

**City of Kingston  
Special Council Meeting**

**Agenda**

**5 May 2010**

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A Special Meeting of Kingston City Council will be held at 6.00pm at the Cheltenham Office, 1230 Nepean Highway, Cheltenham, on Wednesday 5 May 2010.

**1. Apologies**

**2. 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.]*

**3. Reports**

M 81 Rescission Motion, Planning application KP 09/773:  
321–323 Charman Road, Cheltenham

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**4. Items in Camera**

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**M 81**

**Rescission Motion Planning Application KP 09/773 – 321-323 Charman Road, Cheltenham**

1. That the resolution made by Council on 27<sup>th</sup> April 2010 in relation to item M54-town planning application KP09/773, 321-323 Charman Road, Cheltenham, be revoked.
2. That due to the apparent confusion and need for further information with this application, the applicant be requested to prepare plans that concur with the amended Council officer recommendations with regard to this application that provide for 5 offices at ground level and residential apartments over four levels, and that these plans be made available to local residents for comment before any decision is made.

Signed

Cr Ron Brownlees

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Attachment

**M 54**

**KP 09/773 – 321-323 Charman Road, Cheltenham**

<b>Applicant:</b>	<i>Ikos Planning and Design</i>
<b>Location:</b>	<i>No. 321 &amp; 323(Lots 1 and 2 on PS435947H and Lot 1 on TP842160S) Charman Road, Cheltenham 3192</i>
<b>Melways Ref:</b>	<i>86H1 86J1</i>
<b>Proposal:</b>	<i>To construct buildings and works comprising a five-storey building (containing five (5) offices, thirty-five (35) apartment-style dwellings, and basement car parking), to use the site for dwellings, to vary the height restriction in the Table to Schedule 16 of Clause 43.02, and a reduction in the car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme.</i>
<b>File Number:</b>	<i>KP733/09</i>
<b>Planning Officer:</b>	<i>Nikki Taylor</i>
<b>Objections:</b>	<i>Fourteen (14)</i>
<b>Zoning:</b>	<i>Business 2, Residential 1</i>
<b>Kingston Planning Scheme Ordinance Controls:</b>	<i>Clause 14.01: Planning for Urban Settlement Clause 16.02: Medium Density Housing Clause 17.01: Activity Centres Clause 17.02: Business Clause 18.01: Declared Highways, Railways &amp; Tramways Clause 18.02: Car Parking &amp; Public Transport Access to Development Clause 19.03: Design &amp; Built Form Clause 21.03: Land Use Challenges for the New Millennium Clause 21.04: Strategic Framework Plan Clause 21.06: Retail and Commercial Land Use Clause 22.01: Cheltenham Business Centre Policy Clause 32.01: Residential 1 Zone Clause 34.02: Business 2 Zone Clause 43.02: Design &amp; Development Overlay (Schedule 16) Clause 52.06: Car Parking Clause 52.29: Land Adjacent to a Road Zone (Category 1) Clause 52.34: Bicycle Facilities Clause 52.35: Urban Context Report and Design Response for Residential Development of Four or More Storeys Clause 65: Decision Guidelines Clause 66: Referrals</i>
<b>Residential Policy Area</b>	<i>*Not Applicable</i>

**Background**

This is the third application for the above site, the first application, KP836/05, was refused under delegation on 4 April 2006. This decision was appealed to VCAT and Council's decision was reaffirmed by the Tribunal. In its written decision, the Tribunal outlined a number of recommendations that should be met prior to a further proposal for the site being lodged and approved.

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A second application for this site incorporating 2,712 square metres of office floor space over four (4) levels with an overall building height of 16 metres was heard before Council in June 2007, with the Council resolving to refuse a permit for the development. Following an appeal by the permit applicant against Council's decision, Council was directed by the Victorian Civil Administrative Tribunal to issue a permit (Planning Permit No.KP89/07) on 20<sup>th</sup> February, 2008. This permit is current.

**Development Summary:**

<b>SITE AREA</b>	1385.088m <sup>2</sup>
<b>FRONTAGE/S</b>	38.4m to Charman Road
	39.12m to Barker Street
<b>DEPTH</b>	39.12m
<b>SITE COVERAGE</b>	90% (approx)
<b>NO. OF DWELLINGS</b>	31
<b>NO. OF STOREYS</b>	5
<b>NO. OF BASEMENT LEVELS</b>	2
<b>FRONT SETBACK</b>	0-0.6 metres to Charman Road - East 0-0.6 metres to Barker Street - North
<b>MINIMUM SIDE SETBACK</b>	To the south: 0 metres To the west: 3.5 metres
<b>REAR SETBACK</b>	3.5 metres to rear (west) property boundary

**Existing Conditions:**

The subject site comprises two (2) allotments with a combined area of 1,385 square metres, and has direct road abuttal to both Charman Road to the west and Barker Street to the north. To Charman Road, the land has a frontage width of 38.4 metres, and to Barker Street, a frontage width of 39.12 metres. The topography of the land is relatively flat and void of any significant vegetation. A 3.05 metre wide drainage, sewerage and telecommunications easement extends parallel with the site's west (rear) property boundary.

At present, the land is developed with two (2) buildings – at the site's Barker Street (north) frontage is a single storey building used for offices. At the southern portion of the site is a large, single storey public hall, used by the Cheltenham Senior Citizens. Vehicle access to the site is available from two (2) access points located at the site's Charman Road and Barker Street frontages.

The subject site is located at the intersection of Charman Road and Barker Street, within close proximity to the intersection of Nepean Highway and Chesterville Road. Surrounding land is

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used for a combination of commercial and residential uses. Adjoining to the west at No.24 Barker Street is a single storey dwelling – its driveway and garage adjoins the subject site. To the south-west (rear corner of the site), at No.17 Maude Street, is a single storey single storey dwelling, set back 7.5 metres from the shared property boundary. To the south is the Telstra Telephone Exchange which contains a number of buildings and paved areas for parking and access. To the north, across Barker Street, is the Salvation Army Family Store, which has frontage to Nepean Highway, Barker Street and Charman Road. To the east of the site, on the opposite side of Charman Road, are a range of community buildings with limited setback to Charman Road.

The subject site is located within the Cheltenham Activity Centre which is identified as a Major Activity Centre in the Kingston Planning Scheme. The land is situated within close proximity to all forms of physical and social infrastructure, namely the Cheltenham Railway Station to the south, local shops and services within the Cheltenham Business Centre and Southland Shopping Centre to the north-west.

The subject site and the land directly to the south is predominantly zoned Business 2, with the exception of a 1.7 metre wide strip of land to the west, which is zoned Residential 1. All adjoining land to the west is zoned Residential 1, land to the north is zoned Business 4, and land across Charman Road to the east is also zoned Business 2. Charman Road is zoned Road Zone Category 2, and Nepean Highway zoned Road Zone Category 1.

**Site History:**

Planning Permit No. KP89/07 was issued by the City of Kingston at the direction of the VCAT on 20 February 2008, for the “construction of buildings and works (clause 34.02), and a reduction in the number of car spaces (clause 52.06)”. As mentioned previously, this development comprised 2,712 square metres of office floor space over four (4) levels with an overall building height of 16 metres.

A previous application for a five storey office building on the site, KP836/05, was refused under delegation on 4 April 2006. This decision was appealed to VCAT and Council’s decision was reaffirmed by the Tribunal.

**Proposal:**

It is proposed to develop and use the land for a five storey building comprising five (5) offices with a total of 458 square metres at ground floor level, thirty-five (35) dwellings at ground through to fourth floor level, and two levels of basement car parking. The proposal also seeks approval to vary the height restriction in the Table to Schedule 16 of Clause 43.02 and for a reduction in the car parking requirements of the Kingston Planning Scheme.

A total of 72 car parking spaces (including one space to be used as a loading bay and one to be used as a disabled car space) would be provided on-site within the two basement car parking levels, with vehicle access to be provided along the site’s Charman Road frontage. The basement would also provide bicycle storage for 18 bicycles, rainwater tanks, rubbish and general storage, an electrical substation and stair and lift access to the levels above.

The thirty-five (35) dwellings comprise of the following mix:

- Five (5) one-bedroom

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- Twenty-nine (29) two-bedroom
- One (1) three-bedroom

The floor areas of the dwellings range from between 55 to 130 square metres. The five dwellings located at ground level are provided with courtyards of between 25 to 47 square metres in total area. The upper level dwellings are each provided with balcony/terraces with direct access from living rooms, ranging from between 9 to 46 square metres in area.

The floor areas of the five offices range from 75 square metres to 103 square metres, comprising a total of 458 square metres.

The elevations have been well articulated via a ‘nesting’ of the upper levels within the building footprint of the floor below.

The building would have a maximum height of 16.8 metres.

External building materials would include a combination of different finishes and colours which are contemporary in style and form.

Landscaping is provided within beds along the Charman Road and Barker Street frontages, and along the site’s west property boundary.

**Planning Controls:**

Pursuant to Clause 34.02 of the Kingston Planning Scheme, a planning permit is required for a number of purposes, being:

- A permit is required for the use of the land for the purpose of a dwelling.
- A permit is required for the construction of a building and to carry out works.

A planning permit is not required for the use of the land for the purposes of “office”, which is a Section 1 use within the zone.

Pursuant to Clause 43.01 of the Scheme (Design and Development Overlay Schedule 16 – Cheltenham Activity Centre), a planning permit is required to:

- Vary the maximum overall building height set out in the Table to Schedule 16 i.e. 3 storeys, 11 metres.

***It should be noted that this Schedule was introduced into the planning scheme on 21 January 2010, subsequent to the application being lodged with Council on 23 November 2009.***

In accordance with Clause 52.06 of the Scheme, the following car parking rates should be applied for the proposed land uses:

- Dwelling – 2 car spaces for each dwelling.
- Office – 3.5 car spaces for each 100m<sup>2</sup> of net floor area.

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Based on the above rates, a total of 86 on-site car parking spaces should be provided as a part of the proposed development. However, a total of 72 car parking spaces are proposed to be provided within the two (2) basement car parking levels. As such, a planning permit is required for a reduced car parking rate under this clause of the Scheme.

A number of the policies contained within the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF), including Council's Municipal Strategic Statement (MSS) are considered relevant in the consideration of this proposal, namely:

- Clause 14.01: Planning for Urban Settlement
- Clause 16.02: Medium Density Housing
- Clause 17.01: Activity Centres
- Clause 17.02: Business
- Clause 18.01: Declared Highways, Railways & Tramways
- Clause 18.02: Car Parking & Public Transport Access to Development
- Clause 19.03: Design & Built Form
- Clause 21.03: Land Use Challenges for the New Millennium
- Clause 21.04: Strategic Framework Plan
- Clause 21.06: Retail and Commercial Land Use
- Clause 22.01: Cheltenham Business Centre Policy
- Clause 34.02: Business 2 Zone
- Clause 43.02: Design & Development Overlay (Schedule 16 – Cheltenham Activity Centre)
- Clause 52.06: Car Parking
- Clause 52.34: Bicycle Facilities
- Clause 52.35: Urban Context Report and Design Response for Residential Development of Four or More Storeys
- Clause 65: Decision Guidelines
- Clause 66: Referrals

**Referrals:**

The application did not require referral to any external authority, pursuant to Clause 66.02 of the Scheme.

The application was referred to the following internal/external Council departments for comment:

- Development Engineer
- Vegetation Management Officer
- Council's Urban Designer
- Environment Department
- Council's Traffic Engineering Department
- Roads and Drains
- *Waste Management*
- *VicRoads*

Not all referral responses have been received at this stage. These departments are in italics.

**Advertising:**

The application was advertised by letters to all adjoining and surrounding property owners and/or occupiers, including objectors to the previous applications and two (2) notices placed on the site for fourteen (14) days. The notification process was satisfactorily completed and fourteen (14) objections were received. The main grounds of objection can be summarised under the following headings:

- Overdevelopment
- Neighbourhood character
- Building Bulk
- Compliance with DDO requirements
- Amenity Impacts Upon Adjoining Properties through overlooking, overshadowing, noise, lightspill
- Car Parking Provision/Traffic Concerns

A preliminary conference is scheduled to be held on 15 April 2010.

**Planning Assessment:**

The following section will consider the application against the relevant sections of the State Planning Policy Framework, Local Planning Policy Framework (including the MSS), zoning objectives and Particular Provisions of the Kingston Planning Scheme.

**State Planning Policy Framework**

*Clause 12.01: A More Compact City*

The objective of this Clause is “to facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities”.

It is considered that the proposal satisfies the intent of this objective. The location of a mix of uses in a Major Activity Centre, within close proximity to Kingston’s Principal Activity Centre is something that is encouraged by this policy. Further, the proximity of the subject site to the Cheltenham Railway Station and various bus services will encourage future residents and employees within the businesses, to utilise the public transport services available.

The proposal includes various ESD elements including the retention and reuse on the site of rainwater runoff which will make the development more sustainable which is further in keeping with this policy. However, it is considered appropriate to require the applicant to submit an environmental management plan as a condition of any permit issued, clearly detailing ESD initiatives and provisions including waste, stormwater, heating and cooling management.



*Clause 12.05: A Great Place to Be*

The objective of this Clause is “to create urban environments that are of better quality, safe and more functional, provide more open space and an easily recognisable sense of place and cultural identity”.

A number of strategies are outlined under this Clause that are considered relevant with respect to the consideration of this application, namely under the heading of “urban design”.

Suggested strategies for urban design outcomes include (amongst other things):

- Requiring development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.

The subject site is located along Charman Road, within the Cheltenham Activity Centre. The proposed building will abut residential development to its rear (west) and as such, should be designed so that this interface is well articulated through the use of varied building materials, design elements and setbacks. This should include significant vegetation, both as a screening measure and as a link to the vegetated nature of the nearby residential properties. This has been incorporated into the design of the development.

*Clause 14.01 – Planning for Urban Settlement*

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

Residential land is currently at a premium within Melbourne and Victoria and the proposed development is considered to be consistent with this objective as it will provide for a number of well-located future households as well as businesses within a Major Activity Centre.

*Clause 17.01 – Activity Centres*

The key policy objectives for Activity Centres under Clause 17.01 of the Scheme includes an aim “to encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres) which provide a variety of land uses and are highly accessible to the community”.

Ways of achieving this objective include:

- *Incorporate and integrate a variety of land uses, including retail, office, education, human services, community facilities, recreation, entertainment and residential uses where appropriate.*
- *Provide good accessibility by all available modes of transport (particularly public transport) and safe pedestrian and cycling routes, and to encourage multi-purpose trip-making to such centres.*
- *Minimise the effects of commercial development on the amenity of residential and parkland areas, for example as a result of traffic congestion, noise or overshadowing.*

It is considered that the proposed development is consistent with Activity Centre objectives and strategies by providing a mix of uses within the one development, located close to shops and services and within convenient walking distance of public transport options.

*Clause 19.03 – Design and Built Form*

The key objectives under this section are considered to be “to achieve high quality urban design and architecture that:

- § reflects the particular characteristics, aspirations and cultural identity of the community;
- § enhances liveability, diversity, amenity and safety of the public realm; and
- § promotes attractiveness of towns and cities within broader strategic contexts”.

It is considered that the proposal generally meets these objectives, subject to the inclusion of conditions discussed later in this report.

**Local Planning Policy Framework (including the MSS)**

*Clause 21.06 – Retail and Commercial Land Use*

Cheltenham is identified as being a Major Activity Centre under Council’s Retail and Commercial Land Use Framework Plan. The MSS suggests that the primary role of Cheltenham as a Major Activity Centre is as a sizeable employment base, providing for many local convenience needs.

Specifically, the broader strategic direction for this area is to provide diversity in the mix of uses particularly on the centre’s periphery and to reinforce the role of restricted retailing along Nepean Highway.

Two (2) key objectives are relevant in the consideration of this proposal, being:

Objective 2 aims “*To reinforce the existing role of the Southland Principal Activity Centre complemented by the adjacent Cheltenham Major Activity Centre as the predominant regional focus for retail activity and for entertainment, community, professional services and business services.*”.

Objective 3 aims “*To reinforce the different built form character and function of activity centres consistent with their position in the activity centre hierarchy.*”

It is considered that the proposal is generally consistent with these objectives. Further guidance on design outcomes within the Cheltenham Major Activity Centre are included in structure planning work carried out for Cheltenham.

The subject site is identified as a key development site within Council’s Draft Cheltenham Structure Plan, which is currently on advertising. Compliance with the Draft Structure Plan will be discussed below.

*Clause 22.01 – Cheltenham Business Centre Policy*

The subject site is located within an area designated for “mixed use (office and community services precinct)” under Council’s Cheltenham Business Centre Policy. Under the Draft Cheltenham Activity Centre Structure Plan, this policy would be superceded. It is therefore considered in appropriate to assess the application against these guidelines.

**Zoning Provisions**

*Clause 34.02 – Business 2 Zone*

One of the key objectives of the Business 2 Zone is “to encourage the development of offices and associated commercial uses”.

It is clear that the proposed use would be consistent with the intent of the above objective through the provision of 458m<sup>2</sup> of net leaseable office space within the Cheltenham Business Centre.

**Design and Development Overlay – Schedule 16**

This Schedule was introduced in order to facilitate the structure planning work that is being carried out for Cheltenham.

Under these interim provisions, the subject site is identified in Precinct F. In the table to Schedule 16, the maximum building height should not exceed 3 storeys or 11 metres. However, a permit may be granted to exceed these requirements where it can be demonstrated that the design standards and design objectives can be satisfied.

The design objectives, as relevant to this application include:

- To reinforce the urban form, character, streetscape of the Cheltenham Activity Centre.
- To achieve responsive and sensitively designed development that is of a high quality architectural and urban design standard.
- To achieve appropriately designed development that is consistent with the built form outcomes and heights envisaged by this Overlay.
- To ensure development has proper regard for the established, streetscape and development pattern in terms of building design, height, scale, and siting.
- To preserve solar access to adjoining residential zones, dwellings, public and private open space and pedestrian paths.
- To protect and enhance key views, vistas and landmarks.
- Respect residential interfaces to ensure sunlight is maintained and overshadowing of private open space is minimised.
- Encourage new development to be of a high architectural quality and contemporary in form and material detailing.
- Encourage high quality landscapes along street frontages to maintain an open street setting.

- Ensure gradual scale transitions between upper levels along side streets and rear of properties.
- Encourage generous balcony space for sites with a northerly aspect within all precincts.
- Encourage site consolidation to avoid underdevelopment of land in precincts where higher built form outcomes are envisaged in accordance with the table to this Schedule.

It is considered that the proposal is generally consistent with these objectives and subject to the changes outlined below, should provide a positive gateway into the Cheltenham Activity Centre.

### **Particular Provisions**

#### *Clause 52.06 – Car Parking*

Based on the car parking requirements under Clause 52.06-5 of the Scheme, a total of 86 on-site car parking spaces are required as a part of the proposed development. However, a total of 72 car parking spaces are proposed to be provided within the two (2) basement car parking levels. Given that the subject site is located within the Cheltenham Major Activity Centre, within close proximity to rail and bus services, as well as shops, services and restaurants, together with Southland within easy walking distance from the site, it is considered that future dwelling residents will have little reliance upon regular car usage. As such, it is considered reasonable in this instance to allow a reduction in the car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme.

#### *Clause 52.34 – Bicycle Facilities*

Pursuant to Clause 52.34-2 of the Kingston Planning Scheme, a planning permit is required to vary, waive or reduce the requirement for bicycle and associated facilities.

Under Table 1 of this Clause, a ratio of one (1) bicycle parking space is to be provided for each 300m<sup>2</sup> of net floor area if the net floor area exceeds 1000m<sup>2</sup>. As such, no bicycle spaces are required for the office component of the development. Seven (7) spaces would be required for the dwellings. Eighteen (18) spaces have been proposed within the basement, therefore it is considered that the proposal exceeds the requirements of this Clause.

### **Cheltenham Activity Centre Structure Plan – Draft March 2010**

In this plan, the subject site is located within Precinct B – Mixed Use. Urban design outcomes for this area include:

- *Encourage secondary retail and commercial uses at ground floor with residential uses in upper storeys.*
- *Maximum 4 storeys north of railway line stepping down to 3 storeys adjoining residential areas.*
- *Maximum 3 storeys south of the railway line.*
- *Provide a robust 3 storey hard edge to Nepean Highway.*
- *Extend the 2 storey commercial hard edge established in Precinct A throughout this precinct ensuring that levels above are setback 5 metre setbacks to Charman/Park Road and 3 metre setbacks to laneways.*

- *Vehicle access is encouraged from side streets and rear laneways.*
- *Encourage contemporary architectural responses.*

It should be noted that the proposal was designed without the benefit of this policy guidance. However, the proposal exhibits a consistency with these guidelines in that it has commercial uses at ground floor level, with residential uses above. It also exhibits a contemporary architectural response.

The proposal was referred to Council's Urban Designer and Strategic Planning Department who have advised that the proposal should be reduced to four (4) storeys in order to be consistent with the Draft Structure Plan. Further, the setbacks proposed from the residential properties along Barker Street is satisfactory and complies with the relevant ResCode requirement. The offices on the ground floor should be built to the title boundary without any landscaping in front which will be more consistent with the character of Charman Road. The building should provide a two storey edge to Charman Road with the upper storeys set back 5 metres to be consistent with the Draft Structure Plan. It is considered that these should be required as a condition of any permit issued.

These changes would also necessitate the reduction in the overall numbers of apartments and the overall height of the built form, thereby going some way to addressing the concerns raised by objectors, including visual bulk and overlooking. As the setbacks from the residential properties are consistent with those previously approved by the Tribunal, it is considered reasonable to support these, particularly given the comments of Council's Urban Designer.

Vehicle access, under the above Draft Structure Plan should be provided from Barker Street, rather than Charman Road. It is considered that this could be accommodated within the proposal. The benefits of this would be to control ingress and egress via a recognised intersection. Further, opposite the site on Barker Street is an existing commercial facility, which is the Salvation Army second hand shop so the vehicle movements should have limited impact upon the amenity of this property. Whilst this would result in greater traffic in and out of Barker Street, it is considered that this traffic could be controlled in a safer, more efficient way. Council's Traffic Engineers have also stated that the vehicle access should be via Barker Street and given its proximity to Nepean Highway, it is considered that this is the safest, most efficient option. Therefore, it is considered appropriate to require this as a condition of any permit issued.

**Response to Objector/s Concerns:**

The following responses are offered in relation to the main grounds of objection to the application:

*Overdevelopment*

The intensity of the development, given the combination of residential and commercial land uses, is considered to be consistent with State Planning Policy, Local Planning Policy and the Draft Cheltenham Structure Plan. With the changes discussed above, it is considered that the proposal is not an overdevelopment of a large, consolidated site, within a Major Activity Centre.

*Car Parking and Traffic Issues*

With the reduced office floor space, compared to the previous proposal, together with the site's location close to public transport facilities and services, it is considered that the proposed car parking and traffic movements are not unreasonable for the site. The relocation of the access to Barker Street is also consistent with Council's Draft Structure Plan, which has been developed in conjunction with independent Traffic Engineers. Further, Council's own Traffic Engineers have suggested that the Barker Street access is the safest and most appropriate location.

*Out-Of-Character*

A number of concerns raised were in relation to the impact of the proposed development on the neighbourhood character of this section of Cheltenham. Conventional assessment of neighbourhood character is that where there is no preferred neighbourhood character, the existing character is that which is to be considered. It is considered that the Draft Structure Plan clearly identifies a preferred character for this part of Cheltenham, and whilst the existing character is one that the objector's are wishing to maintain, Council policy clearly states that this character is encouraged to change. Further, the site's location on a main road within a recognised business centre, means that the commercial character to Charman Road is the prevailing character. It is considered that the residential character has been protected through appropriate setbacks and landscaping, together with the reduced height specified above.

*Amenity Concerns (Overshadowing, Visual Bulk, Noise, etc.).*

Concerns regarding the possible loss of amenity were raised by residents to the west of the subject site. As this area is abutting an existing commercial precinct, the same level of amenity cannot be expected as if the residential area were located within an established residential area.

The visual impact of the development when viewed from these properties should not be excessive given the proposed setbacks, screening, vegetation and reduced height.

The provision of an Environmental Management Plan should provide for issues of noise management and further address these concerns.

**General Comment:**

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

- The proposed mixed use development is consistent with the zoning provisions and the preferred development outcome for the Cheltenham Major Activity Centre;
- The design and siting of the proposed development is considered to be compatible with the surrounding area;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS, Retail and Commercial Land Use, Cheltenham Business Centre Policy, Business 2 zoning, the Design & Development Overlay (Schedule 16 – Cheltenham Activity Centre) and the Draft Cheltenham Structure Plan.

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

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**Recommendation**

That Council resolve to issue a planning permit for the construction of buildings and works on this site, within a four (4) storey building and to use for offices and to facilitate dwellings over four levels, a variation to the height controls of Schedule 16 of the Design and Development Overlay, Clause 43.02 and a reduced car parking rate pursuant to Clause 52.06 of the Kingston Planning Scheme, 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 this permit;
  - b) a reduction in overall height of the building to a maximum of four (4) storeys, with the dwellings and offices to be reconfigured accordingly;
  - c) the entry/exit driveway of the basement car park relocated to Barker Street and the basement and access arrangements reconfigured accordingly;
  - d) the Barker Street crossover to be 6 metres in width with no splays provided;
  - e) a revised section plan showing the basement ramp gradients/transitions;
  - f) car parking facilities designed in accordance with Australian Standard AS2890.1;
  - g) the Charman Road façade to be redesigned to provide a two (2) storey hard edge to Charman Road;
  - h) the third and fourth storeys of the building set back a minimum of 5 metres from the site's Charman Road frontage with the proposed setbacks to the west (rear) of the site maintained; and
  - i) nomination that all balconies facing the adjoining residential properties are screened in accordance with Standard B22 of Clause 55 of the Kingston Planning Scheme.
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 (rear) of the subject site;
4. Prior to the occupation of any part of the development hereby permitted, a Traffic Management Plan 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.
5. 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,

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existing business operations on the site during construction, arrangement for car parking for the existing businesses during construction, construction over the public domain.

6. Before the commencement of any building or works on the land a Environmental Management Plan (EMP) 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 EMP must deal with issues relating to energy management, heating, cooling, hot water, glazing, rainwater collection and re-use, WSUD and waste management.
7. 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.
8. 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.
9. 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.
10. 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.).
11. 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.
12. 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.

13. Any alterations required to be carried out at the Barker Street/Charman Road intersection must be carried out at the developer's cost, to the satisfaction of the Responsible Authority.



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14. 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.
15. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.
16. Access to the site must be constructed in accordance with the requirements of the Responsible Authority.
17. The Council footpath/property boundary levels are not to be altered.
18. The loading and unloading of goods to and from vehicles must only be carried out on the land.
19. 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.
20. 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.
21. 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.
22. An acoustic screen fence of a minimum of 2 metres in height must be erected and maintained along the site's west (rear) 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.
23. 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.
24. 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.
25. 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.

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26. 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.
27. 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.
28. Council's Waste Management Department must be consulted regarding the location of rubbish bins and the options for collecting waste from the site.
29. 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.
30. 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.
31. 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
32. 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.
33. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the responsible authority.
34. Once the development has started it must be continued and completed to the satisfaction of the responsible authority.
35. 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.

**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.

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3. The proposes inconsistent with the relevant policies under Clause 19.03 (Design and Built Form) of the Kingston Planning Scheme.
4. The proposes inconsistent with the relevant policies under Clause 21.01 (Cheltenham Business Centre Policy) of the Kingston Planning Scheme.
5. The proposes inconsistent with the requirements of Clause 43.02, Design and Development Overlay – Schedule 16 of the Kingston Planning Scheme.
6. The proposal would have an adverse effect on the amenity of adjoining/nearby properties through its visual bulk, scale, massing and inappropriate building setbacks.
7. 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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**Draft Minute of 27 April 2010**

The Council meeting was addressed by Jason Eggleton on behalf of the objectors and Richard Umbers on behalf of the applicant.

**Motion**

**Crs Brownlees/Athanasopoulos**

“That the recommendation be adopted.”

**Formal Motion**

**Crs West/Shewan**

“That Council defer this item.”

The Amendment (Crs West/Shewan) was **put and lost**.

A division was called.

**Division**

**For**

Cr Athanasopoulos  
Cr Peulich  
Cr Shewan  
Cr West

**Against**

Mayor Cr Staikos  
Cr Bauer  
Cr Brownlees  
Cr Dundas

The Chairperson used his casting vote to vote against the Amendment.

The Chairperson declared that the Amendment was **lost**.

The Motion was **put and lost**.

A division was called.

**Division**

**For**

Cr Athanasopoulos  
Cr Brownlees  
Cr Dundas

**Against**

Mayor Cr Staikos  
Cr Bauer  
Cr Peulich  
Cr Shewan  
Cr West

The Chairperson declared that the Motion was **lost**.

**Adjournment**

**Crs Athanasopoulos/Peulich**

“That the meeting be adjourned for 5 minutes.”

The motion to adjourn the meeting was **put and carried**.

The meeting was adjourned at 9.42pm.

### **Resumption**

#### **Crs West/Shewan**

“That the meeting be resumed.”

The motion to adjourn the meeting was **put and carried**.

The meeting resumed at 9.48pm.

### **Motion**

#### **Crs West/Shewan**

“That Council resolve not to support the application 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 is inconsistent with the relevant policies under Clause 21.01 (Cheltenham Business Centre Policy) of the Kingston Planning Scheme.
5. The proposal is inconsistent with the requirements of Clause 43.02, Design and Development Overlay – Schedule 16 of the Kingston Planning Scheme.
6. The proposal would have an adverse effect on the amenity of adjoining/nearby properties through its visual bulk, scale, massing and inappropriate building setbacks.
7. The traffic generated by the proposal would create traffic problems in the locality and would cause wider traffic problems in the surrounding road network.
8. The proposal is in conflict with the Interim Structure Plan controls for Cheltenham.”

The Motion (Crs West/Shewan) was **put and carried**.

### **Procedural Motion**

#### **Crs Peulich/Dundas**

That agenda item M 62, Community Survey Results - Centre Dandenong Road Proposed Bus Lanes, be brought forward and dealt with as the next item of business.

The procedural motion was **put and carried**.