

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

Notice is given that an Ordinary Meeting of Kingston City Council will be held at 7.00pm at the Cheltenham Office, 1230 Nepean Highway, Cheltenham, on Monday, 23 February 2009.

- 1. Apologies**
- 2. Confirmation of Minutes of Previous Meetings**
Minutes of Ordinary Council Meeting 2 February 2009.
- 3. Declaration by Councillors or Officers of any Conflict of Interest**
- 4. Petitions**
Cr Shewan will table a petition with respect to KP469/08, 5 Maury Road, Chelsea
- 5. Presentation of Awards**
There are no presentations.
- 6. Reports from Village Committees**
The Village Committee meetings in February predominately discussed the issues relating to the Conflict of Interest provision and the return requirements. The feedback received from the Village Committees will be the subject of a report to Council as soon as practicable.
- 7. Reports from Delegates Appointed by Council to Various Organisations**
- 8. Question Time**
- 9. Environmental Sustainability Reports**
 - L 9 Town Planning Application Decisions – January 2009 Page 2
 - L 10 Planning Application KP899/07 – 24 Nepean Highway, Aspendale Page 10
 - L 11 Planning Application KP988/08 – 13 Stayner Grove, Moorabbin Page 24
 - L 12 Planning Application KP614/07 – Proposed Education Facility (Discovery Centre) at Edithvale Wetlands Page 47
 - L 13 Amendment C80 to the Kingston Planning Scheme & Planning Permit Application KP841/06 (43-45 McLeod Road, Carrum) Page 82
 - L 14 Contract No. 08/107: Harold Street & Troy Street, Bonbeach Road Reconstruction Tender Report Page 91
 - L 15 Contract No 08/45 – Waste Collection and Receipt of Recyclables Page 93
 - L 16 Status: Supreme Court Action – Alex Fraser Proposal, 295-315 Kingston Road, Clarinda – Concrete Crusher - Legal Advice Page 97
- 10. Organisational Development and Governance Reports**
 - L 17 Junior Mayor Policy Page 98
- 11. Notices of Motion**
 - L 18 Cr Shewan: KP469/08, 5 Maury Road, Chelsea (10 Unit Development) Page 103
 - L 19 Cr Peulich: Fire Risks and Fire Safety Strategies in the City of Kingston Page 104
- 12. Urgent Business**
- 13. Items in Camera**
 - L 20 Status: Supreme Court Action – Alex Fraser Proposal, 295-315 Kingston Road, Clarinda – Concrete Crusher - Legal Advice Page 105

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

9. Environmental Sustainability Reports

L 9 Town Planning Application Decisions – January 2009

Approved By: Tony Rijs – General Manager, Environmental Sustainability

Author: Ian Nice – Manager, Planning

Attached for information is the report of Town Planning Decisions for the month of December 2008.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	43	68
Notice of Decision	5	8
Refusal to Grant a Permit	4	6
Other - Withdrawn (3) - Prohibited (0) - Permit not required (1) - Lapsed (8)	11	18
Total	63	100

(NB: Percentage figures have been rounded)

Recommendation

That the report be noted.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

Planning Decisions January 2009						
APPL. No.	PROPERTY ADDRESS	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT DECISION
KP1003/08	29 BIRKDALE AVENUE HEATHERTON, VIC 3202	3-Nov-08	30-Jan-09	WATER TANK	Withdrawn	
KP1006/08	425 WARRIGAL ROAD MOORABBIN, VIC 3189	3-Nov-08	5-Jan-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP1007/08	70 MASCOT AVENUE BONBEACH, VIC 3196	5-Nov-08	13-Jan-09	ALTERATIONS & ADDITIONS	Permit Lapsed	
KP1015/08	96 ARGYLE AVENUE CHELSEA, VIC 3196	6-Nov-08	29-Jan-09	2 LOT SUBDIVISION	Permit Issued	
KP1035/08	94 FAIRBANK ROAD CLAYTON SOUTH, VIC 3169	17-Nov-08	27-Jan-09	BUILDINGS & WORKS	Permit Issued	
KP1045/08	84 SHERWOOD AVENUE CHELSEA, VIC 3196	18-Nov-08	21-Jan-09	DWELLING	Permit Issued	
KP1053/08	2/12-16 GARDEN BOULEVARD DINGLEY VILLAGE, VIC 3172	19-Nov-08	27-Jan-09	LIQUOR LICENCE	Permit Issued	
KP1055/08	469-472 NEPEAN HIGHWAY CHELSEA, VIC 3196	20-Nov-08	28-Jan-09	SERVICE STATION	Permit Issued	
KP1060/08	21 AONACH STREET CLAYTON SOUTH, VIC 3169	21-Nov-08	30-Jan-09	2 LOT SUBDIVISION	Permit Issued	
KP1065/08	36 DE HAVILLAND ROAD MORDIALLOC, VIC 3195	27-Nov-08	5-Jan-09	BUILDINGS & WORKS	Permit Issued	
KP1087/08	64 ELLA GROVE CHELSEA, VIC 3196	4-Dec-08	27-Jan-09	2 LOT SUBDIVISION	Permit Issued	
KP1090/08	41 VICTORIA STREET PARKDALE, VIC 3195	4-Dec-08	21-Jan-09	ADVERTISING SIGNAGE	Permit Issued	
KP1100/08	19 CORAL ISLAND COURT PATTERSON LAKES, VIC 3197	9-Dec-08	29-Jan-09	2 LOT SUBDIVISION	Permit Issued	

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

KP1109/08	2 ROSEBERRY AVENUE CHELSEA, VIC 3196	15-Dec-08	14-Jan-09	2 LOT SUBDIVISION	Permit Issued
KP1111/08	7 BULOKE LANE WATERWAYS, VIC 3195	15-Dec-08	9-Jan-09	DWELLING	Permit Issued
KP1117/08	17 WESTBRIDGE COURT WATERWAYS, VIC 3195	15-Dec-08	9-Jan-09	DWELLING	Permit Issued
KP1144/08	34 SUNRAY AVENUE CHELTENHAM, VIC 3192	23-Dec-08	27-Jan-09	3 LOT SUBDIVISION	Permit Issued
KP1147/08	27 FOURTH STREET PARKDALE, VIC 3195	24-Dec-08	27-Jan-09	2 LOT SUBDIVISION	Permit Issued
KP1152/08	3 WATERSIDE DRIVE WATERWAYS, VIC 3195	23-Dec-08	9-Jan-09	DWELLING	Permit Issued
KP179/08-A	15 MILLS ST CHELTENHAM, VIC 3192	22-Dec-08	23-Jan-09	BUILDINGS & WORKS	Permit Issued
KP211/04-A	27 SUNRAY AVENUE CHELTENHAM, VIC 3192	26-Aug-08	21-Jan-09	DWELLING	Notice of Decision
KP254/08	1 DYER CT CLARINDA, VIC 3169	5-Mar-08	29-Jan-09	3 DWELLINGS	Permit Issued
KP266/06	BATH STREET CHELSEA, VIC 3196	4-Apr-06	22-Jan-09	BUILDINGS & WORKS	Permit Issued
KP285/08	39 WORTHING RD MOORABBIN, VIC 3189	28-Mar-08	20-Jan-09	3 DWELLINGS	Permit Refused
KP305/07-B	580-650 HEATHERTON ROAD CLAYTON SOUTH, VIC 3169	20-Jan-09	21-Jan-09	3 LOT SUBDIVISION	Permit Issued
KP336/08	122B PARKERS RD PARKDALE, VIC 3195	8-Apr-08	21-Jan-09	3 DWELLINGS	Permit Issued
KP419/06	VICTORY ROAD CLARINDA, VIC 3169	23-Jun-06	14-Jan-09	VARIATION TO CONTOUR	Permit Issued
KP469/08	5 MAURY ROAD CHELSEA, VIC 3196	21-May-08	23-Jan-09	10 DWELLINGS	Notice of Decision
KP474/08	9 MACK CRESCENT CLARINDA, VIC 3169	21-May-08	28-Jan-09	4 DWELLINGS	Permit Refused

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

KP482/08	649-681 CLAYTON ROAD CLARINDA, VIC 3169	23-May-08	6-Jan-09	TRANSFER STATION	Permit Issued
KP499/08	684-686 SOUTH ROAD MOORABBIN, VIC 3189	27-May-08	5-Jan-09	ADULT SEX BOOKSHOP	Permit Refused
KP505/08	104 BERNARD STREET CHELTENHAM, VIC 3192	28-May-08	21-Jan-09	4 DWELLINGS	Notice of Decision
KP54/06	2/80 MASCOT AVE BONBEACH, VIC 3196	31-Jan-06	28-Jan-09	1 DWELLING	Permit Withdrawn
KP557/07	1 FORBES DR ASPENDALE GARDENS, VIC 3195	31-Jul-07	28-Jan-09	SIGNAGE	Permit Issued
KP562/08	293 STATION STREET CHELSEA, VIC 3196	12-Jun-08	22-Jan-09	2 DWELLINGS	Permit Issued
KP571/05-A	72 NEPEAN HWY ASPENDALE, VIC 3195	30-Jun-08	30-Jan-09	4 DWELLINGS	Permit Issued
KP581/07-A	15 TEAGUE AVE MENTONE, VIC 3194	25-Sep-08	21-Jan-09	2 DWELLINGS	Permit Issued
KP615/08	1422 CENTRE ROAD CLAYTON SOUTH, VIC 3169	25-Jun-08	14-Jan-09	8 DWELLINGS	Permit Issued
KP619/08	1/11 HALL MARK ROAD MORDIALLOC, VIC 3195	27-Jun-08	27-Jan-09	ART GALLERY	Permit Issued
KP652/08	1124 NEPEAN HIGHWAY HIGHETT, VIC 3190	14-Jul-08	28-Jan-09	3 DWELLINGS	Permit Issued
KP661/08	2 PATTERSON STREET BONBEACH, VIC 3196	16-Jul-08	13-Jan-09	2 DWELLINGS	Permit Issued
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**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

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**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

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**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

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**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

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L 10

Planning Application KP KP899/07 - No.24 Nepean Highway, Aspendale

APPLICANT:	Neil Fletcher Design Pty Ltd
ADDRESS OF LAND:	No.24 (Lots 1 & 2 on PS 426988F) Nepean Highway, Aspendale
Melway Ref:	92F2
PROPOSAL	Eight (8) dwellings and to alter access to a Road Zone Category 1
CONTACT OFFICER:	Anna Reddie
FILE NO:	KP899/07
ZONING/OVERLAYS:	Residential 1 Zone Design and Development Overlay (DDO1 and DD07)
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 16.02: Housing – Medium Density Housing <u>Local Planning Policy Framework</u> Clause 21.05 MSS – Residential Land Use Clause 22.11: Residential Development Policy Clause 32.01: Residential 1 Zone & Schedule Clause DDO1 (Urban Coastal Height Control) Clause DDO7 (Urban Coastal Foreshore Setback Control Area) Clause 55: Two or More Dwellings on a Lot & Residential Buildings Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA:	Increased Housing Diversity
NEIGHBOURHOOD CHARACTER AREA:	Area 65
DECISION BY:	22 nd January. 2009
NETT DAYS:	68 days @ 22 nd January 2008

Main Issues Relating to this Application

The key planning issues arising from this proposal relate to:

- Traffic and access considerations
- Neighbourhood character
- Amenity impact (internal and external)
- Energy efficiency; and
- Built form.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

Development Assessment Table

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
Private Open Space	<p>Private open space should be provided in one of the following of the following ways;</p> <ul style="list-style-type: none"> • An area of 40m², with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling with a • minimum area of 25m², a minimum dimension of 3 metres and convenient access from a living • Or a room of a balcony of 8m² with a minimum width of 1.6 metres and convenient access from a living room of a roof top area of 10m² with a minimum width of 2 metres and convenient access from a living room. 	<p>Dwelling 1 – Balcony area of 8.8m² with a minimum width of 3 metres. Dwelling 2 – Balcony area of 9.0m² with a minimum width of 3 metres. Dwelling 3 Balcony area of 8.7m² with a minimum width of 3 metres Dwelling 4– Balcony area of 8.2m² with a minimum width of 3 metres Dwelling 5– Balcony area of 9.0m² with a minimum width of 3 metres. Dwelling 6 – Balcony area of 8.0m² with a minimum width of 3 metres. Dwelling 7 – Balcony area of 8m² with a minimum width of 3 metres Dwelling 8 –Balcony area of 8.1m² with a minimum width of 3 metres All dwellings are provided with direct access from the living areas to these balconies</p>	As per ResCode
Car Parking	One (1) space for each 1 and 2 bedroom dwelling	The proposal responds with all two bedroom dwellings, orientated to Nepean Highway, provided with one car parking space each while the larger dwellings orientated to Coleman Lane are provided with two car spaces each.	Adequate car parking for future residents and visitors.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

Dwelling Setback to Street	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.	The proposal provides a street setback which varies from 5.25metres along the south east property side boundary to 3.1 metres at the central stairwell and 4.5 metres along the sites north west side property boundary.	The front set back does not comply and will be discussed in the Planning Consideration section of this report.
Site Coverage	Maximum 60%	57.25 site coverage is provided on site	ResCode Compliant

EXISTING CONDITIONS:

The subject site comprises a 653m² allotment on the south-western side of Nepean Highway in Aspendale. It currently contains a 1940's style single storey weatherboard clad dwelling with a hip concrete tiled roof. The site contains four existing trees, with three along the north-western boundary and one south of the existing dwelling. The site slopes down approximately 2 metres towards the rear (south-western) property boundary. Coleman Lane runs along the length of the rear (south-western) property boundary, and the site is accessible from this lane via double gates in the rear (south-western) property boundary. The site is also accessible via a single crossover located at the south-eastern end of the Nepean Highway frontage.

The surrounding area typically comprises of a mixture of housing styles, including single and double storey brick and weatherboard dwellings as well as more contemporary designs, with many upper level extensions providing Bay views. Front fencing is varied, but typically higher along Nepean Highway. The Frankston Railway Line runs along the opposite (north-eastern) side of Nepean Highway.

The site is within close proximity of local services, facilities and transportation, being 200m from Mordialloc College, 900m from Mordialloc Primary School, 600m from Mordialloc Activity Centre and 800m from Mordialloc Railway Station.

PROPOSAL IN DETAIL:

It is proposed to demolish the existing dwelling on the land and construct eight (8) dwellings in a double storey apartment style building form.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

Key elements of the proposal are as follows:

Dwelling	Floor Area (excluding garage / verandah)	Private Open Space	No. of Bedrooms	Car Parking Spaces
1,2,3, 7	Dwelling 1 and 2 104.1 and 104.9 Dwelling 3 68.9 Dwelling 7 57.8m	Balcony 8.8m ² and 9.0m ² Balcony 9.0m ² Balcony 8.0m ²	Two (2) bedrooms	One (1) basement car parking space
5&6	Dwelling 5 95m Dwelling 6 89.4	Balcony 8.0m ² Balcony 8.0m ²	Three (3) bedrooms	Two basement car parking space
4 & 8	Dwelling 4 51.7m Dwelling 8 45m	Balcony 8.2m ² Balcony 8.1m ²	One (1) bedrooms	One(1) basement car parking space

A total of 12 car parking spaces (which includes two visitor spaces) would be provided in a basement car park accessible via a ramps and crossover from Coleman Lane.

Roof:	Steel Deck
Walls:	Brick veneer walls face brick work, sandstone, concrete block work render finish, lightweight Styrofoam render finish, lightweight timber panels stained finish
Windows:	Lightweight timber sheet panelling
Driveways:	Coloured concrete ramp
Boundary fences:	1.8 metre paling fence

The proposal would result in a site coverage of 57.2%, and a site permeability of 22.1%.

TITLE DETAILS

The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the title.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Five (5)

objections to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Overshadowing
- Privacy/ overlooking/ loss of amenity
- Excessive building size
- Car parking/ traffic/ inappropriate access via laneway
- Neighbourhood character
- Inconsistent with the provisions of Rescode and Overlays
- Overload services

PRELIMINARY CONFERENCE

A preliminary conference was held on 31st April, 2008 with the relevant Planning Officer, Ward Councillor, the applicant and five (5) objectors in attendance. The above-mentioned issues were discussed at length.

The above concerns were unable to be resolved at the conference, and the objections still stand.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

Following discussions with Council's Traffic Engineer, an application pursuant to Section 57A of the Planning and Environment Act 1987 was received on 17 November, 2008.

Council decided to approve the amendment. The amended plans were not re-advertised as it was considered that the amendments were unlikely to impact on any other property and no further material detriment would occur as a result from the amendments.

It is noted that all outstanding objections to all notification processes are considered in the assessment of an application.

PLANNING SCHEME PROVISIONS

The site is located in Residential Zone 1 and subject to DDO, Schedule 1 and 7.

In addition, according to the decision guidelines at Clause 65 of the Scheme, Council must consider the State Planning Policy Framework (Clause 16) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement of the Scheme.

RESIDENTIAL ZONE 1

The site is located in a Residential Zone 1.

A planning permit is required to develop land for eight (8) dwellings. A permit is also required to alter access to RDZ1, pursuant to Clause 32.01-4 of the Kingston Planning

Scheme (the Scheme).). A residential development comprising of two or more dwellings must be assessed against Clause 55 Rescode of the Scheme.

DESIGN DEVELOPMENT OVERLAY

A permit is required to construct a building or construct or carry out works. Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay. This does not apply if a schedule to this overlay specifically states that a permit is not required

SCHEDULE 1- URBAN COASTAL HEIGHT CONTROL

The following requirements must be met before a permit can be granted:

- A building must not be greater than 2 storeys in height (which may include a basement car park with a maximum height of 1.2 metres above natural ground level).

A permit cannot be granted to construct a building or to construct or carry out works, which are not in accordance with the above requirements.

SCHEDULE 7- URBAN COASTAL FORESHORE SETBACK CONTROL AREA

A permit must not be granted to construct a building or construct or carry out a works within 4.5 metres of the foreshore reserve boundary.

REFERRAL

The following internal and/or external referral departments were notified:

- Council's Development Engineer
- Council's Vegetation Management Officer
- Council's Traffic Engineer

The above-mentioned referral authorities had no objection to the proposal, subject to conditions being included on any permit issued

Discussion

Kingston Planning Scheme Provisions:

State Planning Policy Framework (SPPF)

Clause 12 (Metropolitan Development)
Clause 14 (Settlement)
Clause 16 (Housing)
Clause 19 (Particular Uses and Development)

Local Planning Policy Framework (LPPF)

Clause 21.05 (Residential Land Use)
Clause 22.11 (Residential Development Policy)

Zoning

The site is located in the following Zone:
Clause 32.01 (Residential 1 Zone)

Overlays

The following Overlay Controls apply to this site:

Clause 43.02 (Design and Development Overlay)
DDO1 – Urban Coastal Height Control
DDO7 – Urban Coastal Foreshore Setback Control Area

Particular Provisions

Clause 55 (Two or More Dwellings on a Lot & Residential Buildings)

General Provisions

Clause 65 (Decision Guidelines)

Other

Neighbourhood Character Area Guidelines (Incorporated Document)

The land is located within Area 65 of the Neighbourhood Character Guidelines. The proposal is generally in accordance with the applicable character profile. Any areas of non-compliance are discussed in the following sections of this report.

DISCUSSION:

Land-use Issues

It is considered that the proposed development generally complies and satisfies the State and Local Planning Policy Framework guidelines which aim to encourage well-designed medium density housing in appropriate locations.

It is considered that the proposed development satisfies the purpose of the zone.

DDO1 -Schedule 1 – Urban Coastal Height Control Area

The design objectives of the *Urban Coastal Height Control Area* include:

- *To ensure that new buildings, works, renovations and extensions are compatible with surrounding buildings and natural features, and sympathetic to the surrounding natural landscape and environment.*
- *To relate building heights, building bulk and setbacks to adjoining sites so that they are compatible with and enhance the appearance and character of the immediate locality.*

Further to the permit requirements of the DDO the basement car park appears to not exceed more than 1.2 metres above natural ground level, nor exceed 3.5 metres (measured from floor to ceiling) for each level proposed.

It is considered that the proposed development satisfies the requirements of this overlay.

DDO7- Schedule 7- Urban Coastal Foreshore Setback Control Area

The design objectives of the *Urban Coastal Foreshore Setback Control Area* include:

- *To protect and enhance the visual and aesthetic appearance of the foreshore area.*
- *To encourage new buildings and works which are sympathetic to the surrounding foreshore environment.*

The site does not have direct abuttal to the Foreshore, and it is considered that the proposed development satisfies the requirements of this overlay.

ResCode Assessment

Standard B1 - Neighbourhood Character and Design Issues

It is considered that the design of the dwellings is consistent with the evolving character of this beachside location, where single dwellings are being replaced with more intensive and contemporary forms of development. The design and intensity of development is considered to be consistent with the objectives and strategic direction for the Increased Housing Diversity area.

Much of the existing residential development in the area is double storey incorporating a range of building materials, with many newly constructed dwellings and multi-dwelling development ranging in design and presenting unique architectural styles and forms. Many of the dwellings are double storey, and designed to obtain the best possible views of Port Phillip Bay. Whilst the size area of the site at 653m² is relatively modest for an eight (8) dwelling development, it is evident that this can be achieved by accommodating the proposal dwellings in an apartment style. Furthermore, the building has been well articulated and adequately set back from the property boundaries.

The proposed development should be set back a minimum of 8.5m from the street frontage in accordance with Standard B6 of Clause 55 of the Kingston Planning Scheme. The proposed 3.15m front set back (with terrace areas encroaching to around 1.2m) stepping back to 5.3m is considered acceptable in this instance, having regard to the prevailing setbacks in the area. The proposed setback is considered to provide an appropriate transition when taking into consideration the setback rhythm along Nepean Highway, and it is therefore considered that the development will respond in an appropriate manner to the streetscape.

Overall, it is considered that the development is consistent with the streetscape and broader neighbourhood character, and represents an appropriate design solution for the site.

Standard B3 -Street Set back Objectives

The development responds with an articulated street setback which varies from 5.3m along the south east boundary to 3.1 metres at the stairwell and 4.5 metres along the north west boundary. These setback allowances provide efficient use of the site. It is considered that the proposal is consistent with neighbourhood character and Kingston's Designing Contextual Housing document.

Standard B10- Side and Rear Setbacks Objectives

The neighbourhood character in this area includes single dwellings on an allotment with a minimum offset from boundaries on the narrow side and a wider side setback to rear freestanding garages. The development generally complies with ResCode, except for galvanised steel frames which are attached to the side of the building. These are considered to be architectural features, and although not in accordance with ResCode it is considered that these feature are not considered to be apart of the built form but added to provide visual interest to the building. These elements have been incorporated into the design to minimise visual bulk.

Standard B19- Detailed Design Objectives

The proposal has an overall two storey height of 7.05 m for dwellings facing Nepean Highway and 7.85 for dwellings facing Coleman Lane.

The proposal is located between a similar; two storey apartment building under construction on the south east and a single storey on the north west boundary the overall

height of the development is fully compliant with Rescode. It is considered that the proposals scale and built form is not dissimilar to the scale and built form of surrounding development in the area. It is considered that the proposal has also provided graduated elevations, varied setbacks from property boundaries, modulation of the building footprint and varying materials, colours and finishes to create greater depth and reduce the visual impact on adjoining sites.

The proposed Roof deck meets Council Draft Roof Deck Policy.

Standard B16 -Car Parking Provision

The proposal provides for car parking in accordance with the requirements of ResCode. A reversing area has been provided along the south-eastern end of the basement car park, which is considered adequate to allow all cars to leave the basement in a forward manner.

Council's Development Engineer has required a Condition to be included on any permit issued to require the sealing of Coleman Lane with coloured concrete. Given that the development will have access from this laneway, the request is considered appropriate and should be required under Condition 1 of any permit issued.

Standard B17- Amenity Impacts

The balconies and main living rooms to dwellings 2 and 6 in particular would receive poor access to northern sunlight. However, it is noted that each dwelling would receive good access to natural sunlight, and it is considered that the building has been designed to obtain northern sunlight wherever practical and achievable.

Given the apartment style of the dwellings, all dwellings rely on small balcony areas for private open space. Given the sites proximity to the foreshore, public transport nodes community facilities, and the intended apartment style of living, the amount of open space proposed is considered reasonable.

Response to Grounds of Objection

The valid grounds of objection raised are summarised as follows:

Neighbourhood character/ bulk

It is considered that the design of the dwellings is consistent with the evolving character of this beachside location, where single dwellings are being replaced with more intensive and contemporary forms of development. The design and intensity of development is considered to be consistent with the objectives and strategic direction for the Increased Housing Diversity area.

Bulk , scale and mass of development is broken up by varying front side and rear setbacks and by a range of materials and colours which should result in visual interest.

Car parking/ traffic/ inappropriate access via laneway

The proposal provides for car parking in accordance with the requirements of ResCode. A reversing area has been provided along the south-eastern end of the basement car park, which is considered adequate to allow all cars to leave the basement in a forward manner.

Council's Development Approvals Engineer has required a Condition on any permit issued to require the sealing of Coleman Lane with coloured concrete

Privacy/ overlooking/ loss of amenity

Objectors have raised concerns regarding overlooking and privacy, however windows facing the abutting properties have been either designed as highlight or obscure glazed, with 1.7m high screening to upper level balcony/ terrace areas and the roof top balcony.

Concerns have been raised regarding overshadowing by objectors. It is considered that the adjoining properties receive natural daylight to their private open space for at least five hours of sunshine between 9am and 3pm on 22nd September. It is considered the amount of overshadowing created by the proposal is in accordance with the provisions of Rescode.

Overload services

It is considered that the State and Local policy of the Kingston Planning Scheme encourages urban consolidation within Residential Zones and to this effect the land is considered acceptable for further development.

It is noted that the developer will need to adhere to any requirement from the Statutory Referrals Authority to allow for connection to the available connected infrastructure.

Comments

The proposed development is considered appropriate for the site as evidenced by:

- The design and siting of the proposed development to be compatible with the surrounding area;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal generally satisfies the requirements of the Kingston Planning Scheme, including the MSS, Residential Development Policy (inclusive of the Neighbourhood Character Area Guidelines and the Designing Contextual Housing Guidelines), Residential 1 zoning and the Schedule to the zone, Clause 55 – Two or more dwellings on a lot and Residential Buildings, and Clause 65 – Decision Guidelines (subject to appropriate conditions).

On balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

RECOMMENDATION:

That a Notice of Decision to Grant a Permit for the development of this site for eight (8) dwellings and to alter access to a Road Zone Category 1 be issued, subject following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 17th November 2008, but modified to show:
 - a. a note on the plan stating: "Access to the development from Coleman Road must be designed for it's full length with coloured concrete with exposed aggregate feature bands, drained and constructed up to the southern property boundary in accordance with the engineering plans approved by Council";
 - b. ramp grades clearly denoted on the basement level plans; and
 - c. the elevation plans to clearly demonstrate that the basement car parking does not exceed more than 1.2 metres above ground level, at any point.
2. The development and/or use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Before the use commences, the laneway as described in Condition 1a) must be constructed at the developer's cost and maintained in accordance with the plans approved by the Council. Discussion with Council's Development Engineer is recommended prior to the submission of a design. A priced schedule of works within Coleman Lane and the payment of Council's engineering fees of 3.25% of the cost of works are required to be submitted prior to commencement.
4. Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
5. Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
6. The development of the site must be provided with stormwater treatment works which must incorporate water sensitive urban design principles (including re-use) to improve discharge quality and a detention system for any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on treatment options.
7. Before the development commences, a drainage plan showing the method of treatment and discharge to the nominated point must be prepared to the satisfaction of the Responsible Authority. The plan must be prepared by a qualified person and show all details of the proposed drainage works, including

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

- all existing and proposed features that may have impact on the drainage (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).
8. Stormwater drainage of the site must be provided so as to prevent overflows onto adjacent properties.
 9. The entry/exit driveway of the basement carpark must incorporate an apex no less than 400mm above the back of footpath on the South side of Coleman Road (at the centre of the Coleman Lane intersection).
 10. Construction on the site must be restricted to the following times:
 - d. Monday to Friday 7:00am to 7:00pm; and
 - e. Saturday 9:00am to 6:00pm.Or otherwise as approved by the Responsible Authority in writing.
 11. Prior to the occupation of the dwellings hereby permitted, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must be reinstated to the satisfaction of the Responsible Authority.
 12. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.
 13. A street number of 100mm minimum height and contrasting in colour to its background, must be fixed at the front boundary of the property and as near as practicable to, or on the letterboxes with such numbering to be in accordance with Council's Street Numbering Policy. Separate unit numbers of 75mm minimum height must be placed adjacent to the front entrance of each dwelling. Such numbers must be clearly legible from the access driveway.
 14. Prior to the occupation of the dwellings hereby permitted, all boundary fences must be repaired and/or replaced as necessary to the satisfaction of the Responsible Authority, at the cost of the applicant/owner.
 15. Exterior lights must be installed in such positions as to effectively illuminate all pathway and porch areas. Such lighting must be controlled by a time clock or sensor unit, and must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
 16. Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

c. Surfaced in accordance with the endorsed plans under this permit, to the satisfaction of the Responsible Authority.

d. Drained and maintained to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

17. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.

18. All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.

19. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

20. External clothes drying facilities must be provided for each dwelling.

21. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

22. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

- The development and use are not started before two years of the date of this permit.
- The development is not completed before four years of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Note: It is noted that the development includes a storage shed and eaves to be built over an easement. Separate consent from Council and the relevant service authority is required to build over the easement and will need to be obtained prior to the issue of a building permit.

Note: Prior to the commencement of the development you are required to obtain the necessary Building Permit.

Note: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

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**Planning Application KP KP988/08 - No.13 Stayner
Grove, Moorabbin**

APPLICANT:	Keen Planning
ADDRESS OF LAND:	No. 13 Stayner Grove, Moorabbin
Melway Ref:	77E7
PROPOSAL	Three (3) dwellings
CONTACT OFFICER:	Anna Reddie
FILE NO:	KP988/08
ZONING:	Residential 3
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 16.02: Housing – Medium Density Housing <u>Local Planning Policy Framework</u> Clause 21.05 MSS – Residential Land Use Clause 22.11: Residential Development Policy Clause 32.06: Residential 3 Zone & Schedule Clause 55: Two or More Dwellings on a Lot & Residential Buildings Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA:	Incremental Change
AVERAGE LOT SIZE	306.55m ²
AVERAGE PROPOSED LOT SIZE	277.73m ²
NEIGHBOURHOOD CHARACTER AREA:	Area 34
DECISION BY:	9th February, 2009
NETT DAYS:	13days @ 9th February, 2009

REASON FOR APPLICATION GOING TO COUNCIL MEETING

The main issues associated with this application as outlined by the objectors can be summarised as follows:

- Neighbourhood Character
- Visual Bulk
- Car Parking
- Previous VCAT decision

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

Development Assessment Table

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
Private Open Space	Incremental Housing Change requirements – Schedule to the Residential 3 Zone: 40m ² , located to the side / rear of the dwelling, achieving a minimum dimension of 5 metres for a 2 bedroom dwelling with convenient access from a living room. An additional 20m ² is required for each additional bedroom, which achieves a minimum dimension of 3 metres.	Dwelling 1 – approximately 87.2m ² of which 50m ² secluded private open space and has a minimum width of 5.4m Dwelling 2 – 113.9m ² of which 51.7m ² is secluded private open space Dwelling 3 50.6m ² of secluded private open space	As per the Schedule to the Residential 3 Zone for Incremental Housing Change Areas
Car Parking	One (1) space for a two bedroom dwelling Two (2) spaces for each 3 bedroom dwelling.	Dwelling one (1) has a single lock up garage with a tandem space in front setback Dwelling two (2) has a double lock up garage Dwelling three (3) has a single lock up garage	As per ResCode
Dwelling Setback to Street	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.	Dwellings 1's setback between 5.8m to 7.6m Dwelling 2 setback between 5 to 6.3 metres at the ground floor	As per ResCode
Site Coverage	Incremental Housing Change requirements – Schedule to the Residential 3 Zone: Maximum 50%	Site coverage is approximately 41.3%	As per the Schedule to the Residential 3 Zone for Incremental Housing Change Areas

EXISTING CONDITIONS:

The subject site is located on the north side of Stayner Grove, Moorabbin. It is irregular in shape with a frontage width of 35.86 metres, a maximum depth of 37.15 metres, resulting in an overall area of 833.2m². The site has a fall of approximately 1 metre

towards the north-east. Vehicle access to the site is via a single width crossover located on the south-west side of the Stayner Grove property frontage.

The subject site does not contain any significant vegetation.

The site is currently occupied by a single storey cream brick dwelling with associated outbuildings.

This section of street has a definable character, consisting predominantly of detached, single storey, brick dwellings with pitched roofs. Dwellings are sited with generous side setbacks, creating a regular rhythm to the streetscape. Front fences are generally constructed of brick, at varying heights.

PREVIOUS APPLICATION

Two (2) significant planning decisions on this site have been made in the past three years which have shaped the form and layout of the proposed development. These are KP766/06 and KP935/07.

Application for Planning Permit KP766/06, for three (3) double storey dwellings was refused by Council under delegation, with this decision upheld by the VCAT following an appeal by the permit applicant.

The Tribunal in its decision made the following key comments:

“The inclusion of three units, rather than two as suggested in the above quotation, may not accord with the policy but a review of a cadastral plan indicates the land to be possibly larger than those around it. Moreover, as perhaps alluded to in the policy when referring to “equivalent”, the size of dwellings will be a consideration - three single bedroom units would usually have a very different built form outcome compared with three dwellings each with multiple bedroom and studies. On its face, the intent of the policy is clear and that is for a modest degree of change in this type of location.

“It is plain that three units can physically fit on the land, subject to minor changes to address driveway turning areas as raised in submissions and evidence.”

“The focus on incremental change is part of an overall strategy involving higher density development in targeted locations and less significant change in other places. That is, the intensity of new dwelling development in areas such as the review site is to be tempered when contrasted with the preferred locations for increased housing diversity in Kingston. Even though three units may be able to fit on the land, that does not mean that outcome is acceptable in terms of neighbourhood character”

“The first floors of the two dwellings would be recessed, but the attached form of the first floors and the breadth of the attached upper level (at over 15 metres)

would create a built mass that is foreign in this neighbourhood that comprises modestly-spaced small homes.

I accept Mr Keen's submission that the review site can accommodate two dwellings across its frontage given the shape of the land and typical frontages in the area. However, even though I find aspects of the design detailing of the front units to be generally acceptable (eg. roof profile), I am not persuaded that the attached mass and extent of development across the site, in this location, is acceptable."

"Moreover, the bulky attic form of the rear dwelling would add to perceptions as to the extent of building on the site – it is a form that would be seen in some streetscape views.

Put simply, there is too much attached double storey development proposed too close to the street coupled with the visible bulk of the attic style rear unit. In my view, the proposal does not achieve the outcome sought for incremental change areas nor sufficiently respond to the area's character."

"The loss of vegetation from the review site was raised as a concern in some submissions but I am satisfied that there would be opportunities for new planting. However, I consider the Scheme seeks more generous or suitably proportioned spaces than proposed, as discussed below"

"The development proposes adequate car parking to service the occupants of each unit (given the very small size of the study to Unit 3, I find a second car space is not required). I find no reason to reject the permit application because of the parking demands that would be generated or the traffic volumes that would result in this street even when mindful of the use of this route for school traffic and the number of young families in the area.

Application for Planning Permit KP935/07, for three (3) double storey dwellings was refused by Council, with this decision upheld by the VCAT following an appeal by the permit applicant.

The Tribunal in its decision made the following key comments:

Basis of Decision

Is this an incremental increase in development?

*Clause 22.11 of the Kingston Planning Scheme, identifies this site in an **Incremental Change Area**, with specific emphasis modest increase in intensity and scale of development. The policy outcome for conventional shaped lots in this policy area is for dual occupancy type of development. However the subject site is not a conventional shape and it is larger than conventional lot sizes. The applicant has attempted to place three dwellings on the lot and whilst the site area and the frontage would suggest that three dwellings can be accommodated the design has some short comings that mitigate against the issue of the permit. These matters relate to the upper level building bulk and massing of Dwellings 1 & 2, inadequate landscaping opportunities on the north-western interface,*

driveway and access arrangements, front entry treatment to Dwelling 3 and façade treatment for Dwelling 2. The collective ramifications of these shortcomings tip the balance against this development meeting the incremental change threshold in this matter.

Building bulk and massing

The council and objectors were critical of the extent of the upper level built form of Dwellings 1 & 2 and whilst some of the criticism about the adequate setbacks from the front and the extent of building overhang were not as critical I consider the criticism about the extent of building across the frontage was valid. The upper levels will be setback 8.6 and 9.5 metres from the street frontage and these setbacks ensure that front of the built form is reasonably consistent with the front upper level set backs on buildings in the general neighbourhood.

However, my greatest concern about the bulk and massing is the extent of two upper level dwellings with only a small separation between the two upper levels. I consider the separation distance of 2 metre does not sufficiently help to reduce the bulk and massing of the upper level of building in this neighbourhood context. It introduces an unusually narrow gap between the two upper levels. Most upper level building forms are recessive from front and side boundaries, so that if there was an existing two storey form new upper levels built form would be separated by greater distances than that found in this development. Whilst the 2 metre separation may be acceptable in another neighbourhood context, particularly one that anticipated a higher level of change it seems the broad extent of built form at first floor level is out of character and if anything the narrow gap seems to draw attention to itself rather than help reduce bulk and massing.

Mr Keen seemed to acknowledge the deficiency in the separation distance because he tabled plans late in the hearing showing a 3 metre gap between the upper level forms. Whilst I consider this is helpful, it does not go far enough in reducing the bulk and massing of the upper level to an acceptable level. I consider the separation should be about four metres so that it would respect the rhythm of two 2 storey dwellings side by side in a conventional detached house streetscape.

I am concerned that if the separation distance increases from 3 metres to 4 metres to address building bulk and massing that it will reduce the ability to retain three viable bedrooms. I suggest this design issue needs detailed examination and therefore I am reluctant to address this by a condition on permit.

I considered this matter potentially could have been treated through conditions on a permit but when considered with the consequences of the changes on the internal layout and other issues, mentioned later, I consider that really the applicant needs to examine the quantum of changes needed and then design the development accordingly rather than undertake a collection of ad-hoc changes.

Poor entrance treatment to Dwelling 3

Another concern is the relatively poor entrance treatment of Dwelling 3 and the interrelationship with the access drive to the garage next to it. Essentially the threshold in front of the entrance to the dwelling is compromised by the need for a vehicle manoeuvring area from the garage. Similarly, the garage door is relatively narrow and should be widened to improve manoeuvring from the garage.

Landscaping opportunities along the north-eastern interface

The manoeuvring area behind the garage to Dwelling 2 and the planting area beside it is narrow which indicates a tight fit. I doubt it is wide enough to accommodate a tree that could grow to produce a reasonable canopy because the tree would be so close to the drive that it may be damaged but also because the planting area is only 900mm wide. This needs to be examined in the context of the shrub planting on the north-eastern side of the property because it may impact on planting opportunities for this tree. I suggest the planting strip for the tree should be at least 1.8 metres opposite the garage door, but narrowed in places where no canopy planting is proposed.

I acknowledge there are times that narrow strips are acceptable alongside driveways but the site context in this instance does not suit that situation. My observation of the interface between this site and the rear of properties fronting Nepean Highway is that there are small canopy trees and large shrubs providing a landscaped break between properties. I consider this element of the neighbourhood should be retained.

I suggest the applicant needs to widen the landscaping strip and then move the driveway south-west. The consequence of this means the driveway and garage needs to move further inwards and impact on the internal ground level layout of Dwellings 1 & 2. There does not appear to be much room to reduce the primary living room of Dwelling 1 so I consider the applicant should re-examine the internal amenity of this space.

Impact on 11 Florida Grove

I consider Dwelling 3 will have little impact on properties to the rear, such as No. 11 Florida Grove, having regard to the siting of this dwelling, the relatively generous setbacks and the opportunities to re-landscape the areas surrounding this dwelling. The location of a shed close to the rear boundary on No 11 Florida Grove, and the other larger outbuilding largely obscures the development from the primary open space of that dwelling. Whilst the rear corner of No 11 Florida Grove may be used by children as a play space, it is clearly not the primary open space area to that dwelling.

Car Parking and Access

Car parking provision is acceptable and meets the Rescode Standard.

The applicant conceded that the driveway could be widened to 3 metres, particularly within the first 5 metres of the site. This is a minor matter that will marginally improve access for car parking to Dwellings 2 and 3. The vehicular access, manoeuvring and relationship to the front entry of Dwelling 3 is tight and I consider it needs improvement to ensure that the occupiers of this dwelling utilise the garage and exit the site in a forward motion. Whilst there is no imperative in the planning scheme for three vehicles using a common driveway to exit in a forward motion, I consider in this case it is prudent to do so having regard to the nature of access and egress to the site close to the dog-leg in Stayner Grove.

Amenity Issues

Ms Grant raised concerns about the impact of the proposed development on properties to the rear at No. 1028 Nepean Highway and her property at No. 11 Florida Grove. Dwelling 3 will have a minimum setback of 3.4 metres from the northern boundary increasing to about 5 metres abutting the rear corner of her property. The abuttal to the rear of No. 1028 Nepean Highway will be about 2 metres, in each case these areas will be private open space and/or landscaping. I consider it prudent to plant at least one new canopy tree in this location as a replacement to the existing fig tree, which may not adjust to the redevelopment. In addition, a gate linking the driveway should be provided to the rear open space, but is a minor issue in the context of the dispute.

Traffic Issues in Stayner Grove

Objectors raised concerns about potential safety issues for them and occupiers of the dwelling having regard to the “dog-leg” in Stayner Grove and the impact on potential sight lines. I viewed the subject site in the am and pm in and took particular note of the site lines across the site. From my the major influence in determination of sight lines for persons in vehicles travelling in an easterly direction along Stayner Grove are the vegetation on the site and the location of the carport and wall on the boundary of the rear of No. 1032 Nepean Highway. I consider there would be very little, if any impact for vehicles travelling in a westerly direction above and beyond that which currently exists and therefore I did not detect a serious traffic problem for normal motorists travelling at modest speeds in this residential street. Council’s engineers did not raise concern about sightlines. In this case the applicant’s revised front fence treatment seems acceptable.

Whilst I appreciate the residents have perceptions of dangerous driving conditions, there was actually no evidence of any accidents experienced in this street. I consider the opportunity for access from Ms Smith’s property to be acceptable, it will remove the opportunity for a vehicle to park opposite her driveway. It may improve access opportunities for her because she can use the driveway to Dwellings 2 and 3 for improved manoeuvring out of her site if she wishes to exit in an easterly direction towards Nepean Highway. From my

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

observation the biggest obstacle to visibility experienced was a car parked in the double crossover outside the garage and carport to dwelling at No. 1032 Nepean Highway.

Conclusion

I consider the proposed development does not adequately respect the neighbourhood character. It has not responded to the Incremental Change directions in the Local Planning Policy and whilst steps could be taken to address some of these matters through conditions on permit, collectively they add up to a substantial amount of changes that require design input which is beyond the scope of this review.

PROPOSAL IN DETAIL:

It is proposed to construct three (3) dwellings, comprising two (2) attached double storey dwellings facing Stayner Grove and a single storey dwelling at the rear.

	DWELLING	ORIGINAL PROPOSAL (VCAT REVIEW OF KP935/07)	NEW PROPOSAL	DIFFERENCE
STOREYS	Dwelling 1 Dwelling 2 Dwelling 3	Double Double single	Double Double Single	No change
CAR SPACES	Dwelling 1 Dwelling 2 Dwelling 3	3 2 1	2 2 1	As per Rescode
FLOOR AREA	Dwelling 1 Dwelling 2 Dwelling 3	139m ² 134m ² 106m ²	134m ² 132.5m ² 105m ²	5m ² less area 1.5m ² less area 1m ² less area
SETBACKS TO STREET	Dwelling 1 Dwelling 2 Dwelling 3	6m (min) 5.01m (min) N/A	5.8m (min) 5m (min) N/A	-0.2m -0.1m N/A
SECLUDED OPEN SPACE	Dwelling 1 Dwelling 2 Dwelling 3	50m ² 53m ² 50.6m ²	50m ² 53m ² 50.6m ²	No change -1.3m ² No change

Building Materials and colours have been nominated as:

Roof:	Roof tiles
Walls:	Face brickwork and rendered cladding
Garage doors	Tilt panel
Windows:	Not specified
Driveways:	Stone finish
Front fencing:	1.5m high brick piers with steel picket inserts
Boundary fences:	Existing boundary fences

The proposal would result in a site coverage of approximately 41.3%

TITLE DETAILS

The applicant has completed the application form declaring that there is no restrictive covenant on the title.

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

The following changes were made;

- Relocated the proposed crossover (minimum of 500 millimetres) and driveway (to achieve a 2.0 metre width of planting to the street frontage and a minimum of 1.0 metre for the remaining length of the drive) to the south-west.
- Resited the garage to dwelling 2 and 3 from 5.8 metres to 6.76 metres from the north eastern boundary. This has also provided a large area for the planting of canopy trees opposite the garages whilst still allowing for appropriate turning area for the garages.
- An extra 500 millimetres to the driveway (minimum 1 metre landscape strip) adjacent to dwelling two through the minor redesign of the living room to dwelling
- Amended landscape plans which will show the introduction of appropriate planting species throughout the site.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Twenty eight (28) objections to the proposal were received.

The grounds of concern may be summarised as follows:

- Neighbourhood Character- double storey and side by side
- Vehicular parking/ traffic congestion and related safety concerns
- Visual Bulk
- Loss of privacy - overlooking

- Front Setbacks
- Previous VCAT decision
- Landscaping
- Overdevelopment

PRELIMINARY CONFERENCE

A preliminary conference was held on the 27th January, 2009, where the above issues were discussed in depth, but largely not resolved. The conference was attended by seven (7) objectors, the two (2) Ward Councillor and the permit applicant.

No resolution of the issues was achieved at the meeting.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

Amended plans were submitted on the 4th February, 2009 with fully size copies submitted on 16th of February. The following changes were made;

- An increase in the height of the rear (northern) and side (eastern) boundary fences to 2 metres;
- Relocation of the common driveway 500 millimetres to the west to provide a 2 metre landscape strip at the entrance;
- Redesign of the driveway area to provide a minimum 1 metre width along the entire common boundary; and
- Provision of feature brick paving in an easterly direction from the entrance to dwelling 3 to direct visitors to this dwelling and away from the rear of the garage.

PLANNING SCHEME PROVISIONS

The site is in a Residential 3 Zone, and is not affected by any Overlays. A planning permit is required to develop land for two or more dwellings, pursuant to Clause 32.06-4 of the Kingston Planning Scheme (the Scheme). In addition, according to ResCode at Clause 55 and the decision guidelines at Clause 65 of the Scheme, Council must consider the State Planning Policy Framework (Clause 16) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement of the Scheme.

REFERRAL

The application was referred to the following internal departments within Council:

- Council's Development Engineer who advised of no objection, subject to the inclusion of a number of conditions on any permit issued.
- Council's Vegetation Management Officer who is in discussion with the applicant and conditioned to be determined. This issue is to be resolved before the print deadline for the Ordinary Council Meeting on 23rd February 2009.

Discussion

VCAT Decision

It is considered the main concerns from the VCAT decision P1360/2008 are as follows;

- Upper level building of dwelling one and two;
- Inadequate landscaping opportunities on the eastern interface;
- Driveway and access arrangements to dwelling 3;
- Front entry treatment to dwelling 3; and
- Façade treatment to the south facing living room to dwelling 2.

The proposed development incorporates the following main changes from the previous proposal which are a direct response to the VCAT decision;

- Reduction in the first floor areas of Dwelling 1 and 2 to provide a four (4) metre gap (previously 2 metres) between the first floor;
- Reduction in ground floor areas of all dwellings to facilitate the increased landscape areas and improved vehicular areas to dwellings two and three;
- Relocation of the driveway to dwelling 2 and 3 to the west and the provision of additional landscaping to this entry and along the dwelling;
- The driveway has been widened to 3 metres for the first 5 metres of the site;
- The provision of 3 windows to the ground floor living room of dwelling two fronting the street;
- Provision of an east facing window to bedroom 2 in dwelling 2 to break up the appearance of this section of the wall and reduce visual bulk;
- An increase in height to the rear (northern) and side (eastern) boundary fences to 2 metres;
- Relocation of the common driveway 500 millimetres to the west to provide a 2 metre landscape strip at the entrance;
- Redesign of the driveway area to provide a minimum 1 metre width along the entire common boundary; and
- Provision of feature brick paving in an easterly direction from the entrance to dwelling 3 to direct visitors to this dwelling and away from the rear of the garage.

Kingston Planning Scheme Provisions:

Clause 12: Metropolitan Development

This section of the scheme provides specific objectives and strategies for Metropolitan Melbourne, including the following:

Clause 12.01 A more compact city seeks to:

- § Facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.
- § Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport.

Clause 12.05 A great place to be – seeks to create urban environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity, including:

- § Promotion of good urban design to make the environment more liveable and attractive.
- § Recognition and protection of cultural identity, neighbourhood character and sense of place.
- § Improvement of community safety and encouragement of neighbourhood design that makes people feel safe.
- § Protection of heritage places and values.
- § Promotion of excellent neighbourhood design to create attractive, walkable and diverse communities.
- § Improvement of the quality and distribution of open space and ensuring the long term protection of open space.
- § Improvement of the environmental health of the bays and their catchments.

Clause 12.06 A fairer city – seeks to increase the supply of well located and affordable housing by:

- § Encouraging a significant proportion of new development, including development activity centres and strategic redevelopment sites, to be affordable for households on low to moderate incomes.
- § Facilitate a mix of private, affordable and social housing in Transit Cities Projects.
- § Ensuring the redevelopment and renewal of public housing stock better meets community needs.

Clause 12.07 A greener city – seeks to minimise impacts on the environment to create a sustainable path for future growth and development by:

- § Ensuring that water resources are managed in a sustainable way.
- § Reduce the amount of waste generated and encourage increased reuse and recycling of waste materials.
- § Contribute to national and international efforts to reduce energy usage and greenhouse gas emission.
- § Reduce the impact of stormwater on bays and catchments.

Clause 12.08 Better transport links seeks to:

- § Manage the road system to achieve integration, choice and balance by developing an efficient and safe road network and making the most of existing infrastructure.
- § Give more priority to walking and cycling in planning urban development and in managing the road systems and neighbourhoods.

It is considered that this application meets these objectives.

Clause 14.01: Planning for Urban Settlement

This section of the Scheme seeks facilitate the orderly development of urban areas. It is considered that this application meets these objectives.

Clause 14.01-2: Planning for Urban Settlement - General Implementation

This section of the Scheme seeks to ensure that the consolidation of residential and employment activities is encouraged within existing urban areas and designated growth areas, and that development in existing residential areas should be respectful of neighbourhood character, and that higher land use densities and mixed use developments should be encouraged near railway stations, major bus terminals, transport interchanges and tram and principal bus routes.

It is considered that this application meets these objectives.

Clause 16.02: Housing - Medium Density Housing

It is the objective of the State Planning Policy Framework to encourage the development of well-designed medium-density housing which:

- § Respects the character of the neighbourhood.
- § Improves housing choice.
- § Makes better use of existing infrastructure.
- § Improve energy efficiency of housing.

It is considered that this application clearly meets these objectives.

Clause 21.05 MSS - Residential Land use

Incremental Housing Change Area

The type of housing change anticipated in these areas will take the form of extensions to existing houses, new single dwellings or the equivalent of new two dwelling developments on average sized lots. The existing single dwelling character of these areas is to be retained.

The objectives of the Municipal Strategic Statement (as relevant to this application) include:

- **Objective 1:** To provide a wide range of housing types across the municipality to increase housing diversity and cater for the changing needs of current and future populations, taking account of the differential capacity of local areas in Kingston to accommodate different types and rates of housing change.
- **Objective 2:** To ensure new residential development respects neighbourhood character and is site responsive, and that medium density dwellings are of the highest design quality.
- **Objective 3:** To preserve and enhance well landscaped/vegetated environments and protect identified significant vegetation.
- **Objective 4:** To promote more environmentally sustainable forms of residential development.
- **Objective 5:** To manage the interface between residential development and adjoining or nearby sensitive/strategic land uses.
- **Objective 6:** To ensure residential development does not exceed known physical infrastructure capacities.

Relevant strategies to achieve these objectives (as relevant to this application) include:

- Promote lower density housing in established suburban areas that do not have direct access to activity/transport nodes and “encourage” only incremental change in housing density (*incremental housing change areas*). Such areas will retain their predominantly single dwelling character and incremental change will occur in the form of single dwellings or the equivalent of dual occupancy developments on average sized lots.
- Promote new residential development which is of a high standard, responds to the local context and positively contributes to the character and identity of the local neighbourhood.
- Promote new residential development which provides a high standard of amenity and quality of life for future occupants.
- Encourage the retention of existing vegetation wherever possible.
- Improve landscape character by accommodating appropriate landscaping within new residential developments.
- Ensure that the planning, design, siting and construction of new residential development responds to best practice environmental design guidelines for energy efficiency, waste and recycling, and stormwater management.
- Promote medium density housing development in close proximity to public transport facilities, particularly train stations.
- Ensure the siting and design of new residential development sensitively responds to interfaces with environmentally sensitive areas, including the foreshore.
- Ensure that where medium and higher density residential areas are proposed adjacent to lower density residential areas, the design of such development takes proper account of its potential amenity impacts.
- Ensure that the siting and design of new residential development is consistent with Urban Stormwater Best Practice Environmental Management Guidelines and that new development contributes to the maintenance and upgrade of local drainage infrastructure as required, where such new development will impact on the capacity of such infrastructure.
- Require the provision of car parking to satisfy the anticipated demand having regard to average car ownership levels in the area, the environmental capacity of the local street network and the proximity of public transport and nearby on and off street car parking.
- Ensure that all new medium density housing provides adequate private open space that is appropriately landscaped.

It is considered that the proposed development is consistent with the relevant objectives of Council’s Municipal Strategic Statement as outlined above. The proposal is considered a good opportunity to provide a range / variety of dwelling styles to cater for the changing household types. Therefore, the proposed development assists in providing for housing diversity within the area, presenting an increase in housing density whilst being respectful to the existing area. The layout and design provides for safety and security needs for future residents, takes into account energy efficiency objectives where

appropriate, provides adequate car parking and ensures that a suitable amount of open space is allocated to each dwelling.

It is considered that the design and siting of each dwelling is appropriate having regard to the level of articulation, reasonable side boundary setbacks and the variation in ground and first floor setbacks. The use of a low pitched roof together with varied materials and finishes will provide for a dwelling that will fit comfortably within the Stayner Grove built form context.

For reasons outlined above and compliance with VCAT's 2007 direction, it is considered that the design respects the amenity of adjoining properties as the proposal ensures that no unreasonable overlooking or overshadowing will occur. Please note, that these issues will be further discussed at a later stage within this report (see response to objector's concerns).

Average lot size within this area has been calculated to be 613.1m² which equates to 306.55m² per lot for the equivalent of a dual occupancy development. It is therefore considered that this proposal would not meet this strategy as the subject site has an area of 833.2m² and each lot is approximately 86.45m² below the average lot size for this area. However, having regard to the current design, VCAT's 2007 direction and the amendments made to the previous application, it is considered appropriate to allow this development in this instance.

Clause 22.11 - Residential Development Policy

The proposal has been assessed against the objectives and policy of the Residential Development Policy. It is considered that the proposal satisfactorily meets these requirements.

The proposal is considered unlikely to hinder the existing neighbourhood character in terms of architectural design. Although it is acknowledged that Stayner Grove predominately consists of single storey, there are other double storey dwellings found within the immediate area. It is considered that the massing and upper floor component of each dwelling is reasonable as are sited towards the front of each frontage and include varying and suitable setbacks from all relevant common boundaries. Overall, it is submitted that the proposed two (2) storey dwellings have been sensitively and consciously designed, taking into account the site's surrounding environs and incorporating appropriate materials, finishes and colours that are consistent with that found in the broader neighbourhood character.

The proposed upper storey setbacks of each dwelling from all common boundaries, comply with the provisions of the Kingston Planning Scheme.

The location and configuration of the private open space areas being provided to all dwellings are of an adequate size to be usable and allow for the provision of suitable landscaping. It is considered that the development will provide a high standard of amenity and quality of life for future occupants. Furthermore, the driveway layout is considered practical, efficient and does not pose any safety issues when vehicles are entering and exiting the site.

Clause 32.06 Residential 3 Zone

The purpose of the Residential 3 Zone includes the provision of residential development at a range of densities with a variety of dwellings to meet the housing needs of all households and to encourage residential development that respects the neighbourhood character. A planning permit is required for the development of 2 or more dwellings.

Schedule

The proposal meets the additional requirements listed in the Schedule to the Residential 3 zone.

Clause 55: Rescode

The proposal has been assessed against the objectives and standards of Clause 55 (ResCode) of the Kingston Planning Scheme. It is considered that the proposal satisfactorily meets the requirements of Rescode. There are however some areas of non-compliance which are as follows:

Clause 55.03-8: Standard B13 – Landscaping objectives

Landscape plans were referred to Council's Vegetation Management Officer who recommended that amended plans be requested via Condition 1 of approval.

Clause 55.06-2: Standard B32 – Front Fences objectives

It is proposed to construct a 1.5 metre high fence along the Stayner Grove frontage. The height of this fence does not comply with Standard B32, which allows a maximum front fence height of 1.2 metres. The reduction in the height of the front fence will form a condition of any planning permit issued.

Clause 65: Decision Guidelines

This clause of the Planning Scheme sets out other matters which must be given regard to before deciding on an application.

It is considered that the proposed development meets the requirements as set out in this Clause of the Planning Scheme.

Neighbourhood Character Area Guidelines (Incorporated Document):

The land is located within Area 15 of the Neighbourhood Character Guidelines. The proposal is not considered to raise any issues of non-compliance with these guidelines.

Response to Grounds of Objection

1. Neighbourhood Character/Overdevelopment

Neighbourhood character is the starting point of ResCode (Clause 55 of the Kingston Planning Scheme). It is acknowledged that the concept of 'neighbourhood character' is a somewhat subjective issue; however, with regard to the proposal and for the reasons discussed below, it is considered that the development is in keeping and consistent with

the surrounding character of the area. It is evident that there are other examples of two-storey dwellings located within proximity to the subject site. Further, it is evident that there are varying styles of residential development within the general area.

The site, as specified in Council's Local Planning Policy Framework, is located within an Incremental Housing Change Area where future objectives strive to provide a wide range of housing types across the municipality to increase housing diversity and cater for the changing needs of current and future populations. Additionally, in these areas it is important to ensure new residential development respects neighbourhood character and is site responsive, and to promote lower density housing in established suburban areas that do not have direct access to activity/transport nodes and "encourage" only incremental change in housing density (*incremental housing change areas*). Such areas will retain their predominantly single dwelling character and incremental change will occur in the form of single dwellings or the equivalent of dual occupancy developments on average sized lots.

The conventional architectural style of each dwelling incorporates varying materials and design techniques, which contribute positively to reducing visual bulk whilst also remaining consistent with and reflecting existing architectural elements present within Stayner Grove

The issue of the design of the dwellings being side by side, it considered to have also been addressed by the current design. As already noted, the new proposal has provided for a 4m separation between the dwellings at first floor level, together with increased ground and first floor setbacks and removal of balconies. This is considered to have addressed the previous concerns regarding the presentation of the dwellings facing Stayner Grove.

For all of the reasons outlined above, it is considered that the proposal is respectful of adjoining properties as it contains adequate setbacks from all common boundaries, is not excessively large in built form, bulk or total building height, and as such, complies with the objectives and standards of Clause 55 that relate to neighbourhood character. It is respectfully submitted that the proposed development should therefore, not hinder the character of the area.

2. *Vehicular parking/ traffic congestion and related safety concerns*

With respect to car parking numbers, it is noted that each dwelling satisfies the requirements of ResCode for on-site car parking, with dwelling 1 (1) having a single lock up garage with a tandem space in front setback; Dwelling (2) having a double lock up garage; and Dwelling (3) having a single lock up garage. It is considered that the number of car parking spaces provided will be sufficient and will meet the likely demand generated by future residents of the dwellings.

3. *Loss of privacy*

With regard to overlooking, Council acknowledges that the applicant has ensured that first floor habitable room windows of Dwelling 1 and 2 are either facing the street

frontages or are provided with obscure glazing or sill heights t 1.7m above finished floor levels. Accordingly, it is submitted that the proposed development complies with the overlooking provisions of Clause 55.04-6 of the Kingston Planning Scheme and that no unreasonable overlooking is likely to occur as a result of the proposed development.

Dwelling 3 is single storey in scale and is actually designed to be cut into the site. Given the extent of existing fencing, it is considered that dwelling 3 will not result in unreasonable overlooking to adjoining properties. The applicant provided overlooking diagram which demonstrate this (refer to attachment A)

4. *Visual Bulk*

It is noted that all side setbacks comply with the provisions of ResCode at both ground and first floor level. It is considered that the first floor area of each dwelling has been designed and located to respect the habitable room windows and secluded private open space of the adjoining properties so as to minimise visual bulk impacts and are considered appropriate. Provision of an east facing window to bedroom 2 in dwelling 2 has been provided to break up the appearance of this section of the wall and reduce visual bulk of this elevation.

5. *Landscaping*

The applicant has discussions with Councils Vegetation Management Officer the landscaping requirement and subject to any permit being issued conditions will be required for the introduction of appropriate planting species throughout the site

General Comment

The proposed development is considered appropriate for the site as evidenced by:

- The design and siting of the proposed development to be compatible with the surrounding area;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS, Residential Development Policy, Residential 3 zoning and the Schedule to the zone, Clause 55 – Two or more dwellings on a lot and Residential Buildings and the Neighbourhood Character Area Guidelines and the Designing Contextual Housing Guidelines.

It is considered that the revised design has substantially addressed the shortcomings of the original applications, and has responded to both the Council's and the VCAT's concerns, namely by reducing dwelling 3 to a single storey dwelling, providing greater front setbacks at both ground and first floor and providing a separation between dwelling 1 and 2 at first floor level to reduce the perception of visual bulk to the street.

On balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

Recommendation

That Council resolve to issue a Notice of Decision to Grant a Permit for the development of this site for three (3) dwelling, subject following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 16th February, 2009, but modified to show:
 - a. provision of an improved landscape plan and associated planting schedule for the site showing the proposed location, species type, mature height and width, pot sizes and number of species be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. delineation of all the garden beds, paved and grassed areas throughout the development;
 - ii. all existing trees on the site and close to the boundary on adjoining properties, accurately illustrated to represent canopy width and labelled with botanical name, height and whether the tree is to be retained or removed;
 - iii. the provision of two spreading canopy trees within the front setback;
 - iv. the provision of a suitable spreading canopy tree within the private open space of each dwelling;
 - v. suitable species should be selected for use within the landscape strip along the driveway i.e. take into consideration the mature width of the plant selected;
 - vi. all hard surfacing and fencing to be located at least 1 metre from any existing or proposed canopy tree;
 - vii. all trees provided at a minimum of 2 metres high at time of planting;
 - viii. a range of plant types from ground covers to large shrubs and trees;
 - ix. medium to large shrubs and trees to be provided in pot sizes of 200mm or greater;
 - x. notes regarding site preparation i.e. removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements;
 - xi. a notation that: A Local Law permit is required to remove any tree with a trunk circumference of 110cm or greater measured at ground level.
 - xii. a notation that: A Local law permit must be obtained to undertake earthworks within the Critical Root Zone of any tree (located on the site or adjoining properties) with a with a trunk circumference of 110cm or greater. No excavation is to occur within he Critical Root Zone. The area must be hand dug to determine the location of tree roots. Council's

Vegetation Officer must be contacted to inspect the tree roots. A qualified and experienced arborist must carry out any root pruning permitted.

- b) the proposed front fence for dwelling 1 and 2 reduced to a maximum of 1.2m high, with suitable screen planting provided behind to afford these areas some privacy;
 - c) the proposed front fence for dwelling 2 setback a minimum of 2m from the site's south (front) property boundary to allow for improved sight lines for vehicles within the common driveway of dwelling 2 and 3;
 - d) the surface material of all driveways / accessways and car parking spaces nominated in all-weather coloured concrete sealcoat, or similar; and
 - e) the provision of a full colour, finishes and building materials schedule (including samples) for all external elevations of the proposed dwellings.
2. The development and/or use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Before occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
4. Before occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
5. The development of the site must be provided with stormwater treatment works which will entail the detention of stormwater on site using water sensitive urban design principles (including re-use) to reduce stormwater run-off quantity and improve discharge quality. Discussion with Councils Development Engineer on treatment options is advised prior to a design being submitted.
- The stormwater system must be constructed in accordance with the approved drainage plan and maintained to the satisfaction of the Responsible Authority.
6. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration or bioretention system, rainwater tanks connected for reuse and a detention system.
7. Before the development commences, a Stormwater Management Plan showing the stormwater works to the nominated point of discharge must be prepared to the satisfaction of the Responsible Authority. The Stormwater Management Plan

- must be prepared by a qualified person and show all details of the proposed stormwater works including all existing and proposed features that may have impact (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).
8. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
 9. Before the development hereby permitted commences, a drainage plan showing the method of treatment of stormwater from the development must be submitted to the Responsible Authority for approval. The plan must be prepared by a qualified person and show all drainage works required. The plan must also show all existing and proposed features that may have impact on the drainage (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).
 10. Stormwater drainage of the site must be provided so as to prevent overflows onto adjacent properties and be in accordance with the approved drainage plan.
 11. Construction on the site must be restricted to the following times:
 - a. Monday to Friday 7:00am to 7:00pm; and
 - b. Saturday 9:00am to 6:00pm.Or otherwise as approved by the Responsible Authority in writing.
 12. Before the occupation of the dwellings hereby permitted starts, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must be reinstated to the satisfaction of the Responsible Authority.
 13. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.
 14. Convenient taps or fixed sprinkler system must be provided to the satisfaction of the Responsible Authority capable of watering all communal and private land and landscaped areas, including turf block visitor car parking where provided.
 15. A street number of 100mm minimum height and contrasting in colour to its background, must be fixed at the front boundary of the property and as near as practicable to, or on the letterboxes with such numbering to be in accordance with Council's Street Numbering Policy. Separate unit numbers of 75mm minimum height must be placed adjacent to the front entrance of each dwelling. Such numbers must be clearly legible from the access driveway.
 16. Prior to the occupation of the dwellings hereby approved, all boundary fences must be repaired and/or replaced as necessary to the satisfaction of the Responsible Authority, at the cost of the applicant/owner.
 17. Exterior lights must be installed in such positions as to effectively illuminate all pathway and porch areas. Such lighting must be controlled by a time clock or

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

sensor unit, and must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

18. Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.
 - c. Surfaced with *an all-weather coloured concrete sealcoat* to the satisfaction of the Responsible Authority.
 - d. Drained and maintained to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

19. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
20. All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.
21. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
22. External clothes drying facilities must be provided for each dwelling.
23. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
24. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
 - The development and use are not started before two years of the date of this permit.
 - The development is not completed before one year of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Note: It is noted the development includes storage shed to be built over the rear easement. Separate consent from Council and the relevant service authority is required to build over the easements and will need to be obtained prior to the issue of a Building Permit.

Note: Prior to the commencement of the development you are required to obtain the necessary Building Permit.

Note: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

Note: Before removing/pruning any vegetation from the site, the applicant or any contractor engaged to remove vegetation, should consult Council's Vegetation Management Officer to verify if a Local Law Permit is required for the removal of such vegetation.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

L 12

**Planning Application KP614/07 – Proposed
Education Facility (Discovery Centre) at Edithvale
Wetlands**

APPLICANT:	Connell Wagner
ADDRESS OF LAND:	Edithvale Wetlands - Edithvale Road (rear of Wells Road), Edithvale (Lot 1 TP095924Y & Lot TP370109W)
Melway Ref:	93E7
PROPOSAL	Discovery Centre (Education Facility)
CONTACT OFFICER:	Jennifer Pippo
FILE NO:	KP614/07
ZONING:	Public Use Zone
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 15: Environment <u>Local Planning Policy Framework</u> Clause 21.09 – Environment, Wetlands and Waterways Clause 22.15 – Outdoor Advertising Signage Policy <u>Zones</u> Clause 36.01 – Public Use Zone Schedule 1 Clause 36.02 – Public Park & Recreation Zone Clause 36.04 – Road Zone <u>Overlays</u> Clause 42.01 – Environmental Significance Overlay Clause 44.04 – Land Subject to Inundation <u>Particular Provisions</u> Clause 52.05 – Advertising Signs Clause 52.06 – Car Parking Clause 52.17 – Native Vegetation Clause 65: Decision Guidelines
DECISION BY:	7 th February, 2009
NETT DAYS:	64 days @ 11 th February, 2009

EXISTING CONDITIONS:

The subject site is located on Edithvale Road and consists of two (2) parcels of land, these being:

- § Lot 1 TP095924Y – which is irregular in shape with a 140.01 metre wide frontage to Edithvale Road; and
- § Lot TP370109W – which is irregular in shape with a 2090 metre wide frontage to Edithvale Road.

The subject site is identified as The Edithvale Wetlands (approximately 95 hectares in area), which is nestled within a residential area, approximately two (2) kilometres inland from Port Phillip Bay, between the Nepean Highway, Edithvale and the Mornington Peninsula Freeway. The Edithvale Wetlands is divided by Edithvale Road and includes the following surrounding environs: residential housing which directly abuts the subject site to its north, east and south property boundaries, with open space incorporating the

public bike track, golf courses (i.e. Rossdale Golf Course & Chelsea Public Golf Course) and Edithvale Common. A linear drainage reserve and the Centre Swamp Drain along the site's western property boundary extends north towards Mordialloc Creek and also south towards the Patterson River.

Importantly, Melbourne Water is the management authority with functional jurisdiction for conservation purposes over all of the Edithvale Wetlands. This planning application has been lodged to Council by Connell Wagner, on behalf of Melbourne Water.

SITE CONTEXT & HISTORY

As outlined by the applicant, The Edithvale – Seaford Wetlands are ecosystems located in the south-eastern bayside suburbs of Edithvale and Seaford in Melbourne. These wetlands, although physically separated by Patterson River and Eel Race Drain, are two (2) of the last few remnants of the once extensive Carrum Carrum Swamp. The Carrum Carrum Swamp was situated between Mordialloc and Frankston at the time of the first European settlement of the area. It is understood that both wetlands are alike in morphology and ecological characteristics and both have been subject to an extensive program of rehabilitation and active hydrological management by Melbourne Water. The Edithvale – Seaford Wetlands have been identified as Ramsar Wetlands of International importance under the Ramsar Convention (Ramsar Site No. 1096, Wetlands International Site Reference No. 5AU057).

PROPOSAL IN DETAIL:

It is proposed to develop a Wetlands Discovery Centre (Education Facility) at the Edithvale Wetlands site.

The Discovery Centre is proposed to be located in the north-east corner of the Edithvale South Wetland (i.e. the wetland located to the south side of Edithvale Road), where the informal car park is currently located on the site, near to the existing bird hides.

Finer details of the proposal have been broken-down into the following points:

- § A total of 12 on-site car parking spaces are proposed, including one (1) disabled car space. The car park area will be closed at dusk.
- § The Discovery Centre building is set back 41.9 metres (at its closest point) from the site's Edithvale Road frontage.
- § The Discovery Centre is to be elevated from the ground by tapered concrete columns constructed of an exposed aggregate concrete finish.
 - The ground floor plan includes a large exhibition area, two (2) offices, first aid area, store room, toilet facilities, bag/belongings storage area, indoor watertanks and draft lobby near entrance.
 - The undercroft plan includes the service area for the building, comprising plumbing / waste / grey water treatment etc. for the Discovery Centre.
- § The building would have an overall height of approximately 9 metres.
- § A gradually elevated visitor/walking ramp is proposed from the car park to the Discovery Centre.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

- § The Discovery Centre is targeted towards school groups who would book their visits in advance.
- § It is envisaged that school groups would include approximately 30-50 students at any onetime.
- § Operation hours are expected to be between 9.00am and 5.00pm. However, on occasions the Discovery Centre may have an open day for the general public.
- § Special interest groups, such as Friends of the Edithvale Wetlands and Birds Australia will have access to the Centre by arrangement.
- § Typically one (1) or two (2) staff will operate the Discovery Centre.
- § Groups will not visit the Centre after dark, however it is proposed that meetings at the Centre may be held after hours.
- § Visitors to the Centre are anticipated to arrive by bus.
- § The Discovery Centre provides for two (2) bus bays on a layover beside Edithvale Road.
- § A rain garden is proposed to the west side of the on-site car park area.
- § 0.01 habitat hectares of Swamp Scrub is proposed for removal. Ten (10) scattered trees are proposed for removal, which includes one (1) medium and nine (9) small scattered trees.
- § A number of trees/vegetation is proposed to be planted between the Discovery Centre and the car park area, to the north side of the visitor ramp leading to the Centre. It is proposed to plant 27,012 indigenous plants from EVC Swamp Scrub around the Discovery Centre.
- § External lighting will be minimised by way-finding lighting only.
- § Glazing to the windows will be tinted or reflective to prevent the birds from seeing the silhouettes of visitors. Glazing will be tinted downwards, reflecting the ground rather than sky, to reduce the risk of collision by bird life. Further, windows will be placed so that birds will not be able to see through the building.
- § Materials/finishes include: a colourbond roof, tapered concrete columns/pile footings, concrete flooring and block-work internal partitions. External wall systems include: double glazed triangular corner windows, lightweight glass reinforced concrete wall panels, wide glass reinforced concrete panels, steel window frames. Glazing to the north side of the building is to be clear, to assist with heating during the winter period.
- § Two (2) advertising signs are proposed as part of this application. One (1) double sided sign is to be located at the front of the site, near the accessway/entrance to the Discovery Centre along Edithvale Road. The other sign is to be integrated within the façade glazing of the Discovery Centre.

No access is proposed from the Discovery Centre to the Wetlands.

Siting Consideration as noted by the applicant:

- § *The need to minimise disturbance to migratory birdlife. The Edithvale – Seaford Wetlands Ramsar Management Plan specifies setback requirements of 60 metres from the wetlands edge for the Discovery Centre and 120 metres for the carpark. The wetlands edge is defined as the -0.3AHD contour.*
- § *The existing carpark on the site is underutilised and degraded. It is a desirable objective to upgrade this area.*

- § *The site provides the ability to locate the carpark at some distance from adjacent housing.*
- § *Locating the building back from the road gives the visitor a sense of coming closer to the wetlands environment.*
- § *The site enables the phragmites barrier between the wetland and the Discovery Centre to be maintained and hence minimises disturbance to wildlife.*
- § *A visible presence from Edithvale Road is important to establish a public presence from the Discovery Centre and also provides some surveillance to reduce risk of vandalism.*
- § *The site will enable visitors to obtain a compelling view of the wetlands from within the Discovery Centre.*
- § *The 100 year flood level of the site is 1.5AHD. This requires the floor level of the building to be set a minimum of 1.8 metres above the natural ground level. This will require a ramp to take visitors to the Discovery Centre.*

THE MINISTER OF ENVIRONMENT HAS UNDERTAKEN AN ASSESSMENT DECISION ON THE SUBJECT APPLICATION AND HAS GIVEN APPROVAL FOR THE DEPARTMENT OF SUSTAINABILITY AND ENVIRONMENT (DSE) TO NOT OBJECT TO THE REMOVAL OF THE VEGETATION.

TITLE DETAILS

The applicant has completed a restrictive covenant declaration form declaring that there is a restrictive covenant on the title but that the application proposed does not breach this covenant.

HISTORY OF APPLICATION & AMENDMENT(S) TO THE APPLICATION BEFORE NOTIFICATION

The application was lodged with Council on 13th August, 2007.

The original application was formally advertised on the 14th of January, 2008 by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. The applicant notified Council in writing on the 18th of January, 2008 requesting that the application be placed on hold.

Connell Wagner arranged to meet with Council's Planning Officer on 17 November, 2008, to discuss the status of the application and necessary information needed to re-activate the application for Council's further consideration.

Following this meeting, Council received revised plans on 21 November, 2008. The proposed revisions to the application generally included the following:

- § Deletion of proposed constructed wetlands
- § Decrease in building envelope of 600mm along the eastern elevation
- § Decrease in the area of proposed footpaths.

ADVERTISING

Council directed the application to be advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Seven (7) objections and two (2) letters of support (one from the Friends of the Edithvale Wetlands) to the proposal were received.

The grounds of concern may be summarised as follows:

- Removal of vegetation
- The location of the Discovery Centre and ensuring that suitable buffer distances are provided
- Damage to Flora and Fauna / loss of wildlife
- Traffic concerns and concerns regarding the location of the car park area
- Architectural design of the building, including presentation, scale and height
- Preservation of the wetlands & impact on the natural environment
- Drainage concerns – runoff / catchment areas
- Safety concerns / vandalism
- Appropriate screening / fencing

Two (2) of the objections initially received were later withdrawn, due to a misunderstanding of what was proposed on the subject site and/or a clarification with regards to the proposal and related concerns.



Accordingly, five (5) objections still stand with regards to this application.

PRELIMINARY CONFERENCE

A preliminary conference was held on the 29th of January, 2009, with Council's Planning Officer, two (2) of the three Ward Councillors, the applicant (including Melbourne Water representatives) and objectors in attendance. The above issues were discussed at length by all parties. Predominately, the concerns discussed in this meeting were not resolved. However, the applicant advised all parties that they had undertaken extensive research prior to the application being lodged to Council and a number of the concerns raised had been taken into consideration when initially designing the Discovery Centre. The applicant advised all that they would take on board the concerns outlined at the preliminary conference meeting, and advise Council should they decide to make any further revisions to the proposal.

It is Council's understanding that the applicant wishes to proceed with the application, in its advertised form.

PLANNING SCHEME PROVISIONS

ALLOTMENT	APPLICABLE ZONING & OVERLAY CONTROLS
<p>Lot 1 TP095924Y</p> 	<p>PUBLIC USE ZONE (PUZ1)</p> <p>ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)</p> <p>LAND SUBJECT TO INUNDATION OVERLAY (LSIO)</p>
<p>Lot TP370109W</p> 	<p>PUBLIC PARK & RECREATION ZONE (PPRZ)</p> <p>PUBLIC USE ZONE (PUZ1)</p> <p>ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)</p> <p>LAND SUBJECT TO INUNDATION OVERLAY (LSIO)</p>

The proposed use of the site for a Discovery Centre is defined as an **Education Centre**, pursuant to Clause 74 of the Kingston Planning Scheme.

A Planning Permit **is not** required under the Public Use Zone – Service and Utility (PUZ1) for the use of the land as an Education Centre, provided the use is carried out by or on behalf of the public land manager. As Melbourne Water is the public land manager for the site, this exemption is met.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

A Planning Permit **is not** required under the Public Use Zone – Service and Utility (PUZ1) for buildings and works, as the use is a Section 1 Use (i.e. no permit required).

A Planning Permit **is not** required under the Public Park and Recreation Zone (PPRZ) for the use of the land as an Education Centre, provided the use is carried out by or on behalf of the public land manager. Similar to above, as Melbourne Water is the public land manager for the site, this exemption is met.

A Planning Permit **is not** required under the Public Park and Recreation Zone (PPRZ) for buildings and works, as the use is a Section 1 Use (i.e. no permit required).

A planning permit is required to:

- § Construct a building or to construct or carry out works within a Road Zone Category 2, pursuant to Clause 36.04-1 of the Kingston Planning Scheme.
- § Construct a building or to construct or carry out works within an Environmental Significance Overlay (ESO1), pursuant to Clause 42.01-2 of the Kingston Planning Scheme.
- § Construct a building or to construct or carry out works within Land Subject to Inundation Overlay (LSIO), pursuant to Clause 44.04-1 of the Kingston Planning Scheme.
- § Display business identification sign(s), pursuant to Clause 52.05-10 of the Kingston Planning Scheme (Category 4 – Sensitive Areas).
- § Remove, destroy or lop native vegetation, pursuant to Clause 52.17-2 of the Kingston Planning Scheme.

REFERRAL

The application was referred to the following external departments:

- § The Department of Sustainability & Environment – advised that they have **no objection** to the proposal, subject to conditions being included on any permit issued.
- § VicRoads – advised that they have **no objection** to the proposal, subject to conditions being included on any permit issued.
- § Aboriginal Affairs Victoria / Department of Planning and Community Development (DPCD) - have advised on 26 February, 2008, that the Cultural Heritage Management Plan meets the standards prescribed for the purposes of s.53 and s.61 of the *Aboriginal Heritage Act 2006* (the Act), and is in the approved format. Accordingly, DPCD have advised **that they approve** the Edithvale-Seafood Wetland Discovery Centre management plan and have provided Council with a written notice of approval for that purpose.
- § Melbourne Water – advised that they **do not** object to the proposal, subject to a number of conditions being included on any permit issued.

The application was referred to the following internal departments within Council:

- § Council's Vegetation Management Officer – advised that they have **no objection** to the proposal, subject to suitable conditions being included on any permit issued.
- § Council's Traffic Engineer – advised that they have **no objection** to the proposal in principle, subject to matters that were agreed to by the applicant at the meeting held at Council on 21st January, 2008 relating to access arrangements to the site. This matter is discussed in greater detail within the Planning Discussion section / Response to Grounds of Objection, later in this report.
- § Council's Environment Planning Department – advised that they have **no objection** to the proposal.

'the proposed works will be a positive addition to the site and will contribute to the objective to protect, preserve and restore the wetlands ecological systems. This will be achieved through providing education to the community regarding wetland processes and associated wildlife activity. Given the Centre need to meet Ramsar Management Plan requirements, I do not believe it will impact negatively on the Wetland'.

- § Council's Development Engineer – advised that they have **no objection** to the proposal subject to standard conditions to be included on any permit issued.
- § Council's Strategic Planning Department - advised that they have **no objection** to the proposal.

Discussion

Kingston Planning Scheme Provisions:

State Planning Policy Framework

Clause 12: Metropolitan Development

This section of the scheme provides specific objectives and strategies for Metropolitan Melbourne, including the following:

Clause 12.01 A more compact city seeks to:

- § Facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.
- § Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport.

Clause 12.05 A great place to be – seeks to create urban environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity, including:

- § Promotion of good urban design to make the environment more liveable and attractive.
- § Recognition and protection of cultural identity, neighbourhood character and sense of place.
- § Improvement of community safety and encouragement of neighbourhood design that makes people feel safe.
- § Protection of heritage places and values.
- § Promotion of excellent neighbourhood design to create attractive, walkable and diverse communities.
- § Improvement of the quality and distribution of open space and ensuring the long term protection of open space.
- § Improvement of the environmental health of the bays and their catchments.

Clause 12.06 A fairer city – seeks to increase the supply of well located and affordable housing by:

- § Encouraging a significant proportion of new development, including development activity centres and strategic redevelopment sites, to be affordable for households on low to moderate incomes.
- § Facilitate a mix of private, affordable and social housing in Transit Cities Projects.
- § Ensuring the redevelopment and renewal of public housing stock better meets community needs.

Clause 12.07 A greener city – seeks to minimise impacts on the environment to create a sustainable path for future growth and development by:

- § Ensuring that water resources are managed in a sustainable way.
- § Reduce the amount of waste generated and encourage increased reuse and recycling of waste materials.
- § Contribute to national and international efforts to reduce energy usage and greenhouse gas emission.
- § Reduce the impact of stormwater on bays and catchments.

Clause 12.08 Better transport links seeks to:

- § Manage the road system to achieve integration, choice and balance by developing an efficient and safe road network and making the most of existing infrastructure.
- § Give more priority to walking and cycling in planning urban development and in managing the road systems and neighbourhoods.

It is considered that this application meets these objectives.

Clause 15: Environment

This section of the State Planning Policy Framework seeks *‘to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment’*.

The proposal has been referred to all relevant internal and external authorities, who have advised that the proposal warrants support, subject to the inclusion of appropriate conditions on any permit issued. More specifically, the Department of Sustainability & Environment, Council’s Vegetation Management Officer, Aboriginal Affairs Victoria and

Council's Environment Planning Department have all advised that they do not object to the proposed development.

Furthermore, the applicant referred the proposal to the Commonwealth Department of the Environment and Water Resources in January 2007, as required under the Environment Protection Act 1999. The Commonwealth Department of the Environment and Water Resources issued a decision to Melbourne Water advising them that the proposed Action (i.e. the Discovery Centre) is not a controlled action provided that the Action is undertaken in a particular manner. The Department included a comprehensive list of requirements that must be adhered to by the applicant/owner/developer. **Consequently, The Minister of Environment have advised DSE that they do not object to the proposed Discovery Centre nor the removal of vegetation from the site.**

Based on the above and the comments and/or recommendations made by all qualified and relevant authorities/departments in relation to the proposed development and protection of the Edithvale Wetlands, it is submitted that the proposal complies with the key objective of Clause 15: Environment of the Kingston Planning Scheme.

Local Planning Policy Framework

Clause 21.09 – Environment, Wetlands and Waterways

Relevant to this application, the key issues outlined in Clause 21.09 of the Kingston Planning Scheme are as follows:

- § *Rehabilitation of the Mordialloc Creek floodplain and creation of Chain of Wetlands.*
- § *Loss of diversity of natural habitats, indigenous plant and animal species and the need to protect remnant vegetation communities.*
- § *Degradation of waterways and water quality as a result of past drainage works and upstream pollution.*
- § *Need for regional coordination in catchment planning and management between Melbourne Water, DNRE, EPA, Parks Victoria, Catchment Management Authorities and Council, as a result of Kingston's location at the receiving end of a regional catchment system.*
- § *Modifications to drainage and land use which alter the natural flood regime.*

Those specific objectives and strategies that are considered relevant to this application, in conjunction with the abovementioned key issues, are specified as follows:

- § *Objective 1: To protect and improve the flood storage and water quality treatment functions of existing floodplains and waterways, and to consolidate their habitat and recreation importance.*
- § Strategies:
 - *Support the creation of a chain of wetlands within the Mordialloc Creek environs as a strategy for combining water storage with opportunities for*

enhancing water quality, creation of wildlife habitat, and extension of strategic open space links.

- *Ensure that any recreation of wetland morphologies gives consideration to wetland size, shape, buffers, accessibility and integration into the natural landscape.*
- *Ensure that all development within and adjacent to existing floodplains is consistent with floodplain management objectives and maximises the potential for creation of public open space, wetlands and recreational and cultural activities.*
- *Protect the physical and habitat diversity of the Edithvale-Seaford wetlands to recognise its role as an internationally significant wetland area.*
- *Promote community awareness and education of the value of floodplains and wetlands through the development of recreational and tourism opportunities.*

§ *Objective 3: To maintain the diversity of flora and fauna habitats and promote opportunities for reinstating local native flora.*

§ **Strategies:**

- *Support the enhancement, restoration and re-creation of pre-settlement vegetation communities and landscapes.*
- *Protect identified areas of botanical or zoological significance from further degradation.*
- *Ensure that new development does not reduce the extent or integrity of significant indigenous vegetation and provides for the reinstatement of native vegetation and/or the creation of wildlife corridors where development is proposed adjacent to areas of environmental sensitivity.*
- *Promote the values and significance of existing flora and fauna habitats, and support initiatives that aim to protect and restore the integrity of these.*

§ *Objective 4: To manage and protect floodplains and flood prone areas to minimise the impacts of flooding.*

§ **Strategies:**

- Liaise with Melbourne Water to identify urban and non urban areas affected by flood risk.
- Prevent incompatible land use and development in areas affected by flood risk to avoid intensifying flooding impacts in urban and non urban areas.

In response to the above-mentioned objectives and strategies, the proposed Education Facility (Discovery Centre) has been designed in a way that minimises energy consumption and water usage, by way of incorporating rainwater tanks and the provision of no mains water connection to the site (sterilised 'water coolers' to be

provided on site). Further, the provision of composting toilet systems and the concept of grey water basins ensures that no sewerage connections would be required for the proposal. The proposal also incorporates Water Sensitive Urban Design Principles by including a rainwater garden located west of the car park area.

As highlighted earlier, the applicant referred the proposal to the Commonwealth Department of the Environment and Water Resources. The Department included a comprehensive list of requirements that must be adhered to by the applicant/owner/developer. This included suitable buffer distances for both the car park area (120 metres) and the Education Facility (60 metres) from the wetlands edge.

In relation to the removal of native vegetation from the subject site, both the Department of Sustainability and Environment and Council's Vegetation Management Officer have reviewed the Flora Survey, Habitat Hectare Assessment and Net Gain Analysis for the Wetland Discovery Centre, prepared by Practical Ecology (Mark Shepherd), and advised that subject to the inclusion of suitable conditions contained on any permit issued, the proposed development has minimised, where possible, the loss and degradation of flora and is, therefore, deemed appropriate. DSE have specifically stated that *'The Department acknowledges that the applicant has avoided native vegetation where possible by locating the Discovery Centre largely in an existing car park. Offsets for any permitted clearing will need to be provided consistent with the requirements of Clause 15.09 of the Planning Scheme and be calculated in accordance with the Port Phillip and Westernport Native Vegetation Plan (PP&WPCMA:2006). It is proposed to plant 27,012 indigenous plants from the EVC Swamp Scrub around the Discovery Centre, which may satisfy some of the offset requirements should vegetation removal be permitted'*.

With respect to drainage related matters, Council's Development Engineer has assessed the proposed development and advised that the proposal be supported, subject to standard conditions being included on any permit issued.

The proposed development is considered to satisfactorily response to the key objectives and strategies outlined in Clause 21.09 of the Kingston Planning Scheme. Further discussions regarding these matters of concern are presented at a later stage within this report.

Clause 22.15 – Outdoor Advertising Signage Policy

The following objectives are considered relevant to the planning application in question:

- § To ensure excellence in the design and presentation of all outdoor advertising displays.
- § To ensure that commercial businesses are able to display sufficient signage to adequately identify their premises and promote their business and the goods and services they offer.
- § To ensure that signs achieve maximum effectiveness without being excessive in their size, height, number or appearance.
- § To protect visual amenity by avoiding visual disorder and clutter throughout the municipality.

- § To encourage the development of innovative signage that is appropriate to its setting.
- § To encourage, where appropriate, signs that contribute to the lively and attractive character of an area.
- § To ensure that signage does not obscure or detract from the architectural and historical qualities and features of the host, adjacent and or nearby buildings.
- § To ensure that the scale and form of signage is compatible with the size and style of the building, adjacent built form and land use, and the streetscape in which it is set.
- § To ensure that signage is located and designed with regard to safety and the operation of
- § the road network.
- § To provide for the orderly display of signs.
- § To encourage the use of sign themes in commercial areas and to ensure that advertising signs are comparable with any advertising theme or pattern that has been developed for the area.
- § To ensure that advertising signs are well designed and well maintained to contribute to the appearance of buildings and streetscapes.

The proposed signs are considered appropriate and responsive to the site, more specifically the Edithvale Wetlands, as well as the intended use and development of the site as an Education Facility (Discovery Centre). In Council's view, the location of the sign at the front of the site, along Edithvale Road, would not create any visual clutter nor detract from the environmental significance of the site. The sign is considered to be of an appropriate scale, however, further discussion regarding the signage requirements of Clause 52.05 of the Kingston Planning Scheme, will be outlined at a later stage within this report.

Subject to suitable conditions to ensure that the overall area of proposed signage is in accordance with Clause 52.05-10 of the Kingston Planning Scheme, the proposed business advertising signs are considered consistent with the Main Road area provisions of Council's Policy.

Zones

Clause 36.01 – Public Use Zone Schedule 1

A Planning Permit **is not** required under the Public Use Zone – Service and Utility (PUZ1) for the use of the land as an Education Centre, provided the use is carried out by or on behalf of the public land manager. As Melbourne Water is the public land manager for the site, this exemption is met.

A Planning Permit **is not** required under the Public Use Zone – Service and Utility (PUZ1) for buildings and works, as the use is a Section 1 Use (i.e. no permit required).

Clause 36.02 – Public Park & Recreation Zone

A Planning Permit **is not** required under the Public Park and Recreation Zone (PPRZ) for the use of the land as an Education Centre, provided the use is carried out by or on behalf

of the public land manager. Similar to above, as Melbourne Water is the public land manager for the site, this exemption is met.

A Planning Permit **is not** required under the Public Park and Recreation Zone (PPRZ) for buildings and works, as the use is a Section 1 Use (i.e. no permit required).

Clause 36.04 – Road Zone

A Planning Permit is required to construct a building or to construct or carry out works within a Road Zone Category 2, pursuant to Clause 36.04-1 of the Kingston Planning Scheme.

Overlays

Clause 42.01 – Environmental Significance Overlay (ESO)

A planning permit is required to construct a building or to construct or carry out works within an Environmental Significance Overlay (ESO1), pursuant to Clause 42.01-2 of the Kingston Planning Scheme.

Clause 44.04 – Land Subject to Inundation (LSIO)

A planning permit is required to construct a building or to construct or carry out works within Land Subject to Inundation Overlay (LSIO), pursuant to Clause 44.04-1 of the Kingston Planning Scheme.

Particular Provisions

Clause 52.05 – Advertising Signs

A planning permit is required to display a business identification sign(s), pursuant to Clause 52.05-10 of the Kingston Planning Scheme (Category 4 – Sensitive Areas). Under the zoning provisions for the two (2) subject allotments (i.e. Public Use Zone and Public Parks and Recreation Zone), it specifies that all proposed signage falls under the table requirements of Category 4 – Sensitive Areas (Clause 52.05-10 of the Kingston Planning Scheme). The permit requirements for a business identification sign are presented below. Consequently, the total advertisement area to each premises must not exceed 3 square metres. Given this inflexible condition, it is recommended that a condition be included on any permit issued that requires amended signage plans to be submitted that demonstrate compliance with this area requirement.

Section 2 - Permit required

SIGN	CONDITION
Business identification sign	The total advertisement area to each premises must not exceed 3 sq m.
Floodlit sign	

Clause 52.06 – Car Parking

The application was referred to both VicRoads and Council's Traffic Department for assessment and comment. Accordingly, the following advice/recommendations were received:

VicRoads

VicRoads advised that in principle they have no objection to the proposed development. However, the following conditions are to be included on any permit issued:

1. Prior to endorsement of the plans and any works authorised by this permit, the applicant must arrange for a Traffic Impact Assessment Report (TIAR) to be prepared to the satisfaction of VicRoads. The report must:
 - i. Include bus parking assessment and also other traffic/pedestrian movement to / from the development site.
 - ii. Identify all improvement works required to mitigate the effect of the proposed development along Edithvale Road; and
 - iii. Be developed generally in accordance with VicRoads' Draft Guidelines for preparation of a Traffic Impact Assessment Report.
2. Prior to commencement of any use or any roadworks authorised by this permit the applicant must:
 - i. Prepare functional layout plans for the access arrangement on Edithvale Road to manage the traffic flow, to the satisfaction of VicRoads.
 - ii. Subsequent to the approval of the functional layout plans, prepare detailed engineering plans for the roadworks along Edithvale Road, to the satisfaction of VicRoads.
3. Before the commencement of any roadworks authorised by this permit, the developer must demonstrate to VicRoads' satisfaction that they and their contractors have developed and maintained a:

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

- iii. Quality Management System
 - iv. Occupational Health and Safety System
 - v. Environmental Management System
 - vi. Traffic Management System
4. Before the commencement of any roadworks authorised by this permit, the developer must:
 - i. Provide a bank guarantee (in the name of the developer/owner) without a termination date, to VicRoads for the estimated cost of works.
 - ii. Provide evidence that the Contractor has a public liability insurance policy for at least \$10 million, effective for the duration of the works.
 - iii. Provide VicRoads with the name, address, business and out-of-hours telephone number of the principal roadworks contractor.
 5. At least 7 days prior to roadworks commencing, the applicant must contact VicRoads Surveillance Coordinator (Ph. 9881 8079) to notify when work will commence.
 6. The applicant must pay VicRoads for the cost of the roadworks surveillance which may be undertaken at certain key times during works.
 7. The applicant must pay the full cost of all roadworks, drainage, service relocations, public lighting and modifications, and any other costs associated with the subject development.
 8. The design, depth and composition of pavement within the road reservation must be to the satisfaction of VicRoads.
 9. Prior to the commencement of any use authorised by this permit the applicant must complete all roadworks in accordance with approved plans and to the satisfaction of VicRoads.

Council Traffic Department

Council's Traffic Department provided some initial comments and points of concern in relation to the original plans received by Council on 13 August, 2007. These comments were forwarded to the applicant to review and, subsequently, Council received a response from the applicant which included a Traffic Impact Assessment report dated 2 November, 2007, a layout and pavement plan along with comments by Council's service provider O'Brian Traffic. Council's Traffic Engineer and Planning Officer reviewed the additional information and still identified various concerns and/or discrepancies with the proposal. In order for these matters to be addressed, the concerns were relayed back to the applicant. Connell Wagner submitted correspondence to Council on 9 January, 2008, in response to Council's concerns. Council's Traffic Department reviewed this

correspondence and after summarising a number of concerns, queries and unanswered questions with the proposal, in short, provided the following response:

Traffic Engineering still has numerous concerns. Suggest we need a meeting of all parties including VicRoads to resolve.

Accordingly, a meeting was scheduled on 21st January, 2008 with the following parties/departments in attendance:

- § Council's Planning Officer
- § Council's Traffic Engineer
- § VicRoads representative
- § Traffix - consultant
- § Connell Wagner - applicant
- § Melbourne Water representative

From this meeting, the following was agreed to by the applicant (confirmed by receipt of a formal written response from the applicant on 24th January, 2008):

Access

- § To be provided as left turn only into the site, with right and left turn out of the site.
- § The left turn into the site would incorporate a deceleration lane (as indicated on concept plans received by Council on 24th January, 2008).
- § The right turn into the site would be banned and would incorporate the following:
 - Signage on the road to legally ban this movement;
 - The provision of an enlarged central island in the access driveway designed to encourage only left turn movements into the site (as per concept plan);
 - Any marketing material to provide advice on access to the site.

Car Park Operation

- § The car park is considered appropriate providing a gate is located at the site's entrance. This gate would need to be set back a sufficient distance to allow a vehicle to wait (temporarily stop) clear of the adjacent road.
- § The provision of an intercom system was mentioned at the meeting, however the applicant has advised Council that the owner of the site, Melbourne Water, have the following reservations:
 - The project is over budget;
 - The application was aimed to be a sustainable project that would limit the provision of technology;
 - In Melbourne Water's experience intercom systems are quickly vandalised and damaged, which creates an on-going maintenance issue.

In light of the above, Melbourne Water have indicated that they would prefer not to have to provide an intercom system and, alternatively, would be happy to provide a sign at the front of the site that includes contact details.

Maintenance of the Footway

- § A maintenance agreement will be drawn up between Kingston City Council and Melbourne Water in relation to the maintenance of the footpath behind the bus bay.

Bus Bay

- § The bus drop off and pick-up is acceptable, however signage would be required to limit parking to 5 minutes.

Open Days

- § This site would hold an official open day on completion of the project.

With respect the information and points of agreement listed above, Council's Traffic Engineer advised the following:

- § What was agreed to at the meeting was that to obviate the problem of vehicles reversing back into Edithvale Road, that Melbourne Water would provide an intercom rather than redesign the car park to provide improved circulation - a very fair compromise I thought. It is my understanding that this is what VicRoads agreed to as well.
- § It is not a concern of Council's that the project is over budget and I doubt an intercom adds significantly to greenhouse gas emissions. In my view this should be included as a condition on any permit issued and be shown on plans because as mentioned at the meeting, the entry to the site will need to be modified to make provision for a central island to accommodate the required hardware.

As such, subject to the inclusion of suitable conditions on any permit issued and providing the above recommendations and points of agreement are adhered to (including the intercom system), Council's Traffic Department have **no objection** to the proposal.

Clause 52.17 – Native Vegetation

A planning permit is required to remove, destroy or lop native vegetation, pursuant to Clause 52.17-2 of the Kingston Planning Scheme.

Council's Vegetation Management Officer has reviewed Flora Survey, Habitat Hectare Assessment and Net Gain Analysis and advised that they do not object to the proposal; subject to the inclusion of two (2) conditions on any permit issued requiring an Offset Management Plan and an improved Landscape Plan.

In assessing the strategic approach to native vegetation management, the applicant has submitted to Council a Flora Survey, Habitat Hectare Assessment and Net Gain Analysis, which includes the three steps of avoid, minimise and offset, set-out in Clause 52.17 of

the Kingston Planning Scheme, which are to be adhered to within the design and siting of the Discovery Centre building.

As stipulated by the permit applicant, the following justification for the subject development has been provided to Council:

Avoid

The proposal will not result in areas of the wetland being destroyed or substantially modified. The proposed Discovery Centre and associated car parking is to be located on an area of land that is currently used as a gravel car park. It is submitted that vegetation removal has been avoided where practical and the proposal intends to rejuvenate a currently degraded aspect of the Edithvale-Seaford Wetlands.

Minimise

It is submitted that this proposal seeks to minimise vegetation removal around the proposed Discovery Centre in order to provide a valuable education tool for school and community groups. Vegetation removal within proximity of the building footprint is limited to 0.01 habitat hectares.

Offset

In assessing the provisions associated with offsetting vegetation loss it is submitted that the proposed Offset Management Plan be incorporated as a condition of any future permit associated with this facility. It is noted that several strategies associated with the successful offset of vegetation removal have been incorporated into the Habitat Hectare Assessment prepared by Practical Ecology (November 2008) and will be further detailed within the Offset Management Plan to be approved by Council and or DSE as a condition of any future permit.

The report prepared by Practical Ecology concludes that the scattered trees found on the subject site form part of the revegetation undertaken in the 1980s. Accordingly, these scattered trees are considered to have a low ecological value, but do, however, provide a buffer from the ecologically significant Ramsar listed Edithvale Wetlands to the south. The proposed Education Facility proposes in excess of 27,012 indigenous plants to be installed as part of the landscape planting. Practical Ecology has undertaken a Net Gain assessment, which has revealed that 70 plants will need to be planted to offset the proposed loss of ten (10) scattered trees. The findings go on to state that *'the loss of 0.01 habitat hectares of Swamp Scrub can be offset by habitat hectares gained through rehabilitation of native vegetation and through revegetation. However, revegetation can only make up 10% of gains achieved due to the 'Very High' conservation significance of the Swamp Scrub proposed for removal'*.

Council's Vegetation Management Officer has advised that any offset vegetation should be located on the subject site. Council concurs with the applicant with regards to requiring a detailed Offset Plan to be submitted to Council and DSE for approval. As such, it is recommended that this Offset Plan be included as a condition requirement on any permit issued.

Further to the above and as stipulated earlier within this report, both DSE and the Minister of Environment have reviewed the Flora Survey, Habitat Hectare Assessment

and Net Gain Analysis and all other relevant material that accompanied this application and advised that they **do not object** to the proposal, subject to conditions being included on any permit issued.

Clause 65: Decision Guidelines

This clause of the Planning Scheme sets out other matters which must be given regard to before deciding on an application.

It is considered that the proposed development meets the requirements as set out in this Clause of the Planning Scheme.

Response to Grounds of Objection

The following is a response to the grounds of objection. As there is overlapping in the grounds, particularly with regard to the impact the proposal may have on the natural environment and the concept of preserving the wetlands and flora and fauna, it has been decided to address these matters all, predominately, in one section.

1. Preservation of the Wetlands / Impact on the Natural Environment / Damage to Flora and Fauna / Loss of Wildlife

As highlighted earlier within this report, the application has been referred to The Minister of Environment, the Department of Sustainability and Environment (DSE), Aboriginal Affairs Victoria (AAV), Council's Vegetation Management Officer, Council's Development Engineer, Council's Environment Planning Officer, Council's Strategic Planning Department, VicRoads and Melbourne Water. All of these authorities/departments have advised that they support the proposal in principle, subject to the inclusion of conditions on any permit issued.

Further to this point, all of these departments/authorities have assessed the proposal in terms of their expertise and, in particular, each authority/department such as: DSE, AAV, Council's Vegetation Management Officer and Council's Environment Planning Officer have all taken into consideration the proposed development's likely impact on the Wetlands and ascertained whether they believe proposal is likely to have a negative impact on the preservation of the wetlands / wildlife habitat. In short, their response indicates to Council's Planning Officer that they are of the opinion that the Education Facility has been appropriately sited to minimise its impact on the natural wetlands habitat. However, in the event that the Education Facility receives approval, prior to its construction a number of conditions (of any permit issued) would be required to be met, which would include detailed reports/plans being submitted to Council and the respective authorities for approval, to assure that the proposal is appropriately designed and constructed causing minimal disturbance to the site and surrounding area. Such conditions would include the provision of the following:

- § Site Management Plan (Council requirement) / Site Environment Management Plan (Melbourne Water requirement)
- § Full details of all internal and external lighting

- § Revised plans to address referral authority concerns (i.e. VicRoads & Melbourne Water)
- § Compliance with the recommendations noted in the Cultural Heritage Management Plan
- § The ‘Training Requirements and Reporting’ as detailed in the Acid Sulphate Soil Management report adhered to and the provision of a site specific Acid Sulphate Soil Management Plan
- § Appropriate landscape plans to Council’s satisfaction, including the provision of suitable off-set planting (Offset Management Plan) to compensate for removal of native vegetation from the subject site
- § Ongoing agreement between the applicant/owner and Council regarding the maintenance of the footpath areas near the bus bay
- § A Traffic Impact Assessment Report (VicRoads requirements)

Based on the above, Council submits that the proposed Education Facility has minimised, where possible, its impact on the Edithvale Wetlands site. It is considered that the applicant has taken into consideration the Wetland’s ecological values and, accordingly, designed the development and all operational aspects with careful consideration to these elements. Council is of the opinion that the proposed development will have a negligible impact on the broader wetland environment.

It is considered that the proposal will provide a necessary educational service to the broader community and also improve, aesthetically, the broader community. The primary intention of the Discovery Centre is to provide a wetlands education facility that will allow students the opportunity to improve their knowledge and appreciate the function and ecological roles undertaken by wetland environments. This Centre will provide a facility that will educate the public about the Wetlands area and its RAMSAR significance.

2. Removal of vegetation

Council’s Vegetation Management Officer has assessed the proposed development plans and Flora Survey, Habitat Assessment and Net Gain Analysis, prepared by Practical Ecology and advised that they **do not object** to the proposal, subject to conditions being included on any permit issued.

The proposed site is predominately open mown grass (exotic pasture) with scattered planting areas. Council concurs with the applicant that at the moment there is a poor interface treatment between the fence and reserve, including extensive weed invasion. The proposed development is a good opportunity to assist with the restoration of the site by way of managing / removing pest plants and animals and allowing for the replanting of species indigenous to the area.

Council, along with The Minister of Environment and DSE are of the opinion that the applicant has avoided native vegetation where possible by locating the Discovery Centre largely in an existing car park. As mentioned earlier, DSE have stated in their referral response that *‘Offsets for any permitted clearing will need to be provided consistent with the requirements of Clause 15.09 of the Planning Scheme and be*

calculated in accordance with the Port Phillip and Westernport Native Vegetation Plan (PP&WPCMA:2006). It is proposed to plant 27,012 indigenous plants from the EVC Swamp Scrub around the Discovery Centre, which may satisfy some of the offset requirements should vegetation removal be permitted’.

Based on the above and given that the Minister of Environment have advised DSE to not object to the removal of vegetation, DSE have confirmed in writing that they have no objection to the application, subject to conditions being included on any permit issued.

3. Siting of the Discovery Centre and suitable buffer distances

As discussed in depth within this report, all relevant referral authorities and Council’s Planning Officer are of the opinion that the proposed Discovery Centre is suitably located to minimise its impact on the Edithvale Wetlands and surrounding environs. Council submits that the applicant has avoided, as best as possible, the removal, loss or damage of any native vegetation by siting the Centre largely on the existing informal car park area.

4. Traffic concerns and concerns regarding the location of the car park area

As mentioned within this report (refer to detailed discussion on pages 12 to 16), Council’s Traffic Department and VicRoads do not object to the proposal, subject to suitable conditions being included on any permit issued.

5. Architectural design of the building, including presentation, scale and height

It is considered that the design of the building is appropriate in its context and minimises its impact on the RAMSAR Wetlands site by way of support columns being proposed to elevate the building from the ground. This in turn also assists with the drainage of the site and any water runoff from the development. Furthermore, the overall design and presentation of the building is considered to have appropriate regard and will sit well within the landscape.

6. Drainage concerns – runoff / catchment areas

The application was referred to Council’s Development Engineer who advised that they have **no objection** to the proposed development, subject to suitable conditions being included on any permit issued.

The development incorporates a sustainable drainage design that forms part of the Education Facility (Discovery Centre). Accordingly, a rainwater tank is proposed in the building that will contain harvested water for use within the centre. It is proposed that the Centre will be self contained in terms of water consumption, with no mains water connection. A UV sterilised or bottled ‘water cooler’ drinking water will be provided on site. The Centre proposed composting toilets, with the preferred option for grey-water basins to be included. This option would require no sewer connection for the Centre. It is the opinion of the Council Officer that appropriate sustainability initiatives have been undertaken to ensure minimal impact on the immediate surrounds.

A submission made by one (1) of the objector’s received by Council raised several concerns relating, but not limited, to the following:

- § One in hundred year flood flooding residents in Chelsea and Edithvale
- § Removal of trees that were planted to screen houses
- § Efficiently irrigating the Edithvale Wetlands
- § One in hundred year flood calculation, coefficient used, pumping related issues, underground storage capacity etc.
- § Proposal for Mordialloc and Parkdale flood protection, release of water between Dandenong Creek and Mordialloc Creek
- § Designing wetland to trap initial pollution flushes
- § Recharging the layers, restoring high water tables etc.

As outlined earlier, all drainage related matters were referred to Council's Development Engineer for assessment and externally referred to Melbourne Water. All of the above issues are related to the better management of wetland and flood protection of the lands abutting the wetlands. Although Council acknowledges these concerns and the detailed research material submitted, these matters go above and beyond the planning merits of the application before Council. It is therefore advised that these broader flood protection matters need to be referred and directed to the relevant bodies and, therefore, do not form any part of the consideration of this application.

7. Safety concerns / vandalism / appropriate screening & fencing

With regards to concerns relating to potential vandalism of the subject development and/or surrounding area, it is submitted that this is not a planning related matter and, therefore, not considered a valid ground of objection. Any damage to private property ought to be reported to the police, as this is one of a legal concern.

In response to grounds of objection relating to the safety and well-being of any visitors to the Education Facility and/or community members in the surrounding area, it is considered that appropriate measures such as: security gate(s) at the front of the site (subject to Condition 1 requirements of any permit issued), car parking layout designed in accordance with the Australian Standards, access to the site subject to VicRoads approval and conditional requirements of any permit issued, the provision of disabled parking and access, walkways/footpaths designed in a practical and efficient manner throughout the site, suitable operating hours during the daytime period only etc. will ensure that the subject development would not pose any safety concerns for the community and/or visitors to the site.

With the provision of suitable conditions on any permit issued, Council submits that gate(s) should be constructed at the entrance to the site to ensure that only visitors who have made an appointment to visit the facility can access the site. Furthermore, an intercom system should be installed at the front entrance, to allow for efficient and timely service to those waiting to enter the site and to not cause any disruptions to the traffic along Edithvale Road. It should be noted that no access to the Wetlands is obtainable from the Discovery Centre.

In terms of objector's concerns relating to the entire site being appropriately fenced off, Council does not believe this to be necessary as it would only segregate the site from the public realm and may result in potential disturbance to the wildlife habitat. It is submitted that the site can be appropriately screened from Edithvale Road by means of suitable vegetation/planting. The provision of suitable planting would result in a softened transition between the private and public realm and would be more desirable from an environmental perspective. Such planting would be required by way of suitable conditions included on any permit issued.

General Comment

The proposed development is considered appropriate for the site as evidenced by:

- The design and siting of the proposed development to be compatible with the surrounding area;
- The proposed development should not have a detrimental impact on the preservation of the Edithvale Wetlands;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS, Environment, Wetlands and Waterways Policy, Public Use Zone 1, Public Park and Recreation Zone, Land Subject to Inundation Overlay, Clause 52.06 - Car Parking Provisions, Clause 52.17 – Native Vegetation, Clause 52.29 - Land adjacent to a Road Zone Category 1.

On balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

Recommendation

That a Notice of Decision to Grant a Permit to construct buildings and works on this site comprising an Education Facility (Discovery Centre) and associated car parking within Land Subject to Inundation Overlay (LSIO) and an Environmental Significance Overlay (ESO1) and to construct buildings and works within a Road Zone Category 2 and to remove native vegetation and erect two (2) advertising signs in association with the use and works on this site, subject following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 11th October, 2007 and the concept drawings submitted to Council on 7th February, 2008, but modified to show:
 - a. all requirements of Melbourne Water, in accordance with Condition 10 of this permit, including a Site Environment Management Plan and a Site Specific Acid Sulphate Soil Management Plan;

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

- b. all requirements of VicRoads, in accordance with Condition 11 of this permit;
- c. all advertising signs to not exceed a total area of 3 square metres, in accordance with Clause 52.05-10 of the Kingston Planning Scheme;
- d. the provision of a detailed Offset Management Plan, in accordance with Conditions 8 and 12 of this permit;
- e. the provision of a deceleration lane to allow for a left hand only turn into the site, as depicted on the concept plan received by Council on 24th January, 2008;
- f. a notation on all site plans specifying that ‘no access to be obtained via a right-hand turn into the site from Edithvale Road’;
- g. the provision of a road sign along Edithvale Road, near the entrance of the site, clearly warning all vehicles that right hand turns into the site is not permitted under any circumstances;
- h. the provision of a large central island within the accessway/driveway of the site, designed to encourage only left-hand turn movements into the site, in accordance with the concept plan received by Council on 24th January, 2008;
- i. the provision of full details regarding internal and external lighting to ensure that suitable baffling/muted measures are used, where possible, for all building interiors/exterior, car park lighting and pathway lighting to avoid unreasonable amenity impacts on surrounding residential properties and any wildlife;
- j. the provision of a Construction Management Plan, in accordance with Condition 5 of this permit;
- k. the provision of a security gate(s) located at the site’s entrance and suitably set back a sufficient distance from the site’s front property boundary as to allow a vehicle to wait and temporarily stop, clear of the adjacent road (i.e. Edithvale Road), so as not to obstruct any oncoming traffic;
- l. the provision of an intercom system nominated at the site’s entrance and suitably located near the gate(s) as required by Condition 1j) of this permit,
- m. the provision of suitable signage located at the bus drop off and pick-up area that specifies a 5 minute parking restriction for all vehicles;
- n. a Landscape Plan, prepared by a suitably qualified landscape professional, in accordance with the City of Kingston Landscape Plan Checklist and must incorporate the indigenous offset planting required as part of the Offset Management Plan, as required by Condition 8 of this permit; and
- o. the provision of suitable screen type planting and softened landscaping between the site’s Edithvale Road frontage and the Discovery Centre and associated car parking, in accordance with the requirements of DSE and the indigenous offset planting required by this permit.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

2. Any discovery of Aboriginal cultural heritage outside of the expectations of the Cultural Heritage Management Plan (AAV Project No. 10081) prepared by Andrea Murphy & Laurinda Dugay-Grist, Taradis Enterprises Pty Ltd *cultural heritage consultants*, must be dealt with by the Contingency Plan found at Appendix 1 within the Cultural Heritage Management Plan, to the satisfaction of the Responsible Authority.
3. The 'Training Requirements and Reporting' specified at point 4.7 and 4.8 of the Acid Sulphate Soil Management report submitted to Council on 27 November, 2008 must be fully adhered to by the developer/site manager/applicant/owner and must not be altered, unless without the prior written consent of the Responsible Authority.
4. The development and/or use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
5. The development hereby approved by this Permit must not be commenced until a Construction Management Plan has been submitted and approved by the Responsible Authority which addresses construction hours, site manager contact details, pedestrian and vehicle management, parking provisions, dust suppression measures, storage of all plant and equipment during the construction period, general site management practices, and any other matters to minimise loss of amenity to the surrounding area during the construction phase of the development. The plan must also show the sequencing of the development including landscaping, walkways, fencing/gate(s) and lighting installation.
6. Prior to the commencement of development, the Owner of the land must enter into an Agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 and provide for:
 - i) maintenance arrangements in relation to the upkeep of the footpath located behind (south) of the bus bay, at the front of the site.All costs associated with the Agreement will be borne by the owner.
7. Before occupation of the Education Facility (Discovery Centre) hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
8. An Offset Management Plan is to be prepared and approved by the Responsible Authority prior to the commencement of the development. The Offset Management Plan is to provide adequate indigenous plantings to offset the loss of the existing vegetation on the site. Once approved, the Offset Management Plan will form part of this permit.
9. Before occupation of the Education Facility (Discovery Centre) hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
10. **Conditions required by Melbourne Water:**
 - a. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.

- b. Unless otherwise agreed in writing by Melbourne Water, finished floor levels of the Education Facility must be a minimum of 300mm above the applicable flood level.
- c. Prior to the issue of a Final Inspection Certificate, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
- d. Prior to the commencement of construction a detailed design report for the proposed wetland is to be submitted to Melbourne Water for approval. The submitted report is to include the following:
 - i) the catchment size and flow regime to the proposed wetland, the treatment method of the greywater generated from the Discovery Centre, and
 - ii) a contingency plan to enable the proposed wetland to be isolated from the Edithvale Wetland in the event of a pollution or contamination spill.
- e. Prior to the commencement of works the applicant is to submit a Site Environment Management Plan (SEMP) that details the following: air quality management, flora and fauna management, waste minimisation, archaeology management, acid sulphate soil management and water quality management.
- f. Prior to the commencement of works the applicant is to submit a Landscape Plan detailing plant species, the proposed timetable for planting and the ongoing maintenance regime for wetland and general landscape plantings.
- g. Prior to the commencement of works the applicant is to submit for approval *a site specific Acid Sulphate Soil Management Plan (ASSMP)*. The submitted plan is to include the following details:
 - § **the estimated quantity of soil for each excavation that is likely to be treated as ASS;**
 - § **a location plan of the designated controlled areas on site, and how they will be contained;**
 - § defining where the leachate catchment pond/s will be located, and how this will be confined to ensure no spillage within the site or into the Ramsar wetlands;
 - § identifying how the catchment ponds (if being used as a management technique) will be rehabilitated;
 - § defining where treated (neutralised) soil/water is planned to be discharged or utilised on-site and/or off-site (disposal to landfill) if necessary; and
 - § identifying management techniques to be employed if excavation works of ASS or PASS soils occurs during a rain event;

- § defining a detailed monitoring program during excavation and construction, and over the longer term to identify any potential or real impacts of ASS or PASS to the site; and
 - § defining dewatering works within the management plan;
 - § identification of areas on-site that should have minimal disturbance to the soil due to presence of ASS i.e. definition of high risk areas and how this is to occur;
 - § defining the proposed ASS management technique for each type of soil disturbance that contains ASS or PASS soils on-site i.e. pile and wetland excavation.
- h. Prior to the commencement of works separate application, direct to Melbourne Water, must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.
- Contact Asset Services on telephone 9235 1414 for Melbourne Water's connection requirements, including payment of appropriate fees.
- i. No fill is to be imported into the floodplain/overland flood path. Any earthworks must be done such that the volume of cutting within the floodplain is equivalent or greater than the volume of filling.
- Prior to the commencement of works, volume calculations must be submitted to Melbourne Water demonstrating that the volume of filling does not exceed the volume of cutting.
- j. The proposed carpark is to be constructed with minimum finished surface levels no lower than 1.70 metres to Australian Height Datum (AHD).
- A certified survey plan, showing finished surface levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the surface levels have been constructed in accordance with Melbourne Water's requirements.
- k. Prior to the commencement of works, detailed plans of the proposed boardwalk and a risk analysis report are to be referred to Melbourne Water for approval. The submitted information should include proposed levels of the boardwalk to Australian Height Datum and details relating to the management of any potential risks associated with access to the boardwalks during a flood event, surface slippage of the proposed boardwalk and the requirement of safety rails along the boardwalk.

11. Conditions required by VicRoads

- a. Prior to endorsement of the plans and any works authorised by this permit, the applicant must arrange for a Traffic Impact Assessment Report (TIAR) to be prepared to the satisfaction of VicRoads. The report must:
 - i. Include bus parking assessment and also other traffic/pedestrian movement to / from the development site.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

- ii. Identify all improvement works required to mitigate the effect of the proposed development along Edithvale Road; and
 - iii. Be developed generally in accordance with VicRoads' Draft Guidelines for preparation of a Traffic Impact Assessment Report.
- b. Prior to commencement of any use or any roadworks authorised by this permit the applicant must:
 - i. Prepare functional layout plans for the access arrangement on Edithvale Road to manage the traffic flow, to the satisfaction of VicRoads.
 - ii. Subsequent to the approval of the functional layout plans, prepare detailed engineering plans for the roadworks along Edithvale Road, to the satisfaction of VicRoads.
- c. Before the commencement of any roadworks authorised by this permit, the developer must demonstrate to VicRoads' satisfaction that they and their contractors have developed and maintained a:
 - i. Quality Management System
 - ii. Occupational Health and Safety System
 - iii. Environmental Management System
 - iv. Traffic Management System
- d. Before the commencement of any roadworks authorised by this permit, the developer must:
 - i. Provide a bank guarantee (in the name of the developer/owner) without a termination date, to VicRoads for the estimated cost of works.
 - ii. Provide evidence that the Contractor has a public liability insurance policy for at least \$10 million, effective for the duration of the works.
 - iii. Provide VicRoads with the name, address, business and out-of-hours telephone number of the principal roadworks contractor.
- e. At least 7 days prior to roadworks commencing, the applicant must contact VicRoads Surveillance Coordinator (Ph. 9881 8079) to notify when work will commence.
- f. The applicant must pay VicRoads for the cost of the roadworks surveillance which may be undertaken at certain key times during works.
- g. The applicant must pay the full cost of all roadworks, drainage, service relocations, public lighting and modifications, and any other costs associated with the subject development.

- h. The design, depth and composition of pavement within the road reservation must be to the satisfaction of VicRoads.
- i. Prior to the commencement of any use authorised by this permit the applicant must complete all roadworks in accordance with approved plans and to the satisfaction of VicRoads.

12. Conditions required by the Department of Sustainability and Environment

- a. The native vegetation removal must be no more than that stipulated in the report, "Revised Flora Survey, Habitat Hectare Assessment and Net Gain Analysis Wetland Discovery Centre, Edithvale Wetlands" (Practical Ecology, November 2008) unless with the prior written consent of the Responsible Authority, in consultation with the Department of Sustainability & Environment.
- b. An Offset Management Plan, to the satisfaction of the Department of Sustainability and Environment and the approval of the Responsible Authority, must be prepared prior to commencement of removal of native vegetation. The plan must show appropriate offsets to compensate for the removal of 0.01 habitat hectares of Very High conservation significance vegetation. When approved, the plan will be endorsed and will then form part of this permit. The plan must include details of the:
 - i. vegetation to be removed;
 - ii. gain targets;
 - iii. offset(s) to compensate for the vegetation removal, including details of type of offset(s) to be provided in each location, rare or threatened species habitat to be protected (if applicable) and the gains in vegetation and habitat quality to be achieved by the offset(s);
 - iv. details of any revegetation including number of trees, shrubs and other plants, species mix, and density included in a Schedule of Works;
 - v. methods of managing and restoring the existing vegetation to be retained included in a Schedule of Works;
 - vi. methods of interim protection for newly established vegetation;
 - vii. methods of permanent protection for established offsets;
 - viii. persons responsible for implementing and monitoring the offset plan;
 - ix. a reporting mechanism; and
 - x. timeframe for implementing the offset plan.
- c. Implementation of the Offset Management Plan is to commence prior to the commencement of works under this permit.
- d. The Responsible Authority, with the written agreement of Department of Sustainability and Environment, may approve amendments to the Offset Management Plan.
- e. The offset area specified in the Offset Management Plan endorsed by this permit must be permanently protected and maintained in perpetuity to the satisfaction of the Responsible Authority and the Department of Sustainability and Environment.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

19. Before the use/development commences, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must be reinstated to the satisfaction of the Responsible Authority.
 20. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.
 21. Without the prior written consent of the Responsible Authority, all current or future marketing material for the Education Facility (Discovery Centre) must provide advice regarding access arrangements to the site, specifically that only a left-hand turn into the site is permitted.
 22. A street number of 100mm minimum height and contrasting in colour to its background, must be fixed at the front boundary of the property and as near as practicable to, or on the letterboxes with such numbering to be in accordance with Council's Street Numbering Policy. Separate unit numbers of 75mm minimum height must be placed adjacent to the front entrance of each dwelling. Such numbers must be clearly legible from the access driveway.
 23. Exterior lights must be installed in such positions as to effectively illuminate pathways and car parking areas. Such lighting must be controlled by a time clock or sensor unit, and must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
 24. Before occupation of the development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.
 - c. Surfaced with *an all-weather sealcoat* to the satisfaction of the Responsible Authority.
 - d. Drained and maintained to the satisfaction of the Responsible Authority.
 - e. Line-marked to indicate each car space, all access lanes and, if necessary, the directions in which vehicles are to travel to the satisfaction of the Responsible Authority.
 - f. In accordance with any Council adopted guidelines for the construction of car parks.
 - g. Appropriately lit to the satisfaction of the Responsible Authority.
- Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

25. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
26. Relevant parking spaces must be designed for disabled people and must be clearly set aside and signed for such purposes and no other use of such space(s) will be permitted.
27. The car parking provided on the land must always be made available for use by persons employed on or visiting the subject premises to the satisfaction of the Responsible Authority.
28. All existing vegetation shown on the endorsed plans for retention must be suitably marked and protected before the development starts on the site and that vegetation must not be removed, destroyed or lopped without the written consent of the Responsible Authority.
29. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
 - a. Transport of material and goods to or from the land.
 - b. Appearance of any building, works or materials.
 - c. Emission of noise, artificial lighting, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d. Presence of vermin.
 - e. Any other way.
30. The development and/or use must not cause nuisance or be detrimental to the amenity of the neighbourhood or wetlands by emission of noise. In this regard, the emission of noise must comply with the provisions of the Environment Protection Authority (EPA) and must not exceed State Environmental Protection Policy. Further, noise from construction and/or demolition activities should comply with the EPA's guidelines for "Construction and Demolition Site Noise".
31. Without the prior written consent of the Responsible Authority, no form of public address system or sound amplification equipment shall be used on the premises so as to be audible outside the premises.
32. No burglar alarm or warning bell or buzzer or other device may be installed on the subject property, unless without the further written consent of the Responsible Authority.
33. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

34. All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.
35. All external equipment (including, but not limited to: ducting and piping, air conditioning units, heating units, satellite dishes, etc.) services and architectural features, other than those shown on the endorsed plans, shall be permitted without the prior written consent of the Responsible Authority.
36. The location of any external fans, air conditioning apparatus and the like must be to the satisfaction of the Responsible Authority and installed to prevent loss of amenity to the area by its appearance of the building to the satisfaction of the Responsible Authority.
37. Rubbish must only be collected from the site between the following hours: 6.00am to 8.00pm Monday to Sunday, unless without the further written consent of the Responsible Authority.
38. Rubbish bins must be located and options for collecting waste must be implemented to the satisfaction of the Responsible Authority. Council's Waste Management Department must be consulted regarding the location of rubbish bins and the options for collecting waste from the site.
39. No commercial rubbish bins may be placed or allowed to remain in view of the public or on the site at anytime, without the further written consent of the Responsible Authority.
40. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
41. All signs must be constructed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.
42. No signs or other advertising or identification may be erected or displayed on the site without written Council consent.
43. The signs must be constructed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.
44. All existing advertising signs on the land must be removed prior to the erection of the signs hereby permitted.
45. This permit (or part of the permit that relates to advertising signs) expires 15 years from the date of issue of the permit.
46. The location and layout of the proposed signs as shown on the endorsed plan must not be altered or modified without the written consent of the Responsible Authority.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

47. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
48. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
- The development and use are not started before two years of the date of this permit.*
 - The development is not completed before one (1) year from the commencement of works.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

**Should a planning permit issue a specified starting and completion date will be inserted.*

Note: Melbourne Water

The applicable floor level for 1.55 metres to Australian Height Datum (AHD).

Best Management Practice with regards to water quality treatment is achievement of 45% retention of Nitrogen, 45% retention of Phosphorus and 80% retention of Suspended solids of normal annual load. With regard to litter, measures such as permanent litter traps that have the capacity to remove litter particles greater than 20mm in size from all flows up to and including the 1 in 3 month flow are acceptable means of protecting receiving waterways. With regard to sediment capture, sediment traps that capture at least 95% of all solids larger than 125 µm from all flows up to and including the 1 in 3 month flow are acceptable means of protecting receiving waterways.

Note: Unless no permit is required under the Planning Scheme, other signs must not be constructed or displayed without a further permit.

Note: Prior to the commencement of the development you are required to obtain the necessary Building Permit.

Note: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

Note: Before removing/pruning any vegetation from the site, the applicant or any contractor engaged to remove vegetation, should consult Council's Vegetation Management Officer to verify if a Local Law Permit is required for the removal of such vegetation.

3. Issues

3.1 Panel Hearing

The Minister for Planning appointed a Panel to consider Amendment C80 and Planning Permit Application KP841/06. A Directions Hearing was held on 22 September 2008 and a Panel hearing was held on 22 October 2008, Chaired by Margaret Pitt.

Over the course of the Panel Hearing, Tixxis Consulting represented the City of Kingston and Peninsula Planning Consultants represented the proponent. No submitters attended or made a submission to the Panel.

A copy of the report of the Panel has been previously circulated to Councilors.

3.2 Panel Recommendations on Amendment C80 and Planning Permit Application KP841/06

Having considered all the submissions referred to it and all the material presented at the hearing, and the conclusions set out in the Panel report, the Panel made the following recommendations:

Amendment C80 to the Kingston Planning Scheme should be adopted subject to the following modifications:

§ *Deletion of that portion of the subject land owned by Melbourne Water.*

§ *Inclusion of the Melbourne Water land in a Public Use Zone.*

Planning permit KP841/06 should be approved subject to the following modifications:

Condition 1a. i) Add the words ‘... and selecting drought-resistance plants wherever appropriate’

Condition 1a. xv) (New condition) ‘the location and capacity of tanks to collect roof runoff and locations of connections to re-use systems’

Condition 1a. xvi) (New condition) ‘the location and layout of the drip irrigation system’

Condition 1c. Delete

Condition 1d. Delete

Condition 1e. Delete

Condition 1f. Delete

Condition 1g. Delete the exhibited words and substitute the following:

Conditions required by Melbourne Water

- i) The ground floor of each unit and all common ground floor areas must be constructed with finished floor levels a minimum of 300mm above the applicable flood level i.e. finished floor levels must be a minimum of 1.85m to AHD.*

- ii) *The entry / exit driveway of the basement car park must incorporate a flood proof apex of a minimum of 300mm above the applicable flood level.*
 - iii) *Cross-sectional details of any basement entry ramps and other basement entries to Australian Height Datum must be submitted to Melbourne Water, showing the apex of any ramp or floor levels of entry areas.*
 - iv) *All doors, windows, vents and openings to the basement car park must be a minimum of 300mm above the applicable flood level.*
 - v) *Any drainage system to the basement must be designed such that stormwater is unable to penetrate the basement. Details of the drainage system must be submitted to Melbourne Water and the responsible authority prior to works commencing.*
 - vi) *Any new fences enclosing the private open space of each dwelling and the site, must be of an open style of construction to allow for the passage of floodwaters/overland flow.*
 - vii) *Any new decking at ground floor level must be constructed with unenclosed foundations to ensure minimum impedance of floodwaters.*
- Condition 1m. (New condition) Modifications to the entry ramp and carparks 22 and 23 to comply with the Australian Standard.*
- Condition 1n. (New condition) 'the location and capacity of roof solar panels.'*
- Condition 1o. (New condition) The plans to be annotated indicating:*
- *the extent of use of low-energy, low voltage lighting*
 - *the location of windows to be fitted with glass designed to control solar penetration.*
- Condition 1p. (New condition) 'the steps to the ground floor entry in McLeod Road to be replaced with a ramp.'*
- Condition 22 (New condition)*
- Conditions required by Melbourne Water*
- a. *No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.*
 - b. *Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.*
 - c. *Any Excavated material from the site is to be removed and not stored or redistributed on site.*
 - d. *Prior to the commencement of any works, a Site Environmental Management Plan detailing pollution and sediment control measures, must be submitted to Melbourne Water for approval.*

- e. *Before starting works separate application, direct to Melbourne Water, must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses. Contact Asset Services on telephone 9235 1414 for Melbourne Water's connection requirements, including payment of appropriate fees.*
- f. *No building materials or equipment shall be stored on Melbourne Water owned land without Melbourne Water approval.*
- g. *Vehicle access along the pipetrack for the delivery of construction materials and the storage of plant, equipment or materials on the pipetrack is subject to Melbourne Water's approval.*
- h. *Prior to the commencement of any works, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD).*

The Panel also makes the following additional recommendation to Council:

Council should take a much more pro-active approach in future to promoting implementation of the environmental sustainability principles set out in the planning scheme, and ensure the principles are incorporated at the earliest stage of the development application process.

3.3 Panel Recommendations Discussed

§ *Deletion of that portion of the subject land owned by Melbourne Water.*

§ *Inclusion of the Melbourne Water land in a Public Use Zone.*

Support Recommendation

Melbourne Waters written submission to the amendment highlighted that there was an existing zoning anomaly within the Kingston Planning Scheme with a piece of Melbourne Water land adjoining the subject industrial site zoned Industrial 3. The Melbourne Water owned land transverses an underground drain (Whetley's Drain) and should be zoned Public Use.

Planning Permit KP841/06 should be approved subject to the following modifications:

Condition 1a. i) Add the words '... and selecting drought-resistance plants wherever appropriate'

Condition 1a. xv) (New condition) 'the location and capacity of tanks to collect roof runoff and locations of connections to re-use systems'

Condition 1a. xvi) (New condition) 'the location and layout of the drip irrigation system'

Support Recommendation

At the Panel hearing the proponent detailed the environmental sustainability measures to be incorporated into the proposed development. The above modified permit conditions incorporate the environmental sustainability measures detailed by the proponent with regards to the landscape plan. The measures are supportive and should be incorporated as permit conditions to enforce their implementation.

Condition 1c. Delete

Condition 1d. Delete

Condition 1e. Delete

Condition 1f. Delete

Support Recommendation

The above conditions were placed on the draft planning permit by Council and relate to the design of the proposed development.

Condition 1c required the development to provide for a pitched roof to ensure consistency with the surrounding area. The proponent argued that there are other flat roofed developments in the area and that changing the roof pitch will require the height of the proposed atrium roof to be raised. The Panel determined that the proposed two storey multi-unit development is a different type of development than commonly found in the area and that the imposition of a pitched roof would result in an uncomfortable hybrid. The Panel resolved that given the scale of the development the proposal could be justified without a pitched roof.

Condition 1d required each dwelling on the ground floor that fronts McLeod Road and Melaleuca Drive be provided with an individual access point (i.e. front door, porch, entrance, or the like) to ensure these dwellings integrate with the street frontage and are provided with their own sense of address. Condition 1e also required that these dwellings be provided with a front gate and pathway that leads to the respective dwellings entrance. The proponent argued that these changes would require substantial internal redesign of the affected units and would undermine the planned security environment. The Panel highlights that the requirement would require two entrances, one from the street and one to access the car park via the central access area, reducing the usable area of private open space by introducing gates, paths and porches to these area and reducing the amenity for future residents. The Panel also noted that Clause 22.11 (Residential Policy) call for 'visual interconnection with the street' which the proposal satisfies and does not require direct street access.

Condition 1f required the provision of sympathetic variations to the materials, colours and finishes to each dwelling specified in Conditions 1d and 1e of this permit to clearly distinguish these dwellings from one another. The proponent argued that the building is well articulated with variations in setbacks for each unit, a recessed upper floor and variations in colours between floors. The Panel agreed with the proponent.

Condition 1g. *Delete the exhibited words and substitute the following:*

Conditions required by Melbourne Water

- viii) The ground floor of each unit and all common ground floor areas must be constructed with finished floor levels a minimum of 300mm above the applicable flood level i.e. finished floor levels must be a minimum of 1.85m to AHD.*
- ix) The entry / exit driveway of the basement car park must incorporate a flood proof apex of a minimum of 300mm above the applicable flood level.*
- x) Cross-sectional details of any basement entry ramps and other basement entries to Australian Height Datum must be submitted to Melbourne Water, showing the apex of any ramp or floor levels of entry areas.*
- xi) All doors, windows, vents and openings to the basement car park must be a minimum of 300mm above the applicable flood level.*
- xii) Any drainage system to the basement must be designed such that stormwater is unable to penetrate the basement. Details of the drainage system must be submitted to Melbourne Water and the responsible authority prior to works commencing.*
- xiii) Any new fences enclosing the private open space of each dwelling and the site, must be of an open style of construction to allow for the passage of floodwaters/overland flow.*
- xiv) Any new decking at ground floor level must be constructed with unenclosed foundations to ensure minimum impedance of floodwaters.*

Support Recommendation

The above conditions are a requirement of Melbourne Water as the site is within a Special Building Overlay and aim to prevent inundation of the proposed basement level.

Condition 1m. *(New condition) Modifications to the entry ramp and car parks 22 and 23 to comply with the Australian Standard.*

Support Recommendation

At the Panel hearing Council's representative highlighted that the entry ramp to the basement did not meet the grade required by the Australian Standard. It was also highlighted that car parks 22 and 23 are constrained by walls and need to be increased in width to meet the Australian Standard. The development can easily be modified to comply with the Australian Standard and will ensure simple vehicle movement within the development.

Condition 1n. (New condition) *'the location and capacity of roof solar panels.'*

Condition 1o. (New condition) *The plans to be annotated indicating:*

- *the extent of use of low-energy, low voltage lighting*
- *the location of windows to be fitted with glass designed to control solar penetration.*

Support Recommendation

The above modified permit conditions incorporate the environmental sustainability measures detailed by the proponent at the Panel hearing with regards to the proposed development. The measures are supportive and should be incorporated as permit conditions to enforce their implementation.

Condition 1p. (New condition) *'the steps to the ground floor entry in McLeod Road to be replaced with a ramp.'*

Support Recommendation

The Panel has recommended that this condition be added to the draft permit to require the proposed four (4) steps to the main ground floor entry of the development to be replaced with a ramp to enable unimpeded disabled access.

Condition 22 (New condition)

Conditions required by Melbourne Water

- i. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.*
- j. Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.*
- k. Any Excavated material from the site is to be removed and not stored or redistributed on site.*
- l. Prior to the commencement of any works, a Site Environmental Management Plan detailing pollution and*

sediment control measures, must be submitted to Melbourne Water for approval.

- m. Before starting works separate application, direct to Melbourne Water, must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses. Contact Asset Services on telephone 9235 1414 for Melbourne Water's connection requirements, including payment of appropriate fees.*
- n. No building materials or equipment shall be stored on Melbourne Water owned land without Melbourne Water approval.*
- o. Vehicle access along the pipetrack for the delivery of construction materials and the storage of plant, equipment or materials on the pipetrack is subject to Melbourne Water's approval.*
- p. Prior to the commencement of any works, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD).*

Support Recommendation

The above conditions are a requirement of Melbourne Water and set our site management requirements.

Addition recommendation to Council:

Council should take a much more pro-active approach in future to promoting implementation of the environmental sustainability principles set out in the planning scheme, and ensure the principles are incorporated at the earliest stage of the development application process.

Kingston City Council does take a proactive approach in promoting and implementing environmental sustainable principles. Permit conditions are placed on many developments requesting details of environmental sustainability principles as in many cases these details are not finalised until building plans are commenced.

4. Options

Section 27 of the *Planning and Environment Act 1987* directs that the planning authority must consider the Panel's report before deciding whether or not to adopt the amendment. Having considered the report Council may:

- Abandon the Amendment pursuant to Section 28 of the *Planning and Environment Act 1987*.
- Adopt the Amendment without changes pursuant to Section 29 (1) of the *Planning and Environment Act 1987*.
- Adopt the Amendment with changes pursuant to Section 29 (1) of the *Planning and Environment Act 1987*.

Council received a favorable Panel report on Amendment C80. The Panel supported the strategic justification for the amendment and Planning Permit KP841/06. It is therefore considered appropriate that Council adopt the Planning Scheme Amendment and combined Planning Permit.

5. Summary and Conclusion

Amendment C80 and KP841/06 has now been considered by a Planning Panel who has recommended the adoption of Amendment C80 and granting of Planning Permit KP841/06 subject to changes.

6. Recommendation

1. That Council, as Planning Authority, resolve to adopt Planning Scheme Amendment C80 to the Kingston Planning Scheme and Planning Permit Application KP841/06 subject to changes as recommended by the Panel and submit it to the Minister for Planning for approval.
2. That all submitter's be notified of the above resolution.

7. Triple Bottom Line Checklist

7.1 Budget/Financial Impact

For the subject contract the preferred tenderer represents the best outcome to Council in terms of value for money and level of risk. The submitted price from the preferred contractor is below the Design Engineer's estimate.

7.2 Social Impact

There will be inconveniences during the works which are typical of a large road reconstruction project such as this one.

7.3 Environmental Impact

Environmental impacts during construction of these works will be minimised due to measures put in place for controlling stormwater runoff quality, including silt barriers and straw bales

The final outcome of the works will alleviate a significant drainage/flooding issue in the area.

8. Summary and Conclusion

The evaluation panel has ranked PRESTA & SONS PTY LTD highest for this contract. The panel believes that PRESTA & SONS PTY LTD have demonstrated their ability via their tender submission and previous works undertaken for Kingston City Council, to provide the best overall value for the construction of Contract No. 08/107 – Harold Street & Troy Street, Bonbeach – Road Reconstruction.

9. Recommendation

That Council:

1. award Contract No. 08/107 – Harold Street & Troy Street, Bonbeach – Road Reconstruction on a Lump Sum basis to PRESTA & SONS PTY LTD for the tendered price of \$764,000.00; and
2. authorise the Chief Executive Officer or delegate to execute the contract.

Attachment:

(Refer Confidential Attachment) – not included

conforms to the standard style of many previous Victorian municipal waste contracts providing a successful outcome, including the current Kingston contract.

The Collection Contract is subject to rise and fall adjustment of certain percentage components of tendered prices based upon movements in the consumer price index and the cost of diesel fuel, as applicable, using a specified formula.

The new Contract is for a period of 7 years commencing on 2 October 2009, with an option for extension of up to two years.

Tenders were invited for any one or any number of the services and scheduled prices were called for each component.

The tender process was not subject to an Expression of Interest.

Waste education was not required to be provided as apart of the tender submission.

4. Tenders Received

At the close of the RFT period, valid tenders were received from a total of seven companies. Two companies tendered for the total contract - three collection components and receipt of recyclables. Four companies tendered for the three collection components only and one company submitted only for receipt of recyclables.

Tenders for garbage, recyclables and green organics collection were received from the following companies:

- Visy Paper Pty Ltd trading as Visy Recycling;
- Remondis Pty Ltd;
- Thiess Services Pty Ltd;
- JJ Richards & Sons Pty Ltd;
- Transpacific Cleanaway Pty Ltd; and
- Four Seasons Waste Pty Ltd

Tenders for receipt of recyclables were received from the following companies:

- Visy Paper Pty Ltd trading as Visy Recycling;
- Transpacific Cleanaway Pty Ltd; and
- SKM Industries Pty Ltd
-

Several options for disposal of waste at a number of facilities were canvassed in the RFT. The Tender Evaluation Committee has considered all these options, the discounts and rewards for awarding multiple components, and the resultant impact on price and service delivery. Pricing models of each of the options and relevant prices has been undertaken to establish a 'best value' result, refer *Confidential Attachment*.

5. Project Funding

Waste collections services and Receipt of Recyclables are funded as apart of the Goods and Services Budget.

6. Evaluation Panel

To provide a comprehensive evaluation, an Evaluation Committee consisting of members with particular skills and expertise was established. The Evaluation Committee consisted of the following:

General Manager Environment Sustainability	Tony Rijs
Manager Infrastructure	Warren Ashdown
Team Leader Maintenance Contracts and Waste	John Kelly
Senior Field Officer	Robin Fisher

7. Evaluation Process

Potential respondents were advised in the Conditions of Tender of the RFT that the basis for the evaluation process is to assess each tender with a view to identifying the offer that represents the best value for money overall and that the evaluation process is divided into 2 parts being:

- Financial Benefit/Capacity (financial criteria); and
- Technical Capacity (non-financial criteria).

Respondents were also advised in the RFT that the non-financial criteria are separated into 5 areas:

- Provision of Service;
- Experience, Service Planning and Delivery, Environmental Sustainability;
- Management – Human Resources, Risk and Safety;
- Commitment to Quality; and
- Customer Service.

To maintain an impartial and objective process, all tenders for the collection services components were evaluated and scored in accordance with weighted evaluation criteria applicable to waste collection services in order of priority – refer *Confidential Attachment*.

For the recyclables receipt component, tenders were evaluated and scored in accordance with weighted evaluation criteria applicable to receipt of recyclables.

The evaluation of tenders was conducted in three stages.

1. First Stage “desk top” - evaluation of all tenderers to enable clarification of issues; establish ranking using key evaluation criteria,
2. Second Stage “short list” - detailed evaluation of short listed tenderers submissions with formal written questions on notice, formal interview and questioning,
3. Third Stage “preferred” - detailed analysis of preferred tenderers with extensive questioning and evaluation of all details.

8. Triple Line Checklist

8.1 Budget/Financial Impact

The recommended tender for the service for waste collection services and receipt of recyclables represents the best outcome to Council in terms of value for money and level of risk.

8.2 Social Impact

Maintain the provision of regular and reliable waste collection services to all residential premises in the City of Kingston

8.3 Environmental Impact

- New trucks shall comply with vehicle emissions standards of *Euro4*,
- Continue to provide high standard, integrated waste services, based on "best practice" principles, that are complementary to national and state waste management policies,
- Continue to minimise the amount of waste disposed to landfill by encouraging and facilitating waste minimisation and maximising recovery of recyclable and reusable components in the waste stream.

9. Summary and Conclusion

The Evaluation Committee has ranked the submission from Transpacific Cleanaway Pty Ltd for waste collection and receipt of recyclables services the highest. However it should be noted that the overall scores are very close. The panel believes that Transpacific Cleanaway Pty Ltd has demonstrated by their submission and interviews to provide the best overall value service to Council.

10. Recommendation

That Council:

1. award Contract No 08/45 for WASTE COLLECTION (Garbage, Recycling and Green Organics) and RECEIPT OF RECYCLABLES on a Schedule of Rates basis to Transpacific Cleanaway Pty Ltd at the tendered rates as per the "confidential attachment" based upon Council's estimated number of premises and recyclables to be collected for a total estimated price of \$24,420,740 (1st year \$3,382,939) for the contract term of 7 years with a two year optional extension.
2. authorise the CEO or delegate be to enter into the necessary contract documentation.

Attachment:

(Refer Confidential Attachment) – not included

7. Recommendation

That Council adopt the Junior Mayor Policy attached to this report.

Attachments:

Proposed Junior Mayor Policy

Policy No	2009/1
Policy Type	
Revision and version	Version 1 of a new policy.
Policy Review Date	December 2009

Junior Mayor Policy

PURPOSE & INTENT

This policy provides information with respect to the eligibility criteria and the selection process for the election of the City of Kingston Junior Mayor. The policy takes into account Council's current practices and processes with respect to the Junior Mayor's appointment and outlines the duties and responsibilities of the position, including the events at which he / she is invited to attend.

The policy is also intended to ensure that the obligation of the Junior Mayor and the Council are clearly understood by both parties throughout the period of the Junior Mayor's tenure.

SCOPE

This policy applies to members of the Kingston Youth Services Team and all members of Council staff who manage events at which the Junior Mayor is either expected to participate in or is invited to attend.

Additionally, the procedures outlined in this policy are to be conveyed to the participating schools for application in their respective nomination processes.

DEFINITIONS

- Council means the City of Kingston.
- Junior Mayor means the elected Junior Mayor for the municipal district of the City of Kingston.
- Schools means schools located within the municipal district of the City of Kingston that have grade six students enrolled.
- Eligible Student means a grade six student attending a School within the municipal district of the City of Kingston, nominated by that School as its head speaker.
- Kingston Youth Festival means the annual event, including a variety of activities for young people throughout the municipality held to acknowledge the wonderful contributions that young people make to our community, and including the election of the Junior Mayor for the year.

RESPONSIBLE EXECUTIVE

General Manager, Community Sustainability.

CONTACT OFFICER

Manager, Family, Youth and Children's Services.

RELATED DOCUMENTS

There are no related documents relevant to this policy.

DELEGATION AUTHORITY

There is no formal delegation relevant to this policy.

POLICY STATEMENT

The Junior Mayor Election provides primary schools in the City of Kingston with an opportunity to show case the talents and attributes of their young people.

The Junior Mayor program allows young people to take an active role within their community, to think and talk about the issues that affect young people, in a way that develops and consolidates vital skills such as writing speeches and presenting in front of large numbers of people. It encourages young people to set goals for themselves and strive to achieve them.

PROCEDURES

- 1 The election of the Junior Mayor is conducted as part of the Annual Kingston Youth Festival.
- 2 Each School is invited to participate in the Junior Mayor election.
- 3 Each School, through its own selection process, nominates one Eligible Student as its head speaker and three other team members as its representatives to participate in the Junior Mayor election.
- 4 The Head Speaker from each School will make a speech that represents their ideas about a specified topic.
- 5 At the conclusion of the speeches, each of the representatives will vote for their favourite speech, excluding the speech made by his/her School's head speaker.
- 6 The votes are tallied by a Council employee and the head speaker who tallies the most votes will be declared elected as the Junior Mayor for that year.
- 7 If, during the course of his/her term of office, the elected Junior Mayor ceases to be an Eligible Student, the Eligible Student who tallied the next highest number of votes at the election of the Junior Mayor for that year, will be invited to be the Junior Mayor for the remainder of that term of office.

DUTIES AND RESPONSIBILITIES

The elected Junior Mayor, during his/her term of office will be required / invited to represent the City of Kingston:

- 1 at citizenship ceremonies and events with the Mayor;
- 2 giving radio interviews;
- 3 making speeches at events; and
- 4 proudly representing the City of Kingston.

DECISION GUIDELINES

There are no decision guidelines.

TRANSITION/TRANSLATION ARRANGEMENTS

There are no transition/translation arrangements with respect to the Junior Mayor Elections as the process has not previously been formalized.

**City of Kingston
Ordinary Council Meeting**

Agenda

23 February 2009

11. Notices of Motion

L 18

Cr Shewan: Planning Application KP469/08, 5 Maury Road, Chelsea

Moved:

Cr Trevor Shewan

That Council opposes the 5 Maury Road, Chelsea (10 Unit developments) application when it goes to VCAT for review.

1. The proposal would have an adverse affect on the amenity of an established residential neighbourhood.
2. The proposal constitutes an over-development of the site.
3. The proposal exhibits excessive bulk and mass.
4. The proposal does not satisfy all of the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives, Clause 55.03-3 Site Coverage Objective, Clause 55.03-4 Permeability Objectives, Clause 55.03-8 Landscaping Objectives, Clause 55.03-9 Access Objectives, Clause 55.05-10 Parking Location Objectives, Clause 55.04-1 Side and Rear Setbacks Objective and Clause 55.05-5 Solar Access To Open Space Objective.

Signed

Cr Trevor Shewan

