

**City of Kingston
Ordinary Council Meeting**

Agenda

22 February 2010

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 22 February 2010.

1. Apologies

2. Confirmation of Minutes of Previous Meetings

Minutes of Ordinary Council Meeting 8 February 2010.

3. Foreshadowed Declaration by Councillors or Officers of any Conflict of Interest

[Note that any Conflicts of Interest need to be formally declared at the start of the meeting and immediately prior to the item being considered – type and nature of interest is required to be disclosed – if disclosed in writing to the CEO prior to the meeting only the type of interest needs to be disclosed prior to the item being considered.]

4. Petitions

5. Presentation of Awards

A presentation will be made to Vernita Zigouras

6. Reports from Village Committees

7. Reports from Delegates Appointed by Council to Various Organisations

8. Question Time

9. Environmental Sustainability Reports

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M 21	Draft Greenhouse and Energy Management Strategy	Page 87
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10. Organisational Development & Governance Reports

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11. Notices of Motion

M 30	Cr Peulich: Amendment to Council Resolution 8 February 2010 re Bus Lanes – Centre Dandenong Road	Page 111
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12. Urgent Business

13. Items in Camera

6. Reports from Village Committees

PRESENTATION OF VILLAGE COMMITTEE REPORTS

**6(a) Cheltenham Village Committee
Chairperson - Joe Astbury**

Report of Meeting held on 2 February 2010

Highlight: The addition of two new members of the Committee – Janet Hopkins and Andrew Preston.

**6(b) Mordialloc Village Committee
Chairperson - Allan Locke**

Report of Meeting held on 2 February 2010

Pedestrian Crossing on Main Street

Village Committee Motion:

Council conducts an investigation into installing pedestrian operated signals on the Main Street service roads.

Officer Comment

Pedestrian Operated Signals need to meet VicRoads warrants and as such require traffic surveys to be undertaken. Other safety measures will also be investigated.

Highlight: the new Master Action Sheet format. It presents the information in a clear and concise way.

**6(c) Mentone/Parkdale Village Committee
Chairperson – Claire Houston**

Report of Meeting held on 2 February 2010

Highlight: Nil.

**6(d) Clayton South Village Committee
Chairperson – Chris Frangopoulos**

Report of Meeting held 2 February 2010

Highlight: The uptake of Clayton South Village Committee membership in 2010, the committee welcomes four new members Warren De Silva, Chris Frangopoulos, Paul Snell and Ramba Thoman, and welcomes back valued members from previous years

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6(e) Patterson Lakes/Carrum Village Committee

Chairperson – Pat King

Report of Meeting held on 3 February 2010

Highlight: Don Reed bringing to our attention the wording of the Kingston Arts Centre Audience Survey.

6(f) Clarinda / Oakleigh South Village Committee

Chairperson – David Oakley

Report of Meeting held 3 February 2010

Highlight: Attendance from the Mayor (Cr Staikos) and Cr Peulich.

6(g) Aspendale/Edithvale/Aspendale Gardens/Waterways Village Committee

Chairperson – Ken Carney

Report of Meeting held on 4 February 2010

Highlight: Les Williams OAM receiving recognition as Citizen of the Year.

6(h) Chelsea/Chelsea Heights/Bonbeach Village Committee

Acting Chairperson – Nigel McGillivray

Report of Meeting held on 10 February 2010

Walkway next to Retravision in Chelsea

Village Committee Motion:

The Committee would like to see the walkway next to Retravision in Chelsea reinstated as soon as practical, with a roof and lighting.

Officer Comment

Council has been required to remove the existing canopy structure as a result of structural problems and in the interests of public safety. The covered walkway has provided a significant community benefit, which the local community would like to see replaced. Initial estimates for a replacement structure indicate that \$90-\$100,000 will be required to design and construct a similar facility at the site. Funding consideration will be referred to Council's 2010/11 budget deliberations.

Highlight: Presentation by Steve Perumal on Bicentennial Park

9. Environmental Sustainability Reports

M 16 Town Planning Application Decisions – January 2010

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 January 2010.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	47	83
Notice of Decision	5	9
Refusal to Grant a Permit	3	5
Other - Withdrawn (1) - Prohibited (0) - Permit not required (1) - Lapsed (0)	2	3
Total	57	100

(NB: Percentage figures have been rounded)

Recommendation

That the report be noted.

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Planning Decisions December 2009						
APPL. No.	PROPERTY ADDRESS	SUBURB	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION
KP-1/2009/A	31 Myola Street	CARRUM	30/10/2009	12/01/2010	SEVEN (7) DWELLINGS	Permit Issued
KP-1011/2008/A	271 Station Street	EDITHVALE	22/12/2009	27/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-1066/2008	8 Dahmen Street	CARRUM	27/11/2008	21/01/2010	FIVE (5) DWELLINGS	Refused
KP-1068/2008	28 St Andrews Drive	HEATHERTON	28/11/2008	5/01/2010	INSTALLATION OF SATELLITE DISH	Permit Issued
KP-1134/2008	14 Barwon Court	CLAYTON SOUTH	22/12/2008	14/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-144/2009	38-40 Station Street	ASPENDALE	12/03/2009	11/01/2010	ALTS & ADDS TO DWELLING	Permit Issued
KP-151/2009	76 Balcombe Road	MENTONE	16/03/2009	14/01/2010	MIXED USE DEVELOPMENT	Permit Issued
KP-207/2009	13 Chapel Road	MOORABBIN	31/03/2009	5/01/2010	B'LD & WORKS - MIXED USE DEVELOPMENT	Permit Issued
KP-244/2008	35 Latrobe Street	CHELtenham	4/03/2008	12/01/2010	4 DWELLINGS - 4 LOT SUBDIVISION	Permit Issued
KP-304/2009	8 Mount View Street	ASPENDALE	13/05/2009	25/01/2010	TWO (2) DWELLINGS	Notice of Decision
KP-309/2009	3 Haughton Street	CHELtenham	14/05/2009	6/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-316/2009	16 Berry Avenue	EDITHVALE	18/05/2009	4/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-325/2009	20 Walter Street	MOORABBIN	21/05/2009	11/01/2010	BUILDING & WORKS AND REMOVAL OF EASEMENT	Permit Issued
KP-348/2009	145 Station Street	ASPENDALE	28/05/2009	25/01/2010	SATELLITE DISH	Refused
KP-352/2009	38 Argus Street	CHELtenham	29/05/2009	21/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-391/2009	56 Levanswell Road	MOORABBIN	17/06/2009	25/01/2010	BUILDINGS & WORKS	Permit Issued
KP-398/2007/A	22 Garfield Street	CHELtenham	2/06/2009	11/01/2010	TEN (10) DWELLINGS	Permit Issued
KP-435/2009	493C Warrigal Road	MOORABBIN	7/07/2009	12/01/2010	FACTORY / OFFICE / WAREHOUSE / RESTAURANT IN A ROAD ZONE CATEGORY 1	Permit Issued

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KP-445/2009	6 Delacombe Court	CHELTENHAM	10/07/2009	11/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-453/2009	426-431 Nepean Highway	CHELSEA	9/07/2009	18/01/2010	BUILDINGS AND WORKS IN ASSOCIATION WITH A RESTUARANT LIQUOR LICENSE AND REDUCTION IN CAR PARKING REQUIREMENT	Permit Issued
KP-459/2009	6 Linden Avenue	CHELTENHAM	13/07/2009	25/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-467/2009	422 Warrigal Road	HEATHERTON	16/07/2009	6/01/2010	SIGNAGE	Permit Issued
KP-472/2009	1 57-59 Golden Avenue	CHELSEA	17/07/2009	6/01/2010	TEN (10) TOWNHOUSE S	Withdrawn
KP-473/2009	3 4 Anderson Court	MENTONE	21/07/2009	11/01/2010	ALTS & ADDS TO GARAGE	Permit Issued
KP-483/2009	77-99 Redwood Drive	DINGLEY VILLAGE	22/07/2009	22/01/2010	REMOVAL OF COVENANT	Permit Issued
KP-523/2009	17 Berry Avenue	EDITHVALE	7/08/2009	7/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-524/2009	10 158 Como Parade West	PARKDALE	10/08/2009	11/01/2010	EXTENSIONS TO A DWELLING ON A LOT LESS THAN 300 SQUARE METRES	Permit Issued
KP-533/2009	37 Oak Avenue	CHELTENHAM	12/08/2009	21/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-536/2008	50 Clydebank Road	EDITHVALE	4/06/2008	28/01/2010	DWELLINGS ALTERATIONS AND ADDITIONS	Permit Issued
KP-546/2009	43 Weymar Street	CHELTENHAM	25/08/2009	12/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-548/2009	4 Hall Street	CHELTENHAM	19/08/2009	11/01/2010	THREE (3) DWELLINGS	Permit Issued
KP-572/2009	79-81 Cochranes Road	MOORABBIN	27/08/2009	12/01/2010	BUILDINGS AND WORKS	Permit Issued
KP-6/2010	95 Warren Road	PARKDALE	7/01/2010	27/01/2010	ALTERATIONS & ADDITIONS TO A DWELLING	Permit Issued
KP-617/2009	12 Edithvale Road	EDITHVALE	17/09/2009	28/01/2010	TWO (2) DWELLINGS	Refused
KP-623/2009	33 Fifth Avenue	CHELSEA HEIGHTS	18/09/2009	25/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-641/2005/A	1 12 Berwen Street	CHELSEA	11/03/2009	11/01/2010	BUILDINGS AND WORKS	Permit Issued

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KP-681/2009	221-223 Boundary Road	MORDIALLOC	15/10/2009	28/01/2010	BUILDINGS AND WORKS	Permit Issued
KP-691/2009	316 Highett Road	HIGHETT	20/10/2009	8/01/2010	BUILDINGS AND WORKS	Permit Issued
KP-714/2009	10 Marriott Street	PARKDALE	28/10/2009	8/01/2010	EXTENSIONS TO A DWELLING ON A LOT LESS THAN 300 SQUARE METRES	Permit Issued
KP-728/2007/A	21 White Street	PARKDALE	2/09/2009	28/01/2010	CHANGE OF USE / SIGNAGE / CAR PARKING	Notice of Decision
KP-755/2009	25 North Shore Drive	PATTERSON LAKES	10/11/2009	7/01/2010	VARIATION OF EASEMENT	Permit Issued
KP-758/2009	36 Bridges Avenue	EDITHVALE	16/11/2009	7/01/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-768/2009	4 Ferrier Grove	BONBEACH	23/11/2009	4/01/2010	BUILDINGS AND WORKS	Permit Issued
KP-770/2009	89 Benkel Avenue	CHELTENHAM	20/11/2009	30/01/2010	ONE (1) DWELLING	Permit Issued
KP-802/2008	30 Inverness Street	CLARINDA	26/08/2008	13/01/2010	THREE (3) DOUBLE STOREY DWELLINGS	Notice of Decision
KP-808/2007	1144-1148 Nepean Highway	HIGHETT	11/10/2007	5/01/2010	B & W - WAREHOUSE / CAR PARK INCREASE	Notice of Decision
KP-808/2007/A	1144-1148 Nepean Highway	HIGHETT	1/07/2009	7/01/2010	B & W - WAREHOUSE / CAR PARK INCREASE	Notice of Decision
KP-811/2009	234 Centre Dandenong Road	CHELTENHAM	8/12/2009	8/01/2010	BUILDINGS AND WORKS	Permit Issued
KP-820/2009	36 Fifth Street	PARKDALE	10/12/2009	13/01/2010	SINGLE DWELLING	Permit Issued
KP-834/2009	59-65 Cochranes Road	MOORABBIN	17/12/2009	29/01/2010	MOTOR VEHICLE SALES	Permit Issued
KP-840/2009	50 Elliot Street	MORDIALLOC	21/12/2009	4/01/2010	EXTENSION TO EXISTING DWELLING	Permit Issued
KP-844/2008	1A Golden Avenue	CHELSEA	10/09/2008	8/01/2010	FIVE (5) DWELLINGS WITH BASEMENT CAR PARKING	Permit Issued
KP-844/2009	1 18 White Street	MORDIALLOC	22/12/2009	11/01/2010	ALTERATIONS AND ADDITIONS TO A DWELLING	Permit Not Required
KP-854/2009	488-490 South Road	MOORABBIN	22/12/2009	6/01/2010	NEW EDUCATIONA	Permit Issued

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					L FACILITY	
KP-901/2002/B	469 Station Street	BONBEACH	10/11/2009	12/01/2010	TWO (2) DWELLINGS	Permit Issued
KP-925/2003/A	1 9 Bradshaw Street	MORDIALLOC	23/12/2009	8/01/2010	EXTENSION TO STUDIO	Permit Issued
KP-94/2009	32 Shearson Crescent	MENTONE	18/02/2009	8/01/2010	ALTERATIONS AND ADDITIONS TO WAREHOUSE	Permit Issued

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M 17

KP 318/09 – 1142 Nepean Highway, Highett

APPLICANT	Daniel Bowden Town Planning Pty Ltd
ADDRESS OF LAND	No. 1142 (Lot 1 on Title Plan 171802R) Nepean Highway, HIGHETT VIC 3190
PROPOSAL	Seventy-eight (78) dwellings
PLANNING OFFICER	Tess Johnson
REFERENCE NO.	KP318/2009
RELEVANT STATE PLANNING POLICY FRAMEWORK	Clause 12: Metropolitan Development Clause 14: Settlement Clause 15: Environment Clause 16: Housing Clause 18: Infrastructure Clause 19: Particular Uses & Development
RELEVANT LOCAL PLANNING POLICY FRAMEWORK	Clause 21.04: Vision Clause 21.05: Residential Land Use Clause 22.12: Transport, Movement and Access Clause 22.11: Residential Development Policy Clause 22.17: Highett Activity Centre Policy
ZONE	Clause 32.01: Residential 1 Zone
OVERLAYS	Clause 43.02: Design Development Overlay Schedule 12 Highett Activity Centre Clause 45.03: Environmental Audit Overlay
PARTICULAR PROVISIONS	Clause 52.06: Carparking Clause 52.07: Loading and Unloading of Vehicles Clause 52.29: Land Adjacent to a Road Zone, Category 1 or a Public Acquisition Overlay for a Category 1 Road Clause 52.34: Bicycle Facilities Clause 52.35: Urban Context Report and Design Response for Residential Development of Four or More Storeys
GENERAL PROVISIONS	Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA	Increased Housing Diversity
DECISION DATE BY	1 November, 2009
STATUTORY DAYS	101 days at 10 December, 2009 (Date lodged with VCAT)
CONSIDERED PLAN REFERENCES/DATE RECEIVED	TP01/D, TP04/G, TP05/G, SA05/D: received 5 January, 2010 TP02/F, TP03/F, TP06/E, TP07/D, TP08/F, TP09/D, TP10/F: received 29 October, 2009 Landscape Plan prepared by Leftfield Ref No. LC01-3164

1.0 KEY ISSUES

1.1 The key planning issues arising from this proposal relate to:

- § Traffic considerations (access and parking)
- § Amenity impact (internal and external)
- § Urban design (scale and built form)

2.0 APPLICATION FOR REVIEW AGAINST COUNCIL'S FAILURE TO DETERMINE:

2.1 The applicant has lodged an application with the Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine this application for planning permit within the required statutory time frame.

As such, Council is unable to formally determine the proposal though must, however, form a view as to the proposal which will be presented before the VCAT on a date yet to be scheduled.

The purpose of this report, therefore, is to outline to Council its Officers views with respect to the appropriateness of this proposal.

3.0 PROPOSAL

3.1 It is proposed to demolish the existing building on the land and develop the site for **seventy-eight (78) residential apartments**, ranging from three to five storeys in height, within three separate buildings on the site, and to create and access to a Road Zone Category 1 pursuant to Clause 52.29 of the Kingston Planning Scheme.

Details of the proposal are as follows;

3.2 Site access

- § Vehicle access to the site is to be provided by a 6.1m wide access ramp to the Nepean Hwy service road. Due to the alignment of the accessway with the service road, a new 8.1 metre wide crossover will be provided at the southern end of the sites frontage.
- § Due to the one-way nature of the service road, vehicle movements to and from the site will be restricted to left-in / left-out only.
- § All vehicles accessing the car park will be able to enter and exit the site in a forwards direction.
- § A minimum accessway width of 6.4 metres is provided throughout the basement which will provide for two-way movements at all times.

3.3 Basement

- § A total of eighty (80) car spaces are provided on-site for residents only within the basement car park.
- § No visitor car parking is provided within the development, which will rely on on-street carparking within the service road.

- § The following ramp grades are proposed;
 - 1:16 (6.25%) for 5.0m (from the property boundary);
 - 1:5.33 (18.75%) for 2m;
 - 1:4 (25%) for 10.65m; and
 - 1:8 (12.5%) for 2m.
- § A minimum headroom clearance of 2.2m is provided within the basement car park.
- § Within the basement, three (3) entry points to each building area provided with three (3) lifts and three (3) stairwells for access to the buildings.
- § Eighty (80) storage spaces are provided for residents.
- § The provision of a bin storage area and a communication / service area.
- § Two rain water tanks are provided in the north-west corner of the basement.
- § Eighteen (18) bicycle storage spaces are provided for residents.
- § The provision of two areas to the north and south of the property frontage for deep tree planting area provided.
- § A fixed convex directional mirror is provided within at the base of the ramp.

3.4 Ground Floor

- § Facing Nepean Hwy is a central terrace providing access to each apartment at ground floor.
- § Nineteen (19) apartments are proposed at the ground level comprising of;
 - 15 x two bedroom apartment
 - 1 x two bedroom apartment with a study
 - 3 x one bedroom apartment with a study
- § Each apartment is open plan provided with a kitchen, laundry, bathroom, lounge and / or dining area.
- § Private open space areas are accessible from the living area and range from 8m² to 59m².
- § The common terrace area / concourse at ground level provides landscaping opportunities and a central accessway to the entrances of the development for pedestrians.

3.5 First Floor

- § Eighteen (18) apartments are proposed at the first floor level comprising of;
 - 14 x two bedroom apartment
 - 1 x one bedroom apartment
 - 3 x one bedroom apartment with a study
- § Each apartment is open plan provided with a kitchen, laundry, bathroom and lounge and / or dining area.

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§ Private open space areas are provided in the form of balconies, accessible from the living area and range from 8m² to 10m².

3.6 Second Floor

§ Seventeen (17) apartments are proposed at the second floor level comprising of;

- 13 x two bedroom apartment
- 2 x one bedroom apartment with a study
- 2 x three bedroom apartment

§ Each apartment is open plan provided with a kitchen, laundry, bathroom, lounge and / or dining area.

§ Private open space areas are provided in the form of balconies, accessible from the living area and range from 8m² to 16m².

3.7 Third Floor

§ Sixteen (16) apartments are proposed at the third floor level comprising of;

- 12 x two bedroom apartment
- 2 x one bedroom apartment with a study
- 2 x three bedroom apartment

§ Each apartment is open plan providing for a kitchen, laundry, bathroom, lounge and / or dining area.

§ Private open space areas are provided in the form of balconies, accessible from the living area and range from 8m² to 16m².

3.8 Fourth Floor

§ Eight (8) apartments are proposed at fourth floor level within Building A and comprise of;

- 7 x two bedroom apartment
- 1 x one bedroom apartment with a study

§ Each apartment is open plan provided with a kitchen, laundry, bathroom, lounge and / or dining area.

§ Private open space areas are provided in the form of balconies, accessible from the living area and range from 8m² to 10m².

§ Further setbacks from the street frontage are provided to ensure this level reads as a recessed element when viewed from the street frontage.

3.9 A summary of the above is provided in the below table;

TOTAL – 1 BED APARTMENT	13
TOTAL – 2 BED APARTMENT	61
TOTAL – 3 BED APARTMENT	4
TOTAL – ALL APARTMENTS	78
TOTAL – CAR SPACES	80

3.10 The proposal has an overall site coverage of 1570m² (55%).

3.11 A variety of building materials, colours and finishes are proposed which include;

- § Render (paint finish);
- § Shiplap timber (applied finish);
- § Colourbond cladding (miniorb);
- § Pre cast concrete (roughcast with exposed aggregate;
- § Pre cast concrete (expressed joints and applied finish);
- § Glazed window – black powdercoat frame;
- § Glazed curtain walls;
- § Alucabond panels;
- § Copper panels; and
- § Timber louvers (applied finish).

4.0 SITE & SURROUNDS

4.1 The subject site is located on the west side of Nepean Highway, between Highett Road and Bay Road and is currently occupied by a warehouse that previously sold and serviced boats, known as 'Fleet Marine'. The site has more recently been used for storage purposes.

4.2 The site is an irregular shaped allotment with a frontage to the Nepean Hwy service road of 30.3 metres, a maximum depth of 113.82 metres (average depth of approximately 104m) and an overall site area of 2868m². Vehicle access to the site is currently provided via two crossovers to the northern and southern side of the site, of 9.5 metres and 8.2 metres width, respectively.

4.3 The site falls from front to back (east-west) by approximately 2 metres. In addition, there is a 2 metre level difference (approximately) between the subject site and the land to the rear

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(west). There is also a notable difference of approximately 2 metres between the level of the Nepean Hwy and that of the service road.

4.4 No Stopping restrictions currently apply along the sites frontage to the Nepean Hwy service road.

4.5 The site contains no vegetation.

4.6 A power pole is located within the kerb, approximately 13 metres south from the sites northern property boundary.

4.7 The subject site is located within a Residential 1 Zone and is subject to an Environmental Audit Overlay and Design Development overlay Schedule 12 under the Kingston Planning Scheme. Lane-use in the immediate vicinity of the site is predominantly residential, with a small number of existing commercial / industrial uses located along the Nepean Hwy. These non-residential land uses in the immediate proximity include;

§ Moorabbin Court house, located adjacent to the subject site to the north.

§ Sir William Fry Reserve, located on the wester side of the Nepean Hwy Northbound Service Lane, approximately 200m south of the subject site.

§ Buckingham Motor Inn, located on the Nepean Hwy, approximately 300m north of the subject site.

§ Highett Reserve, located on Turner Road approximately 350m north-east of the subject site.

§ Southland Shopping Centre, located approximately 600 south of the subject site at the intersection of Nepean Hwy and Bay Road.

§ Highett Road Shopping Strip, including shops, supermarkets, banks etc., located approximately 600m north-west of the subject site.

§ Highett Railway Station, located approximately 800m north-west of the subject site.

Residentially zone land within immediate proximity includes;

§ No. 1144-1148 Nepean Hwy, located adjacent to the subject site to the south, which comprises an overall area of 21272.44m². Whilst this land is zoned for residential purposes, the existing industrial building on the land is still in operation, known as the Leigh Mardon site.

§ No. 1136-1138 Nepean Hwy, the former Highett Gasworks land, is located north of the magistrates' court; however the southwest corner of the subject site abuts this land. The land is 6.3 hectares in area, is currently vacant of any buildings and is undergoing remediation. A heritage listed chimney is centrally located on this site.

5.0 TITLE DETAILS

5.1 The Permit Applicant has completed the planning application form declaring that there is no restrictive covenant on the title.

6.0 SITE HISTORY

- 6.1 Council records indicate that the following Planning Permit(s) have been approved;
- § Council Record No. 1871 was issued by the City of Kingston on the 23rd March, 1987 for the construction of a commercial building on the land on the
 - § Council Record No. 3104 was issued by the City of Kingston on the 27th November, 1981 for the erection of a sign and fascia on the subject site.
 - § Planning Permit No. KP200/02 was issued by the City of Kingston on the 8th April, 2002 for the use of the land for motor vehicle sales and service.
 - § Planning Permit No. KP233/09 was issued on the 9th April, 2009 for a change of use to allow for the storage of paper products.

7.0 PLANNING CONTROLS

- 7.1 The subject site is located within a Residential 1 Zone and is subject to an Environmental Audit Overlay and Design Development Overlay Schedule 12.
- 7.2 Nepean Highway is identified in a Road Zone Category 1.

8.0 PLANNING PERMIT REQUIREMENTS

- § Pursuant to Clause 32.01, a planning permit is required to construct two (2) or more dwellings on a lot.
- § Pursuant to Clause 43.02, a planning permit is required to construct a building or construct and carry out works.
- § Pursuant to Clause 52.06, a planning permit is required to reduce / waive car parking requirements.
- § Pursuant to Clause 52.29, a planning permit is required to construct or alter an access to a Road Zone Category 1.

9.0 AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

- 9.1 **12th June, 2009** - The application was amended by the applicant on the 12th June, 2009, as a result of the applicant's discussions with the supply authority. The amendments included the reduction of the overall number of apartments from eighty-one (81) to eighty (80) and Building C recessed by 4.8 metres to accommodate the provision of a substation easement to the rear and front of the site (west).
- 9.2 **29th July, 2009** - Additional amendments to the application were made by the applicant on the 29 July, 2009 and 11 August, 2009. The amendments were largely in response to Council's further information letter dated 16th June, 2009, which included preliminary comments from Council's internal departments. The amended plans shows the additional information requested in Council's further information letter as well as some changes to the proposal.

These changes included, but are not limited to the following:

- § The distance between Building C and Building B increased at the point of entry from 3m to 6.5m and across the board to a minimum of 6.5m and up to 8m of separation.
- § The development revised so that seventy-eight (78) of the eighty (80) apartments receives direct solar access at equinox. Amenity for the ground floor apartments of Building B improved due to greater separation of Building C and B and the height of Building C reduced by 900mm.
- § Feature Blade wall of Building C at the entrance of the development has been reduced in height by over 3m. The blade wall has also been relocated further north to increase solar access at the main entrance. Apartments G1.19, 2.19 and 3.19 totally redesigned to create two storey single apartment only at the entrance, resulting in the parapet height being reduced to 6m
- § Size and scale of all feature blade walls to Building C and B fully revised and reduced in height and length.
- § Building C made narrower to improve solar amenity to concourse and Building A and B apartments.
- § Building A and B have been completely separated and now include dedicated individual stair and lift cores to service each building. Bulk of single building been broken up and entries have been located near the middle of the site to maintain pedestrian activity across the length of the site.
- § Interaction to ground floor common terrace provided with walk up access to apartment's private open space areas and main entries to Building A and B located of common terrace areas. Fixed seating, bike racks and other communal amenity is also provided on terrace.
- § Car park layout altered
- § Revised materials schedule and landscaping plan.

10.0 ADVERTISING

- 10.1 As discussed above in Section 9 of this report, prior to advertising, the Permit Applicant submitted revised in response to the initial concerns outlined within the Planning Officer's further information letter. It is these revised plans that formed part of the advertising documentation.
- 10.2 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. One (1) objection to the proposal was received on behalf of the Department of Justice Victoria. Namely, the objector expressed concern that the proposed development would have a detrimental impact on the privacy and security of the Moorabbin Court and requested a number of amendments to the development to ensure the security and privacy of the courts was maintained.

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- 10.3 Following the advertising process, the plans have been further amended to address some of the concerns raised by objector and in further response to discussions with Council Officers and Councillors. It should be noted that the objection has since been withdrawn on the 29th October, 2009.

11.0 AMENDMENT TO THE APPLICATION AFTER NOTIFICATION

- 11.1 **26th October, 2009** - The application was amended by the applicant on the 26th October, 2009 in response to Council Officer's email of the 30th September, 2009, which sought further clarification and response by the applicant to the Design Development Overlay Schedule 12.

The following changes were made to the plans in response to the drainage requirements of the Design Development Overlay;

- § Building A increased in height by 750mm
- § Building B and C increased in height by 250mm
- § The entire ground floor concourse is now 100mm higher at the eastern end and 600mm higher at the western end, so the development is now a consistent RL across the entire concourse.
- § Overall building heights shown from title boundary to the top of the proposal (previously they were taken from FFL of ground floor to the top of the proposal).

- 11.2 **29th October, 2009** - The application was amended by the applicant on the 29th October, 2009, as a result of the agreements reached with the objector (now withdrawn). The changes include the following;

Apartment C

North facing balconies:

- § Provision of full height screens to all the above ground, north-facing balconies in Apartment C, including the rear apartments that have a balcony that is setback from the boundary.
- § Provision of screening details in accordance with above.

North facing windows:

- § The provision of opaque glazing to 1.7m above the finished floor level of all north facing windows of apartments on level 1, 2 and 3 of Building C.

Apartment A

North facing balconies on rear apartments

- § Provision of semi-transparent screening to the north facing balconies of the two rear apartments on levels 1, 2, 3 and 4 in Building A to a height of 1.7m above the finished floor level.

Boundary fence Detail

§ The north facing common boundary fence to be constructed of overlapping timber palings to a height of 1.8 metres.

- 11.3 **5th January, 2010** – The application was amended by the applicant on 5th January, 2010. The amendments were largely in response to Council's letter dated 30th November, 2009, which requested the applicant submit further information for assessment, in accordance with the Design Development Overlay Schedule 12, and modifications to the plans in response to meetings held with Council Officers and some Ward Councillors.

The changes included, but are not limited to the following:

- § Total number of apartments reduced to seventy-eight (78);
- § The overall apartment mix altered to provide greater diversity of dwellings types through the inclusion of four, 3 bedroom apartments.
- § Minor internal changes.

(Note: there were no external changes made to the plans as part of the above amendments)

- 11.4 The revised plans of the 29th October, 2009 and 5th January, 2010 submitted after the advertising process constitute those that are now under consideration by Council and, therefore, supersede all earlier plans.

Plan details as follows;

TP01/D, TP04/G, TP05/G, SA05/D: received 5 January, 2010

TP02/F, TP03/F, TP06/E, TP07/D, TP08/F, TP09/D, TP10/F: received 29 October, 2009

Landscape Plan prepared by Leftfield Ref No. LC01-3164

12.0 REFERRALS

- 12.1 The application was referred externally to Vic Roads on the 13th August, 2009 pursuant to Section 55 of the Planning and Environment Act. Vic Roads had no objection to the application and provided the following response;

It is noted that vehicular access to the site would be from the service road of Nepean Hwy. Accordingly, Vic Roads has no objection to the development.

- 12.2 The application was referred internally on the 13th August, 2009 (where appropriate amended plans have been re referred) to the following internal departments:

- § Council's Development Engineer;
- § Council's Vegetation Management Officer;
- § Council's Traffic Department;
- § Council's Urban Designer;

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- § Council's Strategic Department;
- § Council's Roads and Drains Department;
- § Council's Environmental Planning Department; and
- § Council's Waste Management Officer.

It should be noted that concerns raised by internal departments were raised as part of further information and have largely been addressed.

The relevant comments from each of the abovementioned departments are detailed below;

12.3 Development Engineers

Council's Development Engineers advised of no objection to the proposed development subject to the inclusion of suitable drainage conditions being placed on any permit issued. These conditions are included as part of Council Officers recommendation.

12.4 Vegetation Management Officers

Council's Vegetation Management Officer advised of no objection to the proposed development subject to the inclusion of suitable vegetation conditions being placed on any permit issued. These conditions are included as part of Council Officers recommendation.

12.5 Traffic Department

Note: It should be noted that the below comments were made in relation to the proposal of eighty (80) dwellings. As discussed previously within this report, the development has undergone a number of amendments and revisions, whereby the total number of apartments has been reduced to seventy-eight (78).

It is considered that the below traffic comments are still relevant, as the proposal, in relation to traffic concerns, has not been significantly altered.

Planning Scheme Parking Requirement

As the proposed development is four (4) or more storeys in height, the parking provisions of Clause 52.06 are applicable. Clause 52.06 requires parking to be provided at a rate of 2 car spaces per dwelling which equates to a total of 160 car spaces.

However, although not strictly applicable, it is considered appropriate to instead apply the parking provision of Clause 55 (ResCode). Clause 55 requires residential parking to be provided at the following rates:

- § 1 car space per 1 or 2 bedroom dwelling;
- § 2 car spaces per 3 or more bedroom dwelling; and
- § 1 visitor car space per 5 dwellings.

Clause 55 also stipulates that studies should be counted as bedrooms on which basis a number of apartments would be considered a two or three bedroom apartment. However, given the size and open layout of the studies within the development, they are unlikely to be utilised as a bedroom and therefore, are not considered as a bedroom.

Therefore, applying the Clause 55 rates equates to a requirement for 80 resident car spaces and 16 visitor car spaces.

Adequacy of Parking Provision

The proposed provision of 80 car spaces meets the resident parking requirement. However, visitor parking would need to be accommodated on-street (up to 16 spaces).

A traffic report submitted by the applicant, prepared by TraffixGroup, claim that the visitor parking demand would be 0.12 car spaces per dwelling equating to 10 spaces (based on surveys of existing apartment buildings) although no evidence has been provided to support this (such as the size and location of the apartment buildings surveyed). It is also noted that the dwellings within the proposed building would predominantly be 2 bedrooms in size (65 dwellings out of the total of 80) and would generate higher visitor parking demands than an apartment building with a greater proportion of 1 bedroom dwellings.

Spot parking surveys undertaken by TraffixGroup indicate sufficient parking to accommodate a demand of 16 spaces in the evenings and on weekends (although it is noted that two of the spot surveys were undertaken during School Holidays when on-street parking demands may have been lower than usual).

The Kingston Farmer's Market takes place at Sir William Fry Reserve (200m south of the site) once a month on a Saturday. This generates significant parking demands within the service road although no parking survey has been undertaken at a coinciding time.

Furthermore, the spot survey undertaken during on Tuesday 28 April 2009 at 10am indicated only 9 vacant on-street car spaces were available. Traffic Engineering acknowledges that visitor parking demands would be lower in the daytime compared to evenings and weekends however some level of visitor parking demand would still be generated in the daytime. It is considered unreasonable for the proposed development to generate a parking demand that would occupy a significant proportion of the small number of vacant on-street car spaces available.

It is also considered unreasonable to require all visitors to park on-street from the point of view that some long stay visitors would not wish, from a security perspective, to have to park their vehicles on-street for long periods of time.

Traffic Engineering therefore recommends that at least some of the Clause 55 visitor parking requirement (e.g. 5 visitor car spaces) be provided on-site. These car spaces must be suitably marked as visitor parking and be conveniently accessible.

Any permit issued must include a note prohibiting residents/tenants of the proposed development from being able to obtain resident or visitor parking permits.

Bicycle Facilities

Clause 52.34 requires bicycle parking to be provided at the following rates:

- § 1 resident bicycle space per 5 dwellings; and
- § 1 visitor bicycle space per 10 dwellings.

Applying these rates to the proposed development of 80 dwellings equates to a requirement for 16 resident bicycle spaces and 8 visitor bicycle spaces.

Clause 52.34 also specifies that resident bicycle spaces must be “provided either in a bicycle locker or at a bicycle rail in a lockable compound” and that visitor bicycle spaces “must be provided at a bicycle rail”.

The proposed provision of 18 bicycle spaces for residents within the basement car park exceeds the Planning Scheme requirement.

Clause 52.34 requires bicycle spaces to accommodate bicycles of minimum dimensions 1.7m length, 1.2m height and 0.7m width. Further details indicating what type of bicycle parking facility is proposed e.g. rails, wall mounted racks etc and fully dimensioned in accordance with an appropriate design standard or guideline.

Car Park Access & Layout

Traffic Engineering notes the following concerns/comments:

- § AS2890.1 specifies that where there are successive grade changes less than 3m apart and/or there are grade changes of 18% or more (as is the case for the proposed ramp), grade changes are to be checked using the ground clearance template at Appendix C of the standard. An analysis by Traffic Engineering with this template indicates that vehicle scraping would occur at the base of the ramp i.e. the ramp design does not accord with AS2890.1. Redesign of the ramp is hence required.
- § Analysis with vehicle swept path templates indicates that a B85 and B99 vehicle would be unable to pass each other at the junction between the access driveway and the car park aisle (a requirement of AS2890.1). Either a 4m radius curve should be provided at this junction (requiring deletion of car space 48) or an alternative layout should be sought. The applicant should also be requested to provide a computer swept path analysis indicating that B85 and B99 vehicles would be able to pass one another.
- § AS2890.1 requires a pedestrian sight triangle to be provided on the departure side of the driveway, measuring at least 2.5m (along the driveway edge) x 2.0m (along the property line). The plans indicate a high wall in this location which would obstruct sight lines. The plans should be amended so that a pedestrian sight triangle is provided with the above dimensions and which does not contain any objects or vegetation greater than 900mm in height measured above the ramp surface.
- § A notation should be placed on the plans to indicate that a minimum of 2.2m height clearance would be provided within the basement car park clear of any overhead obstructions including pipes, beams, lights etc.

- § The height clearance above the ramp cannot be determined from the plans provided. Traffic Engineering requires a longitudinal section of the ramp to be prepared which demonstrates that at least 2.2m height clearance to the wheelbase of a B99 vehicle would be provided as per Figure 5.3 of AS2890.1.
- § The setback of the columns adjacent to the car spaces has not been indicated on the plans. AS2890.1 specifies a setback of 0.75m to 1.75m for a 5.4m long space. For a 4.9m long space, it is considered that a setback of 0.4m to 1.4m would provide an appropriate balance between vehicle manoeuvrability and door opening convenience. It is recommended that this setback be provided and it must be shown on the plans.
- § The use of over bonnet storage units is not supported by Traffic Engineering. Such units limit the types of vehicle that can utilise the car space and also make it impossible for many vehicles (such as station wagons) to reverse into the space.

Waste Collection

The submitted Waste Management Plan suggests weekly collection of general waste by Council. It is suggested this is not appropriate given the large number of bins which would need to be placed on the kerbside.

Vehicles parked along the sites frontage are likely to result in garbage trucks double parking (blocking through traffic in the service lane). Consideration could be given to a 'No Parking' area that would also facilitate removalists etc.

The Waste Management Plan indicates that bins would be transferred to the kerbside via the access driveway by a building caretaker. The grade of the driveway (1 in 4) is considerably steep, contrary to the claim made in the Waste Management Plan. It is likely that the caretaker will need to use the lifts in order to wheel bins to the kerbside which is undesirable. Conditions regarding the ramp should address this issue.

Traffic Impact

The TraffixGroup letter suggests that the additional traffic generated would be readily absorbed given the left-in/left-out access arrangement and the sites location on arterial road service road.

Traffic Engineering concurs that the traffic generation of the proposed development would be unlikely to have any significant adverse impact.

Overall, Council's Traffic Department support the proposed development, subject to the inclusion of a number of conditions to address the above concerns.

12.6 Urban Design / Strategic Department

The applicant has considered some of the recommendations in the preliminary comments which have resulted in an improvement in amenity within the development. The development has good articulation along with a variety of materials giving it a very contemporary outlook. Overall the Strategic Planning Department is happy with the application, but there are some minor concerns which are highlighted below:

- § There is no visitor parking provided within the development. This can cause problems in the future with more residential development in the Highett Gas & Fuel Site and Leigh Mardon Site. Some amount of visitor parking should be allowed for in the development.
- § The gap between Building A and Building B is a good outcome. Future provision should be made to allow for a pedestrian connection from this gap if the Leigh Mardon Site decides to put a public road along the boundary. This would allow better pedestrian connectivity from the site to the open space reserves.
- § The balcony for Apartment A 1.05 and above should be reduced to mitigate privacy and security issues with the bedroom of apartment A 1.04. This comment was part of preliminary comments but hasn't been addressed.
- § The South Elevation needs some articulation to create an interesting façade. This is more necessary especially for Building B where majority of the façade is pre-cast concrete.
- § Detail need to be provided for the privacy screens located along the service road and the internal courtyard.
- § A development of this size should allow for rain water harvesting. This can be used to irrigate the landscaped areas.

12.7 Roads and Drains Department

Council's Roads and Drains Department advised of no objection to the proposed development subject to the inclusion of suitable conditions being placed on any permit issued. These conditions are included as part of Council Officers recommendation.

12.8 Environmental Planning Department

It is noted within many sections of the submitted ESD report provided by SBE are presented 'recommendations' to the developer, and therefore it is not always clear what the proposed or final development will utilise to reduce its environmental impacts.

Council Officer's requested further clarification regarding the above, and the below information was provided by the applicant;

§ *Heating and Cooling – Electric 6 star reverse cycle split systems*

§ *Hot Water Systems – 3 Phase Electric Instantaneous*

§ *Lighting:*

○ *Internally: compact fluorescents*

○ *Externally : Solar Powered LED*

§ *Appliances –*

○ *Cook Tops: electric induction*

○ *Ovens: electric fan forced*

§ Energy

The developer should look to take advantage of more efficient “*active systems*” within the building as well as trying to “*maximise passive design*”.

All of the proposed appliances (cooking, hot water, heating) in the ESD utilise electricity as the principle energy source. Council strongly recommends these proposed systems be replaced with gas appliances instead of electric.

Hot Water

Instantaneous electric water heaters will emit more carbon dioxide than instantaneous gas fired units. The developer should aim to install an instantaneous, gas fired hot water system for these dwellings as a minimum (solar boosted gas system recommended).

Cooking

Electric cook tops and ovens also emit more carbon dioxide than instantaneous gas fired units. The developer should aim to install gas appliances.

Renewable Energy Generation

Solar (photovoltaic) and wind electricity generation should also be considered to reduce the demand on coal fired electricity supply.

§ Water

Rainwater Harvesting and Reuse

The development should make greater use of its rainwater harvesting potential. This would include; increasing the system storage capacity and utilising tank water for toilet flushing and washing machines.

Wherever possible, this system should utilise gravity to distribute the harvested rainwater. Where pumps are necessary, the energy consumption of the system should be offset with the generation of renewable energy (e.g. solar or wind) to reduce greenhouse gas emissions.

Recycled Water Supply

This development should allow for the eventual connection to the recycled water supply network.

Stormwater Management

The development should ultimately aim for zero stormwater runoff to achieve maximum flood attenuation and stormwater treatment. This can be achieved through good Water Sensitive Urban Design (WSUD) and rainwater harvesting.

‘Excess’ stormwater runoff that can not be harvested should be encouraged to dissipate naturally into the ground. Porous paving is one such examples of WSUD that can improve infiltration and reduce stormwater runoff from a site.

12.9 Waste Management

Council's Waste Management Department is generally supportive of the waste management plan for the development. However, some complications may exist for Council providing waste services and a contractor providing recycling services on another day, as there is not enough room on the nature strip for all recycling and garbage bins.

It is recommended that Council provides for both waste and recycling collection services for this development.

13.0 RELEVANT POLICIES

13.1 State Planning Policy Framework (SPPF)

Clause 12 (Metropolitan Development)
Clause 14 (Settlement)
Clause 15 (Environment)
Clause 16 (Housing)
Clause 18 (Infrastructure)
Clause 19 (Particular Uses and Development)

13.2 Local Planning Policy Framework (LPPF)

Clause 21.04 (Vision)
Clause 21.05 (Residential Land Use)
Clause 21.12 (Transport, Movement and Access)
Clause 22.11 (Residential Development Policy)
Clause 22.17 (Highett Activity Centre Policy)

13.3 Zoning

Clause 32.01 (Residential 1 Zone)

13.4 Overlays

Clause 43.02: Design Development Overlay Schedule 12 Highett Activity Centre
Clause 45.03: Environmental Audit Overlay

13.5 Particular Provisions

Clause 52.06 (Car parking)
Clause 52.07 (Loading and Unloading of Vehicles)
Clause 52.29 (Land Adjacent to a Road Zone, Category 1 or a Public Acquisition Overlay for a Category 1 Road)
Clause 52.34 (Bicycle Facilities)
Clause 52.35 (Urban Context Report and Design Response for Residential Development of Four or More Storeys)

13.6 General Provisions

Clause 65 (Decision Guidelines)

14.0 PLANNING CONSIDERATIONS AND DISCUSSION:

14.1 The following sections will consider the application against the relevant provisions of the State Planning Policy Framework (SPPF), Local Planning Policy Framework (LPPF), zoning and overlay objectives and the particular provisions of the Kingston Planning Scheme.

14.2 STATE PLANNING POLICY FRAMEWORK

The SPPF sets out the relevant statewide policies for residential development at Clause 11 (Goals and Principles), Clause 12 (Metropolitan Development), Clause 14 (Settlement), Clause 16 (Housing) and Clause 19 (Design and Built Form). Clause 11 requires Council to integrate the range of policies relevant to the issues to be determined and to balance conflicting objectives in favour of net community benefit and sustainable development.

14.3 Clause 12: Metropolitan Development:

The provisions of Clause 12 override other strategies in the SPPF where there are strategy differences. Clause 12 essentially reproduces the policy directions of Melbourne 2030 and it outlines objectives and strategies under each policy to achieve the goals of Melbourne 2030, as relevant to this application, these are discussed below;

Clause 12.01: A More Compact City

This 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, and 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

This 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. It promotes issues of good urban design, recognition and protection of cultural identity and neighbourhood character, sense of place heritage, improvement of community safety and open space.

Clause 12.06: A Fairer City

This 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.

Clause 12.07: A Greener City

This seeks to minimise impacts on the environment by reducing the amount of waste generated, reducing energy usage, manage water use and reduce the impact of stormwater on bays and catchments.

In general, the proposal is considered to satisfy the above listed objectives. The proposal embraces urban consolidation within close proximity to Kingston's only 'Principal Activity Centre' (Southland) and Neighbourhood Activity Centre (Highett). The proposed development would provide for a mix of additional housing which can take full advantage of public transport, commercial facilities and recreation facilities located in the area.

14.4 Clause 14: Settlement

The key objectives under Clause 14.01 of the Kingston Planning Scheme aims *'to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public use'* and *'to facilitate the orderly development of urban areas'*.

The proposed development is considered to satisfy the objectives by introducing a new residential component on the site and into the area in the form of apartment style dwellings.

14.5 Clause 15: Environment

Clause 15.06: Soil Contamination

This clause seeks to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely. An Environmental Audit Overlay is applicable to the subject site, and through the provision is suitable environment conditions, will ensure that the sensitive use is appropriate.

Clause 15.12: Energy Efficiency

The key objective of this Clause is *'to encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions'*.

Further, planning and responsible authorities should:

- § Promote energy efficient building;
- § Promote consolidation of urban development and integration of land use and transport; and
- § Encourage retention of existing vegetation or revegetation as part of subdivision and development proposals.

It is considered that the nature of the proposed development generally accords with the above strategies for general implementation. An Ecological Sustainable Design (ESD) report has been submitted by the applicant and assessed by Council's Environmental Planning Department who advised of no objection to the proposed development subject to suitable conditions.

14.6 Clause 16: Housing

Clause 16.02: Medium Density Housing

This policy aims 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 and improves energy efficiency of housing.

It is considered that the development generally accords with this objective by providing a range of dwellings types in an area with excellent access to public transport, commercial facilities and recreation facilities located in the area.

14.7 Clause 18: Infrastructure

Clause 18.02: Car Parking and Public Transport Access to Development

This policy aims to ensure that new developments are provided with good access and that new developments take advantage of all available modes of transport to minimise impact on existing transport networks and the amenity of the surrounding areas.

The proposal is located approximately 800m from the Highett Railway Station and approximately 600m from the Southland Shopping Centre which has excellent access to bus services. The site amply located to encourage pedestrian movements between and to the activity centres. Car parking within the development is provided in the form of a basement. Overall is considered that the site's location takes advantage of all major forms of public and private transportation services available including train, bus, private vehicle, walking and bicycle etc.

Clause 18.03: Bicycle transport

This policy seeks to integrate planning form bicycle travel with land use and development planning and encourage as an alternative mode of travel. The proposed development provides twenty-two (22) bicycle spaces within the basement and therefore meets this objective.

14.8 Clause 19: Particular Uses And Development

Clause 19.03: Design and Built Form

It is policy to achieve high quality urban design and architecture that reflects the particular characteristics, aspirations and cultural identity of the community. Pursuant to Clause 19.03 the following design principles are relevant to this application:

Context

It is policy that:

§ development must take into account the natural, cultural and strategic context of its location.

It is considered that the development takes into account the physical and strategic context of the site, which is located in close proximity to the Southland Shopping Centre (Major Activity Centre) and the Hihett Activity Centre (Neighbourhood Activity Centre). An intensive residential land use and development is expected within this particular area, as identified within the Local Planning Policy Framework and Design Development Overlay applicable to the site. It is considered that the proposal adequately satisfies the above provision.

The Public Realm

It is policy that:

- § the public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.

The site is currently occupied by a commercial building built to the sites boundaries and offers no visual or physical connection to the street. The proposed development is in accordance with the zoning of the land and the removal of the existing building will allow introduce and activate the site frontage with the existing urban area. The existing footpath on the service road is in good condition and provides access to and from the site as well as to and from the surrounding area. A suitable condition to ensure that the footpath level remains unchanged should be included as a condition.

There is also potential for the future provision of a pedestrian path to the adjoining property to the south, through the space between buildings A and B, to provide greater integration within these sites.

Safety

It is policy that:

- § new development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.

The proposal does not appear to raise any issues in this respect and overall safety will be improved via the visual surveillance from residential apartments with outdoor living areas, windows and the like to the streetscape.

Landmarks, Views and Vistas

It is policy that:

- § landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.

It is considered that the existing immediate area does not contain any significant landmarks, views or vistas, i.e., notwithstanding the heritage listed chimney located on the Gasworks Site. It is considered that the proposal will in no way detrimentally impact on the heritage listed chimney.

It should be noted that it is anticipated that a new character in this precinct is expected through the implementation of the Design Development Overlay Schedule 12, which in this locality is yet to be fully achieved. The proposed development had been designed in response to this policy, which will be discussed at length later in this report.

Pedestrian Spaces

It is policy that:

- § the design of the relationship between buildings and footpaths and other pedestrian spaces, including the arrangement of adjoining activities, entrances, windows, and architectural decoration, should enhance the visual and social experience of the observer.

It is considered that the proposal has adequately addressed the above provision. Various elements have been included into the overall design of the buildings which enhance the relationship between the building, public spaces and proposed character anticipated for the area, as referenced in the Local Planning Policies and Design Development Overlay.

The proposal provides an active street frontage to the Nepean Hwy service road that will vastly improve the existing conditions with respect to pedestrian amenity. The single vehicular entry and basement car park ensures that the frontage is not dominated by accessways or carparking. It is considered that a quality of pedestrian space is provided for within the development.

Heritage

It is policy that:

- § new development should respect, but not simply copy, historic precedents and create a worthy legacy for future generations.

As noted above (landmarks, views and vistas) the proposal does not raise any concerns with respect to the any potential impact on the heritage chimney located at the Gasworks Site north of the site.

Consolidation of Sites and Empty Sites

It is policy that:

- § *new development should contribute to the “complexity” and diversity of the built environment; and*
- § *site consolidation should not result in street frontages that are out of keeping with the “complexity” and “rhythm” of existing streetscapes.*

The anticipated residential development of this area is yet to come to fruition. The proposed development is the first application within this precinct for the construction of residential development. It is considered that the proposed development is in keeping with the “complexity” and “rhythm” of the anticipated residential strategy for this area.

Light and Shade

It is policy that:

- § the enjoyment of the public realm should be enhanced by a desirable balance of sunlight and shade; and

- § this balance should not be compromised by undesirable overshadowing or exposure to the sun.

The form and articulation of the development creates variations in the light and shade over public and private areas. Shadows cast by the development generally fall over the subject site and adjoining commercial property to the south. Importantly, the effects of shadowing are specifically addressed within the design outcomes of the Design Development Overlay Schedule 12, which was successfully addressed as part of the applicants response to Councils further information letter and discussions held with Council Officers.

Energy and Resource Efficiency

It is policy that:

- § all buildings, subdivisions and engineering works should promote more efficient use of resources and energy efficiency.

It is considered that the proposed development addresses the above policy. Council Officer's have worked closely with the applicant and architects to achieve a greater level of solar access to the development as a whole. The design was significantly amended to reduce the amount of feature walls and provide for greater separation between Building C and Building B to allow for the majority of apartments to receive solar access at equinox.

Subject to the inclusion of suitable conditions, it is considered that this development and buildings should be energy sufficient.

Architectural Quality

It is policy that:

- § new development should aspire to the high standards in architecture and urban design; and
- § any rooftop plant, lift over-runs, service entries, communication devices, and other technical attachment should be treated as part of the overall design.

It is considered that the proposal demonstrates a high level of architectural and urban design merit. The provision of three separate building forms coupled with a variety of quality materials and colours achieves good articulation, visual interest and is a contemporary design response for the site.

The Design Development Overlay Schedule 12 specifies a preferred character for this area and specific design objectives and standards which area discussed in more detail later in this report.

Landscape Architecture

It is policy that:

- § recognition should be given to the setting in which buildings are designed and the integrating role of landscape architecture.

There is no existing vegetation located on the site. The development of this land for creates an opportunity to revegetate the site. Some areas of deep soil planting have been provided within the sites rear and frontage and a large terrace area at ground floor which is proposed to be landscaped. The extensive basement limits the amount of meaningful planting available.

The Design Development Overlay Schedule 12 specifies, amongst other things, that the landscape design must provide canopy trees and native and indigenous plantings. This will be discussed in more detail later in this report, and can be address via conditions.

14.9 LOCAL PLANNING POLICY FRAMEWORK

The Local Planning Policy Framework (LPPF) contains Council's strategic direction, the Municipal Strategic Statement (MSS), which is an extension of direction established by the SPPF, and the local policies that implement the LPPF.

Within Clause 21 (MSS) of the Kingston Planning Scheme, the following six (6) attributes are submitted as being the most relevant to the consideration of the proposal:

- § Clause 21.04: Vision
- § Clause 21.05: Residential Land Use
- § Clause 21.12: Transport, Movement and Access
- § Clause 22.11: Residential Development Policy
- § Clause 22.16: Highett Activity Centre Policy

After reviewing the relevant strategic directions that emerge from the above-mentioned Clauses, the following can be summarised:

14.10 Clause 21.04 Vision

This policy sets out the main land use themes within the City of Kingston which includes residential land uses, retail and commercial land uses, industrial land uses, foreshore land uses and wetlands and waterways land uses. As relevant to this application, the broad direction of overall strategic framework plan identifies Highett as an area for the promotion of medium to higher density housing opportunities. It is considered that the proposal is in accordance with the broad direction set by this policy.

14.11 Clause 21.05: Residential Land Use

This clause makes specific reference to Kingston's 'Large Residential Opportunity Sites' within the municipality, which includes '*the former Gas and Fuel site at 1138 Nepean Highway, Highett [which] will become available for redevelopment in coming years*'. The subject site is considered to be contained within this precinct earmarked for redevelopment.

The subject site is located in an area designated for 'Increased Housing Diversity' within this policy. The intention in these areas is that new medium density housing will comprise of a variety of housing types and layouts to respond to the established but evolving urban character.

This clause identifies a number of key issues, objectives and strategies to address these key issues for future residential land use planning within the City of Kingston.

The key issues are as follows;

- § *Impacts of a decreasing average household size and a general ageing of the population on the demand for additional dwellings.*
- § *Impact of future changes in household structure on the demand for greater diversity of housing stock.*
- § *Impact of future population changes on the supply of and demand for community and social facilities.*
- § *Impact of new residential development in established urban areas on existing ageing infrastructure such as drains and roads.*
- § *Loss of vegetation and historic buildings through the redevelopment process.*
- § *Impact of new residential development on the character and amenity of existing residential areas.*
- § *The need to understand the capacity of local areas to accommodate increased housing diversity.*
- § *The need to promote quality and environmentally sustainable residential development.*
- § *Management of the interfaces between residential areas and other sensitive/strategic land uses.*
- § *Identification of households with specific housing needs within the Kingston community, including older people and people on low incomes.*

The objectives, as relevant to this application, are as follows;

- § *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;*
- § *to ensure new residential development respects neighbourhood character and is site responsive, and that medium density dwellings are of the highest design quality;*
- § *to preserve and enhance well landscaped/vegetated environments and protect identified significant vegetation;*
- § *to promote more environmentally sustainable forms of residential development;*
- § *to manage the interface between residential development and adjoining or nearby sensitive/strategic land uses; and*
- § *to ensure residential development does not exceed known physical infrastructure capacities.*

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

- § ***Encourage residential development within activity centres via shop-top housing and mixed use developments, and on transitional sites at the periphery of activity***

centres. The intensity and scale of such development will need to be in keeping with the scale of these centres;

- § **Support innovative residential infill development** on former industrial sites adjacent to established residential areas, and on other mixed use or traditionally non-residential sites where appropriate;
- § **Promote a range of lot sizes and housing types, including medium density housing, on large residential opportunity sites, particularly where such sites have good access to public transport and other facilities;**
- § *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;*
- § *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;*
- § *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.*

It is considered that the proposed development satisfies the broader strategic objectives as outlined in Council's Municipal Strategic Statement, through the provision of medium to higher density housing on larger redevelopment sites such as the current proposal. It is considered that the proposal creates an adequate standard of amenity for the future occupants of each of the proposed apartments and for occupants of existing dwellings in the broader area.

14.12 **Clause 21.12: Transport, Movement And Access**

As relevant to this application, it is policy to:

- § **create a safe, convenient and efficient road network based on functional hierarchy of local and regional road linkages, which meets the transport and freight needs of Kingston's residents, businesses and through traffic; and**
- § **integrate public transport, road, pedestrian and cycle systems with activity centres, schools and other community and social infrastructure, as a means of providing equitable and safe vehicular, pedestrian and cyclist movement and access for the community.**
- § **To protect and enhance the amenity of Kingston's residential areas and other sensitive land uses through appropriate management of transport networks.**

It is considered that the proposal is in accordance with the abovementioned policy directions. The proposed development will have access to the Nepean Hwy service road and no objection was offered from Vic Roads.

It should be noted that the future development of this precinct may result in greater traffic management controls being implemented, including additional traffic lights, to better integrate the expected number of residents into the existing, immediate and broader road networks.

14.13 Clause 22.11 – Residential Development Policy

The purpose of this policy is to identify those locations where *increased housing diversity, incremental housing change, minimal housing change and residential renewal* will be encouraged and provide policy guidance on how development design should respond to meet the desired objectives.

As outlined previously, the subject site is located in an area designated for 'Increased Housing Diversity' within this policy. The intention in these areas is that new medium density housing will comprise of a variety of housing types and layouts to respond to the established but evolving urban character.

Where a planning permit is required for residential development, where relevant, it is policy under Clause 22.11 to:

- § *Encourage increased residential densities and a wider diversity in housing types and sizes in areas which are within convenient walking distance of public transport and activity centres.*
- § *Encourage all new residential development to respond positively and creatively to neighbourhood character. Unless a preferred character is specified, the existing character is that which is to be considered.*
- § *Encourage well articulated and graduated elevations in order to avoid 'box-like' double storey designs, thus reducing visual bulk.*
- § *Ensure that the design and layout of new dwellings incorporate features which minimise overlooking of adjacent properties.*
- § *Address potential overlooking through site layout planning as well as individual dwelling planning.*
- § *Ensure that adequate on-site car parking is provided to meet the needs of future residents and visitors and sited to reduce its impact on the streetscape.*
- § *Ensure that new residential development limits the impact of increased stormwater run-off on drainage systems.*

In summary, the proposal is seen to be strongly consistent with Council's Local Planning Policy Framework and, importantly, it delivers on some very specific objectives for the type and form of medium density development expected in areas such as this before the Council.

The discussion with regard to the provision of adequate car parking is discussed at Section 14.21.

14.14 Clause 22.17 Highett Activity Centre Policy

The purpose of this policy is to implement the *Highett Structure Plan, 2006*, which provides a preferred future pattern of development in the Highett area. It guides land uses, level of

activity, forms of buildings and access arrangements that are encouraged throughout the area in the future.

Where a permit is required for the development of land within the policy area, where relevant, it is policy to (emphasis added):

Built Form

- § *Promote designs that highlight key corners, entries or landmarks through design projection, detailing and massing that presents to both street frontages and the sites surroundings.*
- § ***Maximise development opportunities on vacant and underutilised land*** which responds to the urban quality, proximity to transport and activity centres.
- § *Ensure new development recognises the character of Highett's established residential areas.*
- § *Encourage well-designed medium density residential redevelopment in designated preferred medium density residential areas.*
- § *Promote a diverse range of housing types and sizes within areas identified for increased residential and mixed use development.*
- § *Manage redevelopment in those residential areas not identified as preferred areas for medium density housing pursuant to existing Council policies and ResCode.*

Access

- § *Improve access from existing and future residential areas to Sir William Fry Reserve, Southland and the Nepean Hwy.*

The subject site is identified within 'Precinct 3: Increased Density – Highway West' of this policy, where in addition to the general policies, as relevant to this application, in this particular precinct it is policy to:

- § ***Promote increased density housing.***
- § ***Facilitate the integrated development of the precinct*** by rezoning land from the Public Use Zone 1 and Business 3 Zone to a Residential 1 Zone and applying appropriate overlay controls to provide for an integrated development and to ensure that the development is responsive to the physical and environmental issues affecting the precinct and surrounding area.
- § ***Encourage the development of residential dwellings of various sizes and formats.***
- § *Limit local retail, home office and medical uses at ground level. These uses should only be encouraged when part of a multi-level development.*
- § ***Ensure buildings address Nepean Highway*** and any new network of streets established throughout the precinct to provide for surveillance of the Sir William Fry Reserve.
- § ***Ensure that development provides a mixture of building heights and varying built forms and layouts to provide visual interest.***

Agenda

- § ***Achieving innovative contemporary design and built form for all new development that is based on the best current architectural design practice and sustainability principles.***
- § *Provide for buildings which are visually diverse and contribute to the public realm through the use of varied, high quality and environmentally appropriate materials.*
- § *Apply appropriate building setbacks for new development, ensuring that building occupants and users have a high level of amenity including daylight access and outlook.*
- § *Achieve the development of high quality landscape treatment (including main road boulevard planting, canopy tree planting, screen planting, extensive tree plantings and theme plantings in appropriate locations) to be complemented by appropriate setbacks and built form.*
- § *Ensure that building heights increase to a maximum furthest from established residential areas to the north and where contours of the land fall to minimise visual impact from surrounding residential areas.*
- § *Relocate existing pedestrian lights on Highett Road to the Station Street intersection to provide an appropriate connection between the precinct and the Activity Centre.*
- § *Promote traffic management that minimises impact on adjoining residential areas.*
- § *Ensure that primary vehicle access for all traffic from the precinct is directed to Nepean Hwy to mitigate traffic impacts and minimise the speed and volume of vehicle movements within the adjoining residential area.*
- § ***Encourage car parking within multi level buildings.*** *Visible ground level car parking will generally be discouraged, except for short-term parking.*
- § *Maximise alternative modes of transport and minimise environmental impacts associated with car parking.*

It is considered that this application meets these objectives.

14.15 Zoning Provisions

14.16 Clause 32.01 Residential 1 Zone.

The subject site is zoned Residential 1. The purpose of this zone is;

- § *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- § *To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.*
- § *To encourage residential development that respects the neighbourhood character.*
- § *In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.*

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

14.17 Overlay Provisions

14.18 **Clause 43.02: Design Development Overlay Schedule 12 – Highett Activity Centre**

The site is subject to the Design Development Overlay Schedule 12 *Highett Activity Centre*, where all buildings should achieve a high standard of building design and articulation. The subject site is specifically nominated within Increased Density Highway West precinct, Area No. H6(b) of this Schedule. The general design objectives of the Increased Density Highway West area are as follows;

- § *To ensure integrated development of the whole Increased Density Highway West Precinct.*
- § *To encourage the use of contemporary architecture combined with innovative urban design principles.*
- § *To ensure buildings within Precinct H6 (Increased Density Highway West) address Nepean Highway, any new network of streets established and open space areas throughout and adjoining the precinct to provide for surveillance.*
- § *To achieve residential development within Precinct H6 (Increased Density Highway West) that provides a mixture of building heights sizes and formats and varying built forms and layouts to provide visual interest.*
- § *To ensure that building heights increase to a maximum furthest from established residential areas to the north to minimise visual impact from surrounding residential areas.*
- § *To encourage a transition of building heights across Precinct H6 (Increased Density Highway West) from 7.5 metres adjacent to established residential areas up to a maximum building height of 17 metres near the south-east corner of the precinct.*
- § *To protect historic features of Precinct H6 (Increased Density Highway West) by ensuring that adequate setbacks, scale and height are provided to taller buildings to ensure views are not compromised and development responds to the significance of the site.*
- § *To create treed boulevards and high quality landscape treatment along new network or public streets and open spaces.*
- § *To achieve development of circulation networks that focus on providing strong linkages within the Increased Density Highway West precinct with the Lyle Anderson Reserve west of the Railway line, the Highett Activity Centre, the Sir William Fry Reserve south of the precinct and Southland Principal Activity Centre.*
- § *To achieve development that provides accessible, safe, attractive and functional private and public open space opportunities, which are well connected and integrated within a permeable urban environment.*
- § *To provide solar access in mid winter to key boulevards within the precinct to contribute to a comfortable, pedestrian friendly urban environment.*
- § *To facilitate the enjoyment of public urban spaces, streetscapes, pedestrian and bicycle paths by ensuring that these areas are not excessively overshadowed or affected by wind tunnelling from new buildings and works.*
- § *To encourage consolidation of land that facilitates the creation of viable development sites capable of achieving the outcomes promoted by the Scheme and the Highett Structure Plan, May 2006 for land within this precinct.*

- § *To discourage the fragmentation of sites other than in association with a development proposal that achieves the outcomes promoted by this Scheme and the Highett Structure Plan, May 2006 for the precinct.*
- § *Buildings with unique architectural or design features that substantially contributes to the overall building form and appearance as identified by the Highett Structure Plan, May 2006, must:*
- *Substantially contribute to the overall building form and appearance by forming part of a distinctive architectural design feature;*
 - *Be based on contemporary architectural and innovative urban design elements;*
 - *Be located where higher built form outcomes are identified in the Highett Structure Plan, May 2006;*
 - *Not cast additional overshadowing upon adjacent and nearby properties and public spaces at 12 noon on 22 June.*

It is considered that the proposed development satisfies the above design objectives.

This overlay, as relevant to this site and Area No. H6 (b), nominates specific design standards relating to height, landscape design and setbacks, as follows;

Height Control Area as shown on the plan to the Schedule 12	Maximum Building Height	Design Standard
<p>DDO12 – H6</p> <p><i>Former Gas and Fuel land and adjoining two industrial properties to its south.</i></p>	<p><i>DDO12- H6(b)</i></p> <p><i>3 storeys</i></p> <p><i>(11 metres) for a depth of 15 metres along Nepean Highway</i></p> <p><i>4 storeys (14 metres) for the remaining precinct</i></p>	<p><i>The scale of development must have a comfortable relationship with the lower-scale, built form of adjoining development.</i></p> <p><i>Development must setback to provide for a landscaped and tree-lined new network of streets.</i></p> <p><i>High quality architecture must respond to its visibility from Nepean Highway and makes a positive contribution to Nepean Highway.</i></p>

Permit Requirements

A permit for buildings, works and subdivision must not be granted prior to approval (by the responsible authority) of an outline development plan for the whole Increased Density Highway West Precinct which shows:

- § *The proposed use of each part of the land.*
- § *A loop road connecting the Nepean Highway south of the Moorabbin Courthouse with the Nepean Highway north of the Courthouse.*
- § *Open space.*
- § *Stormwater drainage infrastructure.*

unless the responsible authority is satisfied that the application is in accordance with the design objectives of this Clause and the Highett Structure Plan, May 2006.

Any application to develop land must be accompanied by a drainage strategy showing existing and proposed stormwater drainage scheme and a drainage report that shows how:

- § *Stormwater from a 1:100 year event will be retarded and the rate of discharge from the development site into the existing drainage scheme underneath the railway line determined by the responsible drainage authorities;*
- § *Road layout and other site design will accommodate overland flows;*
- § *The approved drainage strategy and overland flows from the Moorabbin Courthouse development have been considered;*
- § *The natural contours of the land have been considered and the likely impact that they will have to any drainage strategy developed;*
- § *It is proposed to detain stormwater pending release;*
 - *Stormwater re-use.*
- § *The drainage report and strategy must be developed in accordance with all landowners within the Increased Density Highway West Precinct, the City of Kingston, Bayside City Council and Melbourne Water.*

An 'outline development plan' was not submitted by the applicant in accordance with this schedule. Therefore, Council can exercise discretionary power to grant a permit under Clause 2.0 of the DDO12, if Council is satisfied that the permit application is in accordance with;

- § *the design objectives listed in Clause 1.0 of the DD012 (as stated above); and*
- § *the Highett Structure Plan.*

Council Officer's have reviewed a series of documentation provided by the permit applicant, listed below, in response to the abovementioned points and is satisfied that the development is in accordance with the relevant design objectives and intentions of the Highett Structure Plan.

The drainage documentation and plans have been reviewed by Council's Development Engineer and Roads and Drains Department who advised of no objection to the proposed development, and are satisfied that the proposed drainage strategy, subject to the inclusion of suitable conditions, is reasonable.

The applicant advised in writing on the 5th January, 2010 that there has been no response to a letter sent by the applicant on the 10th December 2009, to the other landowners within the Increased Density Highway West Precinct, Bayside City Council and Melbourne Water regarding the drainage strategy. Council is satisfied that the applicant has initiated this process.

The submitted documentation in response to the DDO12 includes;

- § a letter from Daniel Bowden of Daniel Bowden Town Planning dated 5th January, 2010
- § a document titled 'Urban Design Memo' prepared by Craig Czarny of Hansen Partnership Pty Ltd;
- § a letter from Daniel Bowden of Daniel Bowden Town Planning dated 23rd October, 2009;
- § a letter from Brian Bird of Brian Bird & Associates setting out the drainage strategy for the land; and
- § a document titled 'Attachment 2 Design Development Overlay' prepared by Daniel Bowden, lodged with the application on the 20th May, 2009.

Height

Areas H5 and H6

Buildings and works *should not exceed* the maximum building height set out in the Table to this Schedule for Areas H5 and H6.

A permit may be granted to exceed the height limit if the additional height is necessary to achieve the design objectives. The development must continue to comply with the design objectives and design standards for that area.

The development proposes a maximum of five (5) storeys (ground, first, second, third, fourth) with a maximum height of 18.495 metres and therefore does not comply with this schedule. As stated above, the height requirements are not mandatory and a permit may be granted to exceed the height limit in accordance with the design objectives.

The development provides good transition and varying heights throughout the development of three and four storeys towards the site frontage (partly compliant with the schedule recommendations) and five storeys towards the rear of the site. It is considered that the fifth level reads as a recessed element when viewed from the street frontage and does not undermine the design objectives of this schedule.

Having regard to the other precincts within this schedule which abut the subject site (Area H6(d) and H6(e), which have recommended maximum height of five (5) and four (4) storeys, the proposed fifth level will not be an anomaly within this precinct.

Further, Council's Urban Designer and Strategic Department have reviewed the proposal and advised of no objection to the proposed height of the development.

In relation to the elevations and presentation of the development, Council's Urban Designer considers that the proposed organisation of the buildings with a common terrace providing access is considered to be a good outcome for a constrained site and is highly supported.

The building elevations use a wide range of materials and articulation, creating a contemporary building. The material use and façade treatment is supported in terms of its visual quality and articulation.

For the reasons discussed above, the proposed height is considered appropriate.

Landscape Design

Landscape design must:

- § ***Provide canopy trees and native and indigenous plantings;***
- § ***Provide landscape treatments to soften the urban built form environment; and***
- § ***Create private and public open space areas/links to established public open spaces areas within the surrounding area that are accessible, safe, attractive and functional for all users***

As previously stated within this report, Council's Vegetation Officer offered no objection to the proposed development, subject to the inclusion of suitable conditions to address the above, namely in relation to the species selection.

Setbacks

Buildings and works must be constructed in accordance with the setback requirements in the Table to this Schedule.

A permit *cannot* be granted to vary any of the setback requirements in the Table to this Schedule unless otherwise specifically stated in the Table to this Schedule.

In relation to Area H6 (b), any new *'development must be setback to provide for a landscaped and tree-lined new network of streets.*

It is considered that the proposal meets the setback requirements and provides a suitable area within the common terrace for landscaping, including deep soil planting for canopy trees within the front (and rear) setback.

Overall, and subject to the inclusion of conditions, it is considered that the proposed development is consistent with the requirements of this overlay.

14.19 Clause 45.03 Environmental Audit Overlay

The purpose of this overlay is to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.

Before a sensitive use (including residential) commences or before the construction or carrying out of buildings and works in associated with a sensitive use commences either;

§ *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*

§ *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*

It is considered that the proposed development can satisfy the above requirements via condition.

14.20 PARTICULAR PROVISIONS

14.21 **Clause 52.06: Car Parking**

The purpose of the car parking provisions as relevant to this application is to:

§ ***To ensure that car parking facilities are provided in accordance with the State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies;***

§ ***To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality; and***

§ ***To ensure that the design and location of car parking areas:***

- ***Does not adversely affect the amenity of the locality, in particular the amenity of pedestrians and other road users;***
- ***Achieves a high standard of urban design;***
- ***Creates a safe environment for users, particularly at night;***
- ***Enables easy and efficient use;***
- ***Protects the role and function of nearby roads; and***
- ***Facilitates the use of public transport and the movement and delivery of goods.***

Clause 52.06 of the Kingston Planning Scheme sets out the number of car parking spaces required for various uses. A permit may be granted to reduce or waive the number of car parking spaces required under Clause 52.06 of the Kingston Planning Scheme. Where a use is not specified, an adequate number of car spaces must be provided to the satisfaction of the Responsible Authority.

The decision guidelines of Clause 52.06 of the Kingston Planning Scheme state that before a requirement for car spaces is reduced or waived, the applicant must satisfy the Responsible Authority that the reduced provision is justified due to:

- § *Any relevant parking precinct plan;*
- § *The availability of car parking in the locality;*
- § *The availability of public transport in the locality;*
- § *Any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;*
- § *Any car parking deficiency or surplus associated with the existing use of the land;*
- § *Any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement;*
- § *Local traffic management;*
- § *Local amenity including pedestrian amenity;*
- § *An empirical assessment of car parking demand; and*
- § *Any other relevant consideration.*

The proposed development was referred internally to Council's Traffic Engineer for comment. As previously discussed in Section 12.6 of this report as the proposed development is of four (4) or more storeys in height, the parking provisions of Clause 52.06 are applicable. Clause 52.06 requires a "Dwelling" to provide a rate of two (2) car spaces per dwelling which equates to a total of 156 car spaces.

However, it is considered that Clause 55 (ResCode) provides a better representation of the likely car parking demand for the development and should be considered when assessing this development (as recommended by Council's Traffic Department). Clause 55 requires residential parking to be provided at the following rates:

- § *1 car space per 1 or 2 bedroom dwelling;*
- § *2 car spaces per 3 or more bedroom dwelling; and*
- § *1 visitor car space per 5 dwellings.*

Clause 55 also stipulates that rooms designated as "studies" should be counted as bedrooms. However, given the small size and open layout of the study areas provided within the development, these are considered unlikely to be utilised as a bedroom and are therefore not counted as bedrooms in this instance.

Therefore, applying the Clause 55 rates equates to a requirement for 82 resident car spaces and 15 visitor car spaces.

The table below summarises the above;

Car Parking	Required	Proposed
Residential Car parking	82	80
Visitor parking	15	0
Total	97	80

The applicant has requested to waive the requirements for visitor car parking and a reduction of two (2) spaces is sort for the residential car parking spaces.

Having regard to the above decision guidelines, it is considered that the reduction of the two (2) residential car parking spaces is reasonable in this instance. Each apartment is provided with a car parking space. There are a total of four (4) apartments which contain three bedrooms and therefore require two car parking spaces, using ResCode as a guide. Two of these apartments meet these requirements, and two do not. This is considered a minimal area of non compliance taking into consideration the location of the site and its excellent proximity to public transport, including the bus terminal at Southland and the Highett Railway Station. It should also be noted that buses 708 (Carrum to Hampton), 822 (Chadstone to Sandringham, via Murrumbeena and Southland) and 823 (North Brighton to Southland, via Moorabbin) have stops on the Nepean Hwy, within approximately 50 - 100 metres walking distance.

Further to the above, and as previously stated within this report, the applicant has made a number of revisions / amendments and modifications to the development plans as a result of working and negotiating with Council Officers to improve the design response. In particular, the most recent amendments (5th January, 2010), resulted in the provision of a greater variety of apartment types, which included the introduction of four (4), three bedroom apartments into the development. This modification was made in response suggestions from the Council Officers and some Councillors to provide a greater mix of apartment sizes. The applicant expressed concern that the provision of additional bedrooms would affect the car parking requirements; however Council Officers and some Councillors agreed that a minor reduction in car parking requirements would be reasonable in this instance. Overall, it is considered that the provision of carparking to the residential apartments is sufficient and should accommodate the needs of future residents.

In relation to the visitor's car parking waiver, Council's Traffic Department considers it unreasonable to require all visitors to park on-street. However, concurred with the statement within the submitted traffic report, prepared by

TraffixGroup, which stated that the traffic generation of the proposed development would be unlikely to have any significant adverse impact. In addition, and having regard to the intentions and future direction of the Increased Density Highway West Precinct as outlined at Clause 22.17 and also within the Design Development Overlay applicable to the site, Council Officers have had regard to the broader car parking impacts of this precinct.

Having regard to the policy as previously discussed within this report, the Increased Density Highway West precinct is expected to undergo a significant influx of medium to high density residential dwellings within the near future. Council Officers consider that there may be opportunity in the future to realign / modify the existing on-street car parking arrangement (currently parallel parking) of the service road of Nepean Hwy to help service the demand for visitor car parking along this road within the future (i.e. 45 degree angle parking along the service road).

Whilst the existing on-street carparking and above may assist with the absorption of visitor car parking in the area, it is not considered appropriate to provide a complete waiver of visitor car parking for a development of this scale and location, which is located on the periphery, but not within, the activity centres of Highbury and Southland. The lack of provision of any visitor car parking spaces lends itself to an overdevelopment of the site, and should be accommodated for within a development of this size. Council's Traffic Engineers are supportive of the development, however recommends a minimum of five (5) visitor car parking spaces be provided for within the development (i.e. within the basement). This would likely result in a reduction in the total number of apartments provided within the development. This issue can be addressed via condition.

It should be reiterated that Council's Traffic Department are supportive of the application subject to the inclusion of suitable conditions.

14.22 Clause 52.29: Land Adjacent To A Road Zone, Category 1 Or A Public Acquisition Overlay For A Category 1 Road

A permit is required to:

Create or alter access to a road in a Road Zone, Category 1.

The existing crossover would be removed and reinstated and a new 8.1m wide crossover provided at the southern end of the sites frontage with access to the a 6.1m wide access ramp to the proposed basement.

As discussed previously in this report, the application was referred to Vic Roads for comment, who advised of no objection to the proposal.

14.23 Clause 52.34: Bicycle Facilities

The statutory requirements for bicycle parking for the proposed development pursuant to Clause 52.34 of the Planning Scheme is as follows:-

Proposed Use	Requirement
Dwellings:	1 resident space to each 5 dwellings and 1 visitor space to each 10 dwellings

A total of twenty-two (22) bicycle spaces are required for the development (fifteen (15) dwelling bicycle parking spaces and seven (7) visitor bicycle spaces). The development is provided with eighteen (18) bicycle parking spaces within the basement car park level as well as eight (8) bicycle parking spaces on the ground floor level at appropriate locations. The proposal is provided with a total of twenty-six (26) bicycle spaces and therefore complies with this clause.

14.24 Clause 52.35: Urban Design Context Report and Design Response For Residential Development Of Four Or More Storeys

As the development proposed a storey height greater than four storeys, the applicant was required to provide an Urban Design Context Report against the "Guidelines for Higher Density Residential Development" and a Design Response.

Council Officers, including Council's Urban Designer and Strategic Department, have reviewed the Urban Design Context Report and Design Response, and consider the submitted information satisfactory.

14.25 Clause 52.36: Integrated Public Transport Planning

Relevant to this application, the intention of this Clause, amongst other things, is to ensure development supports public transport usage and to ensure that development incorporates safe, attractive and convenient pedestrian access to public transport stops.

Pursuant to this Clause, an application of 60 or more dwellings must be referred to the Director of Public Transport, who advised of no objection.

15.0 CONCLUSION:

It is submitted that the proposal be supported subject to the adoption of the recommended conditions.

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

§ The site is located in a strategically appropriate location for this type of development, the State and Local planning policies discussed in this report identify the subject site as one whereby substantial change is justified.

§ The development has been assessed by various Council departments all of which have advised that the proposal adequately satisfies the provisions of the Kingston Planning Scheme and subject to the inclusion of suitable conditions.

- § The proposed development generally satisfies the requirements, objectives and policy directions of the State Planning Policy Framework, the Local Planning Policy Framework, the Zoning and Overlay provisions and the Particular Provisions of the Kingston Planning Scheme as discussed previously in this report.
- § Importantly, it is considered that the design and siting of the proposed development is compatible with Clause 22.17 Highett Activity Centre Policy, Design Development Overlay Schedule 12 and Highett Structure Plan.

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

16.0 RECOMMENDATION:

That Council resolve to support the development of this site for seventy-eight (78) dwellings, altering access to a road in a Road Zone Category 1 and a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme, based on the 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 the 29th October 2009 and 5th January, 2010, but modified to show:
 - a. 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 to be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent actual canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
 - iv. adequate planting densities (e.g. plants with a mature width of 1 metre, planted at 1 metre intervals);
 - v. the provision of suitable medium sized spreading canopy trees within the front and rear setback of the site, within the deep soil planting areas provided, with all species chosen to be approved by the Responsible Authority;
 - vi. all trees provided at a minimum of two (2) metres high at time of planting;

- vii. a range of plant types from ground covers to large shrubs and trees;
 - viii. medium to large shrubs and trees provided in pot sizes of 200mm or greater;
 - ix. the provision of a notation on the landscape plan regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
 - x. the provision of native and indigenous plantings in accordance with the requirements of the Design Development Overlay Schedule 12;
 - xi. the species *Acacia melanoxylon* changed to *Acacia implexa*; and
- b. treatment details of the privacy screens on the ground floor apartments, common terrace area and service road, including the height and materials. Screening should allow for passive surveillance as well as privacy.
 - c. deletion of the overhead storage areas above the car parking spaces along the sites north and west property boundaries within the basement;
 - d. the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external surfaces / elevations and driveway of the development;
 - e. the provision of five (5) visitor car parking spaces within the basement, clearly delineated and marked accordingly;
 - f. a notation on the floor / site plan(s) stating: "The redundant vehicle crossing must be removed, kerb & channel must be reinstated and the extension to the existing footpath up to the wing of the vehicle crossing must be constructed to the satisfaction of the Responsible Authority";
 - g. a notation on the floor / site plan(s) stating: "The existing level along the front boundary (footpath level) should not be altered, including the basement car park entrance";
 - h. the number of bins provided within the bin store area clearly annotated on the basement plan;
 - i. the provision of a splitter island at the top of the car park access ramp to provide separation between the entry and exit vehicle manoeuvres;
 - j. the first six (6) metres of the vehicular ramp into the property amended to be at a grade no steeper than 1:20 (rather than 1:16);
 - k. a notation on the plans stating: "the height clearance within the basement be in accordance with the requirements of AS2890.1:2004" and shown on the relevant plan;
 - l. a coloured streetscape perspective / 3D image showing the proposed development when viewed from the sites frontage;
 - m. a minimum four (4) metre radius curve provided adjacent to the car park located at the foot of the basement access ramp, car space No. 48;
 - n. the details (type and dimensions) of a the bicycle parking spaces provided within the basement car park level and ground floor level;

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- o. the provision of suitable line markings and signage for pedestrian crossings within the basement car park levels to improve pedestrian safety within the basement car park levels;
 - p. the details of the basement door and access noted on the plans;
 - q. the balconies of apartments A1.05, A2.05, A3.05 and A4.05 provided with suitable screening to a height of 1.7 metres above the finished floor level OR these balconies reduced in size to prevent internal views to the adjoining bedrooms of the apartments to the west;
 - r. the location of external fans, air-conditioning apparatus and the like shown on the plans. These must be to Council approval and installed to prevent loss of amenity to the area by its appearance, noise, emission or otherwise.
 - s. the provision of improved material use to break up the 'pre cast concrete' provided to the south elevation, particularly for Building B;
 - t. the provision of gas appliances (hot water, cooking, heating) instead of electricity being used within the development as the principle energy source;
 - u. the provision of rain water harvesting to be used to irrigate the landscaped areas;
 - v. rain water tanks connected to all dwellings (ground floor minimum) for toilet flushing;
 - w. a notation on the plan stating: 'no resident or visitor parking permits will be granted to residents / tenants of this development';
 - x. The provision of a cross-section along the centreline of the basement ramp to demonstrate adequate head clearance (2.2m preferred) and ground clearance to vehicles.
 - y. the allocation of space for the provision of a basement pit to collect basement stormwater and overflow from the stormwater tank. It should meet the pumped systems requirement (refer to section 9 of AS/NZS 3500.3:2003)
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Prior to the commencement of this development and before the construction or carrying out of buildings or works in association with development the applicant/owner must provide for the approval and to the satisfaction of the Responsible Authority one of the following:
 - (a) A certificate of environmental audit issued for the subject land in accordance with Section 57AA of the Environmental Protection Act 1970; or
 - (b) The applicant/owner must appoint an environmental auditor as required under the Environment Protection Act 1970 (at their own cost) and provide to Council as the Responsible Authority a statement made in accordance with Section 57AA(5)(b) of that Act that the environmental conditions of the land are suitable for this use hereby approved.
4. Four (4) copies of the certificate of environmental audit and/or statement, complete audit report and audit area plan must be submitted to the Responsible Authority.

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5. The development, buildings and works allowed by this permit must strictly comply with the directions and conditions of the certificate or statement of environmental audit issued for the land. A section 173 Agreement, under the Planning and Environment Act may need to be entered into with the Responsible Authority depending on the conditions of the Statement of Environmental Audit. Any amendments must be approved by the Responsible Authority prior to the commencement of any works and development and may require further environmental assessment of the land.
6. Prior to the occupation of the dwellings permitted by this permit and prior to the issue of a statement of compliance under Section 21 of the Subdivision Act 1988 a letter must be submitted to Council prepared by the EPA appointed Environmental Auditor to verify that the conditions of the certificate or statement of environmental audit issued for the land have been satisfied.
7. 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.
8. The landscape plan required by Condition 1a) of this permit must show the minimal use of hard surfaces, and the use of porous surfaces (planted surfaces or permeable paving etc) to reduce the amount of stormwater runoff. Water Sensitive Urban Design initiatives are strongly encouraged.
9. 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.
10. Before the commencement of any buildings and works on the Land, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must include but is not limited to:
 - a. The manner in which waste will be stored and collected including: type, size and number of containers.
 - b. Spatial provision for on-site storage.
 - c. Details whether waste collection is to be performed by Council's services or privately contracted.
 - d. The size of the collection vehicle and the frequency, time and point of collection.The waste management plan must be implemented to the satisfaction of the Responsible Authority. The waste management plan must not be modified unless without the written consent of the Responsible Authority.
11. 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 bio retention system, rainwater tanks connected for reuse and a detention system.

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12. 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.).
13. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
14. 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.
15. 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.
16. 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.
17. 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 in accordance with the endorsed plans under this permit or in an all weather coloured concrete seal-coat, 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.
18. 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.
19. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
20. 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.
21. 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.

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22. The location of external fans, air-conditioning apparatus and the like must be to Council approval and installed to prevent loss of amenity to the area by its appearance, noise, emission or otherwise.
23. A security intercom must be provided in a convenient located adjacent to where vehicles stop on site, to allow visitors access to the visitor parking provided on site.
24. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
25. 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 is not started within two (2) years from the date of permit issue.
 - The development is not completed within four (4) years from the date of permit issue.

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: 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.

In the event that Council wish to not support the application, it can do so on the following grounds;

1. The proposal is contrary to the orderly and proper planning of the area;
2. The proposal constitutes an overdevelopment of the site;
3. The proposal is inconsistent with the relevant policies under Clause 19.03 (Design & Built Form) of the Kingston Planning Scheme;
4. The proposal exhibits excessive building scale, massing and height.
5. The traffic generated by the proposal would create traffic problems in the locality and would cause wider traffic problems in the surrounding road network.
6. The proposal is inconsistent with the relevant policies of Clause 43.02 Schedule 12 (Highett Activity Centre) of the Kingston Planning Scheme.

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KP 1138/08 – 236 Station Street, Edithvale

APPLICANT	Neil Fletcher Design Pty Ltd
ADDRESS OF LAND	No. 236 (Lot 1 on TP531607K) Station Street, Edithvale.
PROPOSAL	Two (2) Dwellings
PLANNING OFFICER	Nikki Taylor <i>Author: Sherie Kirby</i>
REFERENCE NO.	KP1138/08
ZONE	Clause 32.01 – Residential 1 Zone
OVERLAYS	None Applicable
PARTICULAR PROVISIONS	Clause 55: Two or More Dwellings on a Lot
DECISION DATE BY	22nd January, 2010
STATUTORY DAYS	22 days @ 15th December, 2009
CONSIDERED PLAN REFERENCES/DATE RECEIVED	20th August, 2009
OBJECTIONS	Two (2)

1.0 KEY ISSUES

1.1 The key planning issues arising from this proposal relate to:

- Double-storey construction at rear (visual bulk)
- Overlooking (internal and external); and
- Private open space.

2.0 DEVELOPMENT ASSESSMENT TABLE

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
Private Open Space	An area of 40m ² , 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 25m ² , a minimum dimension of 3 metres and convenient access from a living room.	Dwelling 1 – 40m ² of secluded private open space Dwelling 2 – 61.5m ² of secluded private open space	As per ResCode

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Car Parking	Two (2) spaces for each 3 bedroom dwelling.	Dwelling 1 – Two (2) car spaces in a double garage Dwelling 2 – Two (2) car spaces in a double garage	Adequate car parking for future residents and visitors
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.	Dwelling 1 – 4.8 metres (Existing dwelling to be retained)	As per ResCode
Site Coverage	Maximum 60%	Site coverage is 42.1%	As per ResCode

3.0 SITE & SURROUNDS

- 3.1 The subject site comprises an area of 961m² on the north-east side of Station Street, Edithvale. At present, a double-storey, brick-veneer dwelling occupies the subject site which is setback 4.8 metres from the site’s street frontage. The site does not contain any significant vegetation. There appears to be no restrictions listed on the Certificate of Title.
- 3.2 The surrounding area typically comprises of single-storey and double-storey dwellings, constructed from both face brickwork and weatherboard cladding.

4.0 PROPOSAL

- 4.1 It is proposed to construct a new, double-storey, dwelling at the rear of the existing double-storey dwelling on this site.
- 4.2 The existing car parking and access arrangements would be retained for Dwelling 1 whilst a double car garage is proposed for Dwelling 2. A turning area would also be provided for the proposed dwelling.
- 4.3 The internal layout for the existing dwelling would be retained, with the exception of converting a bedroom at the rear of the ground floor level into an “alfresco” area/room.
- 4.4 Dwelling 2 would comprise four (4) bedrooms, an open-style kitchen/living/meals area at ground level. A large “alfresco” outdoor living area is also proposed as an extension to the ground floor living area for this dwelling. The secluded private open space area for Dwelling 2 would be segregated into two (2) separate areas given the location of the proposed “alfresco” area.
- 4.5 The proposal has an overall site coverage of 42.1 percent and a permeability percentage of 37.5%.

5.0 PLANNING CONTROLS

5.1 The subject site is located within a Residential 1 Zone and is not subject to any overlay controls.

6.0 PLANNING PERMIT REQUIREMENTS

6.1 Pursuant to Clause 32.01 of the Scheme, a planning permit is required to construct two (2) or more dwellings on a lot.

7.0 RELEVANT HISTORY

7.1 Council records indicate that no planning approvals have issued for the subject site.

8.0 ADVERTISING

8.1 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. Two (2) objections to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Visual Bulk (Double-storey construction at rear);
- Loss of Privacy; and
- Loss of Sunlight (Overshadowing).

9.0 PRELIMINARY CONFERENCE

9.1 A preliminary conference was held at Council's Cheltenham Office on 19th November, 2009, with the applicant, owners, objectors and Council Planning Officer in attendance.

9.2 The main grounds of objection were discussed at length, with the applicant suggesting that a higher boundary fence could be constructed along the length of the site's north-east (rear) property boundary to address the overlooking and visual bulk concerns of the objectors.

9.3 However, no final resolution was reached in this instance.

10.0 REFERRALS

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

- Council's Development Engineer; and
- Council's Vegetation Management Officer.

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

11.0 RELEVANT POLICIES

11.1 State Planning Policy Framework (SPPF)

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

11.2 Local Planning Policy Framework (LPPF)

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

11.3 Particular Provisions

Clause 55 (Two or More Dwellings on a Lot & Residential Buildings) – Refer to Appendix A for the Planning Officer’s full assessment against this Clause.

11.4 General Provisions

Clause 65 (Decision Guidelines)

11.5 Neighbourhood Character Area Guidelines (Incorporated Document under Clause 21.05 – Residential Land Use of the LPPF)

The land is located within Area No. 68 of the Neighbourhood Character Guidelines. The only “major characteristic” identified within this Profile Area is that most existing dwellings are of detached construction and are single-storey. Whilst the proposal is for two (2), detached, double-storey dwellings, Council officers consider that the development would be more in accordance with the preferred built form character which is evolving in “increased housing diversity” areas.

10.7 Design Contextual Housing Guidelines (April 2003 – reference document within Clause 22.11 – Residential Development Policy).

The Design Contextual Housing Guidelines offer a range of design techniques and suggestions to assist with residential design, which is responsive to local character.

It is considered that the proposed development does not raise any issues of non-compliance with these guidelines.

12.0 PLANNING CONSIDERATIONS:

12.1 State and Local Planning Policy Framework

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.

In accordance with Council's MSS, the subject site is located within an area identified for "increased housing diversity".

Increased Housing Diversity

The intention in these areas is that new medium density housing comprising a variety of housing types and layouts will be promoted responding to the established by evolving urban character. Because these are already established as residential areas, the design of new medium density housing proposal will need to display sensitivity to the existing residential context and amenity standards in these areas.

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 increased housing diversity in residential areas that are within convenient walking distance of public transport and activity nodes (*increased housing diversity areas*). Such areas will accommodate a variety of medium density housing types and layouts at increased residential densities, responding to the established but evolving neighbourhood character.
- 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 generally consistent with the relevant objectives of Council's Municipal Strategic Statement as outlined above. The proposal creates an adequate standard of amenity for the future occupants of each dwelling, as well as for occupants of existing dwellings in the immediate area. It is considered that the development will have a limited impact on existing neighbourhood character, and the broader character of the surrounding residential area.

The proposal has also been assessed against the objectives and performance standards of **Council's Residential Development Policy** (Clause 22.11 of the Scheme), which can be summarised under the following headings:

- Housing change
- Neighbourhood character
- Site landscaping
- Built form, siting and scale of development
- Car parking and vehicle access
- Stormwater run-off mitigation and quality management
- Heritage features

Specifically, the "*built form, siting and scale of development*" section of the Policy states the following:

- Encourage the two-storey component of new medium density housing to be located towards the front of the site.
- Ensure that any upper storey components towards the rear of sites are sensitively designed to avoid unreasonable adverse amenity impacts on neighbours.
- Encourage well-articulated and graduated elevations in order to avoid “box-like” double storey designs, thus reducing visual bulk.
- Ensure that the siting of new buildings respects the amenity of adjoining neighbours with regard to rear yards and garden outlooks from habitable room windows.
- Ensure that the design and layout of new dwellings incorporate features which minimise overlooking of adjacent properties.
- Address potential overlooking through site layout planning as well as individual dwelling planning.

It is considered that the proposed development would satisfy the above policies under Clause 22.11 of the Kingston Planning Scheme. Specifically, the overall area of the subject land and the reasonable building setbacks should ensure that the residential amenity of the surrounding properties to the north-west (side), north-east (rear) and south-east (side) is reasonably protected.

12.2 Zoning Provisions

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

The Schedule to the Residential 1 Zone specifies variations to one (1) standard of Clause 55 (ResCode), being:

Standard B32 – Front Fences: The local variation requires a front fence within 3 metres of a street must not exceed 2 metres in height for streets in a Road Zone – Category 1 or 1.5 metres in height for any other street.

The proposed front fence would be 1.5 metres high and accords with the Schedule requirements.

13.0 **CLAUSE 55 (RESCODE ASSESSMENT)**

- 13.1 **The proposal has been assessed against the objectives and standards of Clause 55 (ResCode) of the Kingston Planning Scheme (refer to attachment A). It is considered that the development largely satisfies the requirements of ResCode and is a well-designed development. There appear to be the following areas of non-compliance, which are discussed below:**

Clause 55.02 – Neighbourhood Character and Infrastructure

Standard B2 – Residential Policy

Council's Residential Development Policy strongly discourages the construction of double-storey dwellings to the rear of a site. However, the proposed double-storey dwelling to be constructed at the rear of the existing dwelling has been designed in a sympathetic manner with respect to the existing residential properties to the north-east (rear) and north-west (side) and south-east (side) of the subject land.

Clause 55.04 – Amenity Impacts

Standard B17 – Side and Rear Setbacks

The first floor level of Dwelling 2 is setback only 1.7 metres from the site's south-east (side) property boundary, whereas the minimum side building setback requirement under this Standard is 2.0 metres.

Council officers consider that the minimum first floor level setback of Dwelling 2 should be increased to a minimum of 2.0 metres from the site's south-east (side) property boundary to protect the visual amenity of the adjoining property at No. 237 Station Street. This should be required as a condition of any permit issued for the proposed development.

Standard B22 – Overlooking

The submitted plans show that overlooking may be afforded from the ground floor level of Dwelling 2 from the south-east and north-west facing windows of the family/living room area and also from the "alfresco" area at the rear. This area would also directly overlook the adjoining property to the rear (north-east) at No. 16 Vincent Street.

It is strongly considered that all habitable room windows at the ground floor level of Dwelling 2 be installed with a minimum sill height of 1700mm or obscure glass to this height to protect the amenity of the adjoining properties. Further, Council officers also believe that the "alfresco" area of Dwelling 2 be deleted given that it would substantially reduce the amount of private open space available for the recreation and service needs of the likely occupants.

The above design modifications could be satisfactorily addressed through the inclusion of conditions of any permit issued for the proposed development.

Standard B23 – Internal Views

It is noted that the south-west facing first floor level windows of the rumpus area for Dwelling 2 would directly overlook the secluded private open space area for the existing dwelling.

Council officers consider that these windows should be visually screened to a minimum height of 1700mm so as to ensure the privacy of the likely occupants of the existing dwelling. This should be required as a condition of any permit issued for the proposed development.

Standard B28 – Private Open Space

As discussed previously in this report, Council officers consider that the provision of the “alfresco” area for Dwelling 2 is not warranted and should be deleted given that it would substantially reduce the amount of secluded private open space.

This should be required as a condition of any permit issued for the proposed development.

Standard B29 – Solar Access to Open Space

Based on the formula provided under this Standard, the minimum setback of the private open space area from the site’s south-east (side) should be 6.2 metres whereas the building setback proposed is 4.0 metres.

Council officers consider that this matter will be satisfactorily resolved with the deletion of the proposed “alfresco” area, as discussed in the previous sections of this report.

Clause 55.06 – Detailed Design

Standard B34 – Site Services

The submitted plans show that a mail box for each dwelling has been omitted. This should be required as a condition of any permit issued for the proposed development.

14.0 RESPONSE AGAINST GROUNDS OF OBJECTIONS

13.1 *Visual Bulk (Double-Storey Construction at Rear)*

Both objectors have raised concerns in relation to the construction of a double-storey dwelling at the rear of the site and the likely visual impact of this building. Council officers consider that visual screening of the habitable room windows at the ground floor and first floor level of Dwelling 2 and the deletion of “alfresco” area of this dwelling should reduce the impact to the amenity of the adjoining properties.

As previously discussed, the proposed “alfresco” area for Dwelling 2 is considered to be unnecessary and should be deleted given the likely overlooking opportunities and reduced private open space area. Further, it is considered that a minimum 2.0 metres side building setback at the first floor level for Dwelling 2 should be required to reduce any visual impact to the adjoining properties to the side and rear.

13.2 *Loss of Privacy*

As discussed above, the visual screening of all habitable room windows of Dwelling 2 at both the ground floor and first floor levels should address any possible overlooking concerns. Additionally, the deletion of the proposed “alfresco” area should also further reduced overlooking from the proposed dwelling at the rear.

13.3 *Loss of Sunlight*

Shadow diagrams submitted with the application indicate that overshadowing to the adjoining properties should be minimal and, further, would be reduced with an increased first floor level setback from the site's south-east (side) property boundary.

As such, the proposed development should not result in any unreasonable loss of sunlight to the objectors' properties.

14 CONCLUSION:

14.1 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).

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

15 RECOMMENDATION:

That a Notice of Decision to Grant a Permit for the development of this site for two (2) dwellings 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 20th August, 2009, but modified to show:
 - a) the first floor level setback of Dwelling 2 increased to a minimum of 2.0 metres from the site's south-east (side) property boundary;
 - b) the "alfresco" area of Dwelling 2 deleted and nominated as private open space for this dwelling;
 - c) the south-east and north-west facing windows of the living/family room area of the ground floor level of Dwelling 2 provided with fixed visual screening, in accordance with the requirements under Standard B22 of Clause 55 (ResCode);
 - d) the south-west facing first floor habitable room windows of Dwelling 2 provided with fixed visual screening, in accordance with the requirements under Standard B22 of Clause 55 (ResCode);

- e) a notation on the plans that all property boundary fencing for the subject site will be replaced where necessary at the cost of the developer/owner and to the satisfaction of the Responsible Authority;
 - f) the provision of a 1.5m x 1.5m fence splay adjacent to the vehicle accessway at the front (west) property boundary;
 - g) the surface material of all driveways / accessways and car parking spaces nominated in all-weather coloured concrete sealcoat, or similar;
 - h) the location of all externally-located heating and cooling units, exhaust fans and the like, clearly shown;
 - i) the guttering pertaining to the garages / walls on boundary on the site's north-west (side) property boundary nominated as being contained wholly within the title property boundary of the subject land; and
 - j) the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development.
2. The development, as shown on the endorsed plans, must not be altered without the prior written consent of the Responsible Authority.
 3. Prior to the occupation of Dwelling 2 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. Prior to the occupation of Dwelling 2 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 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.
 6. 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.).
 7. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.

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8. Prior to the occupation of Dwelling 2 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.
 9. 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.
 10. Prior to the occupation of Dwelling 2 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.
 11. Prior to the occupation of Dwelling 2 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 in accordance with the endorsed plans under this permit or in an all weather coloured concrete seal-coat, 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.
 12. 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.
 13. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
 14. 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 is not started within two (2) years from the date of permit issue.
 - The development is not completed within four (4) years from the date of permit issue.

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:** 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.

OR

B. Should Council resolve not to support the application that a Notice of Refusal to Grant a Permit be issued on the following grounds:

1. The proposal is not consistent with, and does not meet the objectives and standards laid out in, the SPPF and LPPF of the Kingston Planning Scheme.
2. The proposal fails to adequately respond to the neighbourhood character and built form, siting and scale objectives outlined in the Residential Development Policy, Clause 22.11 of the Kingston Planning Scheme.
3. The proposal would have an adverse effect on the amenity of adjoining/nearby properties through its visual bulk, scale, massing and inappropriate building setbacks.
4. The proposal does not satisfy the provisions of Clause 55: ResCode, of the Kingston Planning Scheme, in particular;

§ Standard B2 – Residential Policy objectives

§ Standard 18 – Walls on boundaries objective

§ Standard B29 – Solar access to private open space objective

APPENDIX A – RESCODE ASSESSMENT

Standard of the Kingston Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the Residential 3 Zone)

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>B1 Neighbourhood Character Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</p>	Yes	See report.
<p>B2 Residential Policy Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p>	No	See report for justification for the construction of a double-storey dwelling at the rear of the site.
<p>B3 Dwelling Diversity Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>	N/A	
<p>B4 Infrastructure Provides appropriate utility services and infrastructure without overloading the capacity.</p>	Yes	Can be addressed through a permit condition.
<p>B5 Integration with the Street Integrate the layout of development with the street</p>	Yes	See report.
<p>B6 Street Setback The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	Yes	Existing dwelling to be retained.
<p>B7 Building Height Building height should respect the existing or preferred neighbourhood character.</p>	Yes	Maximum: 9 metres Proposed: 7.69 metres
<p>B8 Site Coverage Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	Yes	Maximum: 60% Proposed: 42.1%
<p>B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site</p>	Yes	At least: 20% Proposed: 37.5%

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stormwater infiltration.										
B10 Energy Efficiency Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Yes	See report.								
B11 Open Space Integrate layout of development with any public and communal open space provided in or adjacent to the development.	Yes									
B12 Safety Layout to provide safety and security for residents and property.	Yes	See report.								
B13 Landscaping To provide appropriate landscaping. To encourage: <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. 	Yes	See report. Require an amended landscape plan as condition of permit.								
B14 Access Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Yes	See report.								
B15 Parking Location Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Yes	See report.								
B16 Parking Provision Ensure car and bicycle parking meets the needs of residents and visitors. Accessways should be practical, attractive and easily maintainable.	Yes	Required: Four (4) Total Proposed: Four (4) Total See report.								
B17 Side and Rear Setbacks Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.	No	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Dwelling 1</td> <td style="width: 50%;">Dwelling 2</td> </tr> <tr> <td>Required:</td> <td>Proposed:</td> </tr> <tr> <td><u>Ground Floor</u></td> <td><u>Ground Floor</u></td> </tr> <tr> <td>Minimum 1.0</td> <td>Minimum 1.0</td> </tr> </table>	Dwelling 1	Dwelling 2	Required:	Proposed:	<u>Ground Floor</u>	<u>Ground Floor</u>	Minimum 1.0	Minimum 1.0
Dwelling 1	Dwelling 2									
Required:	Proposed:									
<u>Ground Floor</u>	<u>Ground Floor</u>									
Minimum 1.0	Minimum 1.0									

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		metres = metres = Compliant compliant. <u>First Floor</u> Compliant <u>First Floor</u> Minimum 1.7 Minimum 2.0 = non- metres = compliant. Compliant (See report for further justification).
B18 Walls on Boundaries Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.	No	Maximum: 3.0 metre height average. Proposed: 3.5 metre average high wall proposed on north-west (side) for Dwelling 1. A condition of any permit issued should require the average wall height to be reduced to a maximum of 3.0 metres.
B19 Daylight to Existing Windows Allow adequate daylight into existing habitable room windows.	Yes	See report.
B20 North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	Yes	See report.
B21 Overshadowing Open Space Ensure buildings do not significantly overshadow existing secluded private open space.	Yes	See report.
B22 Overlooking Limit views into existing secluded private open space and habitable room windows.	No	Direct overlooking from ground floor habitable room windows of living room of Dwelling 2 and also from the proposed “alfresco” living area. See report for further discussion.
B23 Internal Views Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.	Yes	Overlooking would be possible from the south-west facing first floor level windows of the rumpus room of Dwelling 2.
B24 Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	Yes	See report.

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<p>B25 Accessibility Consider people with limited mobility in the design of developments.</p>	<p>Yes</p>	<p>See report.</p>
<p>B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building.</p>	<p>Yes</p>	<p>See report.</p>
<p>B27 Daylight to New Windows Allow adequate daylight into new habitable room windows.</p>	<p>Yes</p>	<p>See report.</p>
<p>B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.</p>	<p>Yes</p>	<p>Required: 40m² for each dwelling. Proposed: A minimum area of 40m² for each proposed dwelling. See report</p>
<p>B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.</p>	<p>No</p>	<p>The minimum setback from the southern private open space boundary for Dwelling 2 is not met. See report for further discussion.</p>
<p>B30 Storage Provide adequate storage facilities for each dwelling.</p>	<p>Yes</p>	<p>6m³ externally accessible storage area proposed for each dwelling.</p>
<p>B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.</p>	<p>Yes</p>	<p>See report.</p>
<p>B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.</p>	<p>Yes</p>	<p>Maximum: 1.5m Proposed: 1.5 metres See report.</p>
<p>B33 Common Property Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</p>	<p>Yes</p>	
<p>B34 Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</p>	<p>No</p>	<p>A mail box should be required to be provided for each proposed dwelling. This should be required as a condition of any permit issued.</p>

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- § Notice of the amendment was published in the Victorian Government Gazette on 12 November 2009.
- § Notice of the amendment was published in the Moorabbin Kingston Leader on 17 November 2009.
- § Signs giving notice of the amendment were erected on the site.
- § Direct notification was sent via ordinary mail to all surrounding landowners and occupiers affected by the amendment on 12 November 2009.
- § Amendment documentation was made available on Kingston's Strategic Planning website, at Cheltenham Planning and Building Counter and on the Department of Planning and Community Development website from the 12 November 2008.
- § Direct notification was also forwarded to the following referral agencies, Ministers and adjoining municipalities:

- | | |
|---|--|
| § Melbourne Water | § United Energy |
| § Telstra | § South East Water |
| § Environment Protection Authority | § Vic Roads |
| § Department of Sustainability and Environment, Port Phillip Region | § Bayside City Council |
| § Minister for Agriculture | § Minister for Energy and Resources |
| | § Minister for Water, Environment & Climate Change |

4.2 Submissions Received

During exhibition of the amendment, a total of seven (7) submissions were received. Of the submissions received three (3) were from referral authorities, of which two (2) raised no objection to the amendment. A further two (2) submissions were received from Proponents of the amendment with regards to details of the proposed Design Development Overlay.

The key issues identified in the submissions include:

- § Increased traffic and parking demand.
- § Traffic mitigation at the adjacent major intersection
- § Zoning concerns – use of land inconsistent with existing residential uses in Matthieson Street.
- § Neighbourhood Character – heights greater than 2 storeys inappropriate to character of Matthieson Street.
- § Increase in noise levels.
- § Overshadowing
- § Vegetation concerns
- § Inappropriate notice of the amendment provided during exhibition period.
- § Imposing a limit retail floor space.
- § Providing non-discretionary design controls.

4.3 Submissions Received

Section 22 of the *Planning and Environment Act 1987* requires that Council consider all submissions received in respect to an exhibited amendment.

Section 23 of the Act specifies that after considering submissions, Council must:

- § Change the amendment in the manner requested; or
- § Refer the submission to a panel appointed under Part 8; or
- § Abandon the amendment or part of the amendment

5. Discussion of Issues

The following is a discussion around the main issues raised in submissions to Amendment C99.

As part of Council's assessment of the amendment and design controls proposed by proponents Council engaged Consultants MGS Architects to prepare an Urban Design Report. Among the key considerations for the Urban Design Report were amenity and impact on surrounds, access and safety, built form, streetscapes and protection of a Eucalyptus Tree on the affected land listed on Council's Significant Tree Register and protected by the Environmental Significance Overlay (Schedule 3) of the Kingston Planning Scheme. This Urban Design Report is referenced in the proposed Design Development Overlay(DDO) which states that future development should be consistent with Urban Design Report and respond to the recommend setbacks.

Proponents of the amendment engaged traffic consultants GTA to prepare a traffic report to evaluate the anticipated traffic impact for an example development scenario based on the heights, set backs and access arrangements proposed Urban Design Report for the purpose of gaining a better understanding of potential outcomes of a rezoning and proposed controls. The GTA report is a background report to the amendment documentation and should give an indicative idea of traffic volumes only, the DDO states that a further new Traffic Report is required with any future planning permit application that would need to address:

- § specific traffic and car parking requirements particular to the application
- § mitigation measures to address the impact of the development on local streets
- § analysis of need to provide additional car parking to support loss of existing onsite southland parking and future mix of uses
- § vehicular access
- § safe pedestrian linkages.

5.1 Traffic and Parking

Submissions received indicate that the parking spaces figures proposed in the GTA traffic report submitted by the proponent would not satisfy the parking requirements of the Planning Scheme. Amendment C99 is a rezoning amendment only. It is not a Section 92A application whereby a planning permit is being concurrently considered during the amendment process. Detailed issues with respect to parking will be undertaken during the planning permit application process following the amendment.

The proposed DDO requires a traffic report to accompany future planning permit applications and states that the report should include analysis of required parking for the mix uses specific to the

planning application and the need to provide additional car parking to support loss of existing southland overflowing parking located on the affected land. This future traffic report will be specific to the future planning permit applications and statutory parking requirements should be considered at that time.

Submitters raised concerns about increased traffic in local street as a result of future development. The GTA traffic report indicates that approximately 2500 vehicle movements daily will result should the development scenario anticipated by the report eventuate. The traffic report clearly states that mitigation works will be required. It should be noted that the proposed DDO requires that the new traffic report detail any local traffic works in surrounding streets to mitigate against any impacts of the development in the area given it is proposed that the site's primary access point be located on Matthieson Street. It is anticipated that this future report will respond to concerns raised by submitters in detail given the specifics of proposed development will be known at the time.

Submitters raised concerns about increased the proposed location of the shared access point in the Urban Design Report referenced in the proposed DDO. The Urban Design Report proposes that a shared primary vehicular access point for development on the affected land is located on Matthieson Street. The location of this access point is supported by both VicRoads and Council's traffic department. Reasons for the location of primary access in Matthieson Street identified in the Urban Design Report include:

- § The need to provide an active and attractive street edge to Karen Street
- § Safety concerns relating to the busy (high speed) nature of traffic movement along Karen Street and Nepean Highway, including the slip lane to Nepean Highway which services traffic turning left into Karen Street.
- § Safe and effective flow of traffic from the site given the operation of intersection at Nepean Highway and Karen Street as well as the car park and bus interchange access point directly adjacent to Matthieson Street.

In order to reduce the impact of this primary access point on local traffic in Matthieson Street and near by residential streets the DDO states that the required new traffic report accompanying future planning permit applications should include a proposal for local traffic works to mitigate against any impact of the development.

Council's Traffic Department approved the proposed access point providing that a full traffic study is carried out and recommendations reported. It is anticipated that conditions may arise based on traffic flows and volumes calculated in the required new traffic report such as a left-in right-out only movement for traffic accessing the affected land or similar measure temper the movement of traffic accessing the proposed development site north of the access point on Matthieson Street.

The proposed DDO makes considerable mention to traffic and parking requirements and as such will ensure that Traffic and Parking are adequately addressed in during the planning permit stage.

5.2 Traffic mitigation at the adjacent major interaction

VicRoads wished to see a variation to the amendment, proposing that the DDO stipulate that future traffic report required for future planning permit applications should include a study and subsequent

mitigation works to the intersection of Karen Street and Nepean Highway. VicRoads also wished to ensure that the GTA traffic report exhibited with the amendment is not referenced in the planning scheme, it is consider that the GTA traffic report is not and will not be referenced in the scheme.

5.3 Zoning Concerns

Some submitters expressed concern about the potential of uses other than residential, particularly shop or office, permitted in the proposed Mixed Use Zone developing to the Matthieson Street frontages. Submitters indicated that they felt uses of this nature would be inappropriate given the otherwise residential nature of the street. Design objects of the proposed DDO include addressing the neighbouring residential areas through a building design which does not adversely affect the amenity of these areas.

The Urban Design Report referenced in the proposed DDO recommends that proposals should:

- § Enhance the residential character of Matthieson Street
- § Provide a generous landscape buffer to Matthieson Street
- § Reinforce the detached nature of the residential street with generous setbacks and articulated built form

It is considered that the Mixed Use Zone is appropriate for the affected land given that it is location with in a Principal Activity Centre, in close proximity the regional bus interchange, near major arterial road Nepean Highway, and given that appropriate design controls are proposed which recognise the need protect the amenity of neighbouring residential properties and the Matthieson Street frontage.

5.4 Neighbourhood Character

Residents expressed concern with future development being inconsistent with the existing residential street character of Matthieson Street. As outlined in Section 5.2 above the proposed overlay and referenced Urban Design Report seek to reinforce and enhance the residential character of Matthieson Street by requiring planning permit applications to have regard to its character in the design of future applications.

5.5 Noise

Submitters raise concerns about increased noise resulting from future development on the affected land. It is anticipated that the development will generate some level of increased noise. However it is considered that noise resulting from the proposal will not be inconsistent with the surrounding uses. The submitters have highlighted existing noise concerns relating to traffic along Nepean Highway and Southland Centre functions. Noise attenuation measure can be a condition of permit for any approved development on the site to minimize any adverse impacts of future development. Other conditions can also be included such as a restriction on hours of operation or receipt of deliveries appropriate to any future planning permit application.

5.6 Overshadowing

Submitters raised concerns about overshadowing of adjoining and near by residential properties. Given the subject site's location south of adjacent residential properties, shadow will be primarily cast on Karen Street. The Urban Design Report referred to in the DDO specifies a stepped back design of upper levels to the residential street and adjacent residential properties to ensure no or limited overshadowing.

5.7 Vegetation Concerns

A significant tree identified in Kingston's Significant Tree Register is located along the site's frontage to Matthieson Street. Protection of this tree was a key consideration of both the Urban Design report and proposed planning scheme provisions, specifically that:

- § Landscape buffer has been proposed to Matthieson Street to ensure its protection.
- § Objectives and policies of the proposed planning scheme provisions and associated referenced document discuss the need plan proposed vehicular entry/exit points around the root zone of this tree.

Existing protection for the significant tree include Council's Local Law and the Environmental Significance Overlay (Schedule 3) provisions thereby requiring any future development to have regard to its location and critical root zone such that no detriment is resultant.

5.8 Notice of the Amendment during exhibition

Submitters raised concerns about adequate notice of the amendment. Exhibition of the amendment complied with the requirements of the Act with regards to notice of the amendment. Notice was undertaken by:

- § Notice of the amendment was published in the Victorian Government Gazette on 12 November 2009.
- § Notice of the amendment was published in the Moorabbin Kingston Leader on 17 November 2009.
- § Signs giving notice of the amendment were erected on the site.
- § Direct notification was sent via ordinary mail to all surrounding landowners and occupiers affected by the amendment on 12 November 2009.
- § Amendment documentation was made available on Kingston's Strategic Planning website, at Cheltenham Planning and Building Counter and on the Department of Planning and Community Development website from the 12 November 2008.
- § Direct notification was also forwarded to the referral agencies, Ministers and adjoining municipalities (referral authorities notified are listed above in 4.1).

5.9 Retail Floor space

The proposed Amendment was drafted with a total 500m² floor space limit for the affected land in schedule to the zone applying to the use 'shop'. Following feedback from the Department of Planning and Community Development indicating that a restriction of total retail floor space area would be inappropriate in a Principal Activity Centre the restriction was removed. A submission was received suggesting a 300m² limit on the shop use in order not to compete with the core retail function of Westfield Southland. It is considered appropriate that this issue be forwarded to an Independent Planning Panel to consider and guide the amendment.

5.10 Design Controls

Submitters suggested that the design controls should be discretionary. The proposed Design and Development Overlay which Amendment C99 seeks to introduce includes discretionary except with regards to:

- § Landscape and urban design requirements including a preference for indigenous planting, landscaping treatments to soften built form particularly to neighbouring residential properties, protection of the significant tree and the creation of a communal open space at the south east corner of the precinct.
- § Environmentally sustainable design considerations
- § Pedestrian Linkages, Vehicle Access and Car Parking, primarily the requirement that a comprehensive traffic report be submitted with any future planning permit application to detail the response to a range of traffic issues including, parking, mitigation in local streets, changes adjoining intersections and access.

These controls are considered to be fundamental to respond to the constraints of the site and the nature of the potential future development and as such it is considered that they should not be discretionary. Due to the selective nature of the specification of discretionary and non-discretionary controls it is unclear what concerns the proponents would have with the non-discretionary design controls.

6. Policy Consideration

6.1 State Planning Policy Framework

The proposed amendment and planning permit application is considered to be consistent with the State Planning Policy Framework. In particular, the amendment gives effect to the objectives:

- § Clause 12 – A Compact City - by facilitating increased density development with in a Principal Activity Centre, within close proximity to transport, services and employment opportunities as outlined in this clause and the Melbourne 2030 and Melbourne@ 5 Million documents.
- § Clause 14 – Settlement - by re-zoning existing urban land to ensuring a sufficient supply for commercial land use and residential development in an established area.
- § Clause 16 – Housing – by allowing supply of varied housing types in locations near to activity centres to take advantage of existing infrastructure, an objective which presently cannot be met by those components of the land zoned Business 4 given the majority of uses that fall within the definition of Accommodation are prohibited.
- § Clause 19 – Particular Uses and Development - by applying appropriate design guidelines to achieve high quality urban and architectural design that enhances liveability, amenity and safety.

6.2 Local Planning Policy Framework

The proposed amendment is considered to be consistent with the Local Planning Policy Framework. In particular, the amendment gives effect to the objectives of:

- § Clause 21.06 – MSS Retail and Commercial Use - by revisiting the Zoning of the components of the affected land in the Business 4 Zone, primarily a bulky good zone, to suit the policy objective to confine retail of a bulky goods nature to nominated Restricted Retail Precincts to which the affect land does not belong.
- § Clause 22.01 – Cheltenham Business Centre Policy - by rezoning to suit the mix of uses outlined for precinct within which the affected land falls under the Business Centre

Policy. Also by applying design controls to ensure development suits policy objectives of high quality contemporary building and urban design to create a gateway/landmark at the centres edge.

- § Clause 22.17 – Highett Activity Centre Policy – by rezoning and providing design controls to:

“Encourage the development of a gateway building through site consolidation on the northwest and southwest corner of Nepean Highway and Highett Road to signify entry into the Activity Centre. The buildings should provide for retail or commercial uses at ground level and a mix of residential or offices above.”

7. Triple Bottom Line Checklist

- § Environmental - Facilitating development close to existing transport, services and employment provides for reduced reliance on private vehicles and reduces the need for further urban expansion. Applying proposed design controls will promote sustainable building design.
- § Social – Possible development arising from the rezoning would provide increased activity and surveillance of the surrounding streets and a greater range of uses to serve the needs of the local community.
- § Economic - Future land uses afforded by the rezoning including commercial and residential have the potential to provide employment opportunities and services which would complement the existing Principal Activity Centre uses.

8. Summary and Conclusion

Amendment C99 seeks to facilitate the appropriate redevelopment of the affected land to suit existing State and Local Planning Policy objectives. The Amendment has been exhibited and submissions to the amendment have been received. Given the issues raised by submissions, officers believe that it is appropriate for Council to request that the Minister for Planning to appoint an Independent Panel to consider and report on the Amendment in accordance with the requirements of the Planning and Environment Act 1987.

9. Recommendation

1. That Council formally request the Minister for Planning to appoint a Panel under Part 8 of the Planning and Environment Act 1987 to further consider and report on Amendment C99.
2. That all submitters to Amendment C99 be advised in writing of the above resolution.

Attachments:

1. *Summary of Submissions*

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KP 531/09 – 10-12 Pietro Road, Heatherton

APPLICANT	Adam Dettrick Architect
ADDRESS OF LAND	No.10-12 (Lot 2 on PS 541095S) Pietro Road, Heatherton
PROPOSAL	Dwelling
PLANNING OFFICER	Helen Walker
REFERENCE NO.	KP531/09
ZONE	Clause 35.04 – Green Wedge Zone Schedule 2
OVERLAYS	Clause 43.02 – Design and Development Overlay Schedule 5
PARTICULAR PROVISIONS	Clause 52.06 – Car parking Clause 57 Metropolitan Green Wedge Land
DECISION DATE BY	
STATUTORY DAYS	136 days at 14th January 2010
CONSIDERED PLAN REFERENCES/DATE RECEIVED	11th August 2009

1.0 KEY ISSUES

1.1 The key planning issues arising from this proposal relate to:

- Non urban area character
- Amenity impact

2.0 SITE & SURROUNDS

2.1 The subject site comprises a 4,652m² allotment on the east side of Pietro Road in Heatherton. It is currently vacant, and has a fall of about 2.2 metres from the front (west) boundary to the rear (east) boundary. The site contains some scattered vegetation, and is encumbered by a 2.01 metre wide drainage and sewerage easement along its rear (east) property boundary. There appears to be no restrictions listed on the Certificate of Title.

2.2 The site is located within a non-urban area. The surrounding area typically comprises of low density residential properties amongst market gardens and open space.

3.0 PROPOSAL

3.1 It is proposed to construct a double storey dwelling on the land, with kitchen, dining, living room, play room, four bedrooms and amenities at ground level, and study at first floor level, with an overall floor area of 296m². The dwelling would maintain a 14.73m frontage setback, and would have side setbacks of 16.25 metres from the northern, and 14.48 metres from the southern common side boundaries. There is an extensive setback from the rear (eastern) site boundary. The dwelling would have an overall height of 6.5 metres.

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3.2 It is also proposed to construct a 82.08m² metal clad shed to the south-east of the dwelling, 2 metres from the southern common boundary.

3.3 The dwelling would be brick, with part metal cladding and sloped roof. Building material colours have not been submitted, and will be required under Condition 1 of any permit issued.

4.0 PLANNING CONTROLS

4.1 The subject site is located within a Green Wedge Zone 2 and is subject to the Design and Development Overlay Schedule 5.

5.0 PLANNING PERMIT REQUIREMENTS

5.1 Pursuant to Clause 35.04, a planning permit is required to develop and use the land for a dwelling.

5.2 Pursuant to Clause 57.01-1, the use “Dwelling” is prohibited unless it is the only dwelling on the lot.

6.0 RELEVANT HISTORY

6.1 There is no relevant planning history relating to this site.

7.0 ADVERTISING

7.1 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.

No representations for or against this application have been received.

8.0 REFERRALS

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

- Council’s Development Engineer
- Council’s Vegetation Management Officer
- Moorabbin Airport Corporation Pty Ltd

8.2 The above-mentioned departments and Corporation had no objection to the proposal, subject to conditions being included on any permit issued.

9.0 RELEVANT POLICIES

9.1 State Planning Policy Framework (SPPF)

Clause 12: Metropolitan Development

Clause 14: Settlement
Clause 15: Environment
Clause 18: Infrastructure
Clause 19: Design & Built Form

9.2 Local Planning Policy Framework (LPPF)

Clause 21.10 (Non Urban Areas)
Clause 22.04 (South East Non Urban Area Policy)

9.3 Particular Provisions

None applicable.

9.4 General Provisions

Clause 65 (Decision Guidelines)

10.0 PLANNING CONSIDERATIONS:

10.1 State and Local Planning Policy Framework

State Planning Policy Framework (SPPF)

The proposal is considered to be consistent with the relevant provisions of the SPPF, and support the relevant strategies with regard to non-urban areas, design and built form and access.

Local Planning Policy Framework (LPPF)

Clause 21.10 Non Urban Areas seeks to manage non-urban areas in a sustainable manner, and to protect such areas from encroaching residential development.

The proposal is considered to support the relevant strategies at Clause 21.10 by:

- Maintaining the environmental, scenic and landscape values of the area;
- Providing a development that will be unobtrusive and consistent with the streetscape;
- Allowing only one (1) dwelling on the land, with the remainder of the land able to be utilised for a viable agricultural or other suitable non-urban use; and
- Not encouraging any further subdivision or residential development on the land.

Clause 22.04 South East Non Urban Area Policy provides for a wide range of rural, environmental and urban related uses, and effects areas in the City of Kingston, Casey, Frankston and Greater Dandenong. These areas are under pressure for more intensive urban development. The Policy provides a regional approach to the future management of non urban land to allow sustainable land use outcomes to be achieved.

The proposal is considered to support the relevant strategies at Clause 21.04 by:

- Encouraging sustainable land use practice;
- Not compromising metropolitan urban growth strategies;
- Protecting and developing the scenic and landscape values of the area; and

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- Providing an urban form which is of a high design standard and low visual impact.

10.2 Zoning Provisions

It is considered that the proposed development satisfies the purpose of the zone, which is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.*
- *To encourage use and development that is consistent with sustainable land management practices.*
- *To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.*
- *To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.*
- *To protect and enhance the biodiversity of the area.*

The requirements specified at Clause 35.04-1 (Use of land for a dwelling) can form part of any permit issued.

10.3 Overlay Provisions

It is considered that the proposed development satisfies the overlay requirements of the Design and Development Overlay Schedule 5 found at Clause 43.02.

10.4 Particular Provisions

Pursuant to the Table at Clause 52.06-5 (Car parking), a dwelling requires a total of two (2) car parking spaces. At least two (2) car parking spaces are provided on the site.

Pursuant to Clause 57.01-1 (Metropolitan Green Wedge Land), a dwelling is prohibited unless it is the only dwelling on the land. In this instance the site is vacant, and the proposed dwelling is the only dwelling to be built on the land.

11.0 CONCLUSION:

- 11.1 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, Local Planning Policy, Green Wedge Zone Schedule 2, Design and Development Overlay Schedule 5, and Clause 65 – Decision Guidelines (subject to appropriate conditions).

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

13.0 RECOMMENDATION:

That a Planning Permit for the development of this site for a dwelling be issued, subject to the 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 August 2009, but modified to show:
 - a. the 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 to be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent actual canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
 - iv. a range of plant types from ground covers to large shrubs and trees;
 - v. adequate planting densities (e.g. plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi. the provision of four (4) suitable medium sized (at maturity) canopy trees within the front setback of the property with all species chosen to be approved by the Responsible Authority;
 - vii. sustainable lawn areas and plant species taking current water restrictions into consideration;
 - viii. all trees provided at a minimum of two (2) metres high at time of planting;
 - ix. medium to large shrubs and trees provided in pot sizes of 200mm; and

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- x. the provision of notes on the landscape plan regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
 - b. The provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development.
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. Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
4. The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
5. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.
6. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.
7. Prior to the occupation of the dwelling 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. Prior to the occupation of the dwelling 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.
9. 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.
10. 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.).
11. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
12. Prior to the occupation of the dwelling 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.

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. Prior to the occupation of the dwelling 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. Prior to the occupation of the dwelling hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - i) Constructed to the satisfaction of the Responsible Authority.
 - ii) Properly formed to such levels that they can be used in accordance with the plans.
 - iii) Surfaced in accordance with the endorsed plans under this permit or in an all weather coloured concrete seal-coat, to the satisfaction of the Responsible Authority.
 - iv) 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.

16. 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.
17. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
18. 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 is not started within two (2) years from the date of permit issue.
 - The development is not completed within four (4) years from the date of permit issue.

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: 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.

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

Key drivers to ensuring the Strategy is fully implemented include:

- Adequate capital allocation for energy efficiency investments as identified in the Strategy. This allocation is not currently budgeted for within the 10 year capital works plan. Either the strategy will need to be altered to align with the current 10 year capital works budget, or the budget will need to be adjusted to reflect the proposed energy efficiency actions.
- Regular measurement and reporting of progress in reducing emissions and energy use.
- Reassignment of an existing officer within the Environment and Planning Team as a Greenhouse Officer to drive the energy efficiency program and ongoing improvements, measure progress and undertake other relevant emissions reduction activities.

If fully implemented the strategy is predicted to reduce corporate emissions by approximately 20% over a four year period, and to deliver significant financial savings associated with reduced energy consumption.

4. 3. Summary and Conclusion

The draft corporate section of the Kingston Greenhouse and Energy Management Strategy is attached for consideration. If fully implemented the strategy is expected to deliver emissions savings of approximately 4,000 tonnes, taking Council to a position approximately 20% below 2000-01 levels.

The community section will be completed once community engagement sessions have been implemented, to better understand what support the community require in relation to reducing their greenhouse gas emissions and living in a changing climate.

4. Consultation

Consultation with a range of internal stakeholders has been an important part of the development of the Strategy, which has a range of capital and human resource implications, particularly in buildings, street lighting and the corporate fleet.

External consultation with a broad range of community stakeholders is planned to start in March 2010. The information and ideas from this consultation will feed into the strategy. This consultation will also include the Climate Change Reference Group that Council recently discussed setting up.

5. Triple Bottom Line Checklist

- **Environmental** – The attached strategy provides Council with the necessary actions to reduce its own greenhouse gas emissions and energy consumption.
- **Social** – The strategy has been prepared in consultation with various internal stakeholders. Once endorsed by Council, community consultation will be undertaken, the information from which will be costed and presented to Council prior to being incorporated into the community section of the strategy.

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- **Financial** – The full implementation of the draft strategy will cost Council \$3,774,050 over four years with annual savings of \$248,783. This allocation is not currently budgeted for within the 10 year capital works plan and will need to be adjusted to allow for.

6. Recommendation

That Council resolve to issue the draft ‘corporate’ section of the Kingston Greenhouse and Energy Management Strategy for public consultation.

Attachments:

Draft Greenhouse and Energy Management Strategy

M 22

Contract 09/73 Stormwater Drain Repair Services

Approved by: Tony Rijs, General Manager Environmental Sustainability

Author: John Kelly, Team Leader Maintenance Contracts & Waste

1. Purpose of Report

This report seeks Council's acceptance of Contract 09/73 for Stormwater Drain Repair Services to Scope Building Services Pty Ltd as a *Schedule of Rates* contract for a three-year period with three one-year options at Council's discretion based upon Council estimates of work load indicators for a total Contract Sum of \$856,380.60 (*First Year* \$285,460.20).

2. Background

For the past two years Stormwater Drain Repair Services have been carried out by Scope Building Projects carrying out the works as a subcontractor to Guist Bros under the Concrete Grinding Contract

As a result of a review of these services and in order to add a Specialist Drain Repair contractor to the Maintenance Contracts Team a specification has been developed for Stormwater Drain Repair Services and the works accordingly advertised.

The type of works included in this contract includes the maintenance repair of stormwater drainage pits and pipes. These drainage assets maybe located in the road network, public carparks easements, backyards and park reserves. Works include repair/replacement of pit lintels and covers, repair /reconstruction of pits and pit surrounds, repair /replacement of damaged pipes and general drainage repairs.

Council has existing maintenance contracts for the cleaning of drains, footpath, road and sign maintenance and street sweeping.

3. Summary and Conclusion

After assessing all tenders the panel considered that the tenders of Scope Building Projects Pty Ltd provided the best service to Council.

4. Consultation

No community consultation has been undertaken.

5. Brief Description of the Work under the Contract

The works comprises non-programmed (routine) and programmed maintenance repairs to Councils stormwater drainage system.

The Contract is for a period of 3 years commencing 1 April 2010 with options at Councils discretion of three, one-year extensions.

The Contract is a Schedule of Rates Contract subject to an annual price adjustment based on the CPI changes.

6. Tenders Received

Tenders were advertised in the Age on Saturday 31st October and 7th November 2009 and closed at 2.00pm on Thursday 26th November 2009. 10 tenders were received, further details of these tenders are set out in the Confidential Attachment.

7. Project Funding

Stormwater Drain Repair Services are funded from the Goods and Services Road Maintenance Budget, 2009/10 budget sum \$300,000.

8. Evaluation Panel

The tenders were assessed by:

John Kelly – Team Leader Maintenance Contracts & Waste,
Robin Fisher – Senior Field Officer,
Alby Summerhayes - Field Officer

9. Assessment of Tenders

Seven conforming tenders were received. Tenderers were assessed in accordance with the evaluation criteria set out in the Tender Specification documents and included:

- Conformity with the Documents
- Financial Capacity
- Relevant Experience
- Performance Record
- Resources Available
- Occupational, Health & Safety Systems
- Quality and Environmental Management Systems
- Customer Service
- Price

10 Triple Line Checklist

10.1 Budget/Financial Impact

This packaging of Stormwater Drain Repair Services and the recommended tender represents the best outcome to Council in terms of value for money, level of risk and meeting customer service requirements.

10.2 Social Impact

Maintaining a functioning stormwater system together with maintaining public relations and ensuring minimum disruption to property owners, residents, pedestrians, vehicle users and other road users is a requirement of this Contract.

10.3 Environmental Impact

Compliance with environmental standards is a requirement of this contract.

11. Recommendation

That Council resolve to:

1. Award Contract No 09/73 for Stormwater Drain Repair Services as a Schedule of Rates contract for the period of three years 1 April 2010 to 31 March 2013 to Scope Building Projects Pty Ltd for a total contract sum of \$856,380.60 (incl GST) (First Year \$285,460.20).
2. That the three one-year contract optional extensions be at the discretion of the Chief Executive Officer, or delegate subject to satisfactory performance.

Confidential Attachments

M 23

Draft Playground Strategy

Approved by: Tony Rijs – General Manager Environmental Sustainability

Author: Steve Perumal – Co-ordinator Park Projects & Design

1. Purpose

The purpose of this report is to seek Council's endorsement to release the Draft Playground Strategy for a formal public consultation process.

2. Background

Council manages 112 playgrounds in public open space. Playgrounds represent a considerable investment by Council in planning, design, development and maintenance, with an estimated asset value of approximately \$6.8 million. Playgrounds are valued in many different ways by the community and are considered as a significant component of open space. Playgrounds at Council managed facilities such as MCHC's and kindergartens do not form part of the Draft Playground Strategy.

The Draft Playground Strategy takes a strategic approach to the development of playgrounds in parks with a view to deliver maximum value to the community through appropriate planning, design and maintenance programmes. This approach allows Council to get the best value from its investment by avoiding *ad hoc* or misplaced expenditure while providing the most equitable access to play in open space.

The main objectives of the Draft Playground Strategy are:

- To analyse the existing distribution and hierarchy of playgrounds across the municipality with regard to equitable provision, demographic data and trends, diversity of play opportunities and demand.
- To assess each playground and play space in Kingston and make short and long term recommendations.
- To provide a blueprint for future playground renewal and construction.
- To provide design principles and guidelines for the planning and design of spaces for children's play.

3. Summary and Conclusion

The Draft Playground Strategy is divided into two volumes. Volume One contains an analysis of the municipality with regard to playground distribution based on Council's Open Space Planning areas, it establishes playground catchment areas or precincts and it analyses demographic and socio-economic trends. It also contains the main body of the report's recommendations and playground design principles and guidelines. Volume two is a detailed site analysis of each of Council's 112 playgrounds and two playgrounds in Waterways.

In summary, the Draft Playground Strategy identifies:

- 3 Regional classification playgrounds at Bicentennial Park (Chelsea), Peter Scullin Reserve (Mordialloc) and Kingston Heath Reserve (Cheltenham).
- 7 District classification playgrounds
- 1 Town Park
- 101 Local and neighbourhood Classification Playgrounds

It notes that:

- Aspendale Gardens, Waterways, Chelsea Heights have high concentrations of children in the 0 to 4, 5 to 9 and 10 to 14 year old age groups including the projected 2013 data.
- Clarinda, Clayton South and parts of Chelsea have the highest measures of social disadvantage
- Carrum/Bonbeach and Parkdale have the largest areas without immediate access to playgrounds along with smaller pockets in Clayton South, Moorabbin, and Chelsea.
- Dingley Village has the largest concentration of neighbourhood and local playgrounds in a single catchment area without any access to a District or Regional playground facility.

A 10-year Implementation Plan (2007 to 2017) is proposed based on Council's Capital Works Playground Renewal Programme and new projects. In total, it is expected that the 10-year plan would result in:

- 49 playground renewals,
- 6 new playgrounds
- 2 playground amalgamations
- 6 playgrounds that will not be replaced at the end of their useful life

Based on current playground construction costs, it is estimated that new playgrounds recommended by the Strategy – that is playgrounds recommended at locations where there is no existing playground, will cost \$570,000 and playground renewals will total \$2,150,000. Eight of these playgrounds have already been renewed since 2007 and three are currently under construction.

4. Consultation

Before writing and developing the Draft Playground Strategy, a questionnaire (An Invitation to comment on Playgrounds) was distributed to all Kingston Primary Schools, Kindergartens, Maternal Child Health Centres and to interested residents through Council's website and articles in KYC and the local press. Approximately 100 surveys were returned. Comments were made on 31 Council playgrounds with the majority of comments relating to Council's three regional playgrounds at Bicentennial Park, Peter Scullin Reserve and Kingston Heath Reserve.

The Draft Playground Strategy was circulated to internal stakeholders in December/January including Leisure & Cultural Services, Parks, Community Engagement, Urban Design and Risk Management before presenting to Council.

A similar consultation process is proposed once the Draft Playground Strategy is approved for consultation. Key stakeholders have been identified including:

- Kingston Primary Schools
- Kindergartens
- Village Committees
- Disability access associations through Megan Grant's area
- Local community through Council's website, notice boards at regional playgrounds, media releases, KYC and the community radio programme

The Draft Playground Strategy will be available in an electronic format on Council's website and in hard copy at Kingston Libraries and Customer Service Centres.

5. Issues

The Draft Playground Strategy recommends that playgrounds at six locations should not be replaced when these playgrounds are at the end of their useful life. Locations are:

- Naples Street, Mentone Beach
- Ivy Marriott Reserve, Parkdale,
- Ashbourne Place Reserve, Dingley Village
- Balcombe Place Reserve, Dingley Village
- Amott Court Reserve, Aspendale Gardens
- Arrunga Court Reserve, Patterson Lakes

Proposed playground removals are contentious and it will be controversial at a local community level without the context of supporting recommendations. Playground removals are recommended in the context of playground upgrades and improvements at nearby playgrounds in the same precinct and subject to when there is an over-supply of playgrounds with little play-value diversity. The recommended playground removals would not be proposed until recommended playground upgrades in the same precinct were first completed and until specified playgrounds are at the end of their useful life.

6. Triple Bottom Line Checklist

- **Social** – Recognising the importance of play in children's development in line with UNICEF – characteristics of a Child Friendly City.
- **Financial** – Directing Council resources in a strategic manner based on existing and projected Capital expenditure.
- **Environmental** – Recognising the importance of integrating landscape elements and vegetation in all play spaces.

7. Recommendation

That Council release the Draft Playground Strategy for public consultation and for the outcome to be reported back to Council.

Attachment:
Draft Playground Strategy (previously circulated)

M 24

Formation of Climate Change Reference Group

Approved by: Tony Rijs, General Manager Environmental Sustainability

Author: Emily Boucher, Acting Team Leader Environment & Planning

1. Purpose

Support the formation of a Climate Change Reference Group and adopt the Terms of Reference.

2. Background

Councillors have indicated a desire to form a Climate Change Reference Group which will provide a forum for two way communication between the community and Council on climate change issues. The group would assist Council in developing and implementing community consultation and engagement strategies associated with the Greenhouse and Energy Management Strategy.

Councillors that have been involved in the development of the draft Terms of Reference are:

- Cr Shewan
- Cr Ronke
- Cr West
- Cr Staikos

In order to progress the formation of a group the draft Terms of Reference have been prepared for consideration.

3. Summary and Conclusion

The Climate Change Reference Group will provide a forum for two way communication between the community and Council on climate change issues. The Group would assist Council in developing and implementing community consultation and engagement strategies associated with the Greenhouse and Energy Management Strategy, enabling Council to build a relationship and understanding about the communities needs for assistance in dealing with climate change.

4. Recommendation

That Council resolve to:

1. Support the establishment of a Climate Change Reference Group and formally adopt the Terms of Reference.
2. Conduct an Expression of Interest process for community representatives to be appointed by Council.

Attachments:

Climate Change Reference Group Terms of Reference

4. Issues

The December 2009 meeting between Melbourne Water and Council's foreshore sub committee was attended by Crs Dundas and West, along with officers. Melbourne Water presented their response to the Naples Road option. This included their process for prioritising project options, namely their Multi-Criteria Analysis (MAC), which has a system for scoring the social, economic and environmental aspects of projects.

Their MAC indicated that the Naples Road alignment was by far the least preferred option primarily due to the large additional construction costs involved. Melbourne Water strongly confirmed that the cost differences between the Charman Rd option and the Naples Road option (prepared by council officers) were of the right magnitude, validating their multi-criteria analysis.

Melbourne Water's Managing Director has indicated that they are not prepared to consider Council's suggested alternative alignment (option 2) any further.

5. Council's financial exposure

Council has a financial exposure to the project with either option as any realignment of the Melbourne Water drain would:

- a) carry Council stormwater;
- b) necessitate the extension of one or more Council drains to connect into the Melbourne Water drain.

Council's contribution exposure for the Charman Rd option is in the order of \$300,000 to \$400,000. A more accurate figure will be available when Melbourne Water undertake their functional design for the Charman Road option.

Council Funds

Council's 10 year capital works program has an amount of \$800,000 for environmental initiatives on the foreshore, which notionally includes a Council's contribution to the Marina Road drain and also some form of viewing platform over the existing Naples Road drain.

Melbourne Water Funds

It is understood Melbourne Water have an allocation of \$3.6M.

The estimates for both options are summarised below:

Treatment Option	Estimates based on rates supplied by Melbourne Water's consultant
Charman Rd Alignment - Option 1	\$3.6M
Naples Rd Alignment - Option 2	\$8.1M

In summary, the range of Council's cost exposure is:

Treatment Option	Council \$ Exposure	Comment
Charman Rd Alignment - Option 1		
a. Contribution to Melbourne Water for treating Council's pipes.	\$400,000	
b. Cost of a separate (optional) Council project to construct a viewing platform over the Naples Rd pipe outlet.	\$500,000	
Total	<u>\$900,000</u>	
Naples Rd Alignment - Option 2	\$4.5M	Gap to Melb Water's \$3.6M budget allocation

6 Triple Bottom Line Checklist

6.1 Environmental

Both options provide enhancement to the environmental interface of the foreshore. The Naples Road option may provide stronger benefits as it would remove exposure of the north section of the foreshore to stormwater discharges.

6.2 Social

Both options enhance the recreational aspect of the foreshore

6.3 Economic

Naples Road option places a higher financial commitment on Council which is not part of its current long term financial plan.

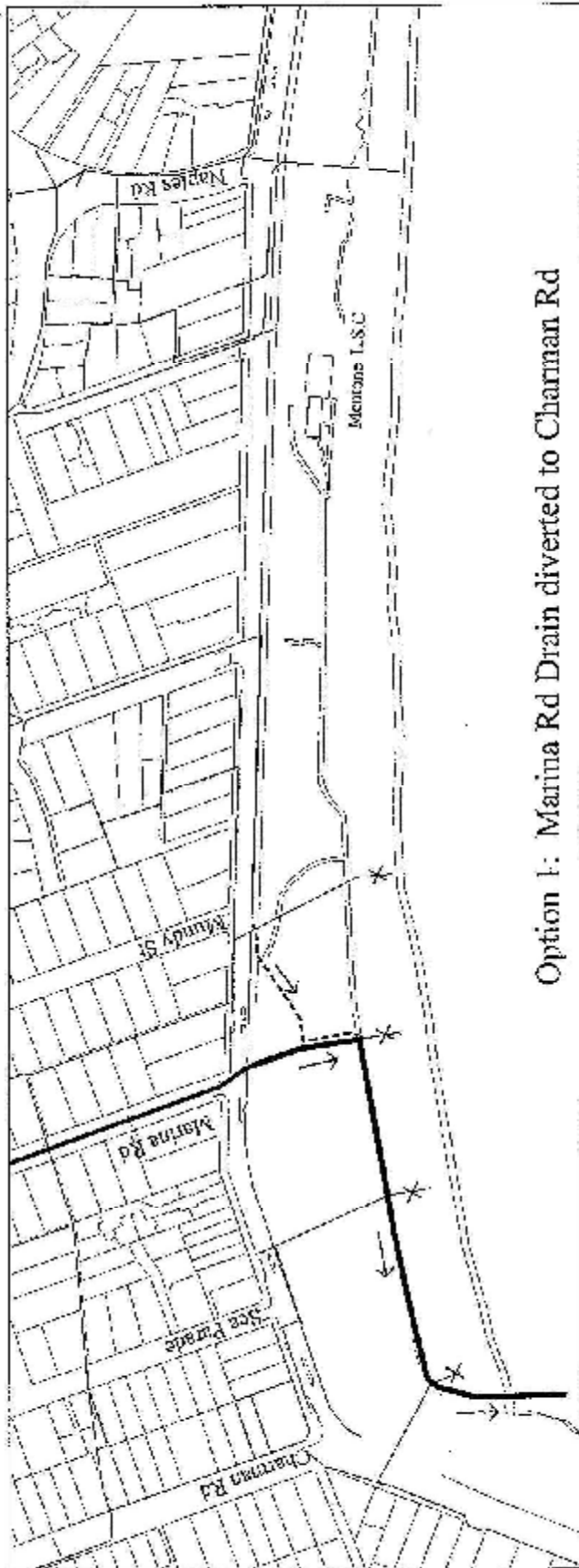
7 Recommendation

That Melbourne Water be formally advised that

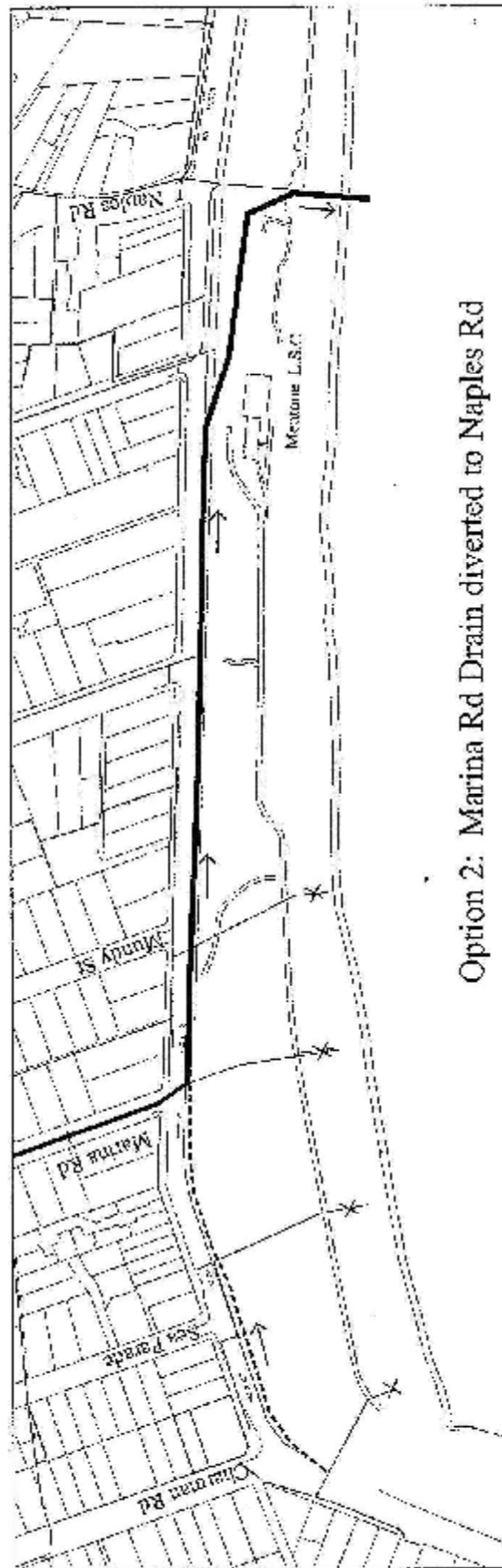
1. Council support's their proposal to redirect their Marina Road drain to Charman Road (option 1), subject to the drystone and bluestone walls being retained, with any damage caused during their works repaired.
2. Council would like to take advantage of the opportunity to remove Council's Charman Road, Sea Parade and Mundy Street pipes from the foreshore as part of their project.

Attachments :

- 1: *Proposed Pipe Alignment Options Plan*
- 2: *Melbourne Water letter*



Option 1: Marina Rd Drain diverted to Charman Rd



Option 2: Marina Rd Drain diverted to Naples Rd

M 26

Cat Confinement Order

Approved by: Tony Rijs, General Manager Environmental Sustainability

Author: Robyn Horner Manager, Local Laws and Health Services

1. Purpose

The purpose of this report is to request Councillors to adopt a resolution to change the wording on the previously adopted cat confinement order.

2. Background

The consideration of cat confinement was highlighted as a proposed activity in Council's Domestic Animal Management Plan 2008-2011 to help address issues such as predation on wildlife, community nuisance and attacks on domestic pets.

This issue was considered by Council at the Ordinary Council meeting on 28 September 2009 and Council determined to adopt a dusk to dawn cat confinement Order for the City of Kingston.

3. Summary and Conclusion

In order to clearly define the hours of operation of the curfew, it is considered that the wording of the order be modified to read "from sunset to sunrise" in lieu of "dusk to dawn". Sunset and Sunrise as defined by the Bureau of Meteorology. The amended Order is contained in the recommendation of this report.

4. Consultation

The statutory process does not require any additional public consultation. The statutory process will involve public notification in the local papers and Government Gazette. A detailed communication/education strategy was previously drafted and implementation of the plan has commenced.

5. Issues

5.1 Wording of the Order

It is recommended that the current wording of the Order be amended to read –
"Council makes an Order pursuant to Section 25 (2) of the Domestic Animals Act 1994 requiring all owners of a cat to keep that cat securely confined to the owner's property and not allow that cat to wander at large outside the owner's premises between sunset and sunrise. The time of sunset and sunrise will be determined by the Bureau of Meteorology. The Order covers all areas of the municipality. This Order will be effective from 1st November 2010".

5.2 Statutory Process

Once Council has made the above Order the following must occur to enable the Order to take effect. In accordance with Section 25(3) an Order made by Council under Section 25 must be published in the Government Gazette and in a newspaper circulated in the municipal district of the Council making the order.

No additional public consultation is necessary

6. Recommendation

That Council resolve to amend the wording of the previously adopted Cat Confinement Order to read *“Council makes an order pursuant to Section 25(2) of the Domestic Animals Act 1994 requiring all owners of a cat to keep that cat securely confined to the owner’s property and not allow that cat to wander at large outside the owners premises between sunset and sunrise. The time of sunset and sunrise will be determined by the Bureau of Meteorology. The Order covers all areas of the Municipality. This Order will be effective from 1 November 2010.”*

10. Organisational Development & Governance Reports

M 27 Update to Citizenship Policy

Approved by: Elaine Sowerby, General Manager Organisational Development & Governance

Author: Glenn Stewart, Team Leader, Customer Services

1. Purpose

The purpose of this report is to update Council's Citizenship policy (policy number 2009/13).

2. Background

Citizenship Ceremonies must be conducted strictly in accordance with the Australian Citizenship Ceremonies Code as issued by the Department of Immigration and Citizenship. This code makes reference to the Instrument of Authorisation in which classes of persons are authorised to receive the pledge of commitment to Australia. From time to time the Minister for Immigration and Citizenship will vary this Instrument to include additional classes of persons who will then be authorised to receive the pledge.

Council adopted the Citizenship Policy in October 2009. The policy clarified the arrangements for Kingston's ceremonies allowable under the code.

Since then the previous Instrument of Authorisation has been revoked and replaced by a new Instrument of Authorisation. This instrument includes the office commonly accepted to be the Deputy Mayor as a class of person authorised to receive the pledge of commitment to Australia.

3. Summary and Conclusion

Council is now able to include the office of Deputy Mayor as a class of person authorised to receive the pledge of commitment to Australia. It is proposed to amend Council's policy to include the Deputy Mayor as second in precedence to the Mayor. A Councillor acting as the Mayor or Deputy Mayor and the CEO would then have precedence over a representative from any level of government to assume the role of presiding officer. The next Citizenship Ceremony is 4 March, 2010.

4. Consultation

Not Applicable

5. Issues

5.1 Inclusion of Deputy Mayor into the Policy is now possible.

The changes made to the instrument of authorisation means that Council can now amend its policy to include the Deputy Mayor (a position which has been nominated in 2010).

The inclusion of the Deputy Mayor will ensure there are no representation difficulties if the Mayor is absent.

5.2 Order of Precedence for the Role of Presiding Officer

Under Council's existing policy precedence is always given to Kingston Councillors and then the CEO before any external person who is authorised to undertake the role of presiding officer such as a local Member of Parliament, would be invited.

While the position of Deputy Mayor would clearly have precedence after the Mayor there is an issue of whether a non-elected officer (eg: the CEO or Acting CEO) should have precedence over other elected representatives (eg: State & Federal MP's) if a Councillor is not available. The essence of this issue is whether Councillors wish to keep the role of presiding officer "in house", or not.

6. Options

- 6.1 Status quo - continue to run Citizenship Ceremonies using the current policy thereby excluding the position of Deputy Mayor from being a presiding officer in their own right.

In practical terms this option means the Deputy Mayor would be excluded under the policy from the role of presiding officer unless he/she has been formally appointed as the acting Mayor.

Under this option it would not be illegal for the Deputy Mayor to assume the role of presiding officer but contrary to adopted policy as the instrument of authorisation would prevail over Council Policy.

- 6.2 Adopt an amendment to the Citizenship Policy which gives precedence to all elected representatives from any level of government (eg: State & Federal MP's) with the CEO as the last resort. This means that a member of the official party who is also eligible to be a presiding officer will be invited under clause 2.6 (such as a local MP), before the CEO assumes the role.
- 6.3 Adopt an amendment to the Citizenship Policy which gives precedence to all eligible local Kingston officer holders whether elected or not.

This is the preferred option.

7 Triple Bottom Line Checklist

- **Environmental** – Not Applicable
- **Social** – Not Applicable
- **Financial** – Not Applicable

7. Recommendation

“That Council resolve to:

Adopt an amendment to clause 2.5 of the Citizenship Policy No 2009/13 which includes the position of Deputy Mayor as a class of person authorised to receive the pledge of commitment and gives precedence to all eligible local Kingston officer holders whether elected or not.”

M 28

Expenditure of Ward Funds Schedule

Approved by: Elaine Sowerby, General Manager Organisational Development & Governance

Author: Michael Fry, Team Leader Council Business

1. Purpose

The purpose of this report is to seek formal Council approval of the expenditure of Ward funds in accordance with the ‘*Expenditure of Ward Funds Policy*’.

2. Background

The Council, on 23 March 2009, adopted a revised policy for the expenditure of ward funds.

Each financial year during a Council term, Kingston Councillors are allocated \$6,000 in ward funds for utilisation in accordance with the adopted policy. Part 2 of the policy, which outlines the limitations on the expenditure of ward funds, specifies that Councillors may propose that ward funds be allocated for initiatives that aim to:

- “a) assist a recognised community group (including sporting/recreational body, arts/cultural group, charity, youth group, pre-school, playgroup, senior citizens club, historical society, friendship group, environmental group, trader organisation or toy library) which provides a service, program or activity used by or of benefit to Kingston residents;*
- b) assist an individual who is a resident of the City of Kingston to participate in a sporting, recreational or cultural activity, or other pursuit of a personal development nature, or who is in necessitous circumstances;*
- c) Support an event or activity which will be of benefit or interest to residents of the City of Kingston;*
- d) Support the key external themes of enhancement of the physical environment or the development of community well being, identified in the Council Plan.”*

It should be noted that the policy also enables a Ward Councillor to propose that his / her ward funds be expended outside of the Councillor’s specific ward, provided that the ward funds are expended for the benefit of the Kingston community, and that one or more of the criteria set out above are met.

**City of Kingston
Ordinary Council Meeting**

Agenda

22 February 2010

The table below lists the Councillor requests for the expenditure of ward funds received since the last Ordinary Council Meeting.

Table of Councillor requests:

Councillor	Ward	Initiative	Request Date	Amount \$
Ronke	South	<i>Oxfam Fundraiser: Sue Gazzo</i> Hall Hire	12/2/2010	550
Cr West OAM	Central	<i>Fun in the Sun Festival</i> Operating Expenses	15//02/2010	400

Recommendation

That Council approve the expenditure of ward funds in accordance with the table of Councillor requests.

4. Consultation

Councillors and senior officers have been consulted in relation to the content of the City of Kingston Submission. Further an officer and a Councillor attended the LGV Round Table discussion at Wantirna on 11 February 2010.

5. Issues

The LGV overall approach is to fine tune the existing provisions. It is unlikely that more significant changes or rolling back to previous provisions will be undertaken. The Kingston submission, while it focuses on the specific issues raised in the LGV consultation paper also seeks a broader review of Conflict of Interest provisions and raises additional specific issues.

Detailed responses to consultation questions are included in the covering letter and submission. The major topics raised in the submission include:

Reframe Direct and Indirect Interests so the representative role of councillors is not compromised

The submission seeks to redefine direct interest to include those interests which must be declared and result in the Councillor being excluded from debate and voting, and indirect interests as those interests which by their nature must be openly declared and exclude the councillor from voting but not from debate. This proposal will allow Councillors to represent the views of their constituents to do so openly and transparently rather than behind closed doors. .

Strengthen Indirect Interest to Include “Friends”

The submission seeks further review of the extent of close association to include close personal friends. The current provisions do not pick up close personal associations.

Eliminate Hospitality Issues from Training and Development Opportunities

The submission seeks amendment of the applicable gift definition or a specific exemption to be made to exclude development/training/knowledge sharing events regardless of the provider where they are offered widely to the sector and there is a public benefit.

Formal support to the sector in determining conflicts

The submission seeks a greater role from LGV or an alternative mechanism to provide formal advice to officers and councillors in relation to conflicts of interest. This mechanism should allow issues to be put to LGV for consideration, and where full disclosure of all known issues is made, allow for formal advice to be provided back in relation to whether a conflict exists or not.

6. Options

Council has the following options in terms of making a submission

1. Abandon the process of making a submission.
2. Make a submission to LGV in the form of the attached cover letter and submission. This is the preferred option.
3. Modify the submission further before submitting to LGV.

4. Abandon the submission, and forward a letter to LGV submission process supporting the position of the VLGA noting any agreed exceptions.

7 Triple Bottom Line Checklist

- **Environmental** – *nil.*
- **Social** – *modifications to the conflict of interest provisions sought in the submission would enhance a Councillors ability to represent their community whilst still maintaining a transparent disclosure regime.*
- **Financial** – *nil.*

8. Recommendation

That Council resolve to support the attached Conflict of Interest Consultation submission being forwarded to Local Government Victoria by Wednesday 26 February 2010.

Attachments:

Cover letter submission to LGV conflict of interest consultation paper

Submission - Local Government Conflict of Interest - submission template February 2010

11. Notices of Motion

M 30 Cr Peulich: Amendment to Council Resolution 8 February 2010 re Bus Lanes – Centre Dandenong Road

Explanation:

The motion and subsequent resolution of Council with respect to this matter called for a community meeting to be arranged within 21 days of the Council resolution of 8 February 2010. Local members of Parliament are unavailable to attend the proposed community meeting within the 21 day period due to a clash with Parliamentary sitting dates. Accordingly, it is proposed to amend the Council resolution of 8 February with respect to the date of the proposed community meeting.

Motion:

I move that:

Paragraph 3 of the resolution made at the Ordinary Council Meeting held on 8 February 2010, with respect to the Bus Lanes – Centre Dandenong Road, be amended to read as follows:

3. “Council invite VicRoads and local representatives to participate in a community meeting in Dingley Village on Friday 5 March 2010, commencing at 6.00pm, to enable Dingley Village residents to be briefed on the proposal to establish bus lanes in Centre Dandenong Road and provide feedback on the proposal”.

Signed

Cr Paul Peulich