

**City of Kingston
Ordinary Council Meeting**

Agenda

24 May 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 24 May 2010.

- 1. Apologies**
- 2. Confirmation of Minutes of Previous Meetings**
Minutes of Ordinary Council Meeting 27 April 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**
- 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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- 10. Organisational Development & Governance Reports**

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- 11. Corporate Services Report**

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- 12. Notices of Motion**

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- 13. Urgent Business**

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14. Items in Camera

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M 102 1230 Nepean Highway, Cheltenham

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6. Reports from Village Committees

PRESENTATION OF VILLAGE COMMITTEE REPORTS

6(a) Cheltenham Village Committee

Meeting on 4 May 2010 was cancelled due to lack of quorum.

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

Report of Meeting held on 4 May 2010

Highlight: Nil.

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

Report of Meeting held on 4 May 2010

Nature strip trees along Beach Road

Village Committee Motion

That indigenous coastal/trees and shrubs be planted along Beach road nature strips and plantings are done in consultation with owners as to location on the nature strip.

Officer Comment

Councils approach to street tree planting along Beach Road is in response to individual resident's requests to have a new street tree planted on the nature strip in front of their property. This is in response to maintaining the integrity of bay views for the residents of Beach Road.

Council has guidelines in place for the siting of new plantings on nature strips. These guidelines include but are not limited to, achieving minimum clearance distances from vehicle cross overs, corners, electricity poles, fire hydrants, storm water pits and incoming gas and water lines to name a few. There is also a requirement for vegetation on nature strips to be able to be pruned to a single trunk or have a clear trunk minimum of 1.5m in height.

These guidelines are in place to ensure safety with respect to sight lines and to reduce the likelihood of ongoing maintenance. This approach is inline with Vic Roads guidelines for planting within road reserves.

Highlight: The many and varied traffic issues.

**6(d) Dingley / Heatherton Village Committee
Chairperson – Allan Harris**

Report of Meeting held on 5 May 2010

Highlight: The Parks department response towards maintenance requests put forward by committee members and also Steve Perumal's presentation..

6(e) Patterson Lakes/Carrum Village Committee

Chairperson – Pat King

Report of Meeting held on 5 May 2010

Highlight: That despite being raised many times, the issue of the Village Committee not receiving more detailed and faster information about processes in response to items on the MAS has not been addressed.

6(f) Moorabbin / Highett Village Committee

Chairperson – Daniel Leipnik

Report of Meeting held on 6 May 2010

Highlight: Grants finalised.

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

Chairperson – Ken Carney

Report of Meeting held on 6 May 2010

Highlight: Presentation made by Munir Vahanvati relating to the draft Mordialloc Creek Masterplan Concept Plan.

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

Chairperson – Nigel McGillivray

Report of Meeting held on 12 May 2010

Highlight: Steve Perumal's investigation of realising the Concept Plan presented to the Village Committee regarding the Safeway Car Park plan in terms of the trees.

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9. Environmental Sustainability Reports

M 81 Town Planning Application Decisions – April 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 March 2010.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	59	80
Notice of Decision	5	7
Refusal to Grant a Permit	3	4
Other - Withdrawn () - Prohibited (0) - Permit not required (3) - Lapsed (4)	7	9
Total	74	100

(NB: Percentage figures have been rounded)

Recommendation

That the report be noted.

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Planning Decisions April 2010						
APPL. No.	PROPERTY ADDRESS	SUBURB	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION
KP-36/2010	37 Raleigh Street	CLARINDA	25/01/2010	1/04/2010	THREE (3) LOT SUBDIVISION	Permit Issued
KP-24/2010	278-281 Nepean Highway	EDITHVALE	13/01/2010	1/04/2010	CREATE CARRIAGEWAY EASMENT	Permit Issued
KP-870/2009	1 11-13 Sydney Street	CLAYTON SOUTH	31/12/2009	1/04/2010	SATELLITE DISH	Permit Not Required
KP-573/2009	179 Wickham Road	MOORABBIN	28/08/2009	6/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-650/2009	10 Shenfield Avenue	BONBEACH	2/10/2009	6/04/2010	SIX (6) DWELLINGS	Refused
KP-44/2009	45 Second Avenue	CHELSEA HEIGHTS	29/01/2009	6/04/2010	THREE (3) DWELLINGS	Permit Issued
KP-695/2009	329 Nepean Highway	PARKDALE	23/10/2009	7/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-641/2009	10 Johnson Avenue	CARRUM	29/09/2009	7/04/2010	TWO (2) DWELLINGS & TWO (2) LOT SUBDIVISION	Notice of Decision
KP-575/2009	4-14 Crawford Road	CLARINDA	31/08/2009	7/04/2010	INSTALLATION OF FLOODLIGHTS TO TENNIS COURT	Permit Issued
KP-1138/2008	236 Station Street	EDITHVALE	22/12/2008	7/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-161/2010	56 Waterside Drive	WATERWAYS	24/03/2010	7/04/2010	SINGLE DWELLING	Permit Issued
KP-97/2010	9 Burns Avenue	CLAYTON SOUTH	25/02/2010	7/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-106/2010	1 Barmah Place	WATERWAYS	1/03/2010	7/04/2010	SINGLE DWELLING - LSIO	Permit Issued
KP-517/2009	233 Governor Road	BRAESIDE	4/08/2009	8/04/2010	ADVT SIGN	Permit Issued
KP-160/2005/A	Waterside Drive	WATERWAYS	11/09/2006	8/04/2010	ALTERATIONS & ADDITIONS TO FOOD & DRINK PREMISES REDUCED CAR PARKING REQUIREMENTS	Permit Issued
KP-659/2006/A	Waterside Drive	WATERWAYS	2/03/2010	8/04/2010	LIQUOR LICENCE	Permit Issued

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KP-760/2009	21 Reeve Court	CHELTENHAM	17/11/2009	8/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-151/2010	5 47 Catherine Avenue	CHELSEA	18/03/2010	9/04/2010	CONSTRUCT DECK TO DWELLING	Permit Not Required
KP-860/2009	684-686 South Road	MOORABBIN	23/12/2009	9/04/2010	INTERNALLY ILLUMINATED BUSINESS IDENTIFICATIO N	Permit Issued
KP-304/2009	8 Mount View Street	ASPENDALE	13/05/2009	9/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-609/2009	3 Genoa Street	MOORABBIN	11/09/2009	12/04/2010	TWO (2) DWELLINGS	Notice of Decision
KP-683/2009	2 Foy Lane	CHELSEA	15/10/2009	12/04/2010	TWO (2) DWELLINGS	Notice of Decision
KP-283/2009	13 Hilda Street	CHELTENHAM	4/05/2009	12/04/2010	2 LOT SUBDIVISION	Permit Issued
KP-801/2009	96-98 White Street	MORDIALLOC	1/12/2009	12/04/2010	SIX (6) LOT SUBDIVISION	Permit Issued
KP-498/2009	47 Palm Beach Drive	PATTERSON LAKES	27/07/2009	12/04/2010	REPLACEMENT OF JETTY	Permit Issued
KP-662/2009	17 Tennyson Avenue	CLAYTON SOUTH	8/10/2009	12/04/2010	FOUR (4) DWELLINGS	Permit Issued
KP-92/2010	6A 140-148 Chesterville Road	CHELTENHAM	23/02/2010	12/04/2010	CHANGE OF USE (PERSONAL TRAINING STUDIO) WITH REDUCED CAR PARKING REQUIREMENT S	Permit Issued
KP-190/2010	58 Viney Street	CLARINDA	9/04/2010	12/04/2010	BUILDINGS AND WORKS - TOILET FACILITY	Permit Issued
KP-767/2009	26 477-481 Warrigal Road	MOORABBIN	20/11/2009	13/04/2010	PLACE OF ASSEMBLY	Permit Issued
KP-81/2010	33 Crawford Road	CLARINDA	18/02/2010	13/04/2010	TWO (2) LOT SUBSIVISION	Permit Issued
KP-127/2010	12 Knight Street	CLAYTON SOUTH	5/03/2010	13/04/2010	TWO (2) LOT SUBSIVISION	Permit Issued
KP-751/2009	612-615 Nepean Highway	CARRUM	16/11/2009	14/04/2010	CHANGE OF USE	Lapsed
KP-588/2009	11 Ebb Street	ASPENDALE	2/09/2009	14/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-708/2009	25 102-114 Gladesville Boulevard	PATTERSON LAKES	26/10/2009	15/04/2010	LIQUOR LICENCE	Permit Issued
KP-867/2009	1 Nepean Highway	MENTONE	29/12/2009	16/04/2010	RETAIL PET SUPPLIES	Refused
KP-149/2010	461 Clayton Road	CLAYTON SOUTH	19/03/2010	16/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued

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KP-112/2010	75-77 Cochranes Road	MOORABBIN	3/03/2010	19/04/2010	MANUFACTURING SALES FROM EXISTING FACTORY/WAREHOUSE (FOOD)	Permit Issued
KP-868/2009	31-33 Canterbury Road	BRAESIDE	29/12/2009	19/04/2010	BUILDING & WORKS COMPRISING THE CONSTRUCTION OF FOUR (4) FACTORIES AND REDUCTION IN CARPARKING REQUIREMENT	Permit Issued
KP-108/2010	27 26-28 Roberna Street	MOORABBIN	3/03/2010	19/04/2010	ALTERS & ADDS TO EXISTING FACTORY/OFFICE	Permit Issued
KP-645/2009	305 Station Street	CHELSEA	2/10/2009	19/04/2010	THREE (3) LOT SUBDIVISION	Permit Issued
KP-687/2009	13 Merlyn Avenue	CLAYTON SOUTH	19/10/2009	19/04/2010	TWO (2) DWELLINGS	Notice of Decision
KP-279/2009	1 18 Woodbine Grove	CHELSEA	29/04/2009	19/04/2010	THREE DWELLINGS	Permit Issued
KP-43/2010	123 McDonald Street	MORDIALLOC	29/01/2010	20/04/2010	THIRTEEN (13) APARTMENT STYLE DWELLINGS - 3 STOREY	Lapsed
KP-119/2009	1 31 Golden Avenue	CHELSEA	27/02/2009	20/04/2010	FIVE DWELLINGS	Permit Issued
KP-423/2009	SHOP 230-234 Como Parade West	PARKDALE	1/07/2009	20/04/2010	REDUCTION IN CAR PARKING / ALTERATIONS & ADDITIONS	Lapsed
KP-74/2010	138 Warrigal Road	MENTONE	15/02/2010	20/04/2010	FIVE (5) LOT SUBDIVISION	Permit Issued
KP-131/2010	73 Bulli Street	MOORABBIN	12/03/2010	20/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-69/2010	46 Roberna Street	MOORABBIN	11/02/2010	20/04/2010	MOTOR VEHICLE SALES	Permit Issued
KP-772/2009	22 Kylie Place	CHELTENHAM	23/11/2009	21/04/2010	MANUFACTURING SALES	Permit Issued
KP-656/2007/A	260-280 Chesterville Road	MOORABBIN	14/04/2010	21/04/2010	34 LOT SUBDIVISION	Permit Issued
KP-358/2002/A	1 544 Nepean Highway	BONBEACH	15/09/2008	21/04/2010	PROPOSED ROOF TOP DECKS UNITS 3 5 & 7 / 544 NEPEAN HIGHWAY BONBEACH	Refused
KP-133/2010	11 Nardoo Court	CLARINDA	16/03/2010	21/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued

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KP-766/2009	39 Jolimont Place	DINGLEY VILLAGE	20/11/2009	22/04/2010	BUILDINGS AND WORKS	Permit Issued
KP-128/2010	21 Friendship Square	CHELTENHAM	10/03/2010	23/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-176/2010	26 Fiddes Street	MOORABBIN	30/03/2010	23/04/2010	DWELLING EXTENSIVO - SBO	Permit Issued
KP-668/2009	21 Hillston Road	MOORABBIN	12/10/2009	23/04/2010	TWO (2) DWELLINGS	Notice of Decision
KP-191/2010	3 Coorong Circle	WATERWAYS	6/04/2010	23/04/2010	SINGLE DWELLING	Permit Issued
KP-192/2010	6 Black Swan Lane	WATERWAYS	6/04/2010	23/04/2010	ONE (1) DWELLING	Permit Issued
KP-104/2010	3 Newry Street	CHELTENHAM	2/03/2010	23/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-148/2010	13 Glennie Avenue	OAKLEIGH SOUTH	18/03/2010	23/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-86/2010	1 13 Valetta Street	CARRUM	19/02/2010	27/04/2010	SINGLE DWELLING	Permit Issued
KP-116/2009	36 Mill Street	ASPENDALE	25/02/2009	27/04/2010	TWO DWELLINGS	Permit Issued
KP-527/2009	4 Chadwell Grove	CHELSEA	11/08/2009	27/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-29/2010	31 White Street	PARKDALE	15/01/2010	27/04/2010	FOUR (4) LOT SUBDIVISION	Lapsed
KP-774/2009	24 Cobham Street	CHELTENHAM	24/11/2009	27/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-702/2009	10 Broome Avenue	MENTONE	23/10/2009	27/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-829/2009	1181 Nepean Highway	HIGHETT	14/12/2009	27/04/2010	THREE (3) LOT SUBDIVISION	Permit Issued
KP-554/2008/A	43 Clay Street	MOORABBIN	9/07/2009	28/04/2010	TWO (2) DWELLINGS - AMENDMENT	Permit Issued
KP-653/2009	87 Wilson Street	CHELTENHAM	6/10/2009	28/04/2010	TWO (2) DWELLINGS	Permit Issued
KP-156/2010	4 Margaret Street	MOORABBIN	23/03/2010	28/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-597/2009	50 Rosewarne Avenue	CHELTENHAM	3/09/2009	28/04/2010	TWO (2) LOT SUBDIVISION	Permit Issued
KP-4/2010	2 Bapaume Avenue	EDITHVALE	4/01/2010	29/04/2010	THE CONSTRUCTION OF A PRIVACY SCREEN ON COMMON PROPERTY	Permit Not Required
KP-694/2009/A	21 Thompson Road	PATTERSON LAKES	28/04/2010	29/04/2010	SECTION 24A PLAN & SECTION 32 PLAN	Permit Issued
KP-101/2010	358 South Road	MOORABBIN	25/02/2010	30/04/2010	SECTION 32 PLAN	Permit Issued

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KP 09/699 – 67 Como Parade East, Mentone

APPLICANT	Daniel Bowden Town Planning Pty Ltd and Rygab Investments Pty Ltd
ADDRESS OF LAND	67 Como Parade East, PARKDALE VIC 3195 (Lots 1 and 2 on TP393352H and Lots 1 and 2 TP396913B)
PROPOSAL	Five (5) Dwellings
PLANNING OFFICER	Tess Johnson
REFERENCE NO.	KP-699/2009
RELEVANT STATE PLANNING POLICY FRAMEWORK	Clause 12: Metropolitan Development Clause 14: Settlement Clause 16: Housing Clause 19: Particular Uses & Development
RELEVANT LOCAL PLANNING POLICY FRAMEWORK	Clause 21.03: Land Use Challenges for The New Millennium Clause 21.04: Vision Clause 21.05: Residential Land Use Clause 22.11: Residential Development Policy
ZONE	R1Z
OVERLAYS	N/A
PARTICULAR PROVISIONS	Clause 55: Two or More Dwellings on a Lot & Residential Buildings
GENERAL PROVISIONS	Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA	Increased Housing Diversity
DECISION DATE BY	25.04.10
STATUTORY DAYS	58 days at 23.04.10
CONSIDERED PLAN REFERENCES/DATE RECEIVED	DRG Nos. 4/8; 3/ 4; 4/4; DRG Nos. Shadows 1/3, 2/3, 3/3; date stamped by Council 12.02.10

1.0 KEY ISSUES

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

- Traffic considerations
- Neighbourhood character
- Amenity impact (internal and external)
- Any areas of non-compliance with ResCode

2.0 PROPOSAL

2.1 It is proposed to demolish the existing dwelling and outbuildings on the land and construct five (5) double storey dwellings on this site.

2.2 Development summary:

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Dwelling	Floor Area (excluding garage / verandah)	Private Open Space	No. of Bedrooms proposed	No. of Car Parking Spaces provided
1	146.75m ²	113m ² (including 29m ² of secluded private open space)	4	2
2	113.3m ²	60m ² (including 31.5m ² of secluded private open space)	2	1
3	117.8m ²	60m ² (including 25.3m ² of secluded private open space)	2	2
4	105.1m ²	60m ² (including 25.5m ² of secluded private open space)	2	2
5	101.6m ²	60m ² (including 25.9m ² of secluded private open space)	2	2

2.3 The proposal has an overall site coverage of 50.25 percent and a permeability percentage of 26.75 percent.

2.4 Development Assessment Table:

Criteria	ResCode Requirement	Proposed Development Provision
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: complies Dwelling 2: complies Dwelling 3: does not meet standard (refer to the ResCode discussion section within this report) Dwelling 4: does not meet standard (refer to the ResCode discussion section within this report) Dwelling 5: does not meet standard (refer to the ResCode discussion section within this report)
Car Parking	One (1) car parking space for one (1) or two (2) bedroom dwelling OR Two (2) car parking spaces for each three (3) or more bedroom dwelling, with one (1) space under cover	Dwelling 1: complies Dwelling 2: complies Dwelling 3: complies Dwelling 4: complies Dwelling 5: complies

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Visitor Car Parking	One (1) visitor space for every 5 dwellings	Does not meet standard (refer to the ResCode discussion section within this report)
Front Setback	<p>Front Street: the same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street (i.e. 8m).</p> <p>Side Street: Front walls of new development fronting the side street of a corner site should be setback at least the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street (13.3m) or 3 metres, whichever is the lesser (i.e. 3m)</p> <p>Side walls of new development on a corner site should be setback the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street (13.3m) or 2 metres, whichever is the lesser (i.e. 2m).</p>	<p>Dwelling 1: setback to front street does not meet standard (refer to the ResCode discussion section within this report)</p> <p>Dwelling 2: complies</p> <p>Dwelling 3: complies</p> <p>Dwelling 4: complies</p> <p>Dwelling 5: complies</p>
Site Coverage	Maximum 60% - as per ResCode	Site coverage is 50.25% and therefore complies

2.5 The proposed building materials, colours and finishes are summarised in the table below:

Roof:	Tiles, colour not specified
Walls:	Combination of timber cladding and render, colours not specified
Entry canopy:	Metal cladded, colour not specified
Garage doors:	Timber, colour not specified
Windows:	Not specified
Driveways:	Coloured concrete in stamped pattern, colour not specified
Front fencing:	1.2m high rendered brick pier with dwarf wall and horizontal metal bars, colours not specified
Boundary fences:	1.8m high paling fence with 600mm high trellis
Internal fences:	1.7m high horizontal jarrah boards with gaps between

3.0 SITE & SURROUNDS

- 3.1 The subject site comprises an 802.6m² allotment on the north-west corner of the intersection of Como Parade East and Fifth Street, Parkdale. It currently contains a single storey brick and fibro dwelling with a pitched roof and carport to the rear, which is accessed from Fifth Street. The site does not contain any significant vegetation. There are no restrictions listed on the Certificate of Title.
- 3.2 A street tree exists within the site's Como Parade East frontage. A large established tree is located within close proximity to the site's north-east property boundary.
- 3.3 The surrounding area typically comprises of brick single storey dwellings with pitched tiled roofs, however there are a number of multi-dwelling developments further along

Como Parade East and Fifth Street. There are a number of double storey developments within the wider locality.

4.0 TITLE DETAILS

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

5.0 PLANNING CONTROLS

5.1 The subject site is located within a Residential 1 Zone.

6.0 PLANNING PERMIT REQUIREMENTS

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

7.0 RELEVANT HISTORY

7.1 An Application for Review against Council's Failure to Determine Application No. KP900/07 within the Statutory Timeframe, for six (6) dwellings within an attached double storey building, was heard at the Victorian Civil Administrative Tribunal on 23rd March, 2009, with the VCAT ordering to affirm the decision of the Responsible Authority to refuse to grant a permit on 24th April, 2009.

7.2 The current application before Council proposes an alternative site layout and a reduction in the number of dwellings from six to five, essentially seeking to address the concerns raised by the Tribunal in the former application.

8.0 ADVERTISING

8.1 Prior to advertising, the Permit Applicant submitted revised plans on 12th February, 2010, that essentially addressed the initial concerns outlined within the Planning Officer's further information letter. It is these revised plans that formed part of the advertising documentation and are now those that are under consideration by Council.

8.2 As discussed, 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. Thirteen (13) objections to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Parking and traffic concerns
- Neighbourhood character
- Overdevelopment
- Overlooking
- Damage to tree on adjoining property

8.3 The following objections raised are not valid planning considerations:

- Devaluation of property

9.0 PRELIMINARY CONFERENCE

- 9.1 A preliminary conference was held on 15th April, 2010, with the relevant Planning Officer, Ward Councillor(s), the Permit Applicant and owner, and ten (10) objectors in attendance. The above-mentioned issues were discussed at length.
- 9.2 The above concerns were unable to be resolved at the preliminary conference, and the objections still stand.

10.0 REFERRALS

- 10.1 The following internal and/or external referral departments were notified:
- Council's Development Engineer
 - Council's Vegetation Management Officer
 - Council's Roads and Drains Officer
 - Council's Street Tree 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)

11.4 General Provisions

Clause 65 (Decision Guidelines)

11.5 Other

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

The land is located within Area 20 of the Neighbourhood Character Guidelines, which identifies five (5) character elements which are considered to make a ‘major’ contribution to the character of the area, these being lot pattern, building placement, building footprint, type and height of development, front boundary and garden, and other building features.

Detached, single storey development is said to make a major contribution to the character of the area. While the buildings are two-storey, it is considered that the proposal strikes a balance between the competing objectives of Council policy which seek to both encourage developments to respond to the character elements contained in the Neighbourhood Character Guidelines, while also allowing for design innovation to contribute to the evolving character of the Increased Housing Diversity area. The breaks provided at the upper level between dwellings 1 and 2, and between dwellings 3 and 4 ensure that the buildings would appear as three large dwellings on the land, which is consistent with the character of the broader area.

It is considered that the proposal has had due regard to the major character elements identified in the applicable character profile.

- 11.7 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.

12.2 Clause 21.05 - Residential Land use

The subject land is identified within an *Increased Housing Diversity* area.

The intention in these areas is for new medium density housing to comprise of a variety of housing types and layouts that respond to the established, yet evolving, urban character. As these residential areas are already established, the design of any new medium density housing proposal should display sensitivity to the existing residential context and respond to the 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 consistent with the relevant objectives of Council's Municipal Strategic Statement as outlined above. The proposal creates a good standard of amenity for the future occupants of each dwelling, and does not result in any unreasonable amenity impacts to occupants of existing dwellings in the immediate area. It is considered that the development will respect the existing streetscape character, and the broader local neighbourhood character. Further discussion regarding these items will be outlined later within this report.

12.3 Clause 22.11 – Residential Development Policy

As outlined previously, the proposal is considered to generally comply and satisfy the applicable Local Planning Policy Framework, which essentially aim to encourage well-designed medium density housing in appropriate locations.

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

- § 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.
- § In areas where building placement makes a major contribution to neighbourhood character, design new development to reinforce the established rhythm of buildings in the street and retain the existing single dwelling character of the streetscape.
- § Design duplex and side-by-side development to have a visual interconnection with the street rather than presenting merely as garages and front doors only. Staggered front building lines and variation in designs and materials should be used to avoid poor urban design impacts upon streetscapes.

Built form, siting and scale of development, it is policy, where relevant, to:

- § Encourage the two storey component of new medium density housing to be located towards the front of a site.
- § Ensure that two storey dwellings are designed to respond to the character of the local neighbourhood. Where the local neighbourhood is characterised by single storey development and this characteristic makes a major or critical contribution to neighbourhood character, new two storey development should incorporate rooms

within the roof form of attic style dwellings, and should set the second storey building envelope back from the ground level envelope.

While the proposed development is for five two-storey dwellings characterised by single storey development, it is not considered necessary to require the dwellings to be attic-style in this instance. The site is located on a relatively prominent corner, within the Increased Housing Diversity area. The dwellings, while distinct from surrounding developments, have been sensitively designed with substantial separation at the upper level and provision for landscaping to soften the built form. At the street elevations, the second storey building envelope has been set back from the ground floor envelope to reduce its 'box-like' effect. It is therefore submitted that the proposal would sit comfortably within the established neighbourhood.

- § 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 living 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.

Car parking and vehicle access, it is policy, where relevant, to:

- § 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.

Performance measures

- § Locating garages or carports at the rear of dwellings fronting a street wherever possible.
- § Ensuring that where garages are located in the street elevation, they are set back a greater distance than the front wall of the building.
- § Ensuring that garages and carports are sited so that a tandem car parking space can be provided in front of the garage or carport.
- § Incorporating garages and carports within the main roof line of the dwelling.

Stormwater run-off mitigation and quality management, it is policy, where relevant, to:

- § Ensure that new residential development limits the impact of increased stormwater run-off on drainage systems.

Performance measures

On-site infiltration should be maximised by:

- § Wherever possible, using unpaved landscape areas or porous paving.

- § Where appropriate, constructing on-site stormwater detention with delayed release into the stormwater drainage system.
- § Designing to limit the impervious area.
- § Incorporating on-site water re-cycling systems for stormwater run-off.

Clause 22.11 Residential Development Policy essentially extends upon the provision contained at Clause 21.05 (Residential Land Use) along with the State Planning Policy Framework provisions found at Clause 14.02-2 – Settlement and Clause 16.02 – Medium Density Housing, effectively promoting high-density development around activity centres and locations close to public transport.

In summary, the proposal is considered to be consistent with Council’s Local Planning Policy Framework and, importantly, it provides for an intensification of a lot within walking distance of Parkdale train station and shopping precinct.

12.4 Zoning Provisions

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

The Schedule to the Residential 1 Zone specifies a variation to a standard of Clause 55 (ResCode), namely:

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 1.2 metres in height for any other street.

The proposed front fence is 1.2m high and therefore 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. 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 minor non-compliance, which are discussed below:

Clause 55.03 - Site Layout and Building Massing

Standard B6 – Street Setback

In accordance with requirements under this standard, dwelling 1, fronting Como Parade East, should have a minimum setback of 8 metres, based on the front setback of the adjoining property at No.65 Como Parade East. The proposed front setback of 7.5m is considered acceptable having regard to the varying front setbacks of dwellings fronting this section of Como Parade East. The proposal therefore, will respect the existing setback rhythm of the neighbourhood. Further, it is considered that the

staggered building line from 8.23m at its garage (adjacent to the existing dwelling), then to 7.5m, provides an appropriate transition between the two properties.

Standard B16 – Parking Provision

Developments of five dwellings should be provided with one on-site visitor car space, in accordance with the Standard. While no on-site visitor parking is provided within the development, it is considered that the level of on-site car parking is adequate having regard to the additional car spaces provided for dwellings 3, 4 and 5. Given that these dwellings only contain two bedrooms, only one car space is required to be provided for each of the dwellings on site. Therefore, the proposal provides an additional three (3) on-site car spaces. The absence of one designated visitor car space is therefore considered warranted in this instance.

Clause 55.04 – Amenity Impacts

Standard B24 – Noise Impacts

Given that the site is located opposite the Melbourne to Frankston Railway Line, it is considered appropriate that a permit condition ensure that all windows located on the south-west elevation of dwelling 1 are provided with double glazing in order to limit the level of noise within its front habitable rooms.

Clause 55.05 – On-site Amenity & Facilities

Standard B28 – Private Open Space

The dwellings should be provided with a 40m² area of private open space, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling with a minimum area of 25m², a minimum dimension of 3 metres and convenient access from a living room. Whilst the areas of private open space for dwellings 1 and 2 comply with the requirements of the Standard, the areas of secluded private open space for dwellings 3, 4 and 5 fail to meet the minimum width provisions. It is therefore considered that in order to rectify this area of non-compliance and to provide parcels of a greater dimension and usability, a permit condition should require the internal length of the carports for these dwellings to be reduced from 6m to 5m, with the additional space created to be included within the secluded private open space areas.

14.0 RESPONSE TO GROUNDS OF OBJECTIONS

14.1 Parking and traffic concerns

Many objectors noted that there are a number of existing traffic challenges at this intersection, including on-street car parking availability, safety concerns due to existing traffic levels, and the location of the bus stop outside the adjoining dwelling on Como Parade East.

As discussed previously at Section 13.1 of this report, it is considered that the level of on-site car parking is sufficient to meet the needs of future occupants, and the intent of Standard B16 (Parking Provision) of Clause 55 of the Kingston Planning Scheme.

It is important to note that the issues raised by objectors in relation to parking and traffic have been considered previously by both Council and the Tribunal, in the assessment and decision of the former application for six (6) dwellings on this site (Planning Application No.900/07). This former application proposed an internal car parking area to service six (6) car spaces, accessed via a new central crossing to Fifth Street. In addition, one (1) car space was to be provided adjacent to the site's north-east property boundary from a new single crossing to Fifth Street, and two (2) car spaces from a new crossing adjacent to the site's north-west property boundary from Como Parade East.

The Tribunal, in its determination, did not raise issue with the location of crossings to service the development, nor the effect of the proposal on the function of the intersection and the impact on street parking or the existing bus stop location. Given that the level of on-site parking proposed is the same as the former application (i.e. 9 on-site car spaces), and the proposal provides one less dwelling, it can be surmised that the current proposal would result in a lesser traffic impact than the previous proposal. It is therefore considered that the current proposal will not unduly affect the existing traffic and parking conditions experienced in this location.

Further, while the current proposal now provides for four (4) single crossings to Fifth Street, this is considered acceptable given the site's considerable length of 54.95m. Council's Roads and Drains Officers had no objection to the proposed arrangement, and the crossing closest to the intersection of Como Parade East and Fifth Street has been set back over 18 metres, in excess of the requirements of the Australian Standard to ensure appropriate vehicle safety.

The Tribunal did take issue with internal the car parking arrangement, which was considered to be difficult and thus inconvenient for future occupants. This issue has been rectified by the site layout currently proposed, which provides separate vehicle access for each dwelling.

14.2 Neighbourhood character

Objectors submit that the proposed front setbacks, building bulk, and building materials are not in keeping with the character of the locality. Council Officers consider that while there are no double storey developments of this scale and intensity in the immediate locality, the proposed development has provided visual relief at the upper level in the form of building breaks between dwellings 1 and 2, and between dwellings 3 and 4, thus creating the illusion of three larger dwellings on the land and ensuring that the bulk of the buildings is minimised.

The proposed front set back to Fifth Street is in accordance with the requirements of Clause 55 of the Kingston Planning Scheme. As discussed at Section 13.1 of this report, the proposed front setback to Como Parade East is acceptable, and consistent with the character of the neighbourhood. Adequate provision for landscaping has been

provided in front of the dwellings to enhance the landscape character of the neighbourhood and to soften the built form.

The proposed building materials, consisting of a combination of timber cladding and render, are reflective of building materials found within the broader area. The tile hip roofs with wide eaves proposed are wholly consistent with the character of the established area, while the flat parapet elements at ground floor level subtly introduce a more contemporary treatment to the development.

Council policy recognises the challenge of new developments to respond to the established 'but evolving' neighbourhood character within the Increased Housing Diversity area, given the vital role that it will play in accommodating the bulk of the municipality's new medium density housing. It is considered that the proposal respects the character of the broader area while also allowing for the type of intensification sought for within the Increased Housing Diversity area.

14.3 Overdevelopment

While it is acknowledged that many objectors consider that five dwellings on a lot of this size amounts to an overdevelopment of the site, it is important to note that the proposal's performance against the relevant criteria of the Planning Scheme indicates that the number of dwellings proposed is not unreasonable. The proposal does not exhibit the usual indicators of overdevelopment, such as excessive site coverage, inadequate setbacks, excessive building bulk, overlooking and overshadowing, insufficient on-site car parking, poor internal amenity, etc., and is therefore deemed an acceptable number of dwellings for the site.

14.5 Overlooking

The first floor windows on the north-west elevation, and the north-east elevation of dwelling 5, have highlight windows or screening up to 1.7m above finished floor level in order to prevent overlooking of neighbouring properties. The proposed new 1.8m high paling boundary fences with 600mm high trellis extensions will ensure that there is no overlooking potential from the ground floor levels of the dwellings, nor from their private open space areas.

14.6 Damage to tree on adjoining property

Council's Vegetation Management Officer has considered the proposal, and the arborist report submitted in support of the application by Dr Peter Yau from PSY Investments Pty Ltd dated 14 September 2009. It was recommended that the Elm tree on the neighbouring property to the north be protected by following the recommendations contained within the report, and as such, this will be made a condition of any permit issued.

15.0 CONCLUSION:

15.1 For reasons discussed within this report, it is submitted that the proposal be supported subject to the adoption of the recommended permit conditions to ensure that the

proposed development achieves a high quality design, achieves good internal amenity as well as responding appropriately to the site and its immediate interfaces.

- 15.2 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).

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

17.0 RECOMMENDATION:

That a Notice of Decision to Grant a Permit for the development of this site for five (5) 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 12th February, 2010, but modified to show:
 - a. the provision of a landscape plan in accordance with the submitted development plan and the City of Kingston Landscape Plan Checklist, 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 two (2) suitable medium sized (at maturity) canopy trees within the front setback of the property and one (1) small (at maturity) tree within the private open space area of each dwelling, with 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 in height at time of planting;
 - ix. medium to large shrubs to be provided at a minimum pot size of 200mm; and
 - 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 tandem visitor spaces appurtenant to dwelling 3, 4 and 5's carports nominated as having dimensions of 4.9m in length x 2.6m in width;
 - c. the provision of a more suitable location for the rubbish bins for dwelling 2, so as not to be located within the site's street frontage setback;
 - d. the provision of double glazing to all windows (ground and first floors) contained within dwelling 1's south-west (front) (Como Parade East) elevations;
 - e. the carports for dwellings 3, 4, and 5 reduced to an internal length of 5 metres to provide for additional secluded private open space for these dwellings, with the front setbacks of the carports from Fifth Street not to alter;
 - f. the provision of details of any window screening device (including a cross-section) to demonstrate compliance with Standard B22 of Clause 55 of the Kingston Planning Scheme;
 - g. 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;
 - h. the provision of rainwater tank clearly nominated for each dwelling with water re-use for toilet flushing;
 - i. the location of all externally-located heating and cooling units, exhaust fans and the like, clearly shown;
 - j. 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";
 - k. the guttering pertaining to the garages / walls on boundary on the site's north-east property boundary nominated as being contained wholly within the title property boundary of the subject land; and
 - l. the retention of the existing street tree along the site's Como Parade East frontage.
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

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3. The Elm tree on the neighbouring property to the north-east (No.1A Fifth Street) is to be protected according to the recommendations contained within the Arborist Report from Dr Peter Yau from PSY Investments Pty Ltd, dated 14 September, 2009, to the satisfaction of the Responsible Authority.
4. Prior to the occupation of the dwellings hereby permitted, the new 1.8m high fences, with 600mm high trellis extensions, shown along the site's north-east and north-west property boundaries must be erected to Council's satisfaction, at the full cost of the applicant/owner(s).
5. Should the existing street tree along the site's Como Parade East nature strip require removal as a result of vehicle crossing works, the site Developer/Owner must pay to Council a compensation, removal and replacement fee (\$1015.00) (including GST) for the removal of this existing tree. The removal of this tree must be undertaken by Council, and the Developer/Owner must advise Council when this tree is required to be removed (a minimum 2 weeks notice is required).
6. 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.
7. 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.
8. 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.
9. 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.).
10. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
11. The levels at site boundaries must not be altered, without the written consent of the Responsible Authority.
12. 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.

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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. Construction on the site shall be restricted to the following times:

Monday to Friday	7:00am to 7:00pm; and,
Saturday	9:00am to 6:00pm
Sunday and Public Holidays	No construction permitted

Or otherwise as approved by the Responsible Authority in writing.

15. 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.

16. Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:

- a. Constructed to the satisfaction of the Responsible Authority.
- b. Properly formed to such levels that they can be used in accordance with the plans.
- 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.

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

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

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

20. 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.

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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 the Council wish to oppose the Officer's recommendation to support the application, it can do so on the following grounds:

1. The proposal would have an adverse effect on the amenity of area.
2. The proposal constitutes an over-development of the site.
3. The proposal would detract from the visual amenity of the locality and the streetscape.
4. The proposal does not satisfy all of the provisions of Clause 55 (ResCode) of the Kingston Planning Scheme, in particular:
 - Clause 55.03-1 - Street Setback Objective
 - Clause 55.03-8 - Landscaping Objectives;
 - Clause 55.03-11 - Parking Provision Objectives;
 - Clause 55.04-8 - Noise Impacts Objectives; and
 - Clause 55.05-4 - Private Open Space Objective.

M 83

KP 10/58 – 149 Farm Road, Heatherton

APPLICANT	Lighthouse Capital Development
ADDRESS OF LAND	No.149 (Lot 1 on PS 407313L) Farm Road, Heatherton
PROPOSAL	Buildings and works comprising the construction of a free-standing outbuilding in a Green Wedge Zone, Schedule 2 (GWZ2).
PLANNING OFFICER	Tess Johnson (<i>Author: Angela Hughes</i>)
REFERENCE NO.	KP58/2010
ZONE	Green Wedge Zone 2
OVERLAYS	Design and Development Overlay, Schedule 5 Airport Environs Overlay, Schedule 1
PARTICULAR PROVISIONS	Clause 57.01-1 (Metropolitan Green Wedge Land)
DECISION DATE BY	11 th June 2010
STATUTORY DAYS	30 days at 12 th May 2010
CONSIDERED PLAN	12 th April 2010
REFERENCES/DATE RECEIVED	

KEY ISSUES

The key planning issues arising from this proposal relate to:

- Use of the building
- The appropriateness of the development in a Green Wedge Zone

SITE & SURROUNDS

The subject site comprises a 33, 946.29 square metres allotment located on the north side of Farm Road, at the very end of Farm Road, in Heatherton.

The site contains an existing four-bedroom dwelling and a number of outbuildings including a shed, garages, a cabana and animal pens.

The Applicant has indicated that the site is currently been used for agriculture and apiculture (bee keeping) as well as being used for residential purposes.

There are no restrictions on the Certificate of Title for this allotment.

The site is located within a non-urban area, comprising some residential use/development. The subject site backs onto the Kingston Heath.

PROPOSAL

Note: A Development Assessment Table has not been provided within this report as Clause 54 (ResCode) of the Kingston Planning Scheme is not applicable to this site.

It is proposed to construct buildings and works, comprising an extension to the existing dwelling and an extension to the existing shed located to the south east of the site.

Key elements of the dwelling extension include:

- Works to the ground floor of the existing dwelling including modifications to the internal floor plan of the garage and workshop, enclosing one side of the alfresco area and construction of an outhouse attached to the carport and workshop comprising a small bathroom and stairwell;
- Construction of a first floor extension to the existing garage, workshop and alfresco to provide one large room and a smaller room. The large room is to be used as an agriculture office and storeroom, with the smaller room being used as a storeroom.

Key elements of the shed extension include:

- Construction of a first floor extension comprising a packing room, office, bathroom, two (2) agriculture storerooms and a balcony;
- Construction of a roof deck, which will be open to the sky, except for the stairwell and landing which will be contained with a second storey structure; and
- The extension will be rendered (colour unknown) with a colour bond roof.

The Applicant has indicated that the proposed development will be used for “agriculture purposes.” Specifically, the Applicant proposes to plant Moringa Oleifera trees on this site for the product (leaves, seeds, flower, stick/stem and fruit) of the trees to be harvested.

The Applicant has indicated that he will require up to five (5) seasonal/contract workers to assist in the harvesting of the trees. The Applicant expects that he will employ seasonal workers from overseas (Southern Indian) given that the trees originate from this part of the world. In further information provided to Council on 12th April 2010 that Applicant has indicated that he will be providing a “residential building” on the site, to provide seasonal workers with accommodation on the land. The plans indicated that all rooms in the proposed extensions will be used for agricultural offices, agricultural storerooms or bathrooms; the plans do not show where seasonal workers will be accommodated on the site.

The Applicant has further indicated that the proposed roof top deck will be used for viewing purposes and for night astronomical studies and observations.

PLANNING CONTROLS & REQUIREMENTS

The subject site is located within a Green Wedge Zone, Schedule 2 (GWZ2) and is subject to Design and Development Overlay, Schedule 5 and Airport Environs Overlay, Schedule 1 (AEO1).

Green Wedge Zone – In accordance with Clause 35.04 of the Kingston Planning Scheme, a planning permit is required for the proposed buildings and works as their total area exceeds 50 square metres.

A planning permit is also required to use (a part of) the site as a “residential building” under the provisions of this zone.

Design and Development Overlay, Schedule 5 (Aviation Obstacle Referral Height Area No. 2)

– In accordance with Clause 43.02, planning permit is required for any buildings and works in excess of 25 metres in height, measured from sea level.

Airport Environs Overlay, Schedule 1 – A planning permit is not required for buildings and works under this overlay, however Schedule 1 states that a “*despite the provisions of the zone land must not be used and a permit must not be granted to use the land for any of the following uses:*

- *Accommodation (other than Backpackers lodge, Dwelling, Dependent persons unit, Host farm and Residential hotel).*

The uses listed in brackets above, fall under the category where a planning permit is required for their use, under this overlay. However, as a “residential building” is not specifically listed as an exemption, its use is therefore prohibited under the provisions of AEO1.

RELEVANT HISTORY

Council records indicate that there is no relevant planning history relating to this site.

ADVERTISING

The application was not formally advertised. Given the site’s location and proximity to other residential properties, it is not considered that the proposed buildings and works will cause detriment to any person.

REFERRALS

The application has not being internally or externally referred.

RELEVANT POLICIES

State Planning Policy Framework (SPPF)

- Clause 12: Metropolitan Development
- Clause 14: Settlement
- Clause 15: Environment
- Clause 18: Infrastructure
- Clause 19: Design & Built Form

Local Planning Policy Framework (LPPF)

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

Particular Provisions

Clause 57.01-1 (Metropolitan Green Wedge Land)

General Provisions

Clause 65 (Decision Guidelines)

PLANNING CONSIDERATIONS:

State and Local Planning Policy Framework

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. While Council would encourage this site to be used for agricultural purposes, given its location in the Green Wedge, the use of a part of the site for 'residential building' to accommodate seasonal workers is prohibited by the Airport Environs Overlay, Schedule 1.

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. While Council would encourage this site to be used for agricultural purposes, given its location in the Green Wedge, the use of a part of the site for 'residential building' to accommodate seasonal workers is prohibited by the Airport Environs Overlay, Schedule 1 and cannot be supported by Council.

Zoning Provisions

The site is located in the Green Wedge Zone. The purpose of this zone is to:

- *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 use of the site for agriculture is encouraged under the provisions of this zone, and more broadly by State and Local policy. The proposed buildings and works to the existing dwelling and existing shed are broadly supported given that both of these developments will facilitate and support the use of the site for the planting and harvesting of Moringa Oleifera trees.

Officers are concerned at the use of (a part of) the site as a “residential building” to accommodate seasonal workers. A “residential building” is defined under Clause 74 of the Kingston Planning Scheme as “*land used to accommodate persons, but does not include camping and caravan park, corrective institution, dependent person’s unit, dwelling, group accommodation, host farm, residential village or retirement village.*”

Although the submitted plans do not show where the seasonal workers will be accommodated, officers consider that the proposed extension to the shed may be used for this purpose given the number of rooms provided with what appear to be built-in wardrobes, the provision of a bathroom and roof deck. Given the size and layout of the proposed extension to the shed, officers are concerned that this building may be used as a self-contained dwelling although it is noted that the buildings and works do not propose the inclusion of a kitchen.

This concern is furthered by the perceived lack of functionality in the extension to the shed which provides for the sorting and packing of goods at first floor level, which is accessed by stairs only. One would consider that a lift or similar device would be provided so as to transfer goods harvested from the farm to the first floor with ease.

Therefore, while the proposed buildings and works are considered acceptable under the provisions of the zone, the proposed (part) use of the site for a “residential building” is not acceptable for the reasons outlined above.

DDO5 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 of the Kingston Planning Scheme.

AEO1 Provisions

The purpose of this overlay, as stated at Clause 45.02 of the Kingston Planning Scheme is to:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify areas which are or will be subject to high levels of aircraft noise, including areas where the use of land for uses sensitive to aircraft noise will need to be restricted.*
- *To ensure that land use and development are compatible with the operation of airports in accordance with the appropriate airport strategy or master plan and with safe air navigation for aircraft approaching and departing the airfield.*
- *To assist in shielding people from the impact of aircraft noise by requiring appropriate noise attenuation measures in new dwellings and other noise sensitive buildings.*
- *To limit the number of people residing in the area or likely to be subject to significant levels of aircraft noise.*

While the proposed buildings and works do not attract the need for a planning permit under this overlay, the proposed use (of a part) of the site for a “residential building” is of concern, given that Schedule 1 of this overlay states that a “*despite the provisions of the zone land must not be used and a permit must not be granted to use the land for any of the following uses:*”

- *Accommodation (other than Backpackers lodge, Dwelling, Dependent persons unit, Host farm and Residential hotel).*

It is considered that the uses listed in brackets above, fall under the category where a planning permit is required for their use, under this overlay. However, as a “residential building” is not specifically listed as an exemption, it is considered that the use is prohibited under the provisions of AEO1.

Particular Provisions

Pursuant to Clause 57.01-1 (Metropolitan Green Wedge Land), a dwelling is prohibited unless it is the only dwelling on the land. As submitted, the proposed buildings and works and use of the site do not contravene this clause in the Planning Scheme given that they will not lead the provision of a second dwelling on the site. Aside from the “residential building” component of this application being prohibited under AEO1, officers are concerned that there is the potential for the shed may be converted into a dwelling on this site, given the size of layout of the extension, thus resulting in the provision of a second dwelling on this site.

CONCLUSION:

The Applicant’s intention to use the site for agriculture purposes is acceptable and encouraged by Council’s policies and the relevant provisions of the Kingston Planning Scheme.

The proposed buildings and works to the shed and the existing dwelling are considered acceptable and generally consistent with the relevant provisions of the Kingston Planning Scheme.

The proposed use of a part of the site for a “residential building” to accommodate seasonal workers employed by the owner/Applicant is prohibited by the AEO1 and therefore this element of the proposed development is considered unacceptable and cannot be supported.

RECOMMENDATION:

A. That a Planning Permit for the construction of buildings and works to the existing dwelling and shed be issued, subject to the attached conditions.

1. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
2. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
3. The subject site is at all times to be used for one dwelling only.
4. No part of the site may be used as a “residential building” as defined under Clause 74 of the Kingston Planning Scheme at any time.
5. Construction on the site must be restricted to the following times:

Monday to Friday
Saturday

7:00am to 7:00pm
9:00am to 6:00pm

No construction is allowed on Sundays or public holidays.

Or otherwise as approved by the Responsible Authority in writing.

6. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
7. This permit will expire if one of the following circumstances applies:
 - The development is not started within two (2) years of the date of this permit.
 - The development is not completed within two (2) years of the date of this permit. .

The Responsible Authority may extend the period 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 or use 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. That a Refusal to Grant a Planning Permit for the construction of buildings and works to the existing dwelling and shed be issued for the following reasons:

1. The proposed buildings and works will facilitate the use of the site for a 'residential building' as defined under Clause 74 of the Kingston Planning Scheme, which is prohibited under the Airport Environs Overlay, Schedule 1;
2. The 'residential building' component of the proposed use and development of the site is prohibited under the Airport Environs Overlay, Schedule 1.

M 84

KP 09/711 – 33-35 Childers Street, Mentone

APPLICANT	Pace Development Group Pty Ltd C/- Fulcrum Town Planners
ADDRESS OF LAND	No. 33 & No. 35 (Lot 1 on TP150922Y and Lot 1 on LP28237) Childers Street, and part No. 1-9 (Lot 2 on LP 28237) Balcombe Road, Mentone
PROPOSAL	Forty eight (48) dwellings over five storeys on land designated within a Special Building Overlay
PLANNING OFFICER	Nikki Taylor
REFERENCE NO.	KP-711/2009
DATE RECEIVED	27 October 2010
STATUTORY DAYS EXPIRY	13 April 2010
ZONE	Mixed Use Zone
OVERLAYS	Special Building Overlay; Environmental Audit Overlay (over No.1-9 Balcombe Road only)
RESTRICTIVE COVENANTS ON THE TITLE?	Yes – Section 173 Agreement with Council
CURRENT USE AND DEVELOPMENT	Single dwellings on No. 33 and 35 Childers Street; Mentone Bowl on No.1-9 Balcombe Road, Mentone
OBJECTIONS	26 (2 objectors submitted 2 objections each)

1.0 RECOMMENDATION

- 1.1 That a Notice of Decision to Grant a Permit be issued subject to conditions outlined below. These conditions include deletion of the fifth storey and deletion of the communal swimming pool and gymnasium with the addition of two (2) dwellings in their place, resulting in a net reduction in the number of dwellings from forty-eight (48) to forty-five (45). Discussions have been carried out with the applicant who has agreed to these changes, in this instance.

2.0 KEY ISSUES

- Traffic/car parking considerations
- Amenity impacts (internal and external)
- Compliance with **Design Guidelines for Higher Density Housing 2004 (DSE)** and **Design Guidelines for No. 33-35 Childers Street, Mentone**

3.0 PROPOSAL

- 3.1 It is proposed to demolish the existing dwellings and outbuildings on the land and construct a five storey apartment building comprising forty-eight (48) dwellings with car parking provided over two (2) levels of basement.

- 3.2 The development will comprise:

Ground level – three (3) x single bedroom dwellings and nine (9) x two bedroom dwellings

Level 1 – two (2) x single bedroom dwellings and eleven (11) x two bedroom dwellings;

Level 2 – two (2) x single bedroom dwellings and ten (10) x two bedroom dwellings;

Level 3 – one (1) x three bedroom dwelling and five (5) x two bedroom dwellings;

Level 4 – one (1) x three bedroom dwelling and four (4) x two bedroom dwellings;

Car parking will be provided over two (2) basement levels comprising:

Upper basement – 29 car parking spaces including 12 visitor spaces; lift and stair access; plant; individual storage areas; bin storage; and visitor bicycle spaces

Lower basement – 38 car parking spaces; lift and stair access; and individual storage areas.

Private open space is provided in the form of balconies for each dwelling and a communal area comprising an outdoor swimming pool and an indoor gymnasium located towards the north-west (rear) corner of the site.

4.0 SITE & SURROUNDS

4.1 An inspection of the site and the surrounding area has been undertaken.

4.2 The site has a total area of 1,781 square metres and currently contains:

- Two (2) single storey dwellings with pitched roofs and a rear access to the Mentone Bowl car park via Childers Street

4.3 The main site/locality characteristics are:

- To the west of the site at No. 29-31 Childers Street, is a five (2) dwelling development comprising single storey, brick dwellings with pitched, tiled roofs. Two (2) of these dwellings directly abut the subject site.
- To the north and east, at No. 1-9 Balcombe Road, is the Mentone Bowl.
- To the north of No. 33 Childers Street is a commercial building currently occupied by a signage company.
- To the south of the site on the opposite side of Childers Street, is St Patrick's Catholic Primary School.

5.0 TITLE DETAILS

5.1 A Section 173 Agreement is currently registered on the titles of No. 33 and No. 35 Childers Street, Mentone which prohibits the use of the land for 'telecommunications facility', 'industry' or 'warehouse' and further requires the submission of design guidelines to be approved by Council prior to the lodgement of any planning application for the development of the land. These guidelines have been submitted. The agreement further requires that any development on the land must have regard to the guidelines, to the satisfaction of Council.

5.2 These guidelines will be discussed later in this report. It is considered that the proposal does not breach the Section 173 Agreement.

6.0 PLANNING PERMIT REQUIREMENTS

- 6.1 Pursuant to Clause 32.04 – Mixed Use Zone, a planning permit is required to construct or extend two (2) or more dwellings on a lot.
- 6.2 Pursuant to Clause 44.05 – Special Building Overlay, a planning permit is required to construct a building or construct and carry out works.
- 6.3 Pursuant to Clause 45.03 – Environmental Audit Overlay, before sensitive use (such a residential) commences, a certificate of environmental audit must be issued or a statement that land is suitable for such a use must be issued by a suitably qualified environmental auditor.

7.0 RELEVANT HISTORY

- 7.1 Council records indicate that there is no relevant planning history relating to No. 33 and No. 35 Childers Street. Several permits have been issued over the years for No. 1-9 Balcombe Road, Mentone. These permits relate to the operation of the Mentone Bowl.
- 7.2 The subject site was part of a planning scheme amendment, Amendment C96 which , on 18 June 2009, rezoned the land at No. 33 & No. 35 Childers Street from Residential 1 Zone to Mixed Use Zone and the land at No. 1-9, No. 11-13, No. 15 and No. 17 Balcombe Road from a Business 3 Zone to a Mixed Use and applied the Environmental Audit Overlay over the land. This rezoning will be discussed later in this report.

8.0 ADVERTISING

- 8.1 The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:
- Sending notices to the owners and occupiers of adjoining land
 - Placing signs on site

The notification has been carried out correctly.

Council has received twenty-six (26) objections to date. Two objectors submitted two objections each. The valid grounds of objection raised can be characterised as follows:

§ Car Parking Provision/Traffic Concerns

§ Overdevelopment/Neighbourhood Character/Building Bulk

§ Amenity Impacts Upon Surrounding Properties/Overlooking/Overshadowing/Noise

9.0 PRELIMINARY CONFERENCE

- 9.1 A preliminary conference was held on 31 March 2010, with the relevant Planning Officer, Ward Councillors, the Permit Applicant and a number of objectors in attendance. The above-mentioned issues were discussed at length, however, no resolution of the issues was reached at the meeting.

10.0 REFERRALS

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

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Melbourne Water (SBO). No objection subject to the inclusion of a number of conditions on any permit issued.

Internal Council Referrals	Advice/Response/Conditions
Vegetation Management Officer	No objection to the application.
Drainage Engineer	Awaiting comments.
Strategic Planning Department/Urban Designer	Concerns in relation to the north and east elevations. Can be addressed through incorporating elements used within the south (Childers Street) elevation. Greater articulation sought on the west elevation. Can be addressed through permit conditions.
Roads and Drains	No objection subject to the inclusion of conditions on any permit issued.
Traffic Engineer	Number of on-site car parking spaces is adequate. Increased traffic movements is considered reasonable. Minor clarification as to design detail required on the plans.
Sustainable Development Assessment Officer	No objection subject to the inclusion of an Environmental Management Plan which address the following issues: lighting; heating; peak energy use; mains water use; stormwater quality impacts; building materials impacts; waste management; bicycle parking provision.
Waste Management	No objection raised.

11.0 ASSESSMENT AGAINST THE RELEVANT PROVISIONS OF THE KINGSTON PLANNING SCHEME

State Planning Policies

- Clause 12 Metropolitan Development - Includes objectives and strategies for Metropolitan Melbourne.
- Clause 14 Settlement - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.
- Clause 16.02 Housing - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.
- Clause 19.03 Design and Built Form - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

It is considered that the proposal is generally consistent with the above policies. The site's location within close proximity to Mentone Railway Station and associated bus services, together with its proximity to the Mentone Major Activity Centre, makes it a suitable site for a redevelopment of this type.

Municipal Strategic Statement

- Clause 21.05 Residential Land Use - The subject site is located in an ‘Mixed Use Area’ as identified in the MSS. The intention in these areas is that development on these sites will need to address existing site constraints and respond to the immediate context of the site.
- The objectives outlined in the MSS include providing for a range of housing types across the municipality to increase housing diversity and cater for the changing housing needs of current and future populations. Strategies to achieve this in the mixed use areas are:
“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.”

Through Amendment C96, the subject site has been identified as a site suitable for redevelopment. It is therefore considered, that the proposal is generally consistent with these strategies and objectives.

Local Planning Policies

- Clause 22.11 Residential Development Policy – is applicable to residential development including two or more dwellings on a lot. However, the policy does not provide a lot of guidance for larger residential developments, particularly in relation to apartment buildings.
- The objective of this policy is to promote a managed approach to residential development through identifying areas most suited to increased housing diversity, incremental change, residential renewal and minimal change. The policy also seeks to ensure appropriate design outcomes are achieved which will result in a reasonable level of amenity for future dwelling occupants, neighbouring properties and the environment.

Zoning

- Clause 32.04 – Mixed Use Zone – seeks to provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality and to encourage residential development that respects the neighbourhood character.
- The schedule to the Mixed Use Zone nominates a maximum leasable floor area for office and for shop. As the proposal does not seek to accommodate these uses, it is considered that the schedule is not applicable to the proposed development.

Overlays

- Clause 44.05 Special Building Overlay – aims to identify land in urban areas liable to inundation by overland flows from the urban drainage system and to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

Melbourne Water is the relevant Floodplain Management Authority and has offered no objection to the proposal subject to the inclusion of a number of conditions on any permit issued.

- Clause 45.03 Environmental Audit Overlay – seeks to ensure that potentially contaminated land is suitable for a use which may be adversely affected by any contamination. This can be required as a condition of any permit issued.

Particular Provisions

- Clause 52.35 Urban context report and design response for residential development of four or more storeys. The purpose of this clause is to “*ensure that an urban context report is prepared before a residential development of four or more storeys is designed and that the design responds to the existing urban context and preferred future development of the area.*”
- It is important to note that the requirements of Clause 55 – ResCode are not applicable to a development of this size.

The key policy documents in relation to this application are the Design Guidelines for 33-35 Childers Street, Mentone, required as part of the rezoning of the site (outlined above), and the Design Guidelines for Higher Density Housing 2004 (DSE), which relate to development of four or more storeys.

Design Guidelines: 33-35 Childers Street, Mentone

- At 4.0 of the Design Guidelines matters of architectural design detail and building envelope, height and setbacks are discussed.

“In general, the building façade should:

- *Develop and integrated design approach, which responds to the development potential at 1-9 Balcombe Road, Mentone.*
- *Provide a smooth transition to the existing residential properties to the west of the site.*

In general, the building envelope should incorporate the following, unless planning policies at the time of lodgement of any planning application identify otherwise;

- *The height and built form adjacent the western boundary of No. 33 Childers Street should be consistent with the Objectives and Standards of ResCode, with particular consideration for off-site amenity impacts, unless planning policies identify otherwise.*
- *The height and form of any building adjacent the western title boundary of No. 33 Childers Street, Mentone should be consistent with the Objectives and Standard of Clause 55.04-1 of the Kingston Planning Scheme up to a height of nine (9) metres or three (3) storeys.*
- *Any development extending beyond four or more storeys (excluding a basement), adjacent the western title boundary of No. 33 Childers Street, Mentone, should have consideration, as appropriate, to the Design Guidelines for Higher Density Development (DSE 2004). “*

The application does not identify future development on the remainder of the site at No. 1-9 Balcombe Road, Mentone. However, it is anticipated that any development of the remainder of the site, given its location and adjoining sites, will likely be more intensive

than any development on No. 33-35 Childers Street. Therefore, it is considered that development of four or more storeys should act as a 'buffer' between No. 1-9 Balcombe Road and the lower density residential development further along Childers Street. The graduated nature of the design, which increases the building setbacks considerably from the development at No. 29-31 Childers Street, the higher the building progresses, is considered to be a positive outcome and should protect this residential development from the more intensive development which is anticipated for the remainder of the site.

The setbacks to the adjoining dwellings at No. 29-31 Childers Street, far exceed the requirements of ResCode, as required under the above guidelines. The fourth storey is set back a minimum of 10.745m from the site's west (side) property boundary and a maximum of 22.95m from this boundary, whilst the fifth storey is set back a minimum of 12.935m from the site's west (side) property boundary and a maximum of over 30 metres.

Therefore, it is considered that the proposed development is generally consistent with the requirements of the Design Guidelines for No. 33-35 Childers Street, Mentone.

Design Guidelines for Higher Density Housing 2004 (DSE)

As the proposed development is four (4) storeys ResCode does not apply, except as required under the Design Guidelines for No. 33-35 Childers Street, Mentone. On this basis an assessment of the proposal against the DSE's Guidelines for Higher Density has been undertaken.

Element 1 – Urban Context

Encourages buildings that respond creatively to their existing context and to the aspirations for the future development of the area and encourages creative designs that are based on a clear understanding of the urban context and neighbourhood character.

Assessment: It is considered that the proposal adequately responds to the existing neighbourhood character and the urban context. The graduated elevations which provide a lower scale of development closer to the single storey development on adjoining sites is considered to be a positive response to the existing urban context. Further improvements in relation to building materials and urban design elements will be required as a condition of any permit issued.

Element 2 – Building Envelope

This element aims to ensure that new development is appropriate to the scale of nearby streets, other public spaces, and buildings and to relate building height to street width and intended character. The objective also aims to protect sunlight access to public spaces, to respond to existing or preferred neighbourhood character, to ensure building separation supports private amenity and reinforces neighbourhood character, and to ensure that areas can develop with an equitable access to outlook and open space. The objective aims to ensure that visual impact to the rear are appropriate to the context and to maximise informal or passive surveillance of streets and other public open spaces.

Assessment:

Building height:

The character of development within Childers Street is of a relatively low scale. Whilst an increased building height for this site is considered to be appropriate, it is considered that five storeys is not an appropriate design outcome given that the development is not part of an overall development concept including the whole of the Mentone Bowl site and given that this development addresses Childers Street only.

Therefore, it is considered appropriate, as a condition of any permit issued, to reduce the overall height of the development to four storeys, which will still act as a buffer between the development of the Mentone Bowl site and the residential development of Childers Street, and be more in keeping with the character of Childers Street.

Street setbacks:

Given that the proposed development is purely residential, it is considered appropriate to set the building back from the street edge to allow for planting and open space areas at ground floor level to integrate the development with the street, provide opportunities for passive surveillance and to allow for planting which will soften the appearance of the development. The setbacks increase where the site adjoins residential development, maintaining a more consistent street setback where the proposal adjoins the Mentone Bowl site. This is considered to be an appropriate design outcome.

Relationships to adjoining buildings:

As discussed above, the building introduces greater side setbacks as the building height increases where the site is adjoining residential properties ensuring improved amenity outcomes for these dwellings.

Views to and from residential units:

It is considered that appropriate screening has been provided to prevent unreasonable overlooking of adjoining residential properties. The orientation of the dwellings has also allowed for views to be obtained, where they do not overlook adjoining properties or other dwellings within the development.

Passive surveillance of the street has been accommodated through orientation of dwellings and maximising windows facing the street which is consistent with the requirements of these guidelines.

Wind protection:

It is considered that due to the height and setbacks of the building, the impact of any wind turbulence should be minimal.

Roof forms:

The lift overrun and building plant have been incorporated into the roof design and are well set back so they should not be visible from adjoining properties or the street. Further, consideration has been given to the roof design where it faces the adjoining residential properties and the street, however, it is submitted that the same consideration has not been given to the building's north and east elevations. A condition of any permit issued should include a requirement to provide a consistent theme on all elevations in the roof form.

Element 3 - Street pattern and Street-edge Quality

Aims to create walkable areas within a safe and interesting public setting and to closely integrate the layout and occupation patterns of new development with the street. This

objective also encourages entrances with a strong identity. Entrances that provide a transition from the street to residential interiors by accentuating and identifying building entrances to provide good visual and physical connections between the street and lobby spaces. It is important to ensure that car parking does not dominate or detract from the streetscape. Front fences should respect and contribute to the neighbourhood character and avoid creating inactive frontages as a result of fencing private open spaces. The shared infrastructure in higher density development, including circulation, parking and service spaces is important to ensure that buildings function well, are efficient and capable of being properly maintained.

Assessment: Low front fences, front open space areas and an expansive entry, all contribute to achieving these objectives. The basement access does not dominate the street frontage and it is considered that the design should achieve suitable passive surveillance, thereby improving the safety of the street, which is considered important given the schools in the street and the heavy pedestrian usage of Childers Street.

Element 4 - Circulation and Services

Aims to provide adequate, safe and efficient car parking layouts, bicycle areas and pedestrian entries to buildings. Encourages the creation of shared living spaces that contribute positively to the experience of living in high density developments. This objective also aims to minimise running and maintenance costs and to minimise water use, collect and reuse stormwater where practical, use natural irrigation in landscaping and provide a clear method of refuse disposal.

Assessment: It is considered that the proposal is generally consistent with these objectives, although full detail of waste, recycling and stormwater reuse has not been provided as part of the planning application. A requirement for a waste management plan, environmental management plan and stormwater plans, subject to the approval by Council, should be required as a condition of any permit issued.

Element 5 - Building Layout and Design

Dwelling diversity – higher density residential development is expected to cater for a diverse range of household types in the future, particularly smaller households. Objective 5 aims to provide a range of dwelling sizes and types in higher density residential developments, to optimise the layout of buildings in response to occupants' needs as well as identified external influences and characteristics of a site and to promote buildings of high architectural quality and visual interest. The objective also identifies the need to provide adequate storage space for household needs, to ensure that a good standard of natural lighting and ventilation is provided to internal building spaces.

Assessment: The dwellings are for a mix of 1, 2 and 3 bedrooms providing for diversity of households, particularly smaller households. Storage areas are provided within each apartment and every apartment is provided with storage within the basements. Most living rooms appear to have adequate access to external sunlight however, some internal hallways do not appear to have suitable access to sunlight and natural ventilation, thereby relying on artificial light. It is considered that more natural lighting opportunities should be provided for these internal circulation areas and this can be required as a condition of any permit issued.

Council's Urban Designer has noted that a more simplistic and considered use of materials and architectural themes is required to ensure the building is of a high design quality. This

is important as the building will be seen from a number of different vantage points including Nepean Highway (both directions), Warrigal Road, Balcombe Road and Childers Street. It is considered that these improvements can be required as a condition of any permit issued.

Element 6 - Open Space and Landscape Design

New developments should contribute to the creation of private and public open spaces that are accessible, attractive, safe and comfortable for their users and to allow solar access to the private and shared open spaces of new high density residential units. New developments should integrate the design of shared and private open space into the overall building design and facade composition and to provide greenery for open spaces. In areas of higher residential development, residents and visitors will rely in part on public open space for relaxation, recreation and meeting places, therefore, access to adequate and safe public open spaces is essential for the well being of the whole community. Public open spaces need to be appropriate to the context of the development.

Assessment: Communal open space has been provided as part of the proposal however, due to amenity concerns regarding the location of the common swimming pool and gym close to the adjoining dwelling at No. 2/29-31 Childers Street, the applicant has agreed to delete these common areas. As a consequence of this and the deletion of the five (5) apartments on the fifth floor, the applicant has suggested that the area which was previously occupied by the communal facilities can be extended to include an additional two (2) dwellings. Given that the overall number of dwellings will still be less than the original number proposed, and that the additional two (2) dwellings should not create unreasonable amenity impacts on the adjoining residential property, it is considered a reasonable trade-off to allow this.

Private open spaces are, in most cases in excess of the minimum requirement outlined in Clause 55 – ResCode and it should be noted that the subject site is located within close proximity to a number of public open spaces and sporting facilities which should provide for the reasonable recreation needs of future dwelling occupants. However, given the size of the proposed development and the likely future development on the remainder of the site, it is considered reasonable that some communal open space be provided in the form of a barbecue/seating area. This area should have appropriate solar access and also be located away from the adjoining private open space areas. It is therefore, considered appropriate that the provision of communal open space be required as a condition of any permit issued.

13.0 RESPONSE TO GROUNDS OF OBJECTIONS

Car Parking Provision/Traffic Concerns – The major concern raised in the objection was the issue of traffic and car parking within Childers Street. It appears that the concerns raised were in relation to existing problems relating particularly to the pick-up and drop-off times for the school. The application was referred to Council’s Traffic Engineers, who advised that traffic movements to and from the proposed development should not significantly impact upon the existing traffic conditions in Childers Street. Vehicular movements to and from the site are unlikely to be at the same time as drop-off and, more particularly, pick-up times for the school and should not significantly contribute to the traffic congestion caused by parents driving their children to and from the school. Likewise, any visitors to the site will likely visit out of school hours and should not conflict with school-related vehicular traffic. Given the site’s location close to the intersection of Childers Street and Warrigal Road, it is considered that most vehicle movements within Childers Street will be via this

intersection and should have minimal impact upon the remainder of Childers Street. In addition, the removal of the crossovers for No. 33 and No. 35 Childers Street, should result in increased on-street parking spaces being made available.

Furthermore, the subject site is located within close proximity to Mentone Railway Station and a number of bus services. Future dwelling residents are likely to utilise the many transport options available to them and not necessarily always rely upon cars for their transport needs. Having said that, sufficient car parking is provided on site for the needs of future dwelling residents and their visitors, with 12 visitor spaces provided on site. With the reduction in the number of apartments, even more car parking will be provided within the basement.

Overdevelopment/Neighbourhood Character/Building Bulk – The subject site has been identified by Council as a key redevelopment site through the rezoning process which rezoned the land from Business 3 Zone and Residential 1 Zone to Mixed Use Zone. Significant development was anticipated and the protection of the residential properties to the west was recognized in the Design Guidelines for No. 33-35 Childers Street. The proposal has been assessed against these guidelines as discussed above and it is considered that the proposal, subject to the inclusion of conditions including the deletion of the fifth storey, should positively contribute to the character of the Mentone Activity Centre.

Amenity Impacts Upon Surrounding Properties/Overlooking/Overshadowing/Noise – There will be some amenity impacts upon adjoining properties, It is Council's responsibility to assess whether these are unreasonable. This assessment is done in the context of the zoning and policy direction for the site as laid out in the Kingston Planning Scheme and associated documents. Shadow diagrams indicate that the overshadowing falls within the acceptable guidelines outlined in Clause 55 – ResCode, of the Kingston Planning Scheme, which is useful guide.

Further, overlooking has been addressed through the provision of screening to the west facing windows to prevent overlooking of the adjoining residential properties. Concern has been expressed in relation to the possibility that paedophiles may occupy the dwellings in order to prey on the children attending the schools in Childers Street. In relation to this matter, it is considered that the Tribunal's advice in *Adamco v Monash CC [2004]*, VCAT 2359 is particularly relevant. In that case, the Tribunal Members stated:

“we do not consider that the proposed development should be rejected because there may be some potential for an undesirable person to reside within one of the units either permanently, or on a temporary basis if used as serviced apartments. Such potential, could exist irrespective of the type or amount of residential development that exists on the site. Essentially there is no evidence to support the view that the occupants of the proposed development would be any more likely to pose a threat to children than the occupants of any other development.

The reality is that the Pre-School is not located within an isolated environment that is way from buildings or people. Other nearby land can be developed for 2 storey houses without the need for notice to be given. There is already potential for overlooking into the Pre-School from the office building to the west. Children travelling to and from the Pre-School

can be observed from the public domain. With the inevitable redevelopment of the school site, the opportunity for this to occur will increase. “

In fact, it is considered that the passive surveillance afforded by the proposed development, should make the area safer for children as there will be fewer opportunities for undesirable people to remain hidden within the public realm.

Noise generated by the proposed development is considered to be domestic in nature and should not cause unreasonable detrimental impacts upon surrounding properties. There is commercial/industrial activities being carried out within close proximity to the adjoining residential properties by existing uses along Balcombe Road. Therefore, it is considered that a residential development should not be more detrimental than these uses.

14.0 CONCLUSION:

14.1 For reasons discussed within this report, it is submitted that the proposal be supported subject to the adoption of the recommended permit conditions to ensure that the proposed development achieves a high level of compliance with the Design Guidelines for No. 33-35 Childers Street and the Design Guidelines for High Density Housing 2004 (DSE), as well as responding appropriately to the site and its immediate interfaces.

14.2 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 an unreasonable detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal generally satisfies the requirements of the Kingston Planning Scheme (subject to appropriate conditions).

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

16.0 RECOMMENDATION:

Recommendation

That Council resolve to issue a planning permit for the development of this site within the Special Building Overlay of a four (4) storey building with forty-five (45) dwellings and basement carpark, in accordance with the following conditions:

1. Before the development and/or use 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 with the application but modified to show:
 - a) an amended landscape plan reflecting the changes required in Condition 1 of this permit;
 - b) a reduction in overall height of the building to a maximum of four (4) storeys, with the dwellings to be reconfigured accordingly;

- c) the deletion of the communal pool and gymnasium and their replacement with two (2) dwellings consistent with the design of the west-facing elevation;
 - d) the provision of an area of communal open space, located away from the private open space areas of adjoining dwellings at 29 Childers Street, with adequate solar access and of a size to accommodate a communal barbeque and seating area;
 - e) the provision of a consistent roof and materials theme throughout the entire building;
 - f) the provision of greater articulation to the east facing wall of the building through the use of varied materials and/or roof elements;
 - g) the provision of additional windows/skylights to the hallways to ensure appropriate solar access to these areas;
 - h) provision of a full colour, finishes and building materials schedule (including samples) for all external elevations of the proposed building/dwellings;
 - i) the allocation of car parking spaces to each dwelling clearly nominated on the plans;
 - j) the provision of a longitudinal section of the basement ramp showing the apex and gradients, with height clearances nominated at complying with AS2890.1:2004; and
 - k) the clear nomination of bicycle parking spaces associated with the dwellings.
2. The development and/or as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Any redesign of the building must not result in reduced setbacks to the west (side) of the subject site;
4. Prior to the commencement of this use and before the construction or carrying out of buildings or works in association with this use and/or 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.
5. Prior to the occupation of any part of the development hereby permitted, a Traffic Management Plan (TMP) must be submitted to, and approved by Council, with such plans to be prepared by a suitably qualified traffic consultant/engineer, with all costs, including the construction of any required works, to be wholly borne by the applicant/permit holder.
6. Before the commencement of any building or works on the land a Construction Management Plan (CMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The CMP must deal with the parking of vehicles during construction, delivery of materials, containment of waste on site and suppression of dust, existing business operations on the site during

construction, arrangement for car parking for the existing businesses during construction, construction over the public domain.

7. Before the commencement of any building or works on the land a Environmentally Sustainable Design (ESD) Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The ESD Plan must deal with issues relating to lighting; heating; peak energy use; mains water use; stormwater quality impacts; building materials impacts; waste management; bicycle parking provision.
8. Before the commencement of any use on the land a Waste Management Plan (WMP) outlining the details of waste management for the site including storage and collection, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The WMP should nominate the bin collection to be outside the hours of school pick-ups and drop-offs (8.00am -9.00am and 3.00pm-4.00pm, Monday to Friday)
9. The dwellings hereby permitted must not be occupied until all buildings and works and the conditions of this permit have been complied with, unless with the prior written consent of the responsible authority.
10. Before the occupation of any dwelling commences and before the use allowed by this permit starts, 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.
11. **Conditions required by Melbourne Water:**
 - a) No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
 - b) The finished floor levels of the new dwellings must be 300mm above the applicable flood level.
 - c) The apex of the basement carpark must be 300mm above the applicable flood level.
 - d) All fencing must be of an open style to enable the passage of floodwaters through the property.
 - e) The layout of the development must not be changed without prior written approval from Melbourne Water.
12. The development of the site must be provided with stormwater treatment works which will entail the use of water sensitive urban design principles (including re-use) to reduce stormwater run-off quantity and improve discharge quality. Discussion with Councils Development Engineer on treatment options is advised prior to a design being submitted. The system must be maintained to the satisfaction of the Responsible Authority.
13. Before the development hereby permitted commences, a drainage plan showing the method of treatment and discharge to the nominated point must be prepared to the satisfaction of the Responsible Authority. The plan must be prepared by a qualified person and show all details of the proposed drainage works, including all existing and proposed features that may have impact

on the drainage (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).

14. Stormwater drainage of the site must be provided so as to prevent overflows onto adjacent properties and be in accordance with the approved drainage plan.
15. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a) fully constructed;
 - b) properly formed to such levels that they can be used in accordance with the plans;
 - c) surfaced with an all-weather-seal coat;
 - d) drained;
 - e) line marked to indicate each car space and all access lanes.Car spaces, access lanes and driveways must be kept available for these purposes at all times.
16. Any alterations required to be carried out to the road network must be carried out at the developer's cost, to the satisfaction of the Responsible Authority.
17. A security intercom must be provided in a convenient location adjacent to where vehicles stop on site, to allow visitors access to the visitor parking provided on site.
18. 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.
19. The Council footpath/property boundary levels are not to be altered.
20. The vehicle crossing is to be constructed to the satisfaction of the responsible authority (industrial strength).
21. The area designated on the endorsed plan for the purpose of loading and unloading of goods from vehicles shall be made available for such use and shall not be used for any other purpose.
22. No goods or packaging materials must be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
23. The development and/or use of the site must not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard the emission of noise must comply with the provisions of the Environment Protection Authority.
24. An acoustic screen fence of a minimum of 2 metres in height must be erected and maintained along the site's west (side) property boundary to the satisfaction of the Responsible Authority in accordance with a design and specifications prepared by a suitably qualified acoustic engineer to be submitted to and approved by the Responsible Authority prior to the construction of the fence.

25. Construction on the site must be restricted to the following times:

Monday to Friday 7:00am to 7:00pm; and,
Saturday 9:00am to 6:00pm
Sundays and Public Holidays No construction allowed

Or otherwise as approved by the Responsible Authority in writing.

26. Exterior lights must be installed in such positions to effectively illuminate all pathways, car parks and other public areas to the satisfaction of the Responsible Authority and designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
27. 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.
28. No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
29. The maintenance of the buildings, service areas and the surrounds within the site shall be the responsibility of the Body Corporate, owner or agent and must be serviced at such frequency as will render the service areas and the surrounds to be neat, tidy and clean at all times to the satisfaction of the Responsible Authority.
30. Council's Waste Management Department must be consulted regarding the location of rubbish bins and the options for collecting waste from the site.
31. 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.
32. All piping and ducting (other than stormwater downpipes) above the ground floor storey of the development must be concealed to the satisfaction of the responsible authority.
33. No external equipment (including, but not limited to: ducting and piping, air-conditioning units, heating units, satellite dishes etc), services and architectural features, other than those shown on the endorsed plan, shall be permitted unless with the prior written consent of the Responsible Authority
34. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the satisfaction of the responsible authority.
35. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the responsible authority.
36. Once the development has started it must be continued and completed to the satisfaction of the responsible authority.

37. This permit will expire if one of the following circumstances applies:

The development is not commenced before (two (2) years from date of issue).

The development is not completed before (four (4) years from date of issue).

The Responsible Authority may extend these times if a request is made in writing before the permit expires or within three months afterwards.

Note: The applicable flood level for the site is 19.03 metres to Australian Height Datum.

Note: If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9235 2517, quoting Melbourne Water's reference 165974.

OR

B. Should Council resolve not to support the application, it be issued 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 and Built Form) of the Kingston Planning Scheme.
4. The proposal would have an adverse effect on the amenity of adjoining/nearby properties through its visual bulk, scale, massing and inappropriate building setbacks.
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.

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KP 10/10 – 8-10 Maury Road, Chelsea

APPLICANT	The Silver Arc
ADDRESS OF LAND	No. 8-10 Maury Road, Chelsea (Lots 24 and 25 Block E on PS 5211)
PROPOSAL	Sixteen (16) Dwellings within a Two (2) Storey Building with a basement carpark
PLANNING OFFICER	Jennifer Pippo
REFERENCE NO.	KP10/10
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 21.03: Land Use Challenges for The New Millennium Clause 21.04: Vision Clause 21.05: Residential Land Use Clause 22.11: Residential Development Policy
ZONE	Clause 32.01: Residential 1 Zone
OVERLAYS	Clause 43.02: Design and Development Overlays, Schedule 1 and 7
PARTICULAR PROVISIONS	Clause 55: Two or More Dwellings on a Lot & Residential Buildings
GENERAL PROVISIONS	Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA	Increased Housing Diversity
CONSIDERED PLAN REFERENCES/DATE RECEIVED	TP1 to TP8 – date stamped by Council 22 February 2010 & Concept revised plans received 6 May 2010

12.0 KEY ISSUES RELATING TO THIS APPLICATION

- § Traffic considerations
- § Urban design (scale and built form)
- § Neighbourhood character
- § Amenity impacts (internal and external)
- § Vegetation/landscaping considerations

2.0 PROPOSAL (AS AMENDED)

- 2.1 It is proposed to demolish the two (2) existing single storey dwellings and associated outbuildings on the land and construct sixteen (16) dwellings comprising a two (2) storey building with a shared basement car park, on this site.
- 2.2 The applicant has submitted revised concept plans which seek to address concerns raised by Council Officers following advertising of the proposal. It is these revised plans that now

form the basis of this recommendation to Council. The issues rectified by the amended proposal relate primarily to the location of the vehicle access, overlooking, and internal amenity.

- 2.3 The building is set back a minimum of 9 metres from Maury Road at ground level, and 9.8 metres at first floor level.
- 2.4 Above the basement car park, eight (8) dwellings are provided at ground floor level, and eight (8) dwellings at first floor level, all built around a central communal lift and stairwell. The balcony areas which form the dwellings' private open space wrap around the perimeter of the building.
- 2.5 Analysing each level of the development, the following summarises the proposal:

Basement:

- § Access to the site is proposed at the west property boundary from Maury Road, via a ramp to the basement car park.
- § The basement car parking area includes:
 - Twenty-four (24) car parking spaces (including 3 visitor spaces);
 - Sixteen (16) individual storage compartments;
 - Nine (9) bicycle racks;
 - A general waste storage and recycling bin area; and
 - A centrally located lift and stairwell providing access to the levels above.

Ground Level:

- § Separate pedestrian access paths to dwellings 1 and 8 towards the centre of the site frontage, and a communal walkway for the balance of the dwellings along the site's east property boundary.
- § Eight (8) apartments are located on this level, each containing two (2) bedrooms and an open plan living arrangement.
- § The dwellings are each provided with balconies accessed directly from their living rooms – those dwellings facing the site's front and rear property boundaries are provided with balconies of 11 square metres, and those facing the site's side elevations are provided with balconies of 32 square metres in area.
- § Provision for landscaping has also been incorporated into the design, within the site's 9 metre front setback, at the site's south-east and south-west (rear) corners, and around the perimeter of the site.

First Floor Level:

- § Eight (8) apartments are located on this level, also each containing two (2) bedrooms and an open plan living arrangement.
- § The dwellings are each provided with balconies accessed directly from their living rooms – those dwellings facing the site's Maury Road frontage are provided with balconies of 22 square metres, those facing the site's rear property boundary are provided with balconies of 12 square metres, and those facing the site's side elevations are provided with balconies of 10 square metres in area.

- 2.5 The proposed development has a maximum height of 9.027 metres to the central lift overrun, however the bulk of the building is under 8 metres in height.

- 2.6 Habitable room windows that have an outlook towards adjoining residential private open space areas or habitable room windows have been screened accordingly.
- 2.7 The building would be contemporary in appearance, with flat roof elements and varying external materials, finishes and colours are proposed, including render, aluminium window frames, timber screening, and glazing etc. Please refer to the external finishes legend on the considered plans for further details regarding the cosmetic treatment to all external facades.
- 2.8 The proposal has an overall site coverage of 72.9 percent and a permeability percentage of 27.1 percent.
- 2.9 To summarise the development and as requested by the Councillors, the table below has been provided.

Criteria	ResCode Requirement	Proposed Development Provision
Private Open Space	A balcony of 8 square metres with a minimum width of 1.6m and convenient access from a living room.	Balconies or ground floor private open space have been provided to all apartments that comply with the ResCode provisions.
Car Parking	One (1) car parking space for one (1) or two (2) bedroom dwelling OR Two (2) car parking spaces for each three (3) or more bedroom dwelling, with one (1) space under cover	The proposal exceeds on-site car parking requirements for residents and visitors, in the order of five (5) car parking spaces.
Front Setback	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.	The development complies with this requirement as it achieves a minimum front setback of 9 metres from Maury Road.
Site Coverage	Maximum 60% - as per ResCode	Site coverage is 72.9% and therefore does not meet the relevant standard (refer to the ResCode discussion section within this report)

3.0 SITE PLANNING HISTORY

- 3.1 Council records indicate that there is no previous planning permit history for this site.

4.0 SITE & SURROUNDS

- 4.1 The subject site comprises two (2) standard allotments on the south side of Maury Road, Chelsea, with a combined area of 1393 square metres.
- 4.2 The site is rectangular in shape, and has a 30.48 metre frontage to Maury Road and a depth of 45.72 metres.

- 4.3 The site currently contains two (2) single storey dwellings (and associated outbuildings), set back 10.4 metres and 22 metres from the site's street frontage.
- 4.4 The Land does not contain any significant vegetation. The topography of the Land can be described as predominately flat, with a slight fall of approximately 350mm from the site's east to west property boundaries. The site does not contain any easements.
- 4.5 Vehicle access to the site is currently provided from Maury Road via two (2) crossings located at the site's north-east corner and towards the centre of the site frontage.

5.0 ADJOINING PROPERTIES & SURROUNDS

- 5.1 The aerial photograph provided below provides you with an illustrative analysis of the Subject Land and surrounding environs, which is quite varied given the zoning of land in the immediate area.



- 5.2 Land directly surrounding the site is zoned Residential 1 (R1Z), and is developed for residential purposes comprising both single and double storey dwellings. Approximately 100 metres to the west of the site is the Chelsea Foreshore Reserve, zoned Public Park and Recreation Zone (PPRZ). Further to the north-east, along Nepean Highway, is zoned Business 1 (B1Z) and is developed with shops that form the southern section of the Chelsea shopping precinct and Major Activity Centre.
- 5.3 In detail, the adjoining and surrounding make-up of the area is described as follows:

North (across Maury Road):

Directly opposite the site, to the south of Bath Street, is developed with double and single storey detached dwellings, set back between 5.5 to 8.7 metres from the street frontage. North of Bath Street, on the corner of Maury Road (No.5 Maury Road), is a vacant site which has a current Planning Permit for the construction of ten (10) dwellings within an

apartment-style building (Planning Permit No.KP469/08). To the north of this site is a Council owned carpark.

South:

Land abutting the subject site's rear property boundary is developed with two (2), two-storey residential buildings which front on to Newington Parade (Nos.1/7 and 2/7 Newington Parade, and No.9 Newington Parade), set back 7.3 metres and 24 metres from the shared boundary, respectively. A large galvanised iron shed is located within the rear secluded private open space of No.9 Newington Parade, within close proximity of the subject site's rear property boundary.

East:

Land directly abutting the site's east property boundary is developed with a single storey brick dwelling with tiled gable roof and associated garage, at No.6 Maury Road. The dwelling is set at an angle to the street frontage and has a front setback of 12.2 metres at its closest point. The dwelling is set back a minimum of 1.2 metres from the subject site's east (side) property boundary.

West:

Immediately abutting the subject site to the west is a single storey weatherboard dwelling with pitched tile roof, and associated car port at No.12 Maury Road. The dwelling is set back 15 metres from the site frontage, and a minimum of 3.4 metres from the subject site's west property boundary.

6.0 TITLE DETAILS

6.1 The Permit Applicant has completed the planning application form declaring that there is no restrictive covenant or other encumbrances on the title.

7.0 PLANNING CONTROLS

7.1 The subject site is located within a Residential 1 Zone (R1Z).

7.2 The Land is subject to Design and Development Overlay, Schedule 1 (DDO1).

7.3 The Land is subject to Design and Development Overlay, Schedule 7 (DDO7).

8.0 PLANNING PERMIT REQUIREMENTS

8.1 Pursuant to Clause 32.01-4 (Residential 1 Zone), a planning permit **is not required** to use the site for residential purposes.

8.2 Pursuant to Clause 32.01-4 (Residential 1 Zone), a planning permit **is required** to construct two (2) or more dwellings on a lot.

8.3 Pursuant to Clause 43.02 (Design and Development Overlay, Schedule 1), a planning permit **is not required** to construct a building or construct and carry out works provided that a number of conditions are met, namely (where relevant):

§ A building which has an internal storey height (measured from floor to ceiling) of 3.5 metres or less. This internal storey height requirement does not include stairwells and lightwells which comply with the overall height requirements.

Further, a permit cannot be granted to construct a building or to construct or carry out works which are not in accordance with the following requirement:

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

The current application accords with the requirements outlined above.

8.4 Pursuant to Clause 43.02 (Design and Development Overlay, Schedule 7), a planning permit must not be granted to construct a building or construct or carry out works within 4.5 metres of the foreshore reserve boundary.

The subject site does not abut the foreshore reserve, and therefore is set back well in excess of 4.5 metres.

9.0 ADVERTISING

9.1 Prior to advertising, the Permit Applicant submitted revised plans on 22 February 2010 that essentially addressed the initial concerns outlined within the Planning Officer's further information letter. It is these plans that formed part of the advertising documentation. Subsequent to the advertising of the proposal, the applicant submitted revised concept plans on 6 May 2010 which sought to address concerns raised by Council Officers. It is these plans which form the basis of this recommendation, and are under consideration by Council.

9.3 It was not considered necessary for the concept plans to be readvertised to neighbouring properties, given that the amendments to the proposal are not considered to result in increased detriment, and have been prepared primarily to rectify issues identified by Council Officers.

9.2 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. Twenty-one (21) formal objections to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Traffic, parking and access concerns;
- Overdevelopment;
- Overlooking/loss of privacy;
- Noise disturbance; and
- Neighbourhood character.

10.0 PRELIMINARY CONFERENCE

- 10.1 A preliminary conference was held on 13 April 2010 with the relevant Planning Officer, the Permit Applicant and seventeen (17) community representatives (objectors) in attendance. The above-mentioned issues were discussed at length.
- 10.2 The above concerns were unable to be resolved at the preliminary conference, and the objections still stand.

11.0 REFERRALS

- 11.1 The following internal departments were notified:
- Council's Development Engineer
 - Council's Vegetation Management Officer
 - Council's Street Tree Officer
 - Council's Traffic Department
 - Council's Environmental Planning Officer
- 11.2 The above-mentioned referral authorities had no objection to the proposal, subject to conditions being included on any permit issued. The 'Planning Consideration' section of this report will further elaborate on comments received from internal referral authorities, where necessary.

12.0 RELEVANT POLICIES

12.1 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

12.2 Local Planning Policy Framework (LPPF)

- Clause 21.03: Land Use Challenges for The New Millennium
- Clause 21.04: Vision
- Clause 21.05: Residential Land Use
- Clause 22.11: Residential Development Policy

12.3 Particular Provisions

- Clause 55: Two or More Dwellings on a Lot & Residential Buildings

12.4 General Provisions

Clause 65 (Decision Guidelines)

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

The land is located within Area 65 of the Neighbourhood Character Guidelines, which encompasses a large area between the west side of Nepean Highway and the foreshore, extending from Mordialloc to Bonbeach. The proposal is generally in accordance with the applicable character profile including the elements identified as making a ‘major’ contribution to neighbourhood character within this area, with the exception of the roofing material. While tile roofs are identified as a ‘major’ neighbourhood characteristic, it is considered that the proposed colorbond flat roof is typical of more recent developments within this foreshore precinct, and is therefore acceptable.

12.6 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.

13.0 PLANNING CONSIDERATIONS:

13.1 State and Local Planning Policy Framework

The State Planning Policy Framework sets out the relevant state-wide 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.

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. Of specific relevance to the consideration of this application, it encourages urban consolidation in appropriate locations and stresses the need to accommodate the projected population increase (i.e. 620,000 households by 2030) in and **around activity centres, established residential areas** and strategic redevelopment sites.

Clause 14 aims to ensure there is a sufficient supply of land available for residential development to facilitate the orderly development of urban areas.

Clause 16.01-1 aims to encourage residential development that is cost-effective in infrastructure provision and use, energy efficient, incorporates water-sensitive design principles and encourages public transport use.

Clause 19.03 relates to the Design and Built Form of developments and aims to ensure that developments achieve high quality designs that contribute positively to the urban character of the area.

It is submitted that the proposed development satisfies the aforementioned State strategies and policy direction. Specifically, the subject site is located on land earmarked for residential purposes, whereby residential development is an 'as of right' use under the zoning provisions. The site enjoys convenient and direct access to community facilities and the like, including public transport nodes.

13.2 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 the 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 21.03: Land Use Challenges for The New Millennium
- § Clause 21.04: Vision
- § Clause 21.05: Residential Land Use
- § Clause 22.11: Residential Development Policy

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

- § **Clause 21.03: Land Use Challenges for The New Millennium** identifies the need for the Municipality to provide suitable housing stock that meets future housing demands and to sustain an appropriate mix of supporting urban infrastructure. It is further stated that recent pressures for new development, consolidation and medium density housing has resulted in change to the amenity and character of local areas. It is acknowledged that careful management will be required in order to integrate urban consolidation objectives with an understanding of specific character issues applicable to certain neighbourhoods.
- § Within **Clause 21.04-3: Strategic framework plan** (Clause 21.04 Vision), provides for the strategic direction for future land use planning and development within the City of Kingston. This Policy includes a Strategic Land Use Framework Plan, which identifies the location of where specific land use outcomes are anticipated, supported and promoted.
- § The major strategic directions identified on the overall Framework Plan include:
 - **Locations for promotion of medium and higher density housing opportunities i.e. areas designated for increased density housing opportunities and activity centres.**

- § The City of Kingston’s MSS at **Clause 21.05** (Residential Land Use) of the Kingston Planning Scheme, seeks to provide guidance to development in residential zoned land, mixed use zoned lands and land within activity centres. The Residential Land Use Framework Plan illustrates the range of housing outcomes sought across the City of Kingston.
- § Pertinent to the consideration of this application, the policy goes on to state that “*The vision for Kingston’s residential areas outlined in the Kingston Residential Strategy - September 2000 is: to promote and facilitate both increased local housing diversity to meet the changing housing needs of the community and increased liveability within an integrated planning framework. The MSS seeks to promote medium density housing in locations better suited to accommodating housing change and to moderate the rate and type of housing change in other locations*”.
- § Relevant objectives and strategies in **Clause 21.05-3: Residential Land Use** include:
- *To provide a range of housing types across the municipality to increase housing diversity and cater for the changing housing needs of current and future populations, taking account of the capacity of local areas in Kingston to accommodate different types and rates of housing change. This is to be achieved through encouraging residential development within activity centres via mixed-use development, and on transitional sites at the periphery of activity centres.*
 - *To ensure new residential development respects neighbourhood character and is site responsive, and that medium density dwellings are of the highest design quality. This is to be achieved through promoting 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.*
 - *To promote more environmentally sustainable forms of residential development. To be achieved through promoting medium density housing development in close proximity to public transport facilities, particularly train stations.*
 - *To manage the interface between residential development and adjoining or nearby sensitive/strategic land uses.*
 - *To ensure residential development does not exceed known physical infrastructure capacities.*
 - *To recognise and respond to special housing needs within the community.*

Once again in much the same vein as Clause 12.06 in the State Planning Policy, which reinforced the need to encourage urban consolidation in appropriate locations and stresses the need to accommodate the projected population increase, Council’s Local Planning Policy at Clause 21.05 seeks to do likewise.

- § **Clause 22.11 Residential Development Policy** extends upon the provision contained at Clause 21.05 (Residential Land Use), effectively promoting high-density development around activity centres and locations close to public transport.

In summary, the proposal is considered to be consistent with Council’s Local Planning Policy Framework. Importantly, the proposal delivers on specific objectives relating to new

residential development, which seek to encourage well-designed medium density housing in appropriate locations as well providing diversity in housing choice to assist in meeting the anticipated future population forecasts.

13.3 Particular Provisions

§ Clause 55: Two or More Dwellings on a Lot & Residential Buildings

It is acknowledged that the provisions of Clause 55 (ResCode) of the Kingston Planning Scheme apply in this instance. Accordingly, the proposal has been assessed against the objectives and standards of this Clause and it is considered that the development largely satisfies the requirements of ResCode and, in general, is site responsive.

It is important to note that a development **must** meet all of the objectives of this Clause, and **should** meet all of the standards of this Clause.

There are some minor variations sought to a few of the Standards found within Clause 55, these namely relate to the following:

- § Standard B3: Dwelling diversity
- § Standard B8: Site coverage
- § Standard B10: Energy efficiency
- § Standard B28: Private open space
- § Standard B29: Solar access to open space
- § Standard B32: Front fences
- § Standard B33: Common property

The ‘Planning Consideration’ section of this report will further elaborate on the above items where concessions are being sought.

14.0 PLANNING CONSIDERATION & ASSESSMENT OF KEY ISSUES:

Prior to delving into the discussion below, it should be recognised that the subject Land is suitable for development and both the State and Local Planning Policy Framework support this notion with the site being earmarked as an ‘increased housing diversity’ area.

Council must determine whether the proposal would achieve an “acceptable” outcome having regard to the applicable policies, decision guidelines and the provisions of the Kingston Planning Scheme.

The proposal has been assessed and determined to meet **all** of the Objectives and **27** of the **34** Standards of Clause 55 of the Kingston Planning Scheme (ResCode). The following provides a discussion of the **7** areas of non-compliance, as identified above.

Clause 55.02 – Neighbourhood Character and Infrastructure

Standard B3 – Dwelling Diversity

In developments of ten or more dwellings, provision should be made for a range of dwelling sizes and types, in accordance with this Standard. The proposal provides for sixteen (16) dwellings, each containing two (2) bedrooms. In this instance, the dwelling mix is considered appropriate, as the development would provide a diversity of housing to an area predominantly characterised by larger family dwellings. Given the site's location within an Increased Housing Diversity area, it is considered that the smaller dwelling type proposed is appropriate, and will assist in achieving Council's objectives for increasing dwelling densities in locations well serviced by physical and social infrastructure.

Clause 55.03 - Site Layout and Building Massing

Standard B8 – Site Coverage

The proposal results in a site coverage of 72.9 percent, in excess of the 60 percent maximum stipulated under the Standard. When considering a variation to the Standard, Council must have regard to the character of the neighbourhood, and the site coverage of adjacent properties. The site is within 50 metres of the Chelsea shopping centre, which is developed with commercial buildings with high site coverage, well in excess of 60 percent. Further, the recently approved development at No.5 Maury Road, diagonally opposite the site, has site coverage of 73.1 percent (Planning Permit No.KP469/08). Accordingly, the proposed site coverage is considered to be consistent with the broader neighbourhood character.

The proposal's performance against the applicable criteria contained in Clause 55 (ResCode) of the Kingston Planning Scheme demonstrates that the site coverage proposed is not excessive, having regard to the generous building setbacks, and the amenity of adjacent properties and those within the development.

Standard B10 – Energy efficiency

The Standard states that buildings should be oriented to make use of solar energy. Whilst the majority of dwellings within the development have a reasonable solar orientation, dwellings 4 and 5 on the ground floor are oriented to the south-east and south-west.

Having regard to the dwelling yield proposed, on balance, it is considered that the proposal achieves a high standard of energy efficiency, and the proposal is considered acceptable subject to a condition requiring the submission and approval of an Ecologically Sustainable Design (ESD) report which provides details of measures taken to improve the buildings' performance. The report will be reviewed by Council's Environmental Sustainability Officer.

Clause 55.05 – On-site Amenity & Facilities

Standard B28 – Private open space

Whilst each of the proposed dwellings have been provided with private open space in excess of the minimum requirements under the Standard, it is considered that the level of screening proposed to the ground level balconies of dwellings 3, 6 and 7 is excessive, resulting in a sense of enclosure and thus a reduced amenity for future occupants. Council Officers consider that removal of the screening along the balconies, and the provision of new 2.0m

high fences with 400mm high trellis fence extensions along all property boundaries would result in an improved design solution to combat overlooking of neighbouring properties, whilst providing increased amenity to these spaces.

Further, it is considered that the amenity of the first floor balconies of dwellings 12 and 13 could be improved, with the main areas to the east and west boundaries increased to 2.5 metres in width, and the less practical 1.0 metre width area wrapping around the rear of the building deleted. This should also assist in alleviating visual bulk with the removal of superfluous screening at the buildings' south (rear) elevation.

Permit conditions are recommended which seek to address these issues.

Standard B29 – Solar access to open space

In accordance with this Standard, the private open space should be provided to the north of the dwelling, where appropriate. As stated above, the majority of dwellings within the development have been provided with good solar orientation, with the exception of dwellings 4 and 5 which have a south-east or south-west orientation, including their private open space. It is possible for access to be provided from these dwellings' balconies to the ground level open space at the side and rear of the site by raising the ground level to the height of the balconies, in order to ensure that dwellings 4 and 5 are provided with secluded private open space of good dimension and usability, and improved solar orientation to the east and west. A permit condition is recommended to this effect.

Clause 55.06 – Detailed Design

Standard B32 – Front fences

A variation is sought to this Standard, which requires front fences to not exceed 1.2 metres in height. The proposed 1.5 metre high brick pier fence is considered to be in keeping with the character of the street, whilst also providing fencing of a scale and proportion more in keeping with that of the proposed development. For these reasons, the increased fence height is considered acceptable.

Standard B33 – Common property

Council Officers consider it impractical for the landscaping around the perimeter of the site to be included within common property. Consequently it is recommended that landscaping provided alongside their respective dwelling, i.e. dwellings 3, 4, 5, 6 and 7, be included within the secluded private open spaces of these dwellings, and raised to the same level as the balconies in order to ensure that the areas are easily maintained. The inclusion of boundary landscaping should also aid in improving the amenity of these dwellings' secluded private open space areas.

15.0 RESPONSE TO GROUNDS OF OBJECTION

15.1 Traffic, Parking and Access Concerns

A number of residents have submitted that the proposal will result in increased traffic, parking and safety concerns within the vicinity of the site. Accordingly, the application has been considered by Council's Traffic Department.

Council's Senior Traffic Engineer advised that the proposal is expected to generate 6 trips per household per day, with approximately 10 percent of all daily trips occurring in each of the AM and PM peak hours. This translates to a total of around 96 trips per day with 10 trips in each of the morning and evening peak hours. It was advised that this would result in "*no significant impact on the safety and operation of the surrounding road network*", particularly given that the intersection of Nepean Highway and Maury Road is already signalised. As such, Council Officers are satisfied that the traffic volume generated by the proposal can satisfactorily be accommodated in the surrounding road network.

Objectors were concerned that the proposal provided inadequate vehicle parking to meet the needs of future residents and their visitors. In accordance with the requirements of Standard B16 (Parking provision) of Clause 55 of the Kingston Planning Scheme, nineteen (19) on-site vehicle spaces should be provided on site, inclusive of three (3) visitor car spaces. The proposal provides for twenty-four (24) basement car spaces, including three (3) visitor car spaces. Accordingly, the proposal provides five (5) on-site car spaces in excess of the requirements of the Planning Scheme, and is considered acceptable.

Council's Traffic Department have undertaken a thorough assessment of the basement carpark access and layout, and have provided specific recommendations which have been addressed by the concept plans dated 6 May 2010 or will otherwise be satisfied through the inclusion of planning permit conditions.

The vehicle access and layout, parking provision and projected traffic volumes generated by the proposal are therefore considered acceptable.

15.2 Overdevelopment

A number of objectors submitted that the number of dwellings proposed on a site of this size amounts to an overdevelopment of the site.

The subject site is located within a Residential 1 Zone and within an 'increased housing diversity' area. Council policy contained within the Kingston Planning Scheme seeks to concentrate more intense development within these areas, given their superior access to public transport and activity centres.

It is important to note that the proposal's performance against the relevant criteria of the Planning Scheme indicates that the number of dwellings proposed is not unreasonable. The proposal has been designed in accordance with, or in excess of, the requirements of Clause 55 (ResCode), including its setbacks from property boundaries, the provision of private open space, and the provision of on-site car parking. Overshadowing and overlooking has been minimised, and the more subjective elements of the design such as building bulk has been reduced through a combination of varied setbacks, building materials and forms. As discussed in Section 14.0 of this report, the higher site coverage proposed is considered to be consistent with the character of the area. Accordingly, the proposal is deemed to be an acceptable number of dwellings for the site.

15.3 Overlooking / Loss of Privacy
Noise Disturbance
Neighbourhood Character

The first floor windows and balconies provided to the south, east and west elevations have been screened up to 1.7m above finished floor level in order to prevent overlooking of neighbouring properties. A permit condition to require the provision of new 2.0m high paling boundary fences with 400mm high trellis extensions, as discussed in Section 14.0 of this report, will ensure that there is no overlooking potential from the ground floor levels of the dwellings, nor from their private open space areas.

Whilst it is acknowledged that the level of resident noise may increase as a consequence of the location of first floor balconies, the noise generated would be of a residential nature, and therefore is not considered to be unreasonable. It should be noted that the first floor screening proposed would result in some degree of noise attenuation.

A number of objectors have submitted that the proposed building is not in keeping with the character of the neighbourhood. While developments of this scale and intensity are not within the existing Maury Road streetscape, developments of this nature are entirely consistent with Council policy which seek to intensify housing within the Increased Housing Diversity area, and are acceptable having regard to the “evolving” character of the area. Large, contemporary buildings accommodating both single and multi-dwelling developments are increasingly becoming commonplace within Kingston’s foreshore precinct. Further, the recent approval of an apartment-style development containing ten (10) dwellings (Planning Permit No.KP469/08) at No.5 Maury Road, diagonally opposite the subject site, indicates that developments of an apartment-style nature are appropriate within the neighbourhood context. This approved development is likely to result in a substantial change to the existing Maury Road streetscape, introducing a building form that is contemporary in appearance, with flat, skillion and parapet roof forms and building materials comprising rendered blockwork and timber feature cladding, not altogether dissimilar from the building form proposed on the Subject Site.

The proposed scale and design of the building is considered to be consistent with the emerging character of Maury Road, and the broader character of the Increased Housing Diversity area and foreshore environment.

16.0 CONCLUSION:

16.1 For reasons discussed within this report, it is submitted that the proposal be supported subject to the adoption of the recommended permit conditions to ensure that the proposed development achieves a high quality design, achieves good internal amenity as well as responding appropriately to the site and its immediate interfaces.

16.2 The basis of this recommendation to support the proposed development is evidenced by:

- The design and siting of the proposed development to be compatible with the surrounding area;

- Suitability of the site for higher density residential development having regard to the policy context and applicable planning provisions;
- In general, acceptability of the built form of the proposed development, specifically in regard to height;
- Consideration of any external amenity impacts;
- Adequacy of internal amenity;
- Consideration of the provision of car parking (to dwellings and visitors) and traffic related matters;
- The proposal generally satisfies the requirements of the Kingston Planning Scheme, including the State and Local Planning Policy Framework, Residential 1 Zone, Design and Development Overlays, the relevant Particular Provisions and Clause 65 - Decision Guidelines (subject to appropriate conditions).

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

17.0 RECOMMENDATION:

That a Notice of Decision to Grant a Permit for the development of this site for sixteen (16) dwellings be issued, subject following conditions:

21. 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 6 May 2010, but modified to show:
 - a. The provision of a landscape plan in accordance with the submitted development plan and the City of Kingston Landscape Plan Checklist, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - ii) an associated planting schedule showing the proposed location, species type, mature height
 - iii) and width, pot sizes and number of species to be planted on the site;
 - iv) the delineation of all garden beds, paving, grassed area, retaining walls, fences and other
 - v) landscape works including areas of cut and fill throughout the development;
 - vi) all existing trees on the site and close 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;
 - vii) a range of plant types from ground covers to large shrubs and trees, species must comprise a minimum of 80% indigenous coastal species;
 - viii) adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);

- ix) the provision of two (2) suitable medium sized (at maturity) native canopy trees within the front setback of the property with species chosen to be approved by the Responsible Authority.
 - x) sustainable lawn areas and plant species taking current water restrictions into consideration;
 - xi) all trees provided at a minimum of 2 metres in height at time of planting;
 - xii) medium to large shrubs to be provided at a minimum pot size of 200mm; and,
 - xiii) the provision of notes 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 suitable fixed (unopenable) screening to the first floor south-facing windows of dwellings 12 and 13 to a minimum height of 1.7 metres above the first floor finished floor level directly below, in accordance with Clause 55.04-6 (Standard B22) of the Kingston Planning Scheme;
 - c. the removal of screening along the east and west facing ground floor balconies of dwellings 3, 6 and 7;
 - d. the provision of a new 2.0 metre high timber paling fence along the site's east, west, and south (side/rear) property boundaries, with a 400mm high boxed lattice fence extension attached securely to the top of this fence. The fence is to taper down at the commencement of the vehicle access to a height of 1.2 metres where it terminates at the site frontage;
 - e. the deletion of the landscaping strip adjacent to dwelling 8 along the site's west property boundary;
 - f. the perimeter landscaping along the site's east (side), west (side), and south (rear) property boundaries raised to the height of the balcony areas, and included within the adjacent dwellings' secluded private open space area by means of internal fencing;
 - g. a notation that the "Ground floor finished floor level must not exceed 700mm above natural ground level, at any point";
 - h. the balcony on the east side of dwelling 12 and the balcony on the west side of dwelling 13 increased to 2.5m in width, and the 1.0m balcony areas at the south (rear) elevation of these dwellings deleted;
 - i. a notation on the floor / site plan(s) stating: "The redundant vehicle crossings 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";
 - j. the ramp increased to 6.1m in width, including 300mm wide kerbs of not more than 150mm high on both sides;
 - k. the ramp grade to be no more than 1 in 12 for the first 4m into the site;
 - l. the provision of a longitudinal section of the ramp, including the verge area and carriageway, showing levels, grades and distances to demonstrate that vehicles will not scrape and that the required headroom of 2.2m can be provided at the entrance to the basement (in accordance with Fig 5.3 of AS2890.1) and throughout the basement;

- m. the car spaces adjacent to walls increased to 2.7m in width;
 - n. the provision of bollards offset 1m from the opening to the lift/stairwell in order to provide a safe area for pedestrians to step in to;
 - o. the bicycle rails to be positioned 1m apart OR the provision of vertical storage with 500mm spacing alternating in height, in accordance with Bicycle Victoria Guidelines. The specific type of bicycle facility is to be indicated on the plans with all relevant dimensions shown;
 - p. the provision of a fully dimensioned security door nominated for the basement car park, including operational details for residents and visitors to the development;
 - q. the provision of 500mm x 500mm splays either side of the ramp entry to assist in improving driver visibility of passing pedestrians and cyclists;
 - r. the provision of rainwater tank(s) with water re-use for toilet flushing;
 - s. an elevation plan of all front fencing, which provides details of its height, materials and colours, with the fence adjacent to the exit/entry to be reduced to 1.2m in height OR set back 2.0 metres from the access ramp;
 - t. the surface material of the driveway / accessway leading to the basement car park nominated in all-weather coloured concrete sealcoat, or similar;
 - u. a notation on the basement carpark plan stating that ‘all visitor car spaces must be suitably marked by signage or line marking’, in accordance with Condition 19 of this permit;
 - v. the removal of the curved wall that flanks car space no. 4 to provide improved vehicular manoeuvrability within the basement;
 - w. a notation on the ground floor plan stating that ‘the levels at the site boundaries must not be altered’;
 - x. 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; and
 - y. the location of all externally-located heating and cooling units, exhaust fans and the like, clearly shown.
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 the dwellings hereby permitted, the new fence/s required under Condition 1d) of this permit must be erected to Council’s satisfaction, at the full cost of the applicant/owner(s).
 4. Prior to the removal of the tree from the site’s Maury Road nature strip the Developer/Owner must pay to Council a compensation, removal and replacement fee (\$250.00) (including GST) for the removal of this existing tree. The removal of this tree must be undertaken by Council, and the Developer/Owner must advise Council when this tree is required to be removed (a minimum 2 weeks notice is required).
 5. Prior to the occupation of the residential development 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.
6. Prior to the occupation of the residential development 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.
 7. Prior to commencement of the development hereby permitted, a Site Management Plan, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The Site Management Plan must clearly set out measures to prevent amenity loss to surrounding properties during the construction period. The Plan is to include, but limited to, measures to control the emission of dust/sand, rubbish on site, loading/unloading times, construction times, and parking of builder's vehicles etc. This plan when endorsed must not be varied without the prior approval of the Responsible Authority. It must also be implemented to the satisfaction of the Responsible Authority.
 8. Before the commencement of any buildings and works on the Land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The CMP must specify and deal with the parking of vehicles during construction, delivery of materials, containment of waste on site and suppression of dust, business operations on the site during construction.
 9. Before the commencement of any buildings and works on the Land, a Waste Management Plan (WMP) 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 (3) copies of the plan must be submitted. The WMP 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 WMP must be implemented to the satisfaction of the Responsible Authority. The WMP must not be modified unless without the written consent of the Responsible Authority.
 10. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of an ESD report to be prepared by a suitably qualified environmental professional and must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the Permit and shall thereafter be complied with. The ESD report must include, but is not limited to, detailing initiatives for stormwater harvesting, insulation, daylighting, collective rainwater tanks and/or individual rainwater tanks, public and private landscape irrigation and car washing, energy efficient concepts, glazing and internal ventilation and the like.
 11. The entry/exit driveway of the basement car park must incorporate an apex no less than 150mm above existing back of footpath on Maury Road or implement an alternative engineering solution for major flooding, approved by the Council.

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12. 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.
13. 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.).
14. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
15. Prior to the occupation of the residential development 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.
16. 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.
17. Prior to the occupation of the residential development 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.
18. Prior to the occupation of the residential development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - e. Constructed to the satisfaction of the Responsible Authority.
 - f. Properly formed to such levels that they can be used in accordance with the plans.
 - g. 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.
 - h. Drained and maintained to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
19. Visitor car spaces must be suitably marked by signage or line marking.
20. 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.
21. Construction on the site shall be restricted to the following times:

Monday to Friday:	7.00am to 7.00pm
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Saturday: 9.00am to 6.00pm

Sunday and Public Holidays: No construction permitted

22. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
23. 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.

Note: Residents and visitors to this development are not eligible for on-street parking permits.

OR

In the event that the Council wish to oppose the Officer's recommendation to support the application, it can do so on the following grounds:

1. The proposal would prevent the orderly and proper planning of the zone.
2. The proposal would have an adverse effect on the amenity of area.
3. The proposal constitutes an over-development of the site.
4. The proposal would detract from the visual amenity of the locality and the streetscape.
5. The proposal is inconsistent with the relevant provisions of the Kingston Planning Scheme.

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KP 07/614 – Lot 1 Edithvale Road, Chelsea Heights/Aspendale Gardens

APPLICANT	Aurecon Australia Pty Ltd
ADDRESS OF LAND	No. Lot 1 Edithvale Road, Chelsea Heights / Aspendale Gardens (Edithvale Wetlands Site)
PROPOSAL	Discovery Centre (Education Facility)
PLANNING OFFICER	Jennifer Pippo
REFERENCE NO.	KP614/07
RELEVANT STATE PLANNING POLICY FRAMEWORK	Clause 12: Metropolitan Development Clause 15: Environment
RELEVANT LOCAL PLANNING POLICY FRAMEWORK	Clause 21.09: Environment, Wetlands and Waterways Clause 22.15: Outdoor Advertising Signage Policy
ZONE	Clause 36.01: Public Use Zone – Schedule 1 Clause 36.02: Public Park & Recreation Zone Clause 36.04-1: Road Zone Category 1
OVERLAYS	Clause 42.01: Environmental Significant Overlay Clause 42.04: Land Subject to Inundation Overlay
PARTICULAR PROVISIONS	Clause 52.05: Advertising Signs Clause 52.06: Car Parking Clause 52.17: Native Vegetation Clause 52.29: Land Adjacent to a Road Zone
GENERAL PROVISIONS	Clause 65: Decision Guidelines

1.0 INTRODUCTION & APPLICATION BACKGROUND

1.1 This application was considered at the Ordinary Council Meeting held on Monday, 23 February 2009, whereby it was resolved that a permit issue, subject to the inclusion of an additional permit condition that reads as follows:

Condition 2:

Before the development starts the Responsible Authority receive an independent expert witness to ascertain whether:

1. *the development could endanger the integrity of the site for migratory birds species; and*
2. *The site is the best location for the facility.*

1.2 Accordingly, a Notice of Decision to Grant a Permit was issued by the City of Kingston on 2 March 2009.

1.3 An Application for Review pursuant to Section 82 of the *Planning & Environment Act 1987* was lodged to the Victorian Civil and Administrative Tribunal (VCAT) by a Third Party against Council's decision to Issue a Notice of Decision to Grant a Permit on the 2 March 2009.

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- 1.4 A second Application for Review was lodged by the Permit Applicant against Conditions as outlined in the Notice of Decision (Section 80 of the Planning & Environment Act 1987).
- 1.5 Both Applications for Review were set down jointly and heard by VCAT on 25 August and 2 September 2009.
- 1.6 On 14 October 2009 VCAT ordered that a varied permit issue for buildings and works on land at Lot 1 TP0959294Y and Lot TP370109W, Edithvale Road, Edithvale for an education facility (discovery centre) and associated car parking together with the removal of native vegetation and the erection of two (2) advertising signs generally in accordance with the endorsed plans.

The modifications to the Responsible Authority's Notice of Decision to Grant a Permit (KP618/07) included:

§ The deletion of Conditions 1(j) and 1(l) and the re-numbering of the subsequent conditions accordingly; and

§ The substitution of the following for Condition 2:

2(a) Before the development starts, a report from a suitably qualified expert, which includes an assessment of whether the development could endanger the integrity of the site for migratory bird species, must be submitted to the Responsible Authority for its approval.

(b) Any recommendations in the report, as approved by the Responsible Authority, must be implemented as part of the carrying out of the development to the satisfaction of the Responsible Authority.

- 1.7 Accordingly, the varied Planning Permit (KP614/07) was issued by Council, at the direction of VCAT, on 21 October 2009.

2.0 CONDITIONAL REQUIREMENTS OF PLANNING PERMIT KP614/07

- 2.1 On 19 April 2010 the Permit Applicant submitted to Council's Planning Department documentation to satisfy the conditional requirements of Planning Permit KP614/07.

- 2.2 Amongst this information an independent expert report (prepared by Ecology Partners) was submitted for Council's approval, in direct response to Condition 2 requirements of the Permit (refer to Appendix A).

- 2.3 Given that Condition 2 of the Permit was introduced by an adopted resolution at an Ordinary Council Meeting and then later varied in accordance with VCAT's order, the Planning Department have been directed to present this matter before Council **to determine whether the independent expert report satisfies the requirements of this Condition and is suitable for approval / endorsement.**

3.0 ASSESSMENT OF CONDITION 2 REQUIREMENT OF PLANNING PERMIT KP614/07

- 3.1 To assist Council with reaching a decision as to the suitability of the independent expert report, the following information is offered.
- 3.2 In determining whether a condition of a permit has been satisfied, it is important to understand exactly what it is that the condition requires.
- 3.3 If we break down the various components of the subject Condition (i.e. Condition 2 of Planning Permit KP614/07), the following can be established:

Component 1: Prior to the commencement of the development, a report from a suitably qualified expert must be submitted to Council for endorsement / approval.

It is considered that the Permit Applicant has **clearly satisfied** this component of the condition as:

- The development has not commenced; and
- Council has received a report that has been prepared by a qualified expert i.e. Stuart J.N. Cooney BAppSc (Hons) PhD. Consultant Zoologist - Ecology Partners Pty. Ltd.

Component 2: The report must include an assessment as to whether the development could endanger the integrity of the site for migratory bird species.

It is considered that the Permit Applicant has **clearly satisfied** this component of the condition as:

- A detailed assessment has been provided that focuses on the existing conditions of the subject land and an evaluation of the potential impacts the development may have on migratory birds;
- This assessment is dissected into five (5) key themes that are considered to be of potential threat to the migratory birds, which are categorised as:
 1. Altered hydrology;
 2. Increased salinity;
 3. Decreased water quality;
 4. Pest plants; and
 5. Animals and recreation.
- The findings of the Report state that *‘although there are a number of potential impacts on migratory birds that may arise as a result of the construction of a Discovery Centre at this important wetland, the careful and sensitive plans for the site and the strict and explicit planning permit issued by the City of Kingston and the EPBC [Environment Protection and Biodiversity Conservation] Act Referral Schedule ensures that such impacts are likely to be*

insignificant. In particular, it should be stressed that the largest impacts are likely to occur during the construction phase. The stipulation, however, that works do not occur at times when the majority of waterbirds are present at the site, in particular of the family Scolopacidae, means that potential impacts are effectively ameliorated'.

Further, the report concludes by saying: 'If all conditions of the Planning Permit and the EPBC Act Referral Schedule are implemented and a commitment to the installation of predator-proof bins and/or storage areas is made, it is considered unlikely that any significant impacts to migratory waterbirds will occur as a result of the development'.

Based on the information and findings outlined within the Report, it is considered that the proposed development is unlikely to endanger the integrity of the site for migratory bird species.

Component 3: Any recommendation made within the report must be implemented as part of the carrying out of the development to the satisfaction of the Responsible Authority.

It is considered that the Permit Applicant can and must **clearly satisfy** this last component of the condition as:

- The report makes one (1) recommendation that suggests that *'bins are predator proof or stored in predator proof areas to reduce the risk of predatory animals being attracted to the Discovery Centre and Edithvale Wetlands'*; and
- It is a requirement under this Condition that any recommendations be carried out and complied with by the Permit Applicant. Should this not occur, planning enforcement action will result.

3.4 The above analysis and 'break-down' of Condition 2 of the Permit provides a clear understanding of what exactly this condition requires the Permit Applicant to do in order to satisfy the condition.

3.5 Not only does the above analysis dissect the meaning and what is required by way of this condition, but it also provides justification and explanation as to how the Permit Applicant has satisfactorily addressed the requirements of Condition 2 of the Permit.

3.6 Further to the above, it is important that Council be made aware and informed of the following matters associated with this application:

§ Given the environmental and international significance of the subject land (listed as a Ramsar Wetland), it must meet specific criteria. Accordingly, an Environment Protection and Biodiversity Conservation (EPBC) Act Referral was submitted to the Commonwealth Environment Minister as having the potential to significantly impact on a Wetland of International Importance and a Listed Migratory Species.

The action was not considered a “controlled action”; however seven conditions were attached to the development to avoid significant impacts to the wetland and, accordingly, subject to the conditional requirements, the development has received Federal approval.

- § Based on the international significance of the subject land, external works can only occur during the autumn and winter months. As such, the Permit Applicant is on a very stringent timeframe to commence and complete construction.
- § Given these stringent construction timeframes for the subject development, it is critical that this matter be determined, to ensure that no undue delay is caused to the Permit Applicant.
- § Whilst it is common practice that Condition 1 plans be considered under delegation, given the history of this application and specifically the foundations of Condition 2 of the Permit, this matter has been directed to be heard and determined at the Ordinary Council Meeting.

As a result, the Permit Applicant has effectively lost weeks in commencing the construction of the development, which may ultimately result in the external construction of the development not being completed by the end of winter.

Notwithstanding the above, it is important that Council understands that the Permit Applicant is within right to investigate and consider lodging an appeal to VCAT with the potential to seek costs against Council for any perceivable and unreasonable delay in making a decision.

- § Lastly, it should be recognised that the Permit Applicant had an opportunity to have the Condition quashed at the Tribunal, however in good faith decided to bear the condition, given its importance to Council and more so the Councillors.

4.0 RECOMMENDATION:

4.1 Based on the detailed discussion and information provided above, it is recommended that:

- § Council resolve to approve the independent expert report (prepared by Ecology Partners), submitted to Council on 19 April 2010, and determine to endorse the Report to form part of Planning Permit KP614/07.

APPENDIX A – INDEPENDENT EXPERT REPORT

3.2 Submissions

During exhibition of the amendment, a total of six (6) submissions were received. Four (4) of the submissions received were from referral authorities (Vic Roads, Melbourne Water, South East Water and the Department of Sustainability and Environment) who raised no objection.

The remaining two (2) submissions received were opposing submissions on behalf of each of the two (2) land holders that are directly affected by the proposed amendment.

Submission 1 - 642-660 Springvale Road, Dingley Village (retirement village site)

The submission on behalf of the owners of 642-660 Springvale Road, Dingley Village, acknowledges that the current zoning of the land is an anomaly but objects to the proposed rezoning to the Green Wedge Zone. The submission sites concerns that the retirement village (which is currently under construction) would become a 'non-conforming use overnight' and that this will potentially have an adverse commercial effect on the land. The submission further suggests that this would be a 'poor planning outcome' and that Council should abandon pursuit of the amendment.

Submission 2 - 369-385 Spring Road, Dingley Village (apiary)

The second submission, on behalf of the owners of 369-385 Spring Road, Dingley Village, also acknowledges the anomalous nature of the site's current zoning for Public Use and questions the appropriateness of this zoning given the abutting residentially zoned land to the west of the site. The submission acknowledges that rezoning the land to Green Wedge would not interfere with the ongoing use of the site for an apiary, however raises concerns regarding the '*potential future use of the land as a logical extension of the adjoin residential use or the retirement village*'. The submission further suggests that this would be a 'poor planning outcome' and that Council should abandon pursuit of the amendment.

3.3 Consideration of Submissions

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 submissions to a panel appointed under Part 8; or
- Abandon the amendment or part of the amendment.

3.4 Discussion of Issues

Non-conforming use – retirement village

Pursuant to Planning Permit KP765/03 (issued at the direction of VCAT on 23/11/2006), the land at 642-660 Springvale Road, Dingley Village is currently being developed for the purpose of a retirement village comprising 51 dwellings, a community centre and manger's residence.

A retirement village is a 'prohibited use' within the Green Wedge Zone. Consequently should the land be rezoned to Green Wedge the retirement village use would become a non-conforming use. This means that the use of the site for a retirement village may continue, however their ability to expand operations or intensify the use on the site is limited.

Commercial implications

The submission on behalf of the owners of 642-660 Springvale Road, Dingley Village sites concerns regarding 'potential adverse commercial affects' on the land.

It is difficult for Officers to foresee what, if any, impact the rezoning would have upon property values. Furthermore, the ability to consider such concerns under the scope of the Kingston Planning Scheme and the objectives and provisions of the Planning and Environment Act (1987) is limited.

Proper Planning

Both opposing submissions state that the proposed rezoning would create a 'poor planning outcome'.

The following section of the report outlines Council's strategic justification for seeking to proceed with the proposed amendment, including an analysis of how it supports State and Local policy intentions.

3.3 Strategic Justification

3.3.1 State Planning Policy Framework

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

- Clause 12.01 A more compact city by:
 - Encouraging uses and development that complements and responds to existing development patterns.
- Clause 12.02 Better management of metropolitan growth
 - Containing urban development within the established growth boundary and protecting the adjoining green wedge.

3.3.2 Local Planning Policy Framework

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

- Clause 21.10 – Non Urban Areas
 - Support and maintain the green wedge concept. Activities in the non urban area must be consistent with, and contribute to, optimal long term planning solutions for the whole of the south east metropolitan non urban area.

Clause 21 of the Kingston Planning Scheme identifies the challenges that face the municipality's non urban areas, and identifies objectives to provide for the sustainable management of Kingston's non urban areas. The objectives and strategies aim to ensure that use and development within the non urban area does not compromise urban growth strategies and are managed in a manner that ensures the area's function and character is not compromised

The proposed rezoning of the apiary to the Green Wedge Zone would serve to protect the land from inappropriate development in the future by further reinforcing its position out side of the Urban Growth Boundary.

- Clause 22.04 - South East Non Urban Area Policy
 - To encourage sustainable land use practices and provide optimal long term planning solutions for the use and development of land.
 - To manage the edge of urban areas in a manner which ensures that the non urban area is both stable and enduring.

The privately owned retirement village is not a use that fits within current planning policy guidelines for non-urban land use. However, a permit was granted for the development by the VCAT in 2004, and construction is well under way on the site. Accordingly it is considered that by rezoning the land to the Green Wedge Zone any future development of the site can be better managed to accord with the Metropolitan Green Wedge Land core planning provisions at Clause 57 of the Planning Scheme.

5. Triple Bottom Line Checklist

- Environmental – Supports the protection and appropriate management of future land uses within the Kingston portion of the South East Green Wedge.
- Social - N/A
- Financial – There are no anticipated financial implications for Council resulting from this amendment.

6. Summary and Conclusion

Amendment C110 to the Kingston Planning Scheme, which proposes to rezone land at 642-660 Springvale Road and 369-385 Spring Road, Dingley Village from Public Use to the Green Wedge Zone 2 has now been exhibited. Six (6) submissions, including two (2) submissions opposing the rezoning of land to Green Wedge Zone 2 have been received. Council officers have not been able to resolve this issue (which forms the fundamental core of the proposal). Given the issues raised in the submissions, officers believe that it is appropriate for Council to request that the Minister for Planning appoint an independent Panel to consider and report on the Amendment.

7. 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 C110 to the Kingston Planning Scheme.
2. That all submitters to Amendment C110 be advised in writing of the above resolution.

Attachments:

Attachment 1 - Opposing submission from 642-660 Springvale Road, Dingley Village

Attachment 2 - Opposing submission from 369-385 Spring Road, Dingley Village

3. Summary and Conclusion

This report has identified the reason for preparing the draft Structure Plan and the process proposed for consultation with the community during the coming six (6) weeks. Accordingly, it recommends that Council release the attached draft Mentone Structure Plan for the purpose of discussion with the community and key stakeholders, as outlined in Section 4 of this report, and to obtain critical feedback in order to refine the draft Structure Plan for Mentone prior to its completion.

4. Consultation

A broad consultation program is proposed for the coming six (6) weeks that seeks to discuss the outcomes of the draft Mentone Structure Plan and to obtain feedback from key stakeholders and the wider community.

The study area is based around the Railway station and retail and commercial areas of Mentone Parade and Como Parade West and Balcombe Road. The boundary of the study area is predominantly limited to within a walking distance of 400 metres from the railway station but has considered other criteria such as large sites, lot orientation, key commercial/retail uses and physical constraints. Key Stakeholders for the draft Mentone Structure Plan are all the agencies including VicRoads, VicTrack, the Department of Transport, bus companies, key landowners, traders, village committees, residents, and occupiers within the abovementioned study area.

It is proposed that the following methods will be used to inform the community and key stakeholders of the draft Mentone Structure Plan and its outcomes:

- Direct mailout to all owners and occupiers
- Discussions with identified key landowners where major projects are envisaged
- Discussions with all agencies including VicRoads, VicTrack, Department of Transport
- Information on the City of Kingston website
- Information session
- An information stand in the shopping centre on a Saturday morning
- Articles in the Kingston Your City newspaper, and Leader newspapers
- Information stands at local libraries and customer service centres

Submissions will be sought from 25th May, 2010 to 9th July, 2010. Copies of the Draft Mentone Structure Plan will be available to view at the Cheltenham and Mentone customer service centres, the Parkdale and Cheltenham libraries and Council's website at www.kingston.vic.gov.au/link/mentonestructureplan.

5. Issues

The draft Mentone Structure Plan envisages a number of key projects for the centre over the next 20 years. These projects have been identified to protect and enhance the centre, relieve existing pressures on the centre and its road hierarchy and to provide for the centre's beautification, and increased permeability and useability. Such projects include:

- The development of the Granary Lane and Old Bakery Lane car parks to accommodate vibrant mixed use outcomes, retain existing public parking, assist in the creation of vibrant and active pedestrian connections and enhance public spaces.

- Create better pedestrian connections to key retail and commercial uses within the centre by activating Old Bakery Lane and Granary Lane behind the shops fronting Mentone and Como Parades.
- The development of an improved road network to better manage the tension between the needs of vehicular and pedestrian traffic passing through the centre and those wishing to visit and use the centre. Two traffic movement options are presented in the draft Structure Plan based on the design treatment at the Mentone Parade, Como Parade West and Florence Street intersection. These initiatives are based on the creation of a new peripheral road network to separate the spaces for cars from the spaces for people. The new peripheral road would link Brindisi Street to Balcombe Road and provide direct vehicle access to the new parking stations, away from pedestrians using the centre and public spaces. The two design options involve:
 - Converting the area in front of the former Coffee Palace and heritage island into a shared space. A roundabout with reduced car lane widths will be created around the island building to facilitate pedestrian movement whilst still allowing through traffic movement. This will create increased pedestrian and seating areas and provide safer access to the island building; or
 - Changing the existing roundabout on Balcombe Road to a signalised intersection and converting Mentone Parade between Florence Street and Como Parade West into two way bus only lanes. The existing road space between Florence Street and Mentone Parade on Como Parade West becomes a pedestrian zone and is blocked to vehicles. Accordingly Mentone Parade from the Balcombe Road intersection becomes a no through road for vehicles except for buses.

These projects are envisaged to improve the centre into the future recognising they may not be realised immediately and will require further detailed planning and discussions with key stakeholders.

6 Triple Bottom Line Checklist

- **Environmental** – The vision and key projects identified for Mentone through the draft Mentone Structure Plan seek to encourage the development of alternate transport travel modes, and architectural and environmental excellence through building design and layout.
- **Social** – The vision for Mentone will improve the liveability of the area, increase opportunities for social interaction and improve public spaces within the centre.
- **Financial** – The Mentone Structure Plan identifies the direction of the centre which in turn will improve the competitiveness of the centre, and create additional business and employment opportunities.

7. Recommendation

That:

1. Council release the Draft Mentone Structure Plan for period of public consultation between the 25 May 2010 and 9 July 2010.
2. A report be prepared for Council consideration upon completion of the consultation period summarising community feedback and suggesting any modifications to the Draft Mentone Structure Plan.

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Attachments:

Draft Mentone Structure Plan

M 89 **Aspendale Gardens Local Area Traffic Management**

Approved By: General Manager Environmental Sustainability, Tony Rijs

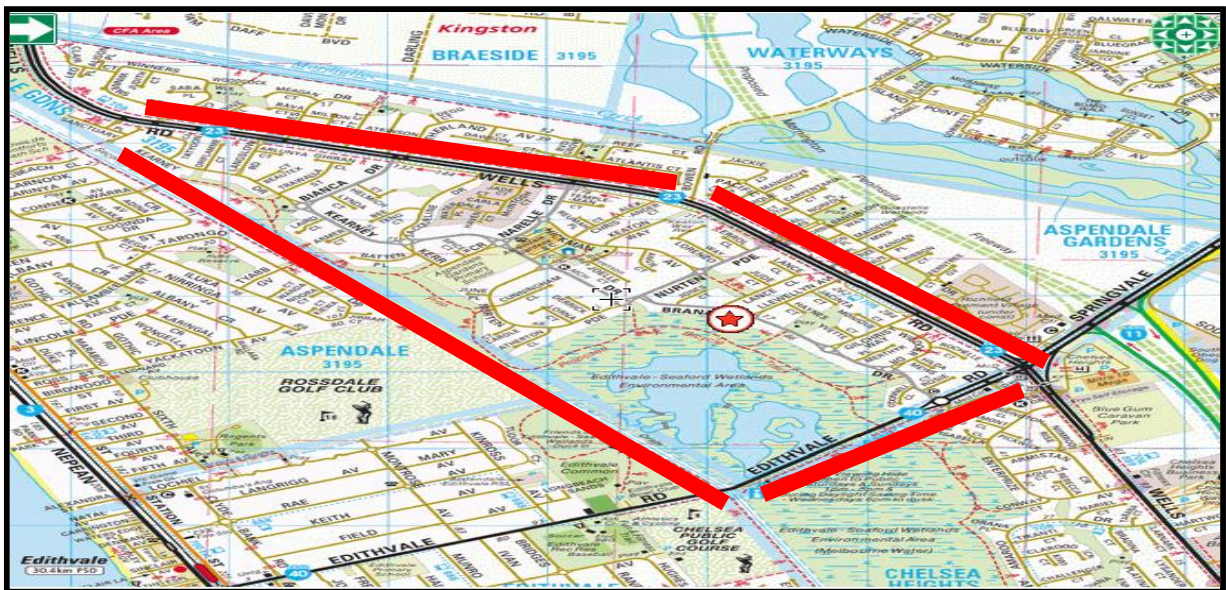
Author: Shirlene Yee Yet, Team Leader Traffic and Transport

1. Purpose

To provide a briefing on the Local Area Traffic Management (LATM) proposal for local streets in the area bounded Edithvale Road, Wells Road and Langslow Road within the Aspendale Gardens estate and to seek Council's support for the implementation of the proposed traffic treatments.

2. Background

Over the past years Council received a number of complaints about the volume and speed of traffic using streets in the Aspendale Gardens local area. Residents especially had concerns about the volume of through traffic using Kearney Drive, Branagan Drive and Langslow Road to avoid the Wells Road/Edithvale Road signalised intersection.



Aspendale Gardens Local Area

Council was invited by the Aspendale Gardens Residents Association (AGRA) in late 2008 to its Annual General Meeting to discuss the ongoing traffic issues within the local area. At this meeting an informal working group of 20 interested residents was established to assist Council in the process of identifying key issues, possible treatments and priorities.

2.1 Traffic Data

Traffic surveys undertaken by Council to determine traffic patterns in the local area did not confirm a high number of "through" traffic, however the speeds of vehicles within the estate were undesirable.

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2.1.1 Traffic Speed and Volume Data

The speed and volume data over a 24 hour period has been summarised in tables 1 and 2. Traffic data was collected during the school term and during school holidays to determine the number of vehicles generated by the school.

Vpd = vehicles per day

85th Percentile Speed is the speed at which 85% of the vehicles travel at or under.

Locations with speeds above 55 km/hr have been highlighted.

Street	House No.	Date From	Date To	Direction of Travel	24 Hr Volume (vpd)	85th%ile Speed (km/h)
Narelle Drive	House No 3	09-Jul-08	16-Jul-08	Eastbound	1491	50
Narelle Drive	House No 3	09-Jul-08	16-Jul-08	Westbound	1432	54
Kearney Drive	House No 115	09-Jul-08	16-Jul-08	Northbound	1045	56
Kearney Drive	House No 115	09-Jul-08	16-Jul-08	Southbound	1555	60
Langslow Road	House No 3	09-Jul-08	16-Jul-08	Eastbound	966	50
Langslow Road	House No 3	09-Jul-08	16-Jul-08	Westbound	1319	53
Nurten Parade	House No 8	09-Jul-08	16-Jul-08	Eastbound	695	54
Nurten Parade	House No 8	09-Jul-08	16-Jul-08	Westbound	663	58
Branagan Drive	House No 46	09-Jul-08	16-Jul-08	Northbound	1262	64
Branagan Drive	House No 46	09-Jul-08	16-Jul-08	Southbound	1702	55
Branagan Drive	House No 98	09-Jul-08	16-Jul-08	Northbound	1515	49
Branagan Drive	House No 98	09-Jul-08	16-Jul-08	Southbound	2171	48

Table 1: Traffic Speed and Volume Data Recorded During School Holidays

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Street	House No.	Date From	Date To	Direction of Travel	24 Hr Volume (vpd)	Additional Traffic (vpd)	% Increase	85th%ile Speed (km/h)
Narelle Drive	No 3	16-Jul-08	23-Jul-08	Eastbound	1798	307	17	55
Narelle Drive	No 3	16-Jul-08	23-Jul-08	Westbound	1684	252	15	54
Kearney Drive	No 115	16-Jul-08	23-Jul-08	Northbound	1439	394	27	56
Kearney Drive	No 115	16-Jul-08	23-Jul-08	Southbound	1935	380	20	60
Langslow Road	No 3	16-Jul-08	23-Jul-08	Eastbound	1062	96	9	49
Langslow Road	No 3	16-Jul-08	23-Jul-08	Westbound	1433	114	8	52
Nurten Parade	No 8	16-Jul-08	23-Jul-08	Eastbound	769	74	9	54
Nurten Parade	No 8	16-Jul-08	23-Jul-08	Westbound	742	79	10	58
Branagan Drive	No 46	16-Jul-08	23-Jul-08	Northbound	1581	319	20	63
Branagan Drive	No 46	16-Jul-08	23-Jul-08	Southbound	1992	290	15	55
Branagan Drive	No 98	24-Jul-08	31-Jul-08	Northbound	1826	311	17	49
Branagan Drive	No 98	24-Jul-08	31-Jul-08	Southbound	2393	222	9	49

Table 2: Traffic Speed and Volume Data Recorded During School Days

2.1.2 Road Hierarchy

Langslow Road, Branagan Drive, Kearney Drive, Nurten Parade and Narelle Drive are classified as collector roads. Collector roads provide a connection to arterial roads from local streets within and through a local area. This type of road is generally wide enough to provide two directions of travel with parking on one side of the road only. Traffic volumes would be generally less than 5000 vehicles a day.

2.1.3 Trip Generators

The major trip generators in this local area are the Aspendale Primary School, Aspendale Gardens Plaza and the Community Centre.

There are 1266 dwellings within this estate and a population of 3791 residents. Trips generated by local residents can amount up to 10, 128 trips per day (an average of 8 trips per household).

2.2 Traffic Treatment Options

The traffic data revealed that the traffic volumes within the local area were typical of collector roads however the speeds along these roads were high. Traffic calming treatments were warranted to slow vehicles within the estate especially at localised areas where pedestrian volumes were high.

Typical Traffic calming measures include:-

Speed hump/Watts Profile Speed Hump

Rounded raised area with dimensions in the order of a 4-metre radius and a 5 to 15 cm height.

Raised table/Flat-topped Speed Hump

Long raised speed hump with a flat section in the middle and ramps on the ends; sometimes constructed with brick or other textured material on the flat section. These humps are used along bus routes.

Speed Cushions

Speed Cushions have several distinct advantages and are designed for bus movements. Designed as three small speed humps, speed cushions effectively slow cars down. However, the wider axle of emergency vehicles and buses allow them to pass without slowing down.

Chicane

A series of narrowings or kerb extensions that alternate from one side of the street to the other forming S-shaped curves.

Roundabout

Raised circles, placed in intersections, around which traffic circulates.

Mid-block / median islands

Raised island in the road centre that narrows lanes and provides pedestrian, with a safe place to stop.

Kerb extensions / road narrowings

Kerb extensions, planters (containers of varying construction containing plants or shrubs, extending into the road way), or centerline traffic islands that narrow traffic lanes to control traffic and reduce pedestrian crossing distances. Also called “chokers”.

Threshold / perimeter treatments

Treatments placed at the entrance to an area with LATM. The treatments can take a number of forms including changed pavement and narrowing of the access.

Centre-line marking / flush kerbing

Painted markings in the centre of the road.

One- and two-lane slow points

Islands used to create an angle path for vehicles. The effect of angling the travel path slows vehicles down.

Intersection priority changes

Changes to an intersection priority, such as not allowing right turning traffic.

Channelisation

A raised island, islands or markings that force traffic in a particular direction, such as right-turn-only.

Speed cushions

A form of road hump, occupying part of the traffic lane in which it is installed, generally located in pairs.

Driveway links

A partial street closure, where the street character is significantly changed with the roadway narrowed and defined with textured or coloured paving. The driver typically will not be able to see through it thus giving the appearance that the road is closed.

Left-in/left-out islands

Triangular splitter island placed at intersections to prohibit right hand turning movements.

Pavement bars / tactile surface treatments

Pavement colour (sometimes in the form of painted bars) and texture change (cobblestones, bricks etc.) to create a visual and tactile warning to designate a special area.

The working group met on three occasions and deliberated on a number of options presented by Council officers and discussed the pros and cons of various traffic treatment options listed above. The group was divided on the type of traffic treatment that would be most appropriate for the estate.

The group also decided to stage the traffic calming works to ensure that only the minimum amount of traffic treatments were installed. As a result the collector streets (Langslow Road, Branagan Drive, Kearney Drive and Nurten Parade) that had the highest traffic volumes and speeds were considered.

The group was however unanimous that there was a speeding and volume problem within the estate. In order to progress the project, the group gave approval to a concept plan that was circulated to the wider community for comment.

2.3 Traffic Calming Proposal

Council wrote to the residents of Langslow Road, Kearney Drive, Branagan Drive and Nurten Parade in November 2007 detailing a proposal to better manage traffic speed and volume in their local area through the installation of one way slow points and speed humps. The LATM plan was made to available to all residents and businesses in the area. The plans were displayed at the:

Aspendale Gardens Shopping Centre,
The Aspendale Gardens Community Centre and
Kingston Council Offices, Customer Service Area at 1230 Nepean Highway, Cheltenham.

Due to the size of the local area and plans, the proposal has not been attached to this report. The plans will however be made available at the meeting should the reader wish to view the plans.

Details of the proposed changes are detailed below:-

1. At No. 10 and 5 Langslow Road – one way slow point.
2. At No. 54 and 35 Kearney Drive – wavy profile speed hump.

3. At the Shopping Centre and School on Kearney Drive – watts profile speed hump at existing Childrens School Crossing.
4. At No.122 and 123 Kearney Drive – one way slow point.
5. In Nurten Parade at Branagan Drive – central median traffic island.
6. At the Branagan Drive/Lance Close intersection – central median traffic islands.
7. At No. 44 and 25 Branagan Drive (at Reserve) – one way slow point with speed hump.
8. At No. 94 and 53 Branagan Drive – one way slow point.

Photos showing a ‘one way slow poin’t with a speed hump and a ‘watts profile speed hump’ are attached as Appendix 1.

The net effect of the proposal would be to deter through traffic into the local area, reduce vehicle speeds and provide safe access for local residents.

A commitment had been made to undertake further traffic studies once these traffic treatments had been installed to determine their effectiveness. Further traffic treatments could be installed as Stage 2 works.

3. Summary and Conclusion

The residents of Aspendale Gardens have written to and requested Council to manage the speeding and traffic volume problems within their local area.

Council officers with the assistance of AGRA and a resident steering group prepared a traffic calming proposal for the community to comment on.

Whilst the community was always divided on the preferred type of traffic treatment, there was always agreement that a traffic speeding problem existed.

Due process was followed with this project since its inception two years ago. The community was heavily consulted and their views were taken on board.

The traffic data clearly shows that a speeding problem exists along the collector roads. Traffic calming is warranted to reduce speeds along these roads, especially at locations that attract pedestrians and children.

The recent petition by the residents does not have significant impact on this project as the majority of issues raised in the petition were related to traffic signals on VicRoads managed roads.

The most recent traffic data confirmed that the rat run problem was most prevalent between Wells Road, Gilchrist Way and Edithvale Road during the pm peak. However there was still a speeding problem along all the collector roads.

In order to assist in reducing speeds within the estate it is recommended that the speed humps be installed as presented at the last resident meeting.

In order to address the rat run problem in Gilchrist way, it is recommended that a turn ban be implemented from Wells Road into Gilchrist Way during the afternoon peak period if support is received from Gilchrist Way residents.

4. Consultation

4.1 Level of Community Support

Letters were delivered to 222 households and responses were received from 94 residents – an excellent response rate of 42%.

Street	Proposal	
	Agree	Disagree
Arlunya Court		1
Armer Court	1	1
Bianca Drive	1	
Kerr Crescent	1	
Lance Close	1	
Tatyoan Close		1
Branagan Drive	23	7
Kearney Drive	27	14
Langslow Road	8	2
Nurten Parade	5	0
Total	69	25

Table 3: Summary of Resident Survey Results

A higher number of residents supported the proposal.

4.2 Meeting With Residents That Objected To The Proposal

Following analysis of comments received from residents, Council invited all residents that lived along the proposed LATM works and especially those residents that did not support the proposal to attend a meeting to discuss their concerns.

The meeting was held on the 16th of December 2009. 21 residents attended this meeting.

At the meeting:-

- 12 residents supported the proposed LATM plans.
- 3 residents objected to elements of the plan.
- 2 residents sought further clarification before deciding whether to support.
- 2 residents did not indicate their position.
- 2 residents were there as AGRA facilitators and had no view.

Issues raised in relation to Slow Points.

- One resident was vitally opposed to slow points being placed anywhere making the case that they were dangerous. He claimed that collisions occurred when some drivers travelling at speed did not give way.
- Another resident claimed that a ‘southern council’ had removed slow points because they were causing accidents.

- Another resident also expressed concern about bike access through slow points and the resulting dangers to cyclists.
- The overall resident concern with slow points was the loss of on-street parking resulting in the devaluing of the abutting property and access issues into properties.

Issues raised in relation to Speed Humps.

- There was general agreement that speed humps should be used in place of the proposed slow points if those individual affected residents objected to them outside their homes.
- Speed humps did not impact on parking in front of properties.

The meeting discussed each treatment at length and endorsed the following changes:-

Branagan Drive Traffic Management Point 1. One Way Slow Point Opposite 51 -55 and 94 Branagan Drive:

Decision to change to a speed hump.

Branagan Drive Traffic Management Point 2. One Way Slow Point with Speed Hump opposite the Park and the Reserve. There are three houses that could be termed directly affected, 25, 44 and 46 Branagan Drive.

Maybe a speed hump?

Branagan Drive Traffic Management Point 3. Concrete islands at Lance Close & Branagan Drive.

Decision to painted islands only.

Nurten Parade Traffic Management Point 4. Additional Traffic Island on Nurten Parade.

All OK'd the plan.

Kearney Drive Traffic Management Point 5. One Way Slow Point Opposite 121, 123, 120 & 122 Kearney Drive.

Replace with a speed hump centred between the 2 roundabouts.

Kearney Drive Traffic Management Point 6. Current School crossing to be changed to a Watts Profile Speed Hump.

All OK'd the plan.

Kearney Drive Traffic Management Point 7. Watts Profile Speed Hump opposite 35 – 37 and 52 – 56 Kearney Drive.

All OK'd the plan.

Langslow Road Traffic Management Point 8 One Way Slow Point.

Change to speed hump.

Additional Traffic Management Point 9 – Opposite the Kindergarten at 98 Branagan Drive.

Additional Speed Hump.

The essence of the changes was that one way slow points were replaced with speed humps.

4.3 Meeting With Residents and Ward Councillors

A resident meeting was held on 25 March 2010 to discuss the amended LATM plans with local residents and ward councillors. All three South Ward Councillors Trevor Shewan, John Ronke and Donna Bauer were in attendance. Councillor Ronke chaired the meeting. All the residents that lived along the LATM route were invited however only 35 residents attended this meeting. The aim of this meeting was to discuss the latest amendments to the LATM plans and seek resident endorsement.

At this meeting a vote on each of the traffic management proposals was taken. The results were as follows:-

Traffic Management Point 1.	Speed Hump	Objectors	8
Traffic Management Point 2.	Speed Hump	Objectors	9
Traffic Management Point 3.	Painted Island	Objectors	2
Traffic Management Point 4.	Median island	Objectors	6
Traffic Management Point 5.	Speed Hump	Objectors	0
Traffic Management Point 6.	Speed Hump	Objectors	8
Traffic Management Point 7.	Speed Hump	Objectors	0
Traffic Management Point 8.	Speed Hump	Objectors	3
Traffic Management Point 9 (98 Branagan).	Speed Hump	Objectors	13

It should be noted that a number of residents who were not directly impacted by the treatments voted against the treatments. This indicated that they were generally opposed to the traffic management proposal in general.

Councillor John Ronke asked residents whether ‘a do nothing approach’ should be considered. The majority of residents present agreed that action was required to improve safety.

A small faction of the community was still opposed to the LATM proposal. It is acknowledged that overwhelming support for any proposal is unlikely to be achieved. The majority of residents did agree that there was a speeding problem that needed to be addressed. Cr Ronke requested council officers to prepare a report on the LATM proposal for Council to consider at meeting in May.

5. Issues

5.1 Resident Petition

A local resident Mike Ryan organised a petition signed by 50 residents. Mike Ryan undertook a door knock survey to seek comments from local residents on various issues. This petition was tabled by Cr Shewan at the March Council meeting.

5.2 Issues Raised In Petition

The petition was in the form of 18 questions. A copy of the petition is attached as Appendix 3.

The majority of issues raised are related to state arterial roads and traffic signals that are not within Council's control.

The cover pages of the survey had a six page discussion on various issues. A number of statements made in this petition were unsubstantiated. Some of the questions in the survey form were misleading and deemed confusing for some residents. Some of the questions did not relate to the issue of traffic calming within Aspendale Gardens.

The strategic traffic issues raised in the petition are acknowledged by Council and Council has been advocating to the State government for over 15 years' to resolve the deficiencies in the arterial road network. These issues are not entirely within Council's control.

Comments Received From VicRoads

Michael Ryan made a number of references to VicRoads in the petition. Council sought clarification from VicRoads. VicRoads response is detailed below:-

"I would like to state that VicRoads and I have had a good working and professional relationship with Council and do not find the comments made by Michael Ryan to be a true reflection of the actual phone discussions" – Leilani Melei, Senior Traffic Engineer, VicRoads.

Questions As Detailed In Petition

Questions 1, 2, 3,4,6,9 and 12 are issues relating to Wells Road, Springvale Road and traffic signals. These issues need to be investigated by VicRoads. These items are not within Council's control.

Question 5 relates to undergrounding the existing pedestrian crossing on Nepean Highway and Main Street in Mordialloc. This issue is not relevant to this project.

Questions 17 and 18 relate to the Edithvale Wetlands and not relevant to this project.

Question 7 Do you want Branagan Drive to be permanently blocked to prevent any rat run from occurring throughout Aspendale Gardens at any time of the day?
Of the 50 signatories – only 19 residents supported a road closure at Edithvale Road.

Officer comment: - Closing Branagan Drive at Edithvale Road would have an adverse impact on access for local residents. A road closure is not supported.

Question 8 Do you want a stop traffic light and road sensor to operate at the Branagan Drive/Edithvale Road roundabout with synchronized traffic lights along Wells Road to prevent any rat run?

Of the 50 signatories – 30 residents supported metering signals.

Officer comments – Traffic surveys undertaken by council showed that the rat run problem was most prevalent in the afternoon peak period in the southbound direction from Wells Road into Gilchrist Way to Edithvale Road. The costs for installing signals are not warranted. This dominant rat run problem can be simply solved by banning the right turn into Gilchrist Way from Wells Road in the pm peak. VicRoads would also need to investigate and approve such signals and the current volumes would not meet their warrants. Metering signals are not supported at this location.

Question 10 Do you want more middle of the road markings for a bend or curve along either Kearney or Branagan Drives.

Of the 50 signatories – 43 residents supported linemarking.

Officer comments – this request is supported and linemarking works will be undertaken.

Question 11 Do you have any objection if Kearney Drive residents between Nurten Parade and Aspendale Kindergarten have their local road converted into two courts?

Officer comments - The wording of this question is inappropriate and can be confusing. The current traffic volumes would not warrant a road closure in Kearney Drive. The wider community would also not support such a proposal.

Question 13 Do you want speed bumps or one way crossings in Branagan Drive?

Of the 33 signatories from Branagan Drive – 10 supported speed humps or one way slow points.

Officer comments – the majority of signatories from Branagan Drive did not support speed humps or one way slow points.

Question 14 Do you want speed bumps or one way crossings in Kearney Drive?

Of the 9 signatories from Kearney Drive – 3 supported speed humps or one way slow points.

Officer comments – the majority of signatories from Kearney Drive did not support speed humps or one way slow points.

Question 15 Do you want speed bumps or one way crossings in Langslow Road?

No signatories from Langslow Road.

Officer comments – perhaps Langslow Road residents were not surveyed.

5.3 Rat Run Survey

Further traffic surveys were undertaken in March 2010 to determine the extent of the rat run problem within Aspendale Gardens to bypass the Wells Road/Springvale Road intersection.

The results of survey revealed:-

A small percentage of rat running northbound during the peak period.

During the afternoon peak period, very high volumes entered Langslow Road, however the majority of vehicles using Langslow Road were residents of Aspendale Gardens or local traffic. Only a small percentage were through traffic.

The highest instance of rat running was in Gilchrist Way during the afternoon peak period. 60% of vehicles in Gilchrist Way during this time were non local traffic.

5.4 Bus Review Report

The Department of Transport were recently contacted and they advised that the bus review report for Kingston is not anticipated to be released for a further 2-3 months. It is understood however that this report is not recommending a bus service connection between Waterways and Aspendale Gardens, that is a long Branagan Drive and Kearney Drive. It is further understood that this route has been removed from the preliminary report due to strong concerns from some sections of the community.

Council has previously supported this route, connecting Waterways and Aspendale Gardens. If such a connection is considered to have merit, and is still viewed as desirable then the issue should be pursued with the Department of Transport.

6. Discussion

The residents of Aspendale Gardens have written and requested Council to manage the speeding and traffic volume problems within their local area.

Council officers with the assistance of AGRA and a resident steering group prepared a traffic calming proposal for the community to comment on.

Whilst the community was always divided on the preferred type of traffic treatment, there was always agreement that a traffic speeding problem existed.

Due process has been followed with this project since its inception two years ago. The community was heavily consulted and their views were taken on board at every stage.

The traffic data clearly shows that a speeding problem exists along the collector roads. The installation of traffic calming treatments are warranted to reduce speeds especially, at locations that attract pedestrians and children.

The recent petition by the residents does not have significant impact on this project as the majority of issues raised in the petition were related to traffic signals on VicRoads managed roads.

The traffic data shows that the rat run problem was most prevalent between Wells Road, Gilchrist Way and Edithvale Road. However there was a speeding problem all along the collector roads.

Advantages of Watts Profile Speed Humps:-

- Slows vehicles to about 20 - 25 km/hr at the device.
- No impact on on-street parking.
- When used in series reduces vehicle speeds along the entire length of the street.
- Is relatively inexpensive.
- May discourage through traffic.
- If used as a Wombat crossing, provides a designated pedestrian crossing place and improves pedestrian safety.

Disadvantages of Watts Profile Speed Humps:-

- May increase vehicle noise through braking, accelerating and vertical displacement.
- May adversely affect emergency and commercial vehicles.
- Some discomfort for drivers and passengers.

The Department of Transport has recently completed a review of bus services within the City of Kingston. The recommendations of this review will be made available to Council within the next 2-3 months. Whilst it is acknowledged that funding timelines for specific bus routes are unknown at this stage, it would be prudent to implement a traffic calming scheme that would accommodate buses in the event that a bus route was installed within the Aspendale Gardens estate.

Speed cushions are the preferred speed hump along bus routes. A photo of a speed cushion is appended as Appendix 4.

Advantages/Disadvantages of Speed Cushions

The advantages and disadvantages of speed cushions are the same as Watts Profile speed humps. The only differences are that speed cushions will allow the wider axle of emergency vehicles to pass through without slowing down and will provide a smoother ride for bus passengers.

Advantages/Disadvantages of Flat-topped Speed Humps

The advantages and disadvantages of Flat-topped speed humps are the same as Watts Profile speed humps. The only difference is that Flat-topped speed humps can be used on bus routes. Flat-topped humps can also be used at pedestrian crossing points.

Whilst the consultation was undertaken on Watts Profile speed humps, it is deemed that resident support for speed humps in principle has been given.

In order to assist in reducing speeds within the estate it is recommended that the speed humps be installed along the collector roads. The safety benefits gained as a result of reduced speeds will far outweigh any disadvantages associated with speed humps that residents may perceive.

Residents that abut the proposed speed hump at 121 -123 & 120 -124 Kearney Drive strongly opposed the speed humps. It is recommended that the speed hump not be installed at this location as part of Stage 1 works.

In order to address the rat run problem in Gilchrist way, it is recommended that a turn ban be implemented from Wells Road into Gilchrist Way during the pm peak if sufficient support is received from Gilchrist Way residents.

7. Triple Bottom Line Checklist

- **Environmental** – A reduction in vehicle volumes will reduce the overall emissions generated by vehicles.
- **Social** – The implementation of traffic speed humps will assist in reducing vehicle speeds and may reduce the traffic volume of through traffic within this local area. This reduction in vehicle speeds and volumes will improve safety for pedestrians, residents accessing their driveways and amenity for local residents of the area. There may be some noise issues resulting from vehicles decelerating and accelerating at the speed humps.
- **Financial** – The five speed humps will have an initial capital cost of \$30,000. This cost can be absorbed in the Traffic Section’s Capital Works Budget for 2010-2011.

8. Proposed Action

That Council support the following recommendations:

1. to install speed cushions or flat-topped speed humps at the following general locations subject to further design within the Aspendale Gardens local area:-
 - At No. 10 and 5 Langslow Road
 - At No. 54 and 35 Kearney Drive
 - At the Shopping Centre and School on Kearney Drive at existing Children’s School Crossing
 - At No. 44 and 25 Branagan Drive (at Reserve)
 - At No. 94 and 53 Branagan Drive
2. to undertake traffic surveys 6 months after the speed humps are installed to determine the effectiveness of the speed humps.
3. to consult residents of Gilchrist Way on the proposal to implement a “No Right Turn 5pm-6pm” into Gilchrist Way from Wells Road.
4. to advise all residents of Aspendale Gardens of Council’s decision.

Attachments:

Appendix 1 – Photos showing a ‘one way slow point with a speed hump and a ‘watts profile speed hump.

Appendix 2 – Results of Council Run Public Consultation (confidential)

Appendix 3 – Copy of Resident Petition

Appendix 4 – Photos showing a Speed Cushion and a Flat Topped hump.

M 90

Briefing on Foreshore Anti-Social Behaviour Issues

Approved by: Tony Rijs, General Manager Environmental Sustainability

Author: Robyn Horner, Manager Local Laws and Health Services
Dominic McCann, Community Projects Co-ordinator

1. Purpose

This report is to provide an update on proposed actions to address reported anti-social behaviour occurring on the foreshore or in foreshore car parks. The two main car park areas are Gnotuk Ave, Aspendale and Kelvin Grove, Chelsea.

2. Background

A previous report was considered by Council at the 8 February 2010 Council meeting regarding anti-social and nuisance behaviour at Gnotuk Avenue off street car park (OSCP) and Kelvin Grove OSCP. A number of recommendations were adopted and implementation has commenced.

Actions to date include:

- A new sliding boom gate has been ordered for Kelvin Grove and will be installed when all required OHS documentation has been received.
- A larger motor has been ordered for Gnotuk OSCP gate to enable the gate to close faster reduce the possibility of vehicles entering the car park when a vehicle leaves after closing time.
- No Stopping signs will be ordered for Kelvin Grove once consultation with the Chelsea Yacht Club is completed.
- Gnotuk Ave car park now closes at 9.30pm and the No Stopping signs are being changed to be consistent with the closure time.
- A quote for Victoria Police to have direct access to the current cameras located at Gnotuk Ave has been received. The cost is \$3,500. This is now being coordinated.
- Council now has a design for the turning facilities in Gnotuk OSCP.
- Council Officer's are investigating the possible increase in parking facilities in Nepean Highway.
- Victoria Police have targeted Gnotuk OSCP to address the behavioural problems.

3. Summary and Conclusion

It is clear that there were documented anti-social behaviour in the area around Gnotuk Ave and the car park and also in the car park at Kelvin Grove Chelsea. It is recognised that the Victoria Police are the primary agency responsible for and dealing with anti-social and inappropriate behaviour in the community and that more Police Officers tasked to police stations in Kingston would greatly benefit the community.

Complaints have decreased since the last report was presented to Council due to increased Police efforts and colder weather.

There are a total of 8 remaining options listed in this report, of which 4 options could be implemented should Council wish to further regulate behaviour in the car park.

4. Consultation

Council's Community Safety and Local Laws teams have continued to liaise with Victoria Police regularly to discuss the reported issues and to suggest possible strategies and actions to help prevent the reported problems.

Ward Councillors have met with concerned residents to discuss community safety and amenity issues.

5. Issues

Council accepts that anti social behaviour is a real and significant situation for our community and other foreshore users.

Police resourcing remains a primary factor impacting on the effectiveness of enforcement and resolution of the issues in these areas of Kingston. The Police analysis shows that there were no criminal offences reported in Gnotuk over the summer period. Police patrols were increased and over 70 penalty notices were issued.

6. Options

The options provided here are treatments of symptoms only. Council has advocated to the State Government for the provision of more operational Police Officers in Kingston to combat the anti-social behaviour.

The following identifies future measures that could be introduced to further assist in managing this area.

	ACTION	LOCATION
1	Install CCTV cameras	Kelvin Grove OSCP
2	Remove exit loop	Gnotuk Avenue OSCP
3	Install more speed humps	Gnotuk Avenue Gnotuk Avenue OSCP
4	Permanent closure of car park	Gnotuk Avenue
5	Install variable message signs	Gnotuk Avenue Kelvin Grove
6	Install additional CCTV	Gnotuk Avenue OSCP
7	Install tyre spikes	Gnotuk Avenue CP entry
8	Implement turning facilities in Gnotuk Car Park	Gnotuk Avenue

7. Triple Bottom Line Checklist

- **Environmental**

Increased Police enforcement and /or monitoring systems would all contribute to protecting the environment.

- **Social**

Council has a responsibility to the community and is committed to assisting improve this serious situation. The remaining options contained in this report can be implemented to assist in improving the general amenity and comfort and perception of safety for residents and other foreshore users.

- **Financial**

Nil.

<p>8. Recommendation</p>

- | |
|---|
| <p>1. That Council continue to monitor the effectiveness of existing policing and works that have been implemented to regulate behaviour in the Kelvin Grove/GNOTUK car parks prior to considering further works.</p> |
|---|

M 91

Proposed Carrum Foreshore Alcohol Free Zone

Approved by: Tony Rijs, General Manager Environmental Sustainability

Author: Neil Sheppard, Team Leader Local Laws

1. Purpose

The purpose of this report is to consider an Alcohol Free Zone along the Carrum/Bonbeach Foreshore.

2. Background

Currently there are no restrictions on the consumption and possession of alcohol along the Carrum and Bonbeach Foreshore.

A limited number of areas of the Kingston Foreshore have some form of restriction on the possession and consumption of alcohol in an effort to address inappropriate anti social behaviour. These locations were identified and proposed by the Victoria Police to assist them in reducing anti social behaviour and provide a safer environment for all foreshore users.

Council's guidelines for the establishment of a new alcohol free area were used when determining the appropriateness of adopting a new zone. The guiding principle has been on the recommendation of the Victoria Police as they are the authority that enforces the Local Law provisions in respect to these issues.

Council relies on the Victoria Police, Council's Local Laws Department and Community Safety Officer to identify known areas within the municipality where alcohol consumption in public areas creates a public nuisance and affects Council's abilities to achieve the objectives of Local Law No 5.

The Victoria Police is the primary agency dealing with anti social and inappropriate behaviour associated with the consumption of alcohol in the community. Therefore Council's guideline states that Council will not proceed with a request to establish a zone restricting the consumption of alcohol unless the Victoria Police support the proposal.

Attachment 1: Guidelines for Establishment and Management of Alcohol Restricted Areas.

The four current alcohol free zones along the foreshore are as follows:

- Ø Mentone Foreshore – limited to a small area of the foreshore reserve immediately opposite the Mentone Hotel. The zone operates from 9pm-7am from 1 October to 31 March each year. The times cover the hours the Police were encountering inappropriate behaviour and littering.
- Ø Mordialloc Foreshore – the zone is bounded by McDonald Street, Epsom Road across and inclusive of the sanded area then south to Mordialloc Creek up to the railway bridge back to McDonald Street. This includes the Mordialloc shopping precinct and the zone

only operates between 9pm and 7am covering the hours the Police were encountering inappropriate behaviour.

- Ø Aspendale/Edithvale Foreshore – There are only two sites that are covered by a 24hour ban on the consumption and possession of alcohol. One site covers 50 meters each side of the Edithvale life saving club and the second site is 50 meters either side of Gnotuk Avenue beach front car park. The remaining foreshore area within this zone is covered by a 9pm-7am restriction. This allows for other users to enjoy an occasional alcoholic drink.

Edithvale Lifesaving Club has significant anti social behaviour from large groups of young persons and gangs visiting from outside the municipality. The problems in this area have been so great that video surveillance cameras have been installed and operation Beach Safe was established primarily to deal with this area.

- Ø Chelsea – there is a 24 hour ban from Showers Ave to Maury Rd. Chelsea Police continue to address alcohol related issues during the day and evening.

Current alcohol free zones are available for viewing on Councils web site under Pets and Local Laws heading (click on Local Laws).

3. Summary and Conclusion

In line with Council's guidelines Local Laws contacted the Officer in Charge at Chelsea Police station to determine if there was a history of alcohol related complaints received or addressed, relating to the Carrum/Bonbeach foreshore.

The Victoria Police have assessed this area and do not support the introduction of an alcohol free zone. Introducing an alcohol free zone without Police support would be contrary to Council's guiding principle for the establishment of alcohol free zones. Further to this it would provide the public with an expectation of a level of enforcement that Victoria Police do not believe is necessary due to a minimal number of problems in these areas. The Police have indicated that they will continue to address any incidents of inappropriate behaviour under current legislation.

Previous public consultation shows that the community in general does not support blanket bans on the foreshore preventing families from enjoying an alcoholic drink in moderation.

Victoria Police were requested to monitor and address the behaviour of patrons in this area during this summer period and report to Council any identified issues associated with the consumption of alcohol. The Police now report there have been no significant issues in the Carrum/Bonbeach area over the summer period and they still do not support a 24 hour alcohol free zone in this location.

As a result of further discussions and benchmarking with neighbouring municipalities it is proposed to consider the introduction of a 9pm to 7am alcohol restriction for the entire foreshore reserve south of the Mordialloc creek. This section of the foreshore directly abuts the residential zone and this proposal endeavours to achieve the right balance between residential amenity and recreational activity on this section of foreshore.

The existing zones that currently have 24 hr restrictions will remain unchanged and the locations of the existing zones will remain unaffected by this proposal.

This proposal would ensure that alcohol restrictions in this section of the foreshore are consistent with neighbouring municipalities and will aim to protect the general amenity of the area for residents immediately abutting the foreshore reserve.

4. Consultation

In line with Council's guidelines Local Laws contacted the Officer in Charge at Chelsea Police station to determine if there was a history of alcohol related complaints received, relating to the Carrum/Bonbeach foreshore.

The Officer in Charge stated that Carrum foreshore isn't a problem and is similar to the majority of our local beaches. This is confirmed through statistical data and direct discussion with station personnel failing to highlight recurring problems associated with the beach area. The beach is generally family orientated with a smattering of fisherman along the banks of the Patterson River. The families rarely consume alcohol however the fishermen sometimes partake in a quiet beer whilst fishing.

The Senior Officer stated they are called more frequently to the Carrum shopping precinct to address alcohol related offences. Notwithstanding this they do not wish to see Council introduce any alcohol free zones in the Carrum area.

Should Council wish to explore this option further they would be required to advertise in accordance with Section 223 of the Local Government Act 1989 and invite public comment.

5. Issues

As noted, fishermen sometimes partake in some alcohol consumption whilst fishing, removing this opportunity may seem a little unreasonable and there may be some resistance from this group.

The Officer in Charge at Chelsea Police station has stated that from time to time there have been issues with the life saving club letting their premises for functions (birthdays, etc.) resulting in inappropriate anti social behaviour. However those issues have been addressed with the club and appear to have diminished.

The Victoria Police do not support the establishment of a 24 alcohol free zone along the Carrum or Bonbeach foreshore although they would support a 9pm to 7am restriction in this area and entire area south of the Mordialloc creek.. Council should be conscious of this issue as the Victoria Police are the enforcing authority for these legislative provisions. Introducing an alcohol free zone without Police support would be contrary to Council's guiding principle for the establishment of alcohol free zones.

The Police have indicated that they will continue to address any incidents of inappropriate behaviour under current legislation.

Council Local Laws Officers that frequently patrol the foreshore at Carrum and Bonbeach have not observed any significant problems directly attributed to the consumption of alcohol.

6. Options

Option 1

Acknowledge the information in this report and advice from Victoria Police and do not proceed to introduce the proposed 24 alcohol free zone on Carrum and Bonbeach foreshore at this time.

Victoria Police were requested to monitor the behaviour of patrons in this area during this summer period and report to Council any identified issues associated with the consumption of alcohol. No significant issues were identified.

In light of new information provided to Council by residents it is proposed that Council consider undertaking public consultation to determine if a 9pm to 7am alcohol restriction for the foreshore reserve south of the Mordialloc creek to the southern boundary of the municipality be introduced.

The area is defined as follows:

Mordialloc creek to 50 metres north of Gnotuk Ave Aspendale car park;
50 metres south of Gnotuk Ave Aspendale car park to 50 metres north of the Edithvale Life Saving Club;
50 metres south of the Edithvale Life Saving Club to the northern boundary of Chelsea Park reserve, Chelsea;
Maury Rd Chelsea to the southern boundary of the municipality at Osprey Lane Carrum.

This option is recommended

Option 2

In accordance with Section 223 of the Local Government Act 1989 advertise Council's proposal to introduce a 24 hour alcohol free zone from the southern foreshore boundary with the City of Frankston up to the current alcohol free zone in Chelsea adjacent to Maury Rd.

Previous consultation has clearly indicated that there is strong resistance from Kingston residents to the introduction of any blanket alcohol bans along the foreshore, unless there is significant alcohol related anti social behaviour. Further to this Victoria Police do not support the introduction of any alcohol zones on the Carrum/Bonbeach foreshore at this time.

Therefore this option is not recommended.

7. Triple Bottom Line Checklist

- **Environmental** – In other areas of the foreshore consumption of alcohol has contributed to litter issues. Local Laws Officers and Victoria Police will continue to identify and address litter offences. This is often difficult due to the nature of offence and generally does not occur in the presence of an authorised officer. Council's Parks department report that littering is more prevalent in the Chelsea/Edithvale areas and there is a lower incidence of littering in the Carrum/Bonbeach foreshore area. Therefore the introduction of alcohol restrictions are unlikely to assist with the abatement of litter

**City of Kingston
Ordinary Council Meeting**

Agenda

24 May 2010

- **Social** –Victoria Police have indicated that the statistical data fails to highlight problems associated with the consumption of alcohol and associated anti social behaviour in this area of the foreshore. This area is primarily used by families and is a popular location for fishermen. Victoria Police are currently able to address any anti social behaviour under existing legislation.
- **Financial** – Council will incur a cost for the advertisements of the proposal, as this is a statutory requirement under the Local Government Act. There will be a substantial cost for the placement of signage. A preliminary estimate indicates that it would cost approximately \$30,000 as specific regulatory signs are required in these areas.

8. Recommendation

That Council resolve to support Option 1 and undertake public consultation to determine if a 9pm to 7am alcohol restriction for the foreshore reserve south of the Mordialloc creek to the southern boundary of the municipality as defined in this report be introduced

Attachments:

Attachment 1 – 09/107086 Guidelines For Establishment And Management Of Alcohol Restricted Areas.

Attachment 2 – 09/107878 Comments by Robert Reid,Senior Sergeant Chelsea Police Station

5. Tenders Received

Tenders were advertised in The Age on Saturday 21 March 2010 and closed at 2.00pm on Thursday 08 April 2010. Ten (5) tenders were received, details of which are set out in the *Confidential Attachment*.

6. Project Funding

This project will be funded from Council's 2010/11 Capital Works Budget.

7. Evaluation Panel

The tenders were assessed by:

Tony Pell – Senior Construction Engineer,
Chang Wuol – Construction Engineer

8. Triple Line Checklist

8.1 Budget/Financial Impact

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

8.2 Social Impact

There will be inconveniences during the works which are typical of a large road reconstruction contract such as this one. A Special Clauses document was prepared as part of the contract package, which outlines a number of requirements set out by Council to stage the works and minimise community disruption as much as possible.

8.3 Environmental Impact

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

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

9. Recommendation

That Council resolve to award Contract No. 10/40 – Devon Street, Cheltenham – Road Reconstruction on a lump sum basis to PRESTA & SONS PTY LTD for the tendered price of **\$1,125,000.00**. Please refer to the "Confidential Attachment" outlining the scoring matrix and all other submissions.

Confidential Attachments

M 93

Proposed Revision of Kingston's Draft Electronic Gaming Policy

Approved by:

Tony Rijs - General Manager, Environmental Sustainability

Author:

Fiona Baxter, Senior Strategic Planner

1. Purpose

The purpose of this Report is to seek clear direction from Council on whether it wishes to advance a Planning Scheme Amendment at this time.

The proposed Amendment involves the introduction of a local policy to guide decision making in relation to Electronic Gaming Machines (EGMs) in Kingston.

2. Background

In October 2008 the previous Kingston Council resolved to request the Minister for Planning to authorise preparation of an Amendment to the Kingston Planning Scheme. The proposed Amendment involved the introduction a new local policy into the Scheme. This proposed new policy had been developed in order to guide decision making with regard to the future location of Electronic Gaming Machines in Kingston. It had been prepared in conjunction with 'SGS Economics and Planning (SGS)' and was underpinned by modelling of social data, which was considered to be the best available data at the time. The necessary reliance on social data to develop the Policy, ensured that this original draft policy was only able to provide broad and general direction regarding the future location of EGMs in Kingston.

However, in 2009, the Victorian Commission for Gambling Regulation (VCGR) released specific data relating to player spend on EGMs at individual venues. Given the relevance of this information in the context of policy formulation, officers considered it prudent to brief SGS to further develop its economic modelling. Council officers, in conjunction with SGS and Maddocks Lawyers, subsequently developed a revised draft Electronic Gaming Policy. The revised draft Electronic Gaming Policy is a far more specific policy that is able to provide improved clarity as to areas that are able / unable to accommodate new / relocated EGMs. Notably, the revised draft policy incorporates modified Schedules to Clause 52.28 of the Kingston Planning Scheme so that a number of shopping centres and strip shops are removed from the 'Prohibited' list of locations for EGMs. This modification to the Schedules compliments the written draft policy document by potentially providing greater opportunity for redistribution of EGMs away from areas more likely to be vulnerable to problem gaming.

3. Summary and Conclusion

As outlined above, the original Draft Gaming Policy that was developed by officers was underpinned by social data and modelling and as such was only able to provide broad guidance regarding the location of EGMs in Kingston.

More recently, venue specific data relating to player expenditure has been released by the VCGR. This has enabled a far more predictive, specific policy in relation to Electronic Gaming in Kingston to be developed. Notably, the revised draft policy would incorporate modified Schedules to Clause 52.28 of the Kingston Planning Scheme so that a number of shopping centres and strip shops are removed from the 'Prohibited' list of locations for EGMs. This provides a greater opportunity to relocate new and existing EGMs away from areas most likely to be susceptible to problem gaming.

In 2012 the Victorian Gaming Industry will change from the current duopoly (Tatts and Tabcorp) to a venue operator system. In light of these forthcoming changes, Council is requested to provide officers with clear direction as to whether or not to advance a Planning Scheme Amendment involving the introduction of a local policy to guide decision making in relation to Electronic Gaming Machines (EGMs) in Kingston and, if so, the form this policy should take.

4. Consultation

Should the Planning Scheme Amendment proceed, Council is required to provide public notice of the Amendment pursuant to s.19 of the *Planning and Environment Act 1987*.

5. Issues

There are a number of issues that require consideration when determining whether or not it is appropriate to pursue a Planning Scheme Amendment at this time and, if so, the form that such an Amendment should take.

As outlined above, it is vital to recognise that data relating to the distribution of gaming venues and their profitability was not factored into the original analysis undertaken by SGS. This lack of venue specific data meant that the resulting draft gaming policy that was developed and presented to Council in October 2008, was able to provide only very general guidance in relation to the future location(s) of EGMs in Kingston. The broad nature of this original draft policy ensures that it has an undesirable degree of ambiguity. It is therefore likely open to challenge both initially at the Planning Panel stage and subsequently, if the policy is successfully incorporated into the Kingston Planning Scheme, at VCAT upon consideration of Planning Permit Applications.

The revised draft policy, that has been prepared following the further work undertaken by SGS, provides much improved clarity in relation to those areas that are able to accommodate additional / relocated machines and those areas that are not ideal locations for additional / relocated EGM's. However, for this draft policy to be credible in real terms, it is considered necessary to modify the Schedules to Clause 52.28 of the Planning Scheme and in doing so, remove the 'across the board' prohibition on electronic gaming machines in Councils strip shopping centres and shopping complexes. Allowing some machines in to strip shops centres and shopping centres, where appropriate, is likely to provide improved 'credibility' to the manner in which Council would be practically applying the revised and updated SGS modelling and resulting draft Electronic Gaming Policy across the municipality.

Furthermore, in considering whether to revise the Schedules to Clause 52.28, it is important to bear in mind that location is not the only relevant criteria in considering whether or not it would be appropriate to locate an EGM in a particular shopping complex or strip shopping centre. Included within the ‘Objectives’ of the revised draft Policy is the desire to “achieve net social, economic and environmental benefits when gaming machines are located and relocated in Kingston.” In addition, the draft ‘Application requirements’ would specify that applications should include “an assessment of the net social and economic impacts of the proposal including the identification of any real or potential negative and / or social impacts on the City of Kingston and how the applicant proposes to mitigate these impacts.” The revised draft Policy is designed to ensure that a holistic approach is taken by applicants and officers when considering an application for EGMs in Kingston, whilst providing improved clarity and credibility in the decision making process.

Finally, Council should consider that, failing to advance an Amendment at this stage will ensure that little exists in the way of policy guidance for Statutory Planning Officers when considering planning applications for new / relocated EGMs in Kingston. A lack of strategic justification for planning decisions is likely to have implications in terms of Council’s ability to defend its decisions at VCAT and may serve to compound existing socio-economic disparity within the Municipality through potential intensification of EGMs in areas vulnerable to problem gaming. Conversely, it is considered that the introduction of prescriptive Electronic Gaming Policy that allows for specific outcomes in terms of the future locations of gaming machines in Kingston would overtime strengthen Council’s ability to more effectively influence through policy the location of gaming machines in the areas where concerns about vulnerability are greatest.

6. Options

The options available to Council include:

- a. Progress the Planning Scheme Amendment using the revised and updated draft Electronic Gaming Policy including the changes to the Schedule to Clause 52.28 of the Kingston Planning Scheme.
- b. Resolving not to undertake a Planning Scheme Amendment at this time.

7 Triple Bottom Line Checklist

- **Environmental** –N/A
- **Social** – The development of a robust Electronic Gaming Policy to guide the outcome of planning decisions relating to the location of EGMs in Kingston is considered vital in light of the proposed changes facing the gaming industry. In considering the appropriate nature of the policy, recognition of the right of residents to engage in a lawful form of entertainment needs to be balanced against ensuring that problem gambling in the community is minimised.

- **Financial** – The conduct of a future Planning Scheme Amendment is likely to include the input of substantial officer time. There are likely to be costs associated with legal representation at the Panel Hearing and the provision of expert witnesses to substantiate the basis for the Amendment.

In a broader context however, financial costs associated with problem gambling, that are borne by both government and the community, can arguably be alleviated to some degree via the successful implementation of a robust electronic gaming policy with a focus on harm minimisation via an appropriate distribution of EGMs.

7. Recommendation

That Council progress the development of a Planning Scheme Amendment which utilises the revised draft Electronic Gaming Policy including changes to the schedules to the Clause 52.28 of the Kingston Planning Scheme as previously discussed with Council.

10. Organisational Development & Governance Reports

M 94 March 2010 Quarterly Report to Council Plan

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

Author: Angela Granter, Performance Planning Officer

1. Purpose

To present to the Councillors the March 2010 Quarterly Report to the Council Plan strategies.

2. Background

The 2009/13 Council Plan was adopted by Council on 16 June 2009. The Council Plan is broken into five planned outcomes, with associated strategic indicators, strategies and actions. The Quarterly Report to the Council Plan provides information about milestones and also tracks progress against each item.

3. Summary and Conclusion

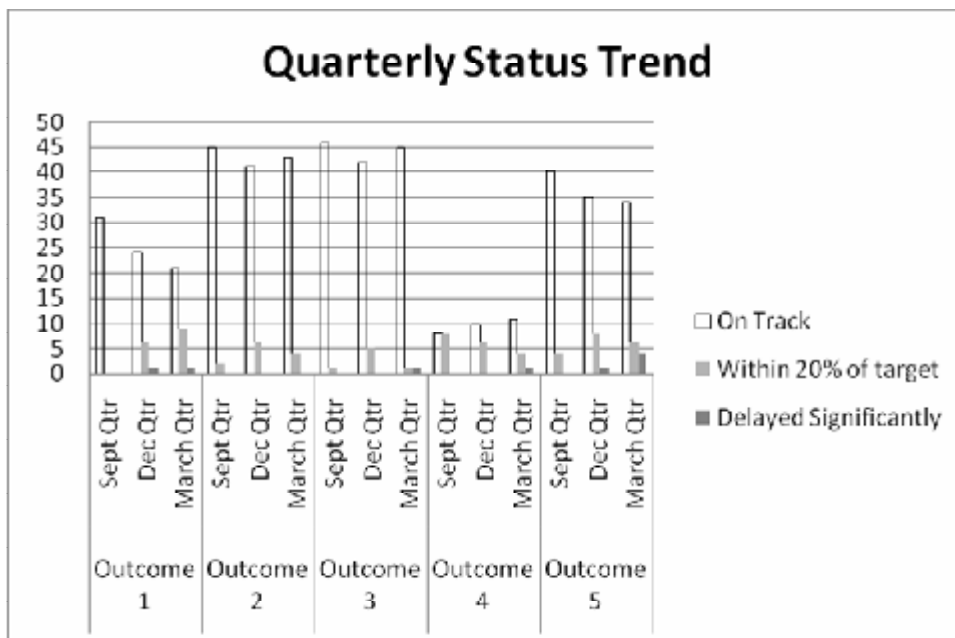
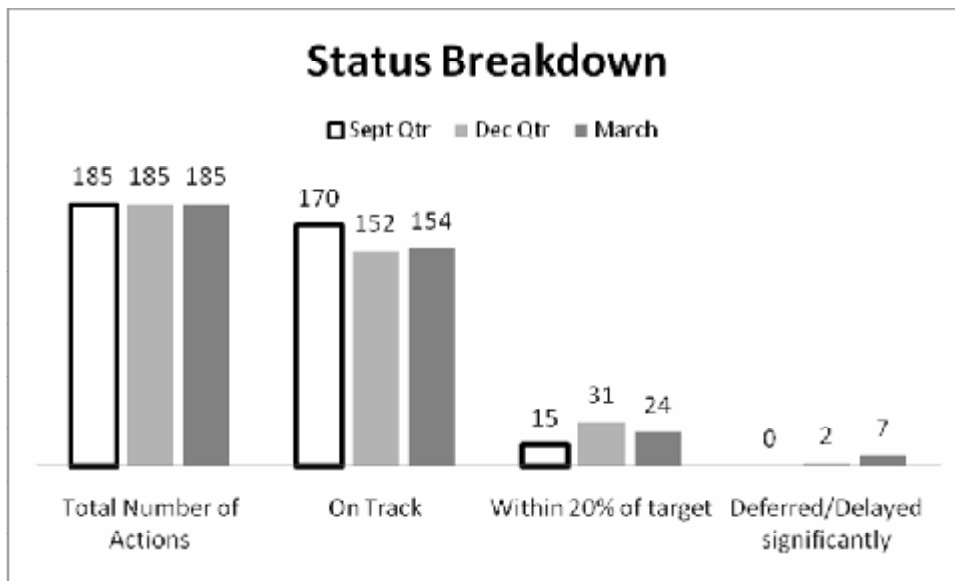
The attached March Quarterly report highlights the progress being made towards achieving the strategic actions identified in the 2009/2013 Council Plan. Of the 185 actions 83% are completed or on track (comparable with the December 2009 quarter (82%) and a decline on the September quarter (92%)). There has been an increase in the number of activities that have been deferred/delayed significantly with a reduction in the number of activities that are “within 20% of target”. The challenge for the final quarter of 2009/2010 is to ensure that no further activities drift into the “significantly delayed” category.

4. Issues

4.1 Trends

The number of activities that are progressing as planned has increased marginally from 82% to 83% (154 activities of the total 185). The shift has occurred in the number of activities that are now deferred or delayed; 7 in the March 2010 quarter compared to 2 in the December 2009 quarter and equates to 4% of the total 185 activities. With 10 weeks left until the end of the financial year, the key challenge is to ensure that no additional activities fall significantly behind schedule. The number of activities “within 20% of the target” are 24 (13%) compared to 31 (18%) in the December quarter.

These trends are depicted as follows:



4.2 Progress against the Council Plan

Outcome 1: Infrastructure for a Safe and Active Community *Majority of Strategies are progressing to schedule.*

Highlights

- § General Valuation program for 2010 completed.
- § Preferred concept design for Roy Dore refurbishment endorsed by Council. Second stage public consultation has commenced and closed 12 April 2010. A public meeting was held on 30 March.
- § Kingston Town Hall parquetry replacement in main and banquet halls was completed in March 2010.
- § The Dingley Bypass and Mornington Peninsula Freeway were discussed at the VicRoads cluster meeting held in March 2010.

- § Development of Community Road Safety Strategy is complete and will be presented to Council prior to public exhibition in May 2010.

Challenges

- § There has been an increase of 1 activity that is now delayed significantly;
- The planned activity dealing with consultation on implementation of a sportsground at Aspendale Gardens has not occurred. There are logistic issues concerning the provision of a sustainable water source and internal discussions are continuing.

Outcome 2: A Sustainable Environment

Majority of Strategies are progressing to schedule.

Highlights

- § Consultants have prepared concept design scenarios for the Mordialloc creek Masterplan and in the June 2010 quarter Council officers will be consulting with the community and other stakeholders on the concept design scenarios.
- § Draft Structure Plans for the Major Activity Centres of Moorabbin, Cheltenham and Mentone have been prepared with community engagement occurring during the June 2010 quarter.
- § Natural Resource Area team has commenced revegetation works for the April to June 2010 planting season.
- § Education for Our Future Program for local primary and secondary schools - Teacher Network meeting held in February 2010 and newsletter distributed.
- § Promotion of the 'Manufacturing in a Low Carbon Economy' event on 13 May 2010 has commenced.
- § Clean Up Australia Day event held 7 March 2010
- § Terms of Reference for a Climate Change and Biodiversity Reference Group was adopted by Council in February 2010. Selection criteria have been developed for Councillor consideration.
- § At the 22 February 2010 Council meeting the 'Corporate' section of the draft Greenhouse and Energy Management Strategy was adopted for community consultation.
- § Application for Community Sport Drought relief funding in 2010/11 successful for \$60,000.

Challenges

- § There has been a shift of 4 activities in the Environmental Planning team that were on track in the September quarter to now being within 20% of the target completion date, however significant progress has been made during the March quarter;
- Prepare a Greenhouse Reduction Strategy – 'Corporate' section of the draft Greenhouse and Energy Management Strategy was adopted for community consultation.
 - Develop a Community Climate Change Reference Group - Terms of Reference for a Climate Change and Biodiversity Reference Group was adopted by Council in February 2010.
 - Develop a Kingston Water Cycle Strategy.
 - Reduce stormwater pollution.

Outcome 3: Healthy, Strong and Connected Communities

Majority of Strategies are progressing to schedule.

Highlights

- § The Clayton Community Action Plan was endorsed by Council in March 2010. Currently a funding application is being developed with Monash City Council to go to DCPD.

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- § A new Interfaith Committee was appointed during March 2010.
- § Second round of Access and Equity grants assessed. Report to Council will occur in the June 2010 quarter.
- § Summer Lounge Session – arts works created during music session delivered during February 2010.
- § New Public Health and Wellbeing plan adopted by Council in February 2010 and first year actions are being implemented.

Challenges

- § There has been an increase of 1 activity that is now delayed significantly;
 - Significant policy and regulatory changes in the Children’s Services Sector will prompt a larger and more comprehensive review of the Municipal Early Years Plan 2010/13, hence this planned activity has now been delayed.

Outcome 4: A Prosperous, Innovative Business City
Majority of Strategies progressing to schedule.

Highlights

- § Audit of smaller shopping centres completed and report presented to CIS 15 February.
- § Business Women’s Network meeting was held 10 February.
- § Careers Expo not yet confirmed by the Local Learning and Employment Network hence may not occur by 30 June 2010.

Challenges

- § There has been an increase of 1 activity that is now delayed significantly;
 - High likelihood that Careers Expo will not occur in 2009/10.

Outcome 5: Community Inspired Leaders
Majority of Strategies progressing to schedule.

Highlights

- § All Human Resource Information System (HRIS) workflow processes and procedures have been completed.
- § Development and implementation of various working hours policies in February 2010.
- § Audit Plan on target with 4 of the 5 planned audits completed.

Challenges

- § There has been an increase of 4 activities that are now deferred or delayed significantly;
 - HRIS implementation – there are significant contractual issues outside the control of individual departments.
 - Performance Planning and Reporting System is behind schedule with tendering now planned for May 2010 (originally planned for December 2009).
 - New Community Vision has been put on hold following the Councillors Annual Workshop and will be reconsidered in February 2011.
 - As a result of EcoReps wanting to meet one-on-one, quarterly EcoRep meetings will not occur and no reports will be provided to CLG.
- § There has been a doubling (from 2 to 4) of Information Services activities that were on track in the December quarter to now being within 20% of the target completion date.

4.3 Master Action Sheet

The following data is provided purely as a work flow indicator to highlight the number of Master Action Sheet items added and completed during the March quarter. The data should be considered with the following in mind:

- § Data integrity – manual compilation of the data from a source document where multiple people can edit the data, including deleting access.
- § Numbers don't reveal aging of completed items – items could be entered and completed in the same quarter (therefore hopefully added to the Master Action Sheet Cuts document) or the completed items could be carried forward from the previous quarters.

Action Type	MAS 30/12	MAS 31/3	Change (indicator of action movement during the March Qtr)	Net change in MAS cuts (indicator of actions completed during the March Qtr)
Ordinary Council/CIS	51	61	10	54
Councillor Requests	19	25	6	30
Total	<u>70</u>	<u>86</u>	<u>16</u>	<u>84</u>
2009 Councillor Workshop	25	8	(17)	20
Village Committees				
• Aspendale	12	14	2	2
• Chelsea	11	19	8	4
• Cheltenham	10	5	(5)	6
• Clayton South	9	2	(7)	1
• Mordialloc	17	13	(4)	13
• Patterson Lakes	21	18	(3)	19
• Dingley	8	7	(1)	2
• Mentone	38	14	(24)	30
• Clarinda	11	1	(10)	11
• Moorabbin	9	3	(6)	6
TOTAL for Village Committees	<u>146</u>	<u>96</u>	<u>70</u>	<u>94</u>

4.4 Triple Bottom Line

Indicators

The Quarterly Report to the Council Plan also notes triple bottom line indicators where a specific quarterly figure is available. By reporting our financial, environmental and social performance we are providing a solid foundation for measuring our progress in these areas.

Significant increase in kilometres of road renewed – 11.48kms for the March quarter compared to 1km in each of the previous quarters. This reflects the increase work that normally occurs when the weather is warmer and more conducive to spray seals on roads. The program commenced later this year hence a low number of kilometres sealed in the December quarter. The annual target of 21kms will be achieved by the end of the financial year.

Triple Bottom Line Checklist

- Environmental – not applicable
- Social – volunteers as per the report
- Financial – not applicable

Proposed Action

§ That Council resolve to note the March 2010 Quarterly Report to the 2009/13 Council Plan
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Attachment(s):

1. *Quarterly report to Council Plan March 2010 quarter – TRIM Ref: 10/27060*
2. *Standard Statements for the 9 months ending 31 March 2010*

individual Councillor to call a meeting for their own purposes rather than collective ward purposes. It should be noted that other ward Councillors will be invited to attend another Councillor's meeting, however attendance is not required, and lack of attendance at another Councillors meeting does not equate to a lack of interest in the subject material.

The attached policy allows all three ward Councillors to call a joint ward meeting should a common agenda be agreed but does not prescribe this.

5.2 Budget Allocation for Direct Costs

A \$1,000 maximum budget is set in the attached policy to fund the Councillor's ward meetings and a budget increase of \$1000 to each Councillors ward funds is proposed to be included in the 2010/11 budget. The policy includes a general framework for expending this funding however the allocation can be made to any activity involved in calling the meeting such as direct advertising, venue hire and catering costs. It is also proposed that the Village Committee support officers will take notes rather than minutes, and if a support officer is required this would also come out of the ward allocation.

Although additional funds of \$1000 will be allocated to ward funds it is not prescribed that a Councillor must have a ward meeting. The additional funds may be directed elsewhere.

5.3 Additional Support Resources

In addition to the direct costs for individual meetings as described under 5.2 above the meeting will require two types of additional support – senior officer support and administrative logistical support. Each of these issues is explored below within the context that Council currently supports 10 Village Committees which meet on a monthly or bi monthly manner. These are supported by the Governance and Performance Planning Department and senior officers and are resource intensive during the first two weeks of the monthly Council meeting cycle. These resources also support the internal Corporate Leadership Group Meetings, Councillor Briefings and Council Meetings.

5.3.1 Council Business Support

To adequately resource a further 9 meetings, where there is a reasonable level of flexibility in the style and agenda for the meetings and follow up additional work it is anticipated that additional casual labour would be required. An allocation of \$10000 to cover the logistics of managing these additional meetings is estimated. Without having undertaken any such meetings to date it is unclear whether this estimate will be adequate. The logistics would be covered by casual labour as the meetings could be scheduled at any time and potentially there could be multiple meetings in different wards at the same time.

5.3.2 Senior Officer Support

It is not envisaged that senior officers will attend the meetings unless there is a significant reason for this. As described under 5.2 a support officer may attend to take notes and follow up actions/information will be included in the Master Action Sheet which senior officers will manage.

5.4 Timing of meeting

To avoid politicisation of these meetings no meetings are proposed during the 6 months before a Local, State or Federal election. Given the attached policy does not take affect until after the 2010/11 budget is approved this means that no individual councillor meeting will occur until at least December 2010 although this may be deferred until 2011 depending on the timing of the Federal election.

6. Options

There are two options:

- 1 Abandon the idea of individual Councillors holding Council supported meetings with their ward constituents. This option would maintain the current status quo. No additional resources or support structures would be required and Council can continue to hear from members of the community via Village Committees, other Committees, Council events, correspondence from their constituents etc.

- 2 Adopt the policy as attached or with additional changes as required by Councillors. This would allow for some form of individual Councillor meeting with their ward constituents that are supported by Council. It is suggested that \$1000 be allocated to each Ward Councillors Ward Fund expenses, and an allocation of \$10000 for casual resources to support the additional administrative processes involved in running the meetings.

7 Triple Bottom Line Checklist

Environmental – Not applicable.

Social – Creates another avenue for Councillors and the community to hold dialogue.

Financial – In the 2010/11 Budget a \$9000 increase to Councillor Ward Funds and \$10000 to cover casual labour to provide additional administrative support to this new program.

<h3>8. Recommendation</h3>

<p>That Council adopt the Councillor Meeting with Ward Constituents Policy.</p>

Attachment:

Draft Councillor Meeting with Ward Constituents Policy

M 96

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.

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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 \$
Mayor Cr Staikos	North	<i>Parks Department (City of Kingston)</i> Flyer letterbox – Heatherton Park Open Day - 22 May 2010	4/5/2010	167
Cr Athanasopoulos	North	<i>Parks Department (City of Kingston)</i> Flyer letterbox – Heatherton Park Open Day - 22 May 2010	4/5/2010	167
Cr Peulich	North	<i>Parks Department (City of Kingston)</i> Flyer letterbox – Heatherton Park Open Day - 22 May 2010	4/5/2010	166
Cr Shewan	South	<i>Chelsea Mens Shed</i> Operating Costs	10/05/2010	500
Cr Bauer	South	<i>AGRA</i> Production of Newsletters	10/05/2010	400
Cr Ronke	South	<i>AGRA</i> Production of Newsletters	10/05/2010	400
Cr Shewan	South	<i>AGRA</i> Production of Newsletters	10/05/2010	400
Cr Bauer	South	<i>Jack Brooking</i> Representative Cricket Tour Costs	17/05/2010	200
Mayor Cr Staikos	North	<i>Jack Brooking</i> Representative Cricket Tour Costs	17/05/2010	50
Cr Athanasopoulos	North	<i>Jack Brooking</i> Representative Cricket Tour Costs	17/05/2010	50

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Cr Shewan	South	<i>Jack Brooking</i> Representative Cricket Tour Costs	17/05/2010	50
Cr West	Central	<i>Jack Brooking</i> Representative Cricket Tour Costs	17/05/2010	50

Recommendation

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

11. Corporate Services Report

M 97 Review of Policy for Discontinuation and sale of Roads, Right of Ways and Drainage Reserves.

Approved by: Paul Franklin, General Manager Corporate Services

Author: Newton Gatoff, Acting Manager Property Services

1. Purpose

The purpose of this report is to present the outcome of a review that responds to a Notice of Motion to review the Discontinuance and Sale of Roads, Right of Ways & Drainage Reserve Sales Policy.

2. Background

The 1995 Discontinuance and Sale of Roads, Right of Ways and Drainage Reserves Policy was last reviewed by Council on 26th May 2008. On 23rd November 2009 a Notice of Motion was proposed at Ordinary Council and carried by Council as follows:

That Council review Council's policy for the Sale of Right of Way and Drainage Reserve (December 1995) with a view to including:

- *A strong statement to protect neighbouring properties or public land from adverse amenity impact from any such a sales.*
- *Such other amendments as may be deemed necessary.*

3. Summary and Conclusion

The proposed revision provides enables Council to place a restriction on the use of the land if amenity issues are raised by the community during the statutory S223 process which is required as part of divesting a discontinued Right of Way or Drainage Reserve. Following a review by Councils solicitors of the existing policy, the amended policy includes the principal that Council may the make a sale of land subject to a S173, a restrictive covenant or other appropriate means dependent on the particular circumstances. The S173, restrictive covenant or other appropriate means would need to be placed on the title of and in favour of the adjoining owner(s) who raise the amenity concern during the S223 process.

4. Proposed amendment to the policy

If in the opinion of the S223 Committee of Council a submission has been received from an adjoining owner which highlights a potential "adverse amenity impact" upon an adjoining owner of the proposed sale of land, then the Committee shall report this to Council and should Council determine that a sale shall proceed, Council may make that sale of land subject to a section 173 agreement that shall have the effect that the subject land 'shall not at any time be built upon'. In certain circumstances Council may be able to place a covenant on title to protect the amenity impact upon the adjoining owners.

5. Issues

5.1 Assessing adverse amenity impacts

The most appropriate means by which Council may determine “adverse amenity impact” is through consultation. The current policy requires consultation by ensuring that any sale under this policy is advertised by public notice seeking submissions to the proposed sale, letters are sent to adjoining owners who may be impacted by the sale and where practical signs are erected on the property. If submissions are received which requires the establishment of a S223 Committee, Council, through the S223 Committee will then be made aware of any comments regarding “adverse amenity impact”.

5.2 Effect of amendments to the existing Policy

The effect of the proposed amendment to our existing policy will reduce the possible future uses of any land sold under the policy. This will reduce the value of the land which could be sold and potentially reduce the interest in any adjoining owners wishing to purchase land available for sale under this policy.

6. Options

Option 1. That Council notes this report and confirms the existing Discontinuance and Sale of Roads, Right of Ways and Drainage Reserves Policy without amendment.

Option 2. That Council notes this report and determines that the Discontinuance and Sale of Roads, Right of Ways and Drainage Reserves Policy should include those amendments to the policy wording which are underlined in the attached Policy Document

7. Triple Bottom Line Checklist

- **Environmental** – The amendment to the policy will not assist council in reducing the numbers of unused right of ways and therefore it may impose upon Council longer term maintenance responsibilities. Land which could be otherwise used for increased development may be left undeveloped.
- **Social** – The amendments to this policy will be to protect neighbouring properties or public land from adverse amenity impact from the sale of such land. The amendment may also be deemed to be reducing the rights of the community purchase assets which would otherwise remain dormant and to thereby preventing land from being put to its best possible use.
- **Financial** – The effect of the proposed amendment is unknown and unquantifiable.

8. Proposed Action

That Council resolves to adopt the amended Discontinuance and Sale of Roads, Right of Ways and Drainage Reserves Policy as attached.

12. Notices of Motion

M 98 **Notice of Motion to rescind Council resolution to approve KP09/861 1324-1328 Nepean Highway, Cheltenham**

In the light of:

- Concerns expressed by objectors at the road access from Latrobe Street;
- The possibility that closing the service road at Latrobe Street and opening a new access through the median strip to the service road immediately to the north of the intersection, or another proposal, might provide a win-win situation for the developer and for the Nepean Highway and Latrobe Street residents;
- My request to planners (after the preliminary conference) for a meeting with planners objectors (from both Latrobe Street and Nepean Highway) myself (and other Ward Councillors) and Council's senior traffic engineer. The planners met with the senior traffic engineer but I was not given the opportunity to attend and am not satisfied that all options have been pursued;
- My motion to defer consideration of this item would have provided time for this meeting, but was not supported.

I move that Council rescind that motion to issue a permit for KP09/861 (1324-1328 Nepean Highway, Cheltenham) and to reconsider the matter once such a meeting has taken place in the light of whether or not a better solution can be found.

Signed

Cr Rosemary West

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M 99

**Notice of Motion to rescind Council resolution:
Dingley Village Buslane (Item M 62, Ordinary Council
Meeting 27 April 2010)**

Considering that:

- Councillors were required to consider Cr Peulich's motion at short notice, having not seen it before dinner and some of us reading it only on the screen, and may not have been aware of the significance of removing the bus-lanes from the State Government's Moving Victoria Forward Policy.
- I have sought advice from Mr Tony Rijs who informs me that MVF is a long term policy.
- While all or most Councillors, including myself, have noted that a large majority of the Dingley residents who responded to the Council survey do not want buslanes installed now, we are clearly willing to engage with VicRoads and the community in a future consultation on the matter should VicRoads pursue the matter in future.
- VicRoads have written to Council indicating that they wish to re-consider the bus-lanes again when the Perry to Springvale Road section of the Dingley Arterial is completed, and provided they engage the community in consultation and can win broad community support for it, I personally and possibly other Councillors would not object.
- It would not be fair for Council, at the behest of Cr Peulich and of a current residents' group to deprive future generations of Dingley residents of the opportunity to have their say if and when this issue comes up again, particularly if, as Cr Peulich suggests, banning the bus-lanes will mean Dingley Village residents are deprived of extra smart-bus services.
- Council resolved to adopt the officer recommendations on this matter, which adequately cover its aspects and clearly envisage that the bus-lanes may be proposed again.

I move that Council rescinds Part 1 of Cr Peulich's motion, which required Council to lobby the State Government to remove the bus-lanes from their long-term Moving Victoria Forward policy. (I do not have the exact wording as I did not receive a hard copy.)

Signed

Cr Rosemary West

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M 100

**Notice of Motion to rescind Council resolution:
Dingley Bypass Route (Item M 75, Ordinary Council
Meeting 27 April 2010)**

I move to rescind Council resolution ITEM M 75 on the 27 April Council Meeting “Cr West: Investigation of Alternative Dingley Bypass Route.”

Signed

Cr Paul Peulich