribed to be a public parking area, or is included in a class of areas that is prescribed to be public parking areas, for the purposes of this Part.

Road Safety Act 1986 - SECT 90D

Agreements

90D. Agreements

(1) The owner or occupier of any land (other than land on which, apart from section 90E, a parking infringement could be committed in respect of a vehicle) may enter into an agreement with the municipal council in whose municipal district the land is situated for the provision by that council of parking services.

(2) The agreement must provide for-

- (a) compliance by the owner or occupier with specified requirements in relation to-
 - (i) restricting access to the land by motor vehicles;
 - (ii) signs to be placed, or markings to be made, on the land;
 - (iii) the siting, installation and maintenance of signs and markings;
- (b) the kind of parking services to be provided by the municipal council and the times at which, or circumstances in which, those parking

services are to be provided;

- (c) the fees, costs and charges (if any) to be paid to the municipal council by the owner or occupier;
- (d) rights of access to the land by persons authorised by the municipal council in connection with the provision of parking services and the duties and obligations to be complied with by those persons while exercising those rights;
- (e) any other matter that may be prescribed.

(3) The agreement may contain-

- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body;
- (b) a provision providing for the suspension of obligations under the agreement in specified circumstances;
- (c) any other provisions that are not inconsistent with this Part or the regulations.

(4) A provision of an agreement under this section that specifies requirements in relation to signs or their siting must-

- (a) where appropriate and subject to any standards notified under subsection (5), provide for signs of the kind used for the regulation and control of vehicular traffic on highways;
- (b) require signs installed on the land to be prominently displayed and clearly visible to users of the land;
- (c) require the installation of a sign indicating the place to which a vehicle towed from the land under section 90F is to be taken and stored pending payment of the release fee or giving a telephone number from which information about that place may be obtained at any time of the day or night;
- (d) comply with standards notified under subsection (5).

(5) The Minister may, by notice in the Government Gazette, require compliance with standards for signs in council controlled areas.

(6) A standard may apply, adopt or incorporate any matter contained in any document issued or published by any person or body whether-

- (a) wholly or partially or as amended by the standard; or
- (b) as issued or published at the time the notice is published or at any time before then; or
- (c) as issued or published from time to time.

(7) The standards must be available for inspection on request at a place which is open to the public and is specified in the notice.

ATTACHMENT 3

Article from Business Spectator (accessed on 18th May 2012):

<http://www.businessspectator.com.au/bs.nsf/Article/John-Gandel-carbon-tax-shopping-centre-property-re-pd20120420-THPGZ?opendocument&src=rss>

Commentary

Deep carbon fears of a shopping centre king

James Kirby

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Shopping centre magnate John Gandel is one of the 10 richest people in Australia but he has barely uttered a word in public for more than a decade. This week he finally broke his silence to declare his 'top priority' is not the threat of online retailing or the high dollar... actually it's the carbon tax.

And because Gandel is worth \$3 billion and owns a chunk of Charter Hall, Colonial First State Retail Trust, half the nation's biggest shopping centre (Chadstone, Melbourne) and has links with the Sussan and Sportsgirl fashion stores, the retail and property sector will take him very seriously indeed.

Public attention surrounding the introduction of the carbon tax on July 1 has centred squarely on power producers and miners. On Monday NSW power generator Macquarie Generation – the largest carbon emitter in Australia – confirmed the worst fears of many when it wrote off \$800 million from its asset valuations.

But it is property, specifically the nation's air conditioned shopping centres, which are next in the firing line.

What's more, unlike prime office buildings where prestige tenants will pay more to reside in 'green buildings', Milton Cockburn, chief executive of the Shopping Centre Council of Australia told Business Spectator retail tenants simply won't do so.

So very soon what's going to happen in the Gandel empire and at many more centres is that carbon tax-driven electricity price rises are going to get passed on to tenants, which in turn will further squeeze margins.

Worse still, major tenants such as Woolworths or Safeway will escape the initial impact due to the special arrangements those key lessees enjoy. Rather it is 'specialty retailers' – the legion of fashion and food stores that make up the bulk of retail selection at shopping centres – which will be hit first.

Shopping centre landlords like Gandel already know the carbon tax is creating winners and losers in related areas of commercial property. A report from the Australian Property Institute earlier this year found that in the city of Canberra office buildings with a top green rating had a 21 per cent premium to the market while those with low ratings had a 13 per cent discount. These are big variables in a low growth market. In the shopping centre sector the changes are coming so fast the analysts have yet to do the numbers.

Gandel rival Westfield has made some effort to get on the front foot – the new Westfield centre in Sydney CBD has achieved a six star green rating... one of the first Australian shopping centres to do so. But more typically, Westfield is going to pass its carbon tax costs down the line: last month the group said it would impose a "carbon emission related charge on lessees at cost" – the charge applies to 12,000 retail outlets across Australia.

Ultimately, it is inevitable that the higher carbon-related costs will hit not just tenancy expenses but the actual asset valuations of shopping centres and that will hit John Gandel's bottom line... no wonder the man recently described as "reclusive" felt it was time to say something.

ATTACHMENT 4

Article from The Weekly Review (accessed on 18th May 2012):

<http://www.theweeklyreview.com.au/well-read-article-display/The-pub-of-no-cheer/4982>

The pub of no cheer

9.31AM 3-5-2012

Virginia Trioli

Well, the pub's been sold. It's been our pleasure and joy to have the worst-run pub in Melbourne down the road from us, and after years of licence violations, 3am police visits, rioting patrons, uncollected rubbish, vermin infestations and drunk publicans – beware the licensee who is seen drinking with patrons in the early afternoon – the dump has been closed and the property auctioned. I'm organising a street dance in celebration if you'd like to join us.

What a pain this place was. The hotel had one of the very old licences, which allowed live music to be played several days a week, even Easter holidays should the publican wish, yet it had no culture of supporting live music, instead allowing amateur backyard wailers to crank up their portable Marshall amps to stun and yodel karaoke versions of every Cold Chisel song ever written. The walls of neighbouring buildings would vibrate with the noise. Complaints from locals were dealt with very simply by the publican – he took his phone off the hook.

I lost count of how many times we and others called the cops over licence breaches: incredibly, and to my continued bewilderment, despite these repeated problems – sometimes even involving minors drunk and disorderly on the street outside – no action was ever taken against the pub. There were several agencies that became involved over the years – the EPA; what was liquor licensing and is now the state Attorney-General's department; and the police licensing squad – but all seemed to wring their hands over the problem and suffer collective amnesia about the history of offences when a plea was made to them to take some kind – any kind – of action.

Files containing the history of transgressions were lost, personnel moved on and new staff had to be told all over again about the pub's history. The odd copper went and told them to turn down music and control patrons, but that was it. Don't let anyone tell you the former government's crackdown on "rogue pubs" was anything more than a mollifying PR exercise.

I've written here before about how densely populated communities, such as an inner-city or even outer suburb, can be a thriving, energetic and stimulating place to live – but they rely on a universally observed understanding of consideration in order to survive. If you are mindful of noise, of intrusion, of each other's space, everyone can get along just fine. As the population of this city continues to expand at the fastest rate in the country, this kind of consideration is going to be crucial to avoiding neighbourhood war.

I think that was the repeated insult that this pub gave to the locality: the operators cared not a jot for the community it was in. They never took complaints seriously, never cared about the effect of the business on us – never even asked the locals in for a beer when the next dodgy operator took over from the last.

In contrast, a café has opened right across the street from the now cold and dark pub. It has a liquor licence and has also obtained a late-trading licence and plans to have some music from time to time. It is impeccably maintained and run – clean, cheerful and open. The licensees take the trouble to get to know every local who lives nearby. Neighbours regularly receive

leaflets about new events and services, and are invited for an end-of-year drink to say thanks for their patronage: the café has sought to be a part of this community.

At the height of the music industry's backlash against the Victorian government's crackdown on noisy pubs, I often felt this was the central issue that the industry failed to understand: a business has to be a part of the local community just as much as a resident; and that being considerate is key to that inclusion. As suburban blocks are subdivided, and business and residences come closer together, this is going to be one of the great challenges of modern Melbourne. We're all going to have to get along, and calling the cops won't help.