

**Report to the Future Melbourne (Planning) Committee**

**Agenda item 6.3**

**Planning Permit Application: TP-2019-619  
67-121 Kensington Road, Kensington (J J Holland Park)**

**3 December 2019**

**Presenter:** Jane Birmingham, Practice Leader Land Use and Development

**Purpose and background**

1. The purpose of this report is to advise the Future Melbourne Committee of a planning permit application for land located at 67-121 Kensington Road, Kensington otherwise known as J J Holland Park (refer Attachment 2 – Locality Plan). The application seeks approval for buildings and works to facilitate the renewal of the existing playground.
2. The applicant is Melbourne City Council, the land is owned by Melbourne City Council and the plans have been prepared by the City of Melbourne's Design Studio.
3. The site is located within the Public Park and Recreation Zone (PPRZ) and is affected by the Land Subject to Inundation Overlay Schedule 1 (LSIO1). A planning permit is required for the proposed buildings and works under the Land Subject to Inundation Overlay.
4. The proposal includes partial demolition of the existing facilities and construction of a new playground area with connections to seating and barbeque areas.
5. Prior to, and outside the planning process, the City of Melbourne's Design Studio has undertaken two phases of community engagement regarding the project during 2018 and 2019. Following the first phase of community engagement, a concept plan was developed which has informed this planning permit application.
6. The application is exempt from public notice and no objections have been received.

**Key issues**

7. The key issues for consideration are limited to flooding and the ongoing management of land contamination.
8. Melbourne Water is a determining referral authority and does not object to the proposal, subject to conditions being included on any permit issued.
9. A Site Contamination Management Plan (SCMP) has been provided to ensure existing remediation measures relating to historical land contamination are not undermined as part of the construction process. Permit conditions are included to ensure the recommendations of the SCMP are met prior to construction commencing and confirmed prior to the area being reopened to the public post construction.
10. The proposal is consistent with relevant state and local planning policy provisions of the Melbourne Planning Scheme, resulting in enhanced public open space and public infrastructure to meet the growing needs of the community.

**Recommendation from management**

11. That the Future Melbourne Committee resolves to issue a Planning Permit subject to the conditions outlined in the delegate report (refer Attachment 4 – Delegate Report).

**Attachments:**

1. Supporting Attachment (Page 2 of 15)
2. Locality Plan (Page 3 of 15)
3. Plans (Page 4 of 15)
4. Delegate Report (Page 6 of 15)

**Supporting Attachment**

---

**Legal**

1. Pursuant to Section 96(1) of the *Planning and Environment Act 1987* (Act), 'a responsible authority must obtain a permit from the Minister before carrying out any use or development for which a permit is required under the planning scheme for which it is the responsible authority, unless the planning scheme gives an exemption'.
2. Clause 67.01 of the Melbourne Planning Scheme provides an exemption from the provisions of Section 96 of the Act for the use and development of land for the purpose of leisure and recreation.

**Finance**

3. There are no direct financial issues arising from the recommendations contained within this report.

**Conflict of interest**

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

**Health and Safety**

5. Relevant planning considerations such as flooding and land contamination that could impact on health and safety have been considered within the planning permit application and assessment process.

**Stakeholder consultation**

6. Pursuant to Clause 44.04-6, an application under this overlay is exempt from the notice requirements of Section 52(1)(a), (b) and (d) and the decision requirements of Section 64 (1), (2) and (3) and review rights of Section 82 (1) of the Act.
7. Pursuant to Clause 67.02 of the Melbourne Planning Scheme, notice was not required to be given in accordance with Section 52(1)(c) as a permit was only required under the Land Subject to Inundation Overlay.
8. Community engagement was undertaken by the City of Melbourne's Design Studio prior to the submission of this application for planning permit.

**Relation to Council policy**

9. Relevant Council policies are discussed in the delegate report (refer Attachment 4 – Delegate Report).

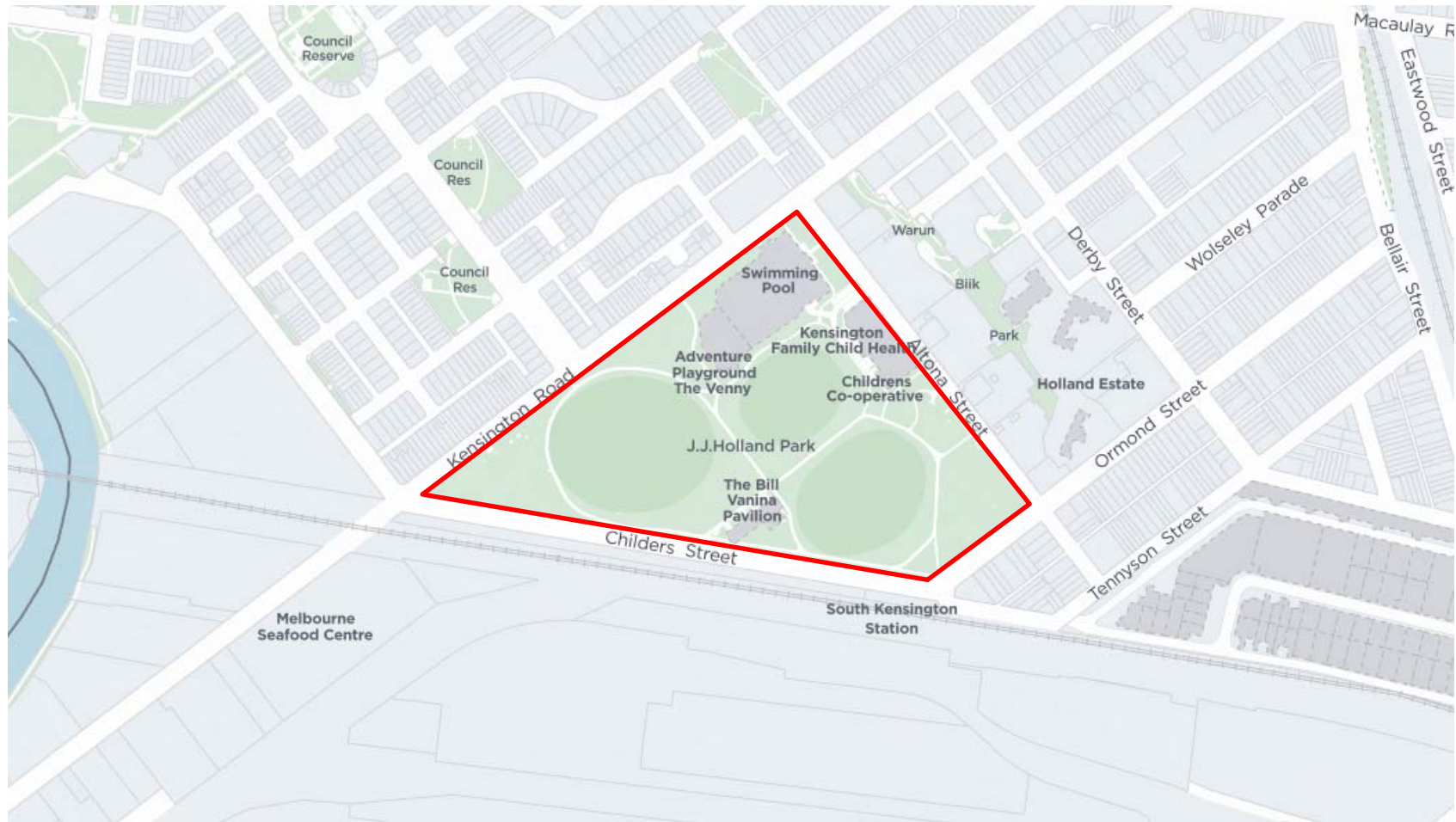
**Environmental sustainability**

10. Clause 22.19 (Energy, Water and Waste Efficiency) of the Melbourne Planning Scheme does not apply to application for buildings and works for the purpose of leisure and recreation.

# Locality Plan

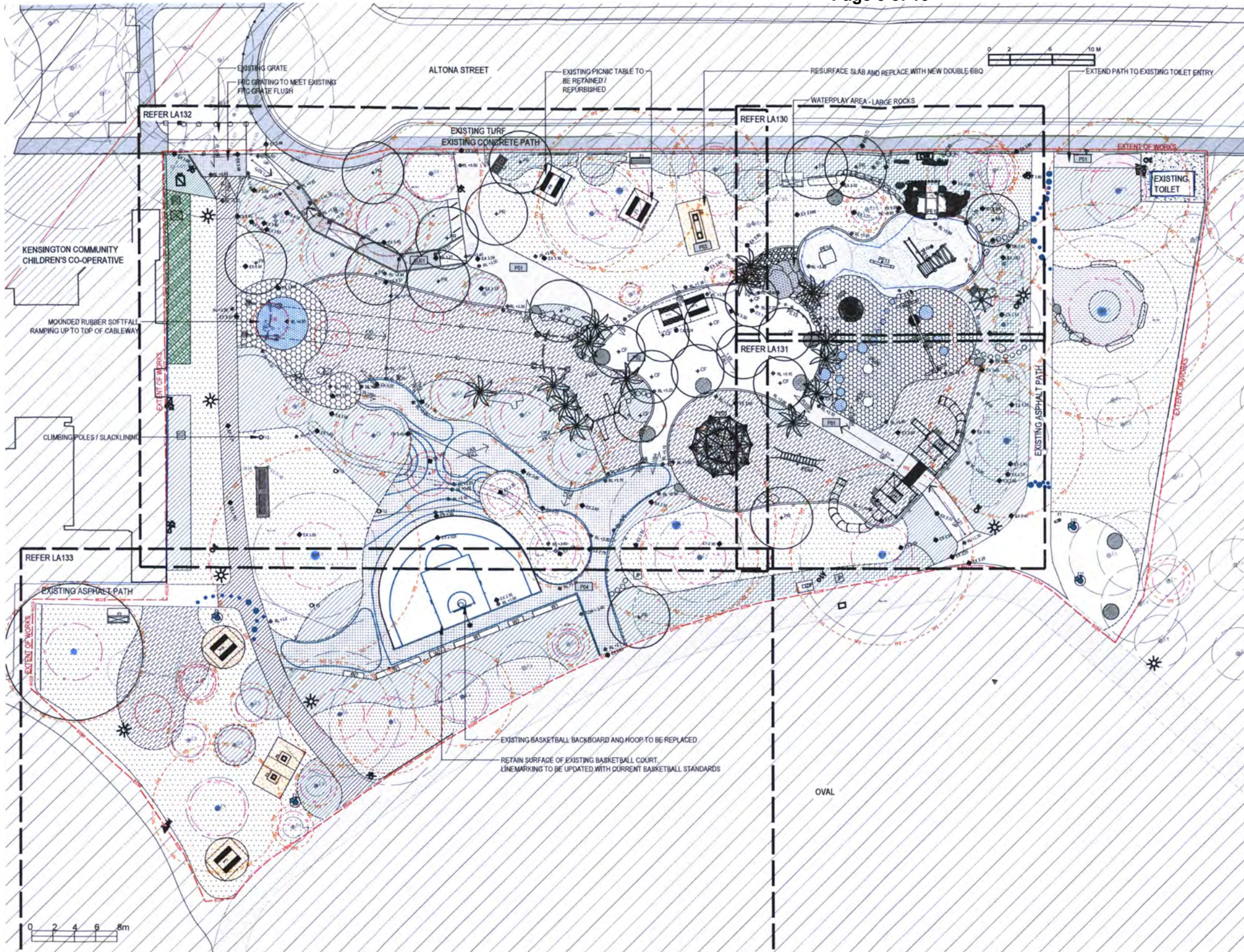
Attachment 2  
Agenda item 6.3  
Future Melbourne Committee  
3 December 2019

## 67-121 Kensington Road, Kensington (J.J. Holland Park)



*JJ Holland Park. Play Space, Existing Conditions*





**WORK BOUNDARIES**

— EXTENT OF WORKS LINE

**SOFTSCAPE KEY**

- GB-01 IRRIGATED LAWN  
REFER DETAILS AND SPECIFICATION.
- GB-02 GARDEN BED  
GARDEN BED WITH MASS PLANTING
- GB-03 GARDEN MOUNDED  
MOUNDED PLANTING TO EDGE
- GB-04 PLANTING IN ROCK MULCH  
TUSCAN TOPPINGS ROCK MULCH WITH WATER REED PLANTING
- PROPOSED TREE
- PROPOSED PALM TREE
- EXISTING TREE TO BE RETAINED  
AND PROTECTED
- ROOT BARRIER
- TREE PROTECTION ZONE (TPZ)
- SUBSOIL DRAINAGE / AG DRAIN

**FURNITURE**

- F1 RESTORED EXISTING BENCH SEAT  
RETAIN POSITION OF BENCH SEAT
- F2 REPOSITIONED PARK BENCH  
REMOVE AND REPOSITION EXISTING PARK BENCH AS SHOWN ON PLANS
- F3 PICNIC TABLE TO RETAIN AND RESTORE  
RETAIN EXISTING PICNIC TABLE AND SLAB
- F4 NEW PICNIC TABLE  
NEW PICNIC TABLE AND SLAB
- F5 RELOCATE EXISTING BINS AND NEW SLAB  
PARK LITTER BIN & PARK RECYCLING BIN.  
REFER CITY OF MELBOURNE DESIGN STANDARD 702.03 & 702.04
- F6 DRINKING FOUNTAIN  
DRINKING FOUNTAIN WITH WATER BOTTLE FILL POINT. REFER CITY OF MELBOURNE DESIGN STANDARD 703.01
- F7 DRINKING FOUNTAIN  
DRINKING FOUNTAIN WITH DOG BOWL. REFER CITY OF MELBOURNE DESIGN STANDARD 703.01
- F8 BARBECUE - SINGLE  
RELOCATE 2 X SINGLE BARBECUES AS SHOWN ON PLANS,  
REFER CITY OF MELBOURNE DESIGN STANDARD 707.02
- F9 BARBECUE - DOUBLE  
DOUBLE BARBECUE AS SHOWN ON PLANS, EXISTING SLAB TO BE EXTENDED, REFER CITY OF MELBOURNE DESIGN STANDARD 707.02
- F10 BICYCLE HOOPS  
BIKE HOOPS ON ASPHALT. REFER TO DETAILS
- F11 PUPPY PARKING SPOT (SIGN & POLE)  
REFER TO DETAILS
- F12 TIMBER POLES / FENCE AT TOP OF SLIDE  
REFER TO DETAILS

**HARDSCAPE KEY**

- PV-01 PRIMARY ENTRY PATHS - PAVING TYPE 01  
VEHICULAR | PEDESTRIAN GRADE ASPHALT WITH COLOURED LINEMARKING
- PV-02 GRANITIC GRAVEL - CENTRAL MEETING AREA  
CENTRAL MEETING AREA &
- PV-03 BBQ AREAS - PAVING TYPE 03  
COLOURED CONCRETE
- PV-04 RESURFACE EXISTING PATH  
XX
- PV-05 RAMP  
CONCRETE RAMP UP TO FRP DECKING
- SU-01 BALL GAMES ZONE - RUBBER SURFACE  
RUBBER (BALL GAMES AREA) WITH LINEMARKING
- SU-02 FRP DECKING MESH  
TREADWELL GRATEX-F-MG38 (13/13) ODGG, MICRO-MESH GRATING TO MATCH EXISTING
- SU-03 SOFTFALL RUBBER 1  
COLOUR XXX
- SU-04 SOFTFALL RUBBER 2  
COLOUR XXX
- SU-05 SOFTFALL MULCH  
XXX
- SU-06 SOFTFALL SAND  
XXX
- SU-07 LINEMARKING  
BALL GAMES AREA CONCRETE LINEMARKING AND SPOTS ON ASPHALT
- SU-08 CONCRETE STEPPING STONES PAVERS  
X
- SU-09 STEPPING STONES (HEIGHT??)  
XXX
- SU-10 LARGE FLAT ROCKS  
WATERPLAY AREA, STAGE
- W1 SEATING WALL TYPE 01  
CONCRETE WALL TYPE 1- 4500MM WIDE
- W2 SEATING WALL TYPE 02  
CONCRETE WALL TYPE 2- 1500MM WIDE
- ED-02 CONCRETE EDGE  
150 WIDE CONCRETE MOWING EDGE AND SAND PIT EDGE
- ED-03 ROCK EDGE  
400-600MM DIA, IN GROUND HEIGHT 300 - 450MM DIA
- ED-04 ROCK WALL/ EMBANKMENT  
600-800MM DIA ROCKS RETAINING TO EMBANKMENT SLIDE
- ED-05 ROCKS STEPPING TO TOP OF SLIDE  
EMBANKMENT SLIDE ACCESS ROCKS
- ED-06 ROCK MONSTERS  
MONSTER SCULPTURE EDGE- BOULDER WITH EYES
- ED-01 STEEL EDGE TO TURF AND GARDEN BED  
305.02

DO NOT SCALE - USE WRITTEN DIMENSIONS ONLY

01	25/06/2019	FOR INFORMATION	GM
No.	DATE	AMENDMENTS	AUT.

**IMPORTANT NOTE**  
THIS DRAWING SHALL BE READ IN CONJUNCTION WITH ALL OTHER CONTRACT DOCUMENTS AND ANY INSTRUCTIONS ISSUED DURING THE COURSE OF THE CONTRACT.  
IT IS THE RESPONSIBILITY OF THE CONTRACTORS TO VERIFY THE LOCATION OF ALL UNDERGROUND SERVICES PRIOR TO COMMENCING ANY EXCAVATIONS.  
ALL DIMENSIONS ARE IN MILLIMETERS. DO NOT SCALE DRAWINGS. ALL DIMENSIONS AND LEVELS ARE TO BE VERIFIED ON SITE BEFORE COMMENCING ANY WORK OR SHOP DRAWINGS OR ORDERING ANY MATERIALS. NOTIFY SUPERINTENDENT OF ANY DISCREPANCIES IMMEDIATELY.

**CITY OF MELBOURNE**  
CITY DESIGN STUDIO  
LEVEL 6 / 240 L.T. COLLINS STREET  
MELBOURNE VIC 3000  
TELEPHONE: (03) 9658 9568  
FACSIMILE: (03) 9658 8540

CLIENT  
CITY OF MELBOURNE

PROJECT  
JJ HOLLAND PARK PLAYGROUND - REDESIGN  
KENNSINGTON

DRAWING  
LANDSCAPE PLAN

STATUS  
DESIGN DEVELOPMENT

CHECKED	REVIEWED	AUTH FOR USE
GM	XX	XX

NORTH POINT	DESIGN	DRAWN
	CDS	GM
1:200	A1	A3
	1:200	1:400
DATE ISSUED 25 Jun 2019		

PROJ. NO.	DWG. NO.	REV.
903895	LA110	01

**FOR INFORMATION  
NOT FOR CONSTRUCTION**

## DELEGATE REPORT

### PLANNING PERMIT APPLICATION

<b>Application number:</b>	TP-2019-619
<b>Applicant / Owner / Architect:</b>	Melbourne City Council / Melbourne City Council / Melbourne City Council Design Studio
<b>Address:</b>	J J Holland Park, 67-121 Kensington Road, KENSINGTON VIC 3031
<b>Proposal:</b>	Buildings and works for the renewal of the playground
<b>Cost of works:</b>	\$1,500,000
<b>Date of application:</b>	6 August 2019
<b>Responsible officer:</b>	Rachel Grounds, Urban Planner

#### 1 SUBJECT SITE AND SURROUNDS

This planning application relates to the land identified as 67-121 Kensington Road, Kensington (the subject site) or formally known as Lot 3 on Plan of Subdivision 638633B (Vol. 11231, Fol. 288). The site is more commonly referred to as 'J J Holland Park'.

The subject site is bounded by Altona Street to the north-east, Ormond Street to the south-east, Childers Street to the south-west and Kensington Road to the north-west. The site is irregular in shape, with a total area of approximately 10.2 hectares.

Specifically, this planning application relates to the existing playground located on the north-eastern side of the broader J J Holland Park precinct. At the time of writing this report, this area contained a children's playground, seating, barbeque facilities and a basketball ring. The playground encompasses an area of approximately 3412.1 square metres.

Pedestrian, bicycle and vehicular access is available from all perimeter streets. Bus route 402 travels along Kensington Road. To the south of the site is South Kensington Station.

The perimeter streets are Road Reserves managed by the Melbourne City Council. The land itself is owned and managed by the Melbourne City Council.

Nearby open spaces include Warun Bilk Park to the north-east and a series of Council Reserves to the north and north-west of the site. These spaces are significantly smaller in size and are also owned and managed by the Melbourne City Council.

**Figure 1: Aerial Photograph of Subject Site and Surrounds – Playground area highlighted (Captured 31 August 2019)**



**Figure 2: Streetscape Photograph of Subject Site – as viewed from Altona Street**



## 2 BACKGROUND AND HISTORY

### 2.1 Pre-application discussions

Pre-application discussions were held with Council's Urban Planners prior to the lodgement of the application.

The applicant (Melbourne City Council, City Design) has advised that the following consultation with the community was undertaken prior to the lodgement of the planning permit application:

*“Two phases of community engagement have been undertaken as part of the renewal process. The first in early 2018 drew out the specific needs of the local community. The second between February and April 2019 sought feedback on the draft concept plan that was developed following the first round of engagement.*

*Engagement focused on understanding the specific needs of the local community to inform the design. Over 70 people provided feedback on the draft concept plan through Participate Melbourne. A number of people also provided feedback through on-site meetings and targeted consultations with the Kensington Supervised Adventure Playground and Unison Housing. Two opportunities to meet Council Officers on site were held on Thursday 14 March 9 – 10.30am and Tuesday 19 March 3 – 4.30pm.*

*The community was broadly supportive of the concept plan and made a number of comments on play elements and amenities. Feedback was enthusiastic about many elements, including the sand play, flying fox, rope nets and water play. Several responses emphasised the importance of shade, particularly in play areas. In response some of the play items have been repositioned to allow for the retention of more shade trees within the play space.*

*There were concerns raised about the proximity of the play space to the dog off leash area. The updated design better informs dog owners of the play area boundary and discourages dogs from entering the space. The updated design uses a combination of planting, bollards and climbing poles to form a visual edge to the boundary. This clearly defined space will discourage dogs from running directly into the site, and will make it easier for dog owners to maintain sight of their dog and monitor behaviour at the edge of the playground. The design will also include ‘dog tie-up’ spaces to allow dogs to be secured at the edges of the play space”.*

### 2.2 Planning application history

The following applications have been lodged for the subject site:

<b>Application Reference</b>	<b>Description</b>	<b>Decision/Date of Decision</b>
TP-1993-290	Alterations to existing community centre	Permit Issued – 13/07/1993
TP-1994-495	Installation of flood lights at perimeter of oval	Permit Issued – 16/06/1994
TP-1996-48	Alterations and additions to child care centre	Permit Issued – 28/03/1996
TP-2001-1087	Construction of a three cubicle public toilet containing disabled persons facilities	Permit Issued – 28/08/2002
TP-2002-789	Replace existing fence and construct a single storey extension to the existing building	Permit Issued – 16/09/2002
TP-2004-760	Upgrade playground in Altona Street	Permit Issued – 26/08/2004
TP-2004-805	Provision of cricket practice facilities in J J Holland Park	Permit Issued – 10/09/2004



Planning Permit TP-2004-760 was issued on 26 August 2004 and allowed for alterations to the existing playground in Altona Street, as it currently exists.

### 3 PROPOSAL

#### 3.1 Summary of proposal

This application seeks planning approval for buildings and works for the renewal of the existing playground at 67-121 Kensington Road, Kensington.

The plans which have been considered in this planning assessment are those prepared by the Melbourne City Council Design Studio dated 25 June 2019.

Specifically, the application seeks to partially demolish the existing facilities and construct a new playground area with connections to seating and barbeque areas.

Further details of the full scope of works associated with the playground renewal are as follows:

- Removal of existing play equipment on site
- Excavation of site
- Site preparation works
- Installation of play equipment
- Installation of garden beds, planting, paths, barbeque and furniture and fixtures.

#### 3.2 Key excerpts of development

Figure 3: Landscape Plan of Proposed Development (Drawing No. LA110 Revision 01)

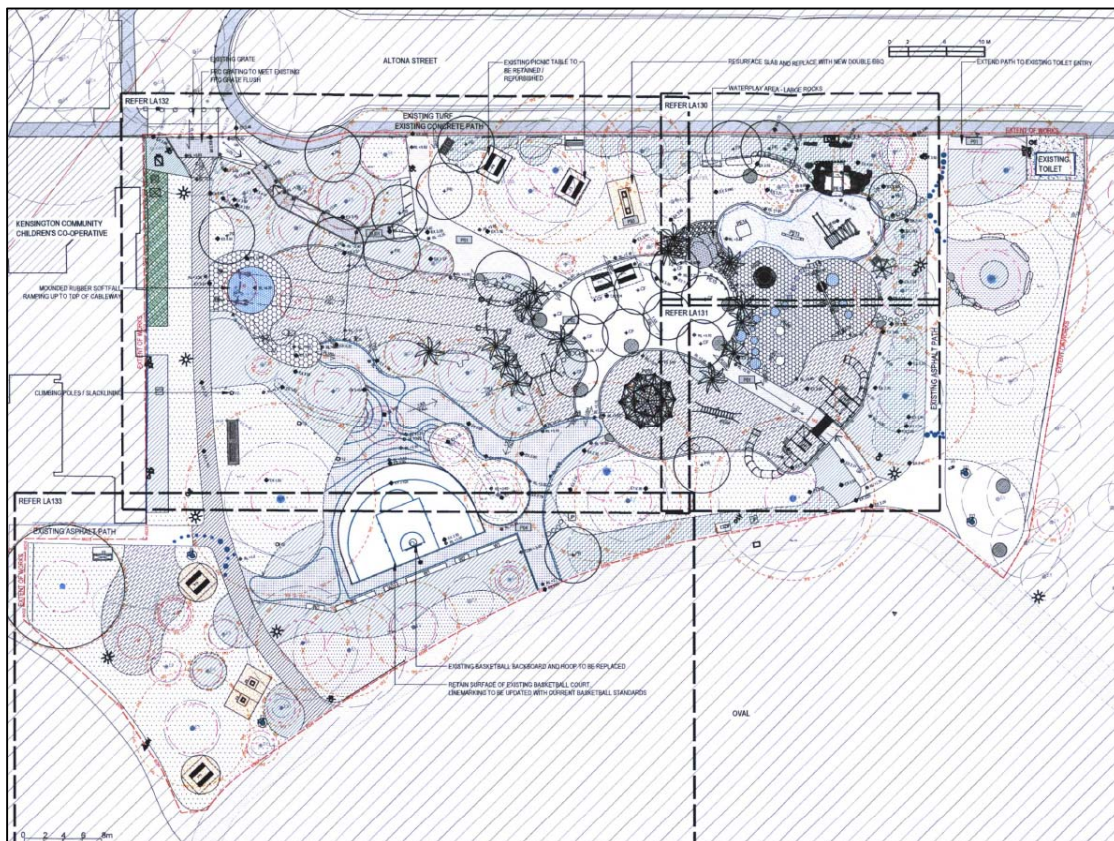


Figure 4: Toddler Play Space Concept Drawing (Participate Melbourne)



Figure 5: BBQ Zone Concept Drawing (Participate Melbourne)



#### 4 STATUTORY CONTROLS

Table 2: Statutory Controls / Planning Permit requirements	
Clause	Permit requirements
Clause 36.02 Public Park and Recreation Zone (PPRZ)	<p>Pursuant to Clause 62.05, a permit is not required for the demolition or removal of a building or works unless a permit is specifically required for demolition or removal. Clause 36.02 does not specifically state that a permit is required for the demolition or removal of a building or works. As such, no planning permit is required.</p> <p>Pursuant to Clause 36.02-1, a permit is not required to use the land for the purpose of 'informal outdoor recreation'. Clause 73.03 defines informal outdoor recreation as 'land open to the public and used for non-paying persons for leisure or recreation, such as a cycle track, park, picnic or barbeque area, playground, plaza and walking or jogging track'.</p> <p>Pursuant to Clause 36.02-2, a permit is not required for building or works carried out by or on behalf of a public land manager under the <i>Local Government Act</i></p>

	<p>1989.</p> <p>The Melbourne City Council, as the applicant and public land manager under the Local Government Act 1989, seeks to carry out the proposed works. As such, no planning permit is required.</p>
<p>Clause 44.04 Land Subject to Inundation Overlay Schedule 1 (LSIO1)</p>	<p>Pursuant to Clause 62.05, a permit is not required for the demolition or removal of a building or works unless a permit is specifically required for demolition or removal.</p> <p>Clause 44.04 does not specifically state that a permit is required for the demolition or removal of a building or works. As such, no planning permit is required.</p> <p>Pursuant to Clause 44.04, a permit is required to construct a building or construct or carry out works, including:</p> <ul style="list-style-type: none"> <li>- A fence.</li> <li>- Bicycle pathways and trails.</li> <li>- Public toilets.</li> </ul> <p>As such, a planning permit is required.</p>

## 5 STRATEGIC FRAMEWORK

### 5.1 Planning Policy Framework (PPF)

The relevant provisions of the PPF are:

- Clause 13.04-1S (Contaminated and Potentially Contaminated Lane)
- Clause 15.01 (Urban Environment)
- Clause 15.02-1S (Energy and Resource Efficiency)
- Clause 19.02-6R (Open Space – Metropolitan Melbourne)

### 5.2 Local Planning Policy Framework (LPPF)

The relevant provisions of the LPPF are:

- Clause 21.06-3 (Sustainable Development)
- Clause 21.10-2 (Open Space).
- Clause 21.15-2 (Flemington and Kensington)
- Clause 22.01 (Urban Design Within of the Capital City Zone)

## 6 PARTICULAR PROVISIONS

There are no relevant particular provisions for this proposal.

## 7 GENERAL PROVISIONS

The following general provisions apply to the application:

Clause 65 (Decision Guidelines) which includes the matters set out in Section 60 of the Planning and Environment Act 1987.

Clause 66 (Referral and Notice Provisions).

Clause 67 (Applications under Section 96 of the Act).

## 8 PUBLIC NOTIFICATION

### Responsible Authority for Planning Application

In accordance with Section 96(1) of the Act (land owned or permit required by responsible authorities), a responsible authority must obtain a permit from the Minister before carrying

out any use or development for which a permit is required under the planning scheme for which it is the responsible authority unless the planning scheme exempts the land, use or development from this sub-section.

Pursuant to Clause 67.01 (Exemptions from Section 96(1) and 96(2) of the Act), in accordance with Section 6(2)(ka) of the Act, the following classes of use and development are exempted from Section 96(1) and 96(2) of the Act:

- Use of the land for a community facility (including child care centre, maternal and infant welfare centre, neighbourhood house, place of assembly and toilet block), and leisure and recreation.
- Development of the land for a Class 1 Use (as listed above), and demolition of a building or works.
- Any other use of development.

As such, the proposed buildings and works associated with leisure and recreation (playground) are exempt from Section 96(1).

#### Public Notification:

Pursuant to Clause 67.02 and in accordance with Section 52(1)(c) of the Act, notice must be given to:

- The owners and occupiers of adjoining land
- The National Trust of Australia (Victoria), if the application relates to land on which there a building is classified by the Trust.

This does not apply to an application if a permit is only required under the Land Subject to Inundation Overlay.

As discussed in Section 4 of this report, a planning permit is only required under the Land Subject to Inundation Overlay (Schedule 1). As such, notice is not required pursuant to Clause 67.02.

It is noted that pursuant to Clause 44.04-6, an application under this overlay is exempt from the notice requirements of Section 52(1)(a), (b) and (d), and the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

## **9 OBJECTIONS**

No objections were received in relation to the planning application at the time of writing this report.

## **10 REFERRALS**

### **10.1 Internal**

The application was not referred internally to any department as it was determined that there is adequate direction in the relevant sections of the Melbourne Planning Scheme to inform the assessment.

It is noted that several areas of Council were engaged prior to the lodgement of the planning application including Urban Sustainability, Parks, Properties and Waterways, Industrial Design and Engineering.

### **10.2 External**

Pursuant to Clause 44.04-7, an application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority.

The application was referred to Melbourne Water for comment. On 1 November 2019, Melbourne Water provided the following response:

*“Melbourne Water, pursuant to Section 56(1) of the Planning and Environment Act 1987, does not object to the proposal, subject to the following conditions:*

1. *Prior to the commencement of works, a legal Build Over Agreement for structures / works over Melbourne Water’s drain must be entered into with Melbourne Water.*
2. *Prior to the commencement of works, a separate Build Over application must be made online directly to Melbourne Water’s Asset Services Team for approval of works / structures over or near Melbourne Water’s assets. Design plans must be submitted to include the following:*
  - *Method of works*
  - *Paving*
  - *Landscaping*
  - *Any other structures / works that are within easement or affecting the water main.*
  - *Please note, fees and bonds will be applicable for asset protection works.*
3. *Any utility crossings over Melbourne Water’s water main must maintain a minimum 500mm clearance.*
4. *The utility crossings (such as the PE & Conduit) must be consolidated to one location along the Melbourne Water water main or to the satisfaction of Melbourne Water.*
5. *No permanent structures are permitted to be located over Melbourne Water’s water main or within the easement for this water main.*
6. *Planting and landscaping over the water main must be in accordance with Melbourne Water’s Planting Guidelines”.*

## **11 ASSESSMENT**

This application seeks planning approval for buildings and works for the renewal of the existing playground at 67-121 Kensington Road, Kensington.

The plans which have been considered in this planning assessment are those prepared by Melbourne City Council City Design Studio dated 25 June 2019.

The key issues for consideration in the assessment of this application are the appropriateness of the works having regard to the Land Subject to Inundation Overlay.

### **11.1 Land Subject to Inundation Overlay**

Pursuant to Clause 44.04-2, a planning permit is required to construct a building or to construct or carry out works, including a fence, bicycle pathways and trails and public toilets.

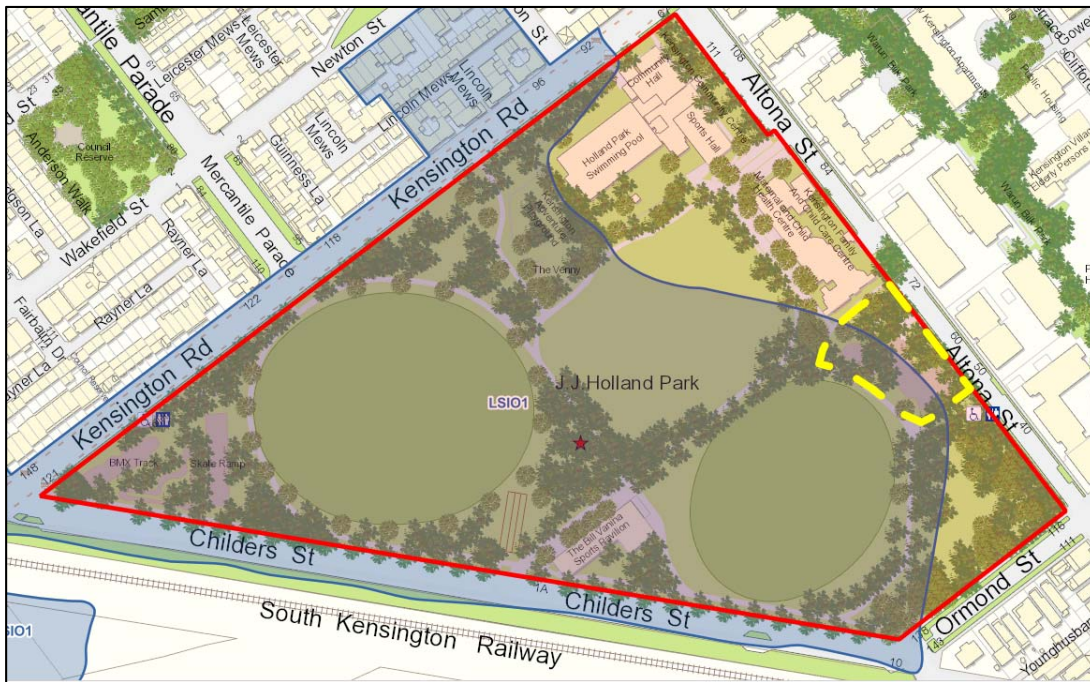
Specifically, the Overlay seeks to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

As seen in Figure 6 below, the Land Subject to Inundation Overlay affects approximately half of the site area comprising the existing and proposed play space.

In accordance with Section 55 of the Act, the application was referred to Melbourne Water for comment. Melbourne Water did not object to the proposal, and provided a series of conditions to be placed on a permit should it be issued.

It is considered that the proposal to renew and update the existing playground facility will continue to allow for the free passage and temporary storage of floodwaters in accordance with the purpose of the Overlay.

**Figure 6: Location of Land Subject to Inundation Overlay in Relation to Proposal (Site Highlighted Yellow)**



## 11.2 Potential Site Contamination

The subject site is not encumbered by an Environmental Audit Overlay; however Council is obligated, by both the Planning and Environment Act 1987 and the Planning Scheme to turn its mind to the environmental aspects of the development of land which extends to contamination.

Clause 13.04-1S (Contaminated and Potentially Contaminated Land) seeks to ensure that potentially contaminated land is suitable for its intended use and development, and that contaminated land is used safely. The *General Practice Note – Potentially Contaminated Land (June 2005)* provides a basis for assessment. The applicant has provided an Environmental Site Investigation prepared by Atma Environmental and dated 9 April 2018. This investigation identified the presence of historically contaminated soil at the playground area within the park but notes that existing capping layers create a separation from contaminated soils.

As a result, it was recommended that a Site Contamination Management Plan (SCMP) be prepared and implemented to control potential risks.

As such, the application submitted a SCMP prepared by Atma Environmental and dated 9 April 2018. This report identified a series of recommendations and measures that should be undertaken to minimise the risks associated with the presence of contaminated soil at the site, including during the construction phase. Should a planning permit be issued, a condition will be included requiring written confirmation that the risk mitigation measures as referenced in the SCMP have been implemented prior to the commencement of works.

### 11.3 Conclusion

The proposal successfully satisfies the objectives and strategies of state and local policies and is consistent with the relevant state and local policy provisions of the Melbourne Planning Scheme.

## 12 RECOMMENDATION

That a Planning Permit be issued subject to the following conditions:

1. The development as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.
2. Prior to the commencement of works and prior to the area being reopened to the public post construction, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the Site Contamination Management Plan (SCMP) prepared by Atma Environmental and dated 9 April 2018.
3. Prior to the commencement of works, a legal Build Over Agreement for structures / works over Melbourne Water's drain must be entered into with Melbourne Water.
4. Prior to the commencement of works, a separate Build Over application must be made online directly to Melbourne Water's Asset Services Team for approval of works / structures over or near Melbourne Water's assets. Design plans must be submitted to include the following:
  - a) Method of works
  - b) Paving
  - c) Landscaping
  - d) Any other structures / works that are within easement or affecting the water main.
  - e) Please note, fees and bonds will be applicable for asset protection works.
5. Any utility crossings over Melbourne Water's water main must maintain a minimum 500mm clearance.
6. The utility crossings (such as the PE & Conduit) must be consolidated to one location along the Melbourne Water water main or to the satisfaction of Melbourne Water.
7. No permanent structures are permitted to be located over Melbourne Water's water main or within the easement for this water main.
8. Planting and landscaping over the water main must be in accordance with Melbourne Water's Planting Guidelines.
9. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the development if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.