

**City of Kingston
Ordinary Council Meeting**

Minutes

28 September 2009

Notice is given that an Ordinary Meeting of Kingston City Council was held at 7.00pm at the Cheltenham Office, 1230 Nepean Highway, Cheltenham, on Monday, 28 September 2009.

- 1. Apologies**
 - 2. Confirmation of Minutes of Previous Meetings**
Minutes of Ordinary Council Meeting 24 August 2009.
 - 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**
Cr Bauer will table a petition requesting that Parking Permits to be issued to All Shop Operators in Aspendale
 - 5. Presentation of Awards**
Presentations will be made to former Councillor Topsy Petchey OAM and to representatives of the Moorabbin and Chelsea SES Units.
 - 6. Reports from Village Committees**
A report on issues arising out of the Village Committee meetings in September 2009 is attached. Page 6
 - 7. Reports from Delegates Appointed by Council to Various Organisations**
 - 8. Question Time** Page 8
 - 9. Environmental Sustainability Reports ***

L144	KP871/08 7-13 Johnson Avenue, Carrum	Page 12
L145	KP998/08 1228 Nepean Highway, Cheltenham	Page 27
L146	KP241/09 26 Tennyson Street, Carrum	Page 55
L147	KP122/09 98 Station Street, Aspendale	Page 69
L148	KP121/09 57 Scotch Parade, Bonbeach	Page 88
L149	KP110/06 20 Levanto Street, Mentone	Page 106
L150	Cat Confinement Consultation	Page 113
L151	Agreement with United Energy for Installation of Road Signs on Power Poles	Page 127
L152	Submission to the Climate Change Green Paper	Page 142
L153	Management of Landfills and Recycling Activities	Page 158
- * Please note that due to the migration of files over to the new software application Town Planning Application Decisions for August will be presented to the October 2009 Ordinary Council meeting along with the September decisions.
- 10. Community Sustainability Reports**

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L155	Kingston Heath Regional Soccer Facility – Pavilion and Spectator Facility Contract	Page 203

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- 11. Organisational Development & Governance Reports**
L156 Expenditure of Ward Fund Schedule Page 207
- 12. Corporate Services Reports**
L157 General Revaluation 2010 Page 211
- 13. Notices of Motion**
L158 Notice of Motion
Cr West: Playground – Stanley Avenue, Cheltenham Page 214
- 14. Urgent Business**
L159 Gasworks development Proposal Page 216
L160 Proposed Planning Scheme Amendment
– 29 Glenola Road, Chelsea Page 218
L161 999 Nepean Highway, Moorabbin Page 219
L162 Confidential Property Matter Page 220
L163 Confidential Property Matter Page 221
- 15. Items in Camera**
L162 Confidential Property Matter

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Minutes of the Ordinary Meeting of the Kingston City Council held at the Cheltenham Office at 1230 Nepean Highway, Cheltenham, on Monday, 24 August 2009 at 7.05pm.

Present: Cr Arthur Athanasopoulos (Mayor)
Cr Donna Bauer
Cr Ron Brownlees
Cr Lewis Dundas
Cr Paul Peulich
Cr John Ronke
Cr Trevor Shewan
Cr Steve Staikos
Cr Rosemary West OAM

In Attendance: John Nevins – Chief Executive Officer
Mauro Bolin – General Manager Community Sustainability
Paul Franklin – General Manager Corporate Services
Ian Nice – Manager Planning and Building
Mike Petit – Manager Communications and Promotions
Michael Fry – Team Leader Council Business

1. Apologies

Nil.

2. Confirmation of Minutes of Previous Meetings

Crs Brownlees/Peulich

That the minutes of the Ordinary Council Meeting on 24 August 2009 be confirmed.

Carried

3. Declaration by Councillors or Officers of any conflict of interest in any items on the Notice Paper, pursuant to Section 79 of the Local Government Act 1989

Cr Lewis Dundas declared a direct interest in relation to agenda items L 149, *Planning Application KP110/06: 20 Levanto Street, Mentone*, as it is reasonably likely that his residential amenity will be directly affected if the matter was decided in a particular way.

The Chairperson, Mayor Cr Athanasopoulos, declared a direct interest in relation to agenda items L 144, *Planning Application KP871/08: 7-13 Johnson Street, Carrum*, as he has an interest in property at 10 Johnson Street, Carrum.

4. Petitions

Cr Bauer tabled a petition with 48 signatories, from Kelly McConnechie, requesting that parking permits be issued to all shop operators in Aspendale.

Crs Bauer/Brownlees

That the petition be accepted and referred to the Chief Executive Officer for preparation of a report back to Council.

Carried

5. Presentation of Awards

The Mayor, Cr Athanasopoulos, advised the meeting that there were several presentations to be made this evening, consisting of presentations to the controllers of the Chelsea and Moorabbin Units of the State Emergency Service and a presentation to former Councillor Topsy Petchey OAM.

Robert Bishop and Ron Fitch, on behalf of the Moorabbin and Chelsea Units: State Emergency Services

In presenting the Certificates of Appreciation on behalf of the City of Kingston, the Mayor, Cr Athanasopoulos, made the following comments:

“Community safety is an all-important feature of life in Kingston, and a priority for Council and the community.

Tonight, Council is pleased to recognise the highly valued services provided by its two units of the State Emergency Service, being the Moorabbin unit and Chelsea unit.

The SES units support our community when it is most in need - during emergency situations, when hardship and vulnerability is experienced, associated with threats to property and personal safety. The support and protection of our community extends to supporting other emergency agencies as well, particularly the police and fire services, assisting with evacuation, search and rescue, road accidents and in the provision of general equipment and resources.

More often than not they are called upon to respond after hours, when most of us are enjoying the comfort and security of our homes. Sometimes it can appear that such services are taken for granted, and it takes an event such as the tragedies of the Black Saturday fires for us to sit up and take notice of services provided by organizations such as the SES.

We at Kingston are proud of the role our SES Units play every single day of the week. We are especially proud of the role our Units played in the days and weeks following the Black Saturday fires earlier this year. What makes the service even more commendable is that the unit members are all volunteers supporting their own communities. Collectively, the unit

boasts in the order of 90 volunteers, in a proud history dating back some 50 years. Some of those volunteers are with us this evening.

Of course such a service cannot be provided without a high level of management of the service including, recruitment and training of the volunteers, fundraising and management of plant and equipment and our particular thanks goes to the Controllers of the two Units.

Accordingly, I have great pleasure on behalf of Council and the entire Kingston community in calling upon Ron Fitch, Controller of the Chelsea Unit and Robert Bishop, Controller of the Moorabbin Unit of the State Emergency Service to come forward to receive Certificates of appreciation, in recognition of your respective Units most valued service to our Community.”

Topsy Petchey OAM

In making the presentation to Topsy Petchey OAM on behalf of the City of Kingston, the Mayor, Cr Athanasopoulos, made the following comments:

“It gives me great pleasure this evening to welcome Topsy Petchey OAM back to the Council Chamber, with members of her family in order to allow me to make this presentation to a former Councillor and colleague on her contribution and service to the City of Kingston over several years.

Topsy served three terms on Council, commencing as the Councillor for the former Longbeach Ward on the platform of ‘dogs on the foreshore’ and finishing as the Councillor for the former Carrum Carrum Ward. Topsy not only served her ward constituents with distinction over the course of several years, but also served four terms as Mayor of the City of Kingston.

Topsy was a Councillor who not only listened and responded to the voices and comments of her constituents, but also a Councillor and looked at the wider, strategic, issues and challenges which faced the Council which enabled the Council to position itself in the forefront of Victorian local government.

The Mayor concluded by wishing Topsy and her family all the best for the future.

Topsy responded by thanking the Mayor for his kind words and all her former colleagues on the Council. Topsy also expressed her thanks and appreciation to the members of her family who supported her throughout her time on the Council.

6. Reports from Village Committees

PRESENTATION OF VILLAGE COMMITTEE REPORTS

6(a) Cheltenham Village Committee

Chairperson - Joe Astbury

Report of Meeting held on 1 September 2009

Highlight The Road Management Plan.

6(b) Mordialloc Village Committee

Chairperson - Allan Locke

Report of Meeting held on 1 September 2009

Highlight: Nil.

6(c) Mentone/Parkdale Village Committee

Chairperson - Reg Marlow

Report of Meeting held on 1 September 2009

Highlight: No Stopping Zones on Beach Road.

6(d) Patterson Lakes/Carrum Village Committee

Chairperson - Glen Baker

Report of Meeting held on 2 September 2009

Assisting retailers/ commercial property owners to improve Carrum Shopping Centre

Village Committee Recommendation

The Committee suggests that Council consider the formation of a Carrum Traders Group facilitated by Council's Retail Liaison Officer.

Officer Comment

Council's Retail Liaison Officer is very happy to support Chambers of Commerce but does not initiate the establishment of a Chamber. This generally comes from a few local businesses wanting to work together for the betterment of the retail strip. A Chamber is unlikely to be successful if it is not driven by interested local businesses.

Crs Shewan/Ronke

That the Council note the officer's comment.

Carried

Highlight: Assisting retailers/ commercial property owners to improve Carrum Shopping Centre

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- 6(e) Dingley/Heatherton Village Committee**
Chairperson – Allan Harris
Report of Meeting held 2 September 2009

Highlight: Nil.

- 6(f) Moorabbin/Highett Village Committee**
Chairperson – Robyn Cochrane
Report of Meeting held 3 September 2009

Planning Applications

Village Committee Recommendation

The Committee suggested that planning application advertising signs are made larger (2m x 2m or the size of real estate boards) for high profile sites in high traffic areas that do not necessarily have foot traffic.

Officer Comment

A report on planning permit advertising signage will be prepared.

Crs Staikos/Peulich

That Council notes that a report will be prepared on planning permit advertising signage.

Carried

Highlight: Advertising of Town Planning applications.

- 6(g) Aspendale/Edithvale/Aspendale Gardens/Waterways Village Committee**
Chairperson - Kevin Griffiths
Report of Meeting held on 3 September 2009

The meeting lapsed for want of a quorum.

- 6(h) Chelsea/Chelsea Heights/Bonbeach Village Committee**
Acting Chairperson – Leanne Stray
Report of Meeting held on 9 September 2009

Highlight: The Village Committee thank Jonathan Guttman for his presentation and support the possibility of incorporating neighbourhood character into the new planning zones.

7. Delegates' Reports

Cr West OAM provided a delegate's report on her attendance at the Australian Mayoral Aviation Council national conference at Coolumb in Queensland earlier this month.

Cr Ronke provided a delegate's report on the Association of Bayside Municipalities' unanimous adoption of the Climate Change Charter by all ten member Councils - signed by all mayors. The Charter was launched at the Association's Annual Dinner on Thursday 2 July 2009.

Cr Shewan provided a delegate's report on his attendance at the Metropolitan Transport Forum.

Cr West OAM provided a delegate's report on her attendance at the MAV Planning Committee, as the Mayor's representative.

8. Question Time

Josie Mariotti asked: What is the impact of the increased concentration of social public housing on amenities, safety, congestion and car parking especially given the recent report of local workers trying to enter into private agreements about car parking with local residents.

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

"Council Officers have now had the opportunity of reviewing your question and believe many of the concerns relating to amenity, congestion and car parking were explored in some detail as part of the Council Officers Report which assessed this proposal. I have enclosed for your reference a copy of this report which was considered by Council at the Ordinary Council Meeting on 29 June, 2009.

With respect to local workers entering into private agreements with residents in relation to car parking this is not a matter that had been previously brought to the attention of Council nor is it something which Council is able to regulate where an individual's private property is concerned.

You may also be interested to know that for many years now the State and Local Planning Policies have encouraged increased housing density of all types in and around designated Activity Centres."

Laurie Mariotti asked: Kingston Council in a recent article by Mike Morris in the Mordialloc Chelsea Independent, he wrote that Councillors Athanasopoulos and Staikos were not aware of the public rally. This is in fact incorrect. All parties received several invitations. A copy of the rally flyer was faxed through to their respective offices. All Councillors received a copy of the flyer in their council packs and were given a direct verbal invitation in an open council meeting by their ward colleague. Given all this, how can Councillors Athanasopoulos and Staikos argue that they did not know about the rally. Don't

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you think as local representatives that your attendance at this rally should have been mandatory to address the concerns of their local constituents.

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“Attendance at any event is a matter for the individual councillors. Cr Athanasopoulos and Cr Staikos were aware of the rally but were not invited to attend. Cr Athanasopoulos separately, however advises he was informed and invited to attend a public meeting on 973 Nepean Highway and he did attend this meeting.”

Endre Szato asked: Re: Agenda of ordinary council meeting 29 June 2009. Why is it the ground of objection is irrelevant according to section 149 to an objector but on page 62 of the agenda bottom of the page the traffic report (TTM Consulting) can and allowed to discriminate (see captions in italic) page 62-63. Can an organisation discriminate and create a sub class of population whom can't have a choice in purchasing a car??? This is undemocratic.

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“This planning matter has been previously considered and determined by Council under the Planning and Environment Act. The Council decision was that a permit be issued for 999 Nepean Highway and the organisation has acted on this legal direction.”

Jenny Plymin asked: The Kingston Council states “Advocacy on behalf of residents on issues of community importance outside council’s direct control will continue to be one of the council’s high priority areas”. Kingston Council is now aware of the grave concerns of the local residents with regard to the 7 storey public housing social development. Has Kingston Council made any moves to discuss these concerns with the State Minister for Housing, the Federal Government and local members of the Government and put pressure on them to withdraw their support for the planned development? If not, when is Kingston Council intending to discuss the grave concerns (with those just mentioned) and if discussion are not to be held, why not?

The Chief Executive Officer advised that the matter would be referred to the Mayor for a response. A summary of the written response is:

“This planning matter has been previously considered and determined by Council under the Planning and Environment Act. The Council decision was that a permit be issued for 999 Nepean Highway and the organisation has acted on this legal direction.”

Mark Plymin asked: In a recent article by Mike Morris in the Mordialloc Chelsea Independent, Councillor Athanasopoulos described the rally protesting on the development at 999 Nepean Highway, as Liberal Party “rent a crowd” and suggested that most of those who attended were not locals. Rally flyers were distributed by foot to all Moorabbin residents and these were the ones in attendance. As he wasn’t in attendance nor sent a representative, how can Councillor Athanasopoulos accuse his community of being a Liberal Party “rent a crowd”

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and thereby consequently dismissing the story and genuine concerns of the Moorabbin community which is also his constituency?

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“This is not a question that officers can answer on behalf of Council. It concerns comments attributable to an individual Councillor.”

Gina Discala asked: Recent Victoria Police crime statistics for 2008/2009 show that the total number of crimes per 100,000 population for Kingston increased from 5,695 in 2007/2008 to 6,923 in 2008/2009. This represents an increase of 21.6%. Over the same period of time Bayside’s total crime decreased by 9.5% and Glen Eira also decreased by 2.9%. What increase in the crime percentage does Council believe Kingston will incur considering that many research articles show that “Crime is strongly associated with concentration of public housing”. Were the crime rates ever considered when making the decision to approve the social public housing development at 999 Nepean Highway?

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“At the Council meeting on 29 June the planning application for 999 Nepean Highway was considered and determined under the Planning and Environment Act 1987 which included a number of actions in relation to publicly advertising this planning application. Council officers have then acted in accordance with this legal direction.

Officers are only aware of crime statistics that relate to concentration of public housing, in estates where there is a very high concentration of public housing.

There is nothing to show the type of development at 999 Nepean Highway would create crime issues. The mixture of tenants proposed includes both social and affordable housing including accommodation for key workers and people with a disability.”

Connie Volpe asked: The Kingston Council’s Vision is “A diverse, dynamic community where we all share a sustainable, safe, attractive environment and a thriving economy”. Is this the vision which was used as the basis for Kingston Council giving its agreement to 999 Nepean Highway plan for 150+ social/public housing residents, and if so, how are the social housed residents going to feel part of this community if you isolate and contain them in a 7 storey 75 apartment development, rather than integrating residents within the wider community as has been the housing policy objective of successive governments over the last 2 decades?

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“At the Council meeting on 29 June the planning application for 999 Nepean Highway was considered and determined under the Planning and Environment Act. Council officers have then acted in accordance with this legal direction.”

Tony Leech asked: Investigations have revealed that there are now two additional sites being touted for public housing developments – around the Moorabbin Bowling Club (Cnr South Road & Linton Street) or Moorabbin Bowl Nepean Highway and another at the Justice Centre, Nepean Highway, Highett. Is this true?

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“Council is not aware of any public housing developments at the sites mentioned. Council is aware that VicUrban may be seeking to take an interest in the development of the former Gas and Fuel Site and part of this may be to consider including some community housing as part of the broader development. At this stage VicUrban have not presented a formal planning application to Council for consideration. When Council does receive a planning application for this site, Council will advertise it and invite comments from the community.”

Graham Aminde asked: The Stanley Avenue Park is to be in the near future to have a childrens playground installed. Residents in the area had requested that speed limit be made to 40KPH, also we a review of times of parking be reviewed and make street 2 hour limit. At the moment 60% of street 2 hour limit and 40% of street is 3 hour limit.

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“The proposal to reduce speed limits will be assessed by Council's Traffic and Engineering Department and you will be advised of the outcome.”

Susan Brownlow asked: Re: Planning Permit KP 122/09

Why weren't we notified in advance of this meeting and that a decision would be granted for the above application?

Other objectors have received NO notification. We received it on Friday, it was dated 18 September but received letter 3 days before the meeting.

Leaves us with no time to prepare for this with other objectors.

The Chief Executive Officer advised that the question would be taken on notice and a written response sent to the questioner. A summary of the written response is:

“Council's Planning Manager spoke with the writer at the commencement of the Council Meeting and showed them the actual documentation relating to the preparation and sending of the letters to objectors on the said date, but could not explain why the letters took up to 7 days to be delivered, or were not received at all. It appears there may have been a mail delivery problem in this instance. Please accept Council's apologies for the inconvenience this has caused you.”

9. Environmental Sustainability Reports

L144 KP871/08 7-13 Johnson Avenue, Carrum

APPLICANT	Lowe Constructions
ADDRESS OF LAND	No. 7-13 Johnson Avenue Carrum
PROPOSAL	The construction of buildings and works (comprising a new 2 and 3 storey high building) and to use for a function room and restaurant with reduced car parking requirements.
MELWAYS REFERENCE	97C788C3
PLANNING OFFICER	Peter Connell
REFERENCE NO.	KP871/08
DECISION DATE BY	21 May, 2008
STATUTORY DAYS	130 days @ 28 September, 2009
ZONING:	Mixed Use Zone
OVERLAYS:	Design and Development Overlay – Schedule 1 (Urban Coastal Height Control Area) and Design and Development Overlay Schedule 7 (Urban Coastal Foreshore Setback Control Area)
UNDER WHAT CLAUSE(S) IS A PERMIT REQUIRED?	Clause 32.04: Mixed Use Zone Clause 43.02: Design and Development Overlay Schedule 1 Clause 52.06: Car Parking
RESTRICTIVE COVENANTS ON THE TITLE?	No
OBJECTIONS:	Four (4)
CONSIDERED PLAN REFERENCES/DATE RECEIVED	Low Construction Plans P01-P06 dated 28/07/09

Main Issue

The main issue to consider is, whether it is appropriate to redevelop this site having regard to the benefits the redevelopment offers, when weighed up against the limited access which the site will still have.

Existing Conditions:

The subject site is situated at the western end of Johnson Avenue, Carrum, with the frontage of the block facing the foreshore reserve. The block is rectangular in shape, having a 9.53m frontage a depth along its northern boundary of 59.81m and a depth along its southern boundary of 58.6m. The rear boundary has a width of 9.45m, with the site having an overall area of 559 sqm.

The front portion of the allotment, which faces the foreshore, accommodates a large two and three level building currently used by the Carrum Sailing Club as its clubrooms and function

room. The setback of this building from the site frontage varies between 7.8 and 9 metres. The building as it presents itself to the frontage of the site has a height of approximately 9 metres and comprises three storeys. The rear portion of the site, which, is adjacent to Johnson Avenue, accommodates a building and structures used for boat storage

The surrounding land uses in close proximity to the site are generally residential in nature. The site abuts double storey townhouses to the north and east, whilst the Carrum Surf Life Saving Club is located approximately 50 m to the south. Land use along Nepean Highway comprise a mixture of commercial and residential. The Carrum Railway Station and a small shopping strip are located across Nepean Highway, to the east.

Proposal:

It is proposed to demolish the existing building and to replace it with a new building, which will be set back between 7.5 and 8.72 m from the Foreshore Reserve, but will otherwise occupy the balance of the site. The building will occupy three levels.

The ground floor will accommodate the main entry, club members race room, kiosk, change rooms and toilets, first aid room, secondary access of Johnson Avenue, and dinghy storage in the area currently used for boat storage. The dinghy storage area off Johnson Avenue will be closed, using roller shutter doors.

The first level of the building will accommodate a 76 seat restaurant located in the south-west part of the building (Foreshore Reserve end) and a club/function room at the north-east end of the building to accommodate up to 84 four members (seated). Each area will have a toilet and kitchen, and will be separated by a lobby with stairwell and lift well. The club/function room will have a 2.4 m wide balcony along its Johnson Avenue elevation. The restaurant will have a deck facing the Foreshore Reserve and setback 4.5 m from its foreshore reserve property boundary.

The second (top-level) will sit over the south-west portion of the building and will conclude at the south-western extent of Johnson Avenue. It will accommodate the race control room, member's race viewing area, toilet facilities, and be used as a member's multi-function room. An external deck is provided with an outlook to the foreshore reserve and out across the bay. The deck is set back a minimum of 4.5 m from the foreshore reserve property boundary. The proposed building, as it faces the foreshore, represents a three level building and will have a maximum height of 9.045 m. The extent of a three-storey wall along the site's north-west property boundary is 25.06 m, with the lower section occupying the balance, with a length of 26 m. This elevation will be finished in alternate panels of brickwork and coloured render to break up the massing of the wall. The two-level portion of the building to the north-east is 1.8 m lower, at 7.24 m.

In respect to the proposed use, it is noted that the sailing club has long-standing established existing use rights as a club and for conducting functions, including club social activities, private functions, parties etc. It is intended that these activities will continue in the new club premises. The proposed building has a designated member's club function room at the first level, with a table and seating layout for up to 84 persons. The top-level will accommodate a race control room and a member's race viewing area. The balance of the upper level will be

used as a member's multi-function room where members can gather on race days, view races, and socialise in an informal way.

It is also proposed to incorporate a restaurant into the new building, to be operated independently of the club's activities. The restaurant will occupy part of the first floor level and will have an outlook over the Foreshore Reserve, to the bay. The restaurant will accommodate up to 76 patrons.

The ground floor of the building would have a floor area of 195 square metres, with the operating hours remaining unchanged.

The restaurant component of the first floor of the building will have an area of 198 square metres, a maximum of 76 patrons and will operate on Wednesday and Friday, 4.00 p.m.-10.00 p.m. and Saturday/Sunday, 12 midday -10.00 p.m.

The function room component of the first floor of the building will have an area of 171 square metres, a maximum of 84 patrons and will have a maximum of one function per month on a Friday/Saturday night, operating between 7.00 p.m.-1.00 a.m.

As noted above the second floor the sailing club multi-function room will have an area of 198 square metres and the operating hours will remain unchanged.

No on site car parking is proposed as part of the application

Planning Scheme Requirements:

Pursuant to Clause 32.04 of the Kingston Planning Scheme a planning permit is required for the proposed use of the land for a restaurant. Pursuant to Clause 32.04-7 of the Scheme, a planning permit is also required for the construction of buildings and works in association with a Section 2 use.

Pursuant to the requirements of Design and Development Overlay-Schedule 1 (DDO1) found at Clause 43.02 of the Kingston Planning Scheme, a planning permit is required for the proposed building and works.

Pursuant to Clause 52.06 of the Scheme, a planning permit is required for a reduction in car parking associated with the restaurant component of the proposed redevelopment.

Advertising:

The proposal was advertised by sending notices to adjoining and opposite property owners and/or occupiers and by maintaining a notice on site for fourteen (14) days. Four (4) objections were received in response to the public notice. The grounds of objection can be summarised as follows:

- The proposed development would interfere with the amenity of the surrounding residential properties.

- The proposed function centre and restaurant will lead to an increase in noise and car parking problems in the general area.
- Antisocial behaviour associated with an increase of people in the area resulting from the proposed development.

Response to Grounds of Objection

It is considered that the proposed development is unlikely to interfere with the amenity of the area given the level of activity, which already exists within the foreshore area. The proposed development, to a large extent, will provide another facility for people already attracted to the area.

Use of the new function room is unlikely to change existing conditions given that it already operates. The proposed restaurant will only operate until 10.00 p.m. at night and is, therefore, unlikely to attract people that will participate in anti-social behaviour.

Preliminary Conference

A preliminary conference was conducted at the Council's Cheltenham Office on the 23rd April, 2009. The meeting was attended by the applicant, the objectors, the Ward Councillor for the area and a planning officer. At the meeting discussion revolved around the issues as detailed above. One of the objectors who attended the meeting was concerned primarily with loss of views, increased noise and the impact of the proposal on the ambience of the area. The other objector was okay with the principle of the development, but not in its proposed form. He was also concerned with the number of seats proposed in the redevelopment and the impact that it would have for parking in the area. There was also discussion about the possible relocation of the club function room.

Response to concerns raised at the Preliminary Conference

In response to concerns about the operation of the functions area the Carrum Sailing Club was willing to accept some parameters with respect to its operation in the form of conditions on any planning permit issued. The sailing club has agreed restrict the number of public hire events to no more than 12 per year, with a maximum of 70 people allowed on the site at each function. It was also agreed that the number of club functions would be restricted to no more than 6 per year, with a maximum of 50 people allowed on the site at each function.

Amended plans have also been submitted by the applicant, which reduce the number of seats in the function room from 84 to 70 seats. Other amendments include the removal of the balcony to the function room on the south side of the building. This had been replaced with a wall and window treatment. This should ensure that noise from functions should not escape into Johnson Avenue. Conditions on permit issued should also require that the windows along this elevation be acoustically treated to satisfy EPA guidelines. As stated above, one of the objectors has concerns about loss of views from her dwelling, which is located on the north side of the proposed development. In response to this concern the applicant provided amended plans, which show clear glass to the balconies along the north elevation of the proposed building.

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In response to the proposition of the club function room being relocated within the development, representatives from Sailing Club indicated that they were not, willing to consider this as a possible solution to some of the objectors concerns.

Following the preliminary conference a further letter of objection was received from an existing objector, counter by another objector of an adjoining unit abutting the subject site.

The letter is quite detailed and a copy of it is enclosed in the attachments.

Under the heading of Design Documentation, the objector highlights a number of inconsistencies in the plans submitted with the application. These inconsistencies have been reviewed and where appropriate the applicant will be required to provide a set of amended plans, should a planning permit be issued.

Under the heading of Associated Town Planning Report, the objector has highlighted a number of inconsistencies within the report, which is found to be confusing. It is not considered that the items raised should have any impact on the assessment of the application in this instance.

Under the heading Traffic Impact Assessment, the objector has highlighted a number of matters that have not been taken into consideration with respect to the provision of car parking within the area. It is noted that the application was referred to Council's Traffic Engineer and from those comments it is not the quantity of car parking, which is at issue. Council's Traffic Engineer is satisfied that there is adequate parking in the area for the development and proposed use, but there is concern with the inability of the site to accommodate staff parking and loading facilities on the site.

Under the heading of The Proposed Development the concerns are summarised by suggesting that the proposed development is contrary to: Carrum Activity Precinct Strategy, Carrum Urban Design Framework, Kingston Foreshore Strategy and that the proposal will detrimentally and adversely affect the amenity of the neighbourhood. In response, it is submitted that the proposal is consistent with planning policy and that it should not have a detrimental impact on the amenity of the surrounding area given the additional controls and conditions that would be imposed on any permit issued

Under the heading of The Proposed Restaurant, the objector has highlighted that the proposed restaurant is attached to the residential property along its north boundary. Any issues with respect to noise can be controlled by conditions of permit. There is also a suggestion that the proposed building should be set back from the southern property boundary of the site because it abuts the Foreshore Reserve. Upon review of the plans that were advertised, it is noted that the proposed development, does encroach within the 4.5 metre set back requirement along the southern property boundary of the site. This occurs where it is proposed to extend the existing building forward in a westerly direction for a distance of 3 metres, along the southern property boundary of the site. This requires a further another set of amended plans which were advertised, which occurred.

Under the heading of The Proposed Members Function Room, the objector expresses concerns about its location in respect to the surrounding residential development. It is

considered that the applicant has addressed these concerns by removing the balcony which was proposed along the south wall of the function room.

Amended plans

In response to the above concern raised by the objector, an amended set of plans was received by Council which deleted all parts of the proposed building addition that were within 4.5 metres of the site south property boundary. Accordingly, the proposed development now complies with the setback requirements of Design and Development Overlay Schedule 7 (Urban Coastal Foreshore Setback Control Area).

Advertising

The amended plan was advertised by sending a copy of the plans and an accompanying letter to the objectors only. The amended plans represented a smaller building area with no change to the proposed uses on the site. It was, therefore, considered appropriate to re-advertise by letter to the objectors only. In response there was one further objection from the previous objector.

Referrals

The application was referred internally with the following responses provided. The response is detailed and a copy of the response is included in the attachments.

Council's Traffic Engineer

Council's Traffic Engineer is of the view that the application should not be supported in its current format because of the absence of the following:

- A dedicated loading facility, There is an inadequate consideration of loading zone provisions.
- On site staff parking.
- DDA compliant 'disabled' persons parking.

If a planning permit is to be issued then the following matters should be addressed as conditions of any permit issued:

- The applicant shall be required to contribute toward the provision of adequate lighting at this low standard 'dual' corner location.
- The proposed development provided with a 3m x 3m splay at the south-west corner fence to facilitate adequate traffic circulation at the bend and allow for improved driver visibility.

Council's Foreshore Co-ordinator

No concerns were expressed about the proposal. The application received makes reference to the Kingston Foreshore Strategy 1998, however, no reference was made to the Kingston Coastal Management Plan which was endorsed by Council in

September, 2008. This area of foreshore is located within a foreshore activity precinct, hence, Council supports appropriate higher intensity activities occurring within this precinct due to its proximity to the Life Saving Club.

Council's Development Engineer

No objections were offered to the proposal, subject to standard conditions being included on any permit issue.

Council's Strategic Planner

The subject site is located within the 'Mixed Use Activity Area' within the Foreshore Precinct of the Carrum Activity Centre Policy. Preferred uses for this area include: recreational and leisure related uses as well as support services and activities such as restaurants and cafes.

The proposed use for a sailing club, restaurant and function room facilities is considered to accord with the strategic policy objectives for this area; and should serve to provide improved amenity for the sailing club members as well as the general public through improved appearance of the site and the provision of new facilities (restaurant and public function room).

It is also noted that the application proposes to replace the existing Carrum Sailing Club facilities within a new building which would replace the existing 3 storey structure. The proposed 3 storey building height is permissible under the Urban Coastal Height Control Guidelines (DDO1) providing that the Responsible Authority is satisfied that the increased height improves the amenity of the area.

Health Department

No objection was offered to the proposal, however, concern was expressed with respect to the lack of information concerning control of noise from the premises, the operation to kitchen area and an area for rubbish storage and cleaning.

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 17 Economic Development

The objective of activity centres is to encourage 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.

With respect to the implementation of this objective, Activity Centres should be planned to incorporate and integrate a variety of land uses including retail, office, education, human services, recreation, entertainment and residential uses where appropriate

It is submitted that the proposed location and redevelopment of the Carrum Sailing Club is consistent with the above objectives in relation to Activity Centres.

Local Planning Policy Framework (including the MSS)

Clause 21.06: Retail and Commercial Land Use

One of the objectives under this Clause is to protect and strengthen the hierarchy of activity centres within Kingston. One of the strategies to achieve this objective is to promote mixed-use precincts around key activity centres which encourage a broader range of cultural, social, commercial and higher density housing opportunities to complement retail functions of activity centres and enhance their economic vitality. The subject site is located within a mixed-use zone where higher densities of residential development have recently been constructed around the site. The site is therefore considered, an ideal location for a restaurant that should add vitality to the area, all which should provide further activity focus to the foreshore area.

Clause 22.12 Carrum Activity Centre

As noted above the subject site is located within the 'Mixed Use Activity Area' within the Foreshore Precinct of the Carrum Activity Centre Policy. Preferred uses for this area include: recreational and leisure related uses as well as support services and activities such as restaurants and cafes.

It is therefore submitted that the proposed development is consistent with the Carrum Activity Centre Policy

Zoning Provisions

Clause 32.04 Mixed Use Zone

The purposes of this zone include:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Local Planning Policies.
- To provide for a range of residential, commercial, industrial and other users which complement the mixed-use function of the locality.

It is considered that the proposed use and development is consistent with the purposes of zone in that it supports policy with the development complementing the mixed use function of the locality

Particular Provisions

Design and Development Overlay – Schedule 1 (Urban Coastal Height Control Area)

Under this Clause, a permit may be granted to replace a building or works existing on the approval date, but which does not meet the height requirements of this Clause. The replacement building may be higher than the requirements of this Clause only if the responsible authority is satisfied an increased height improves the amenity of the area.

Given that there will only be a marginal increase in the height of the new building with a much improved presentation, it is considered reasonable to approve the increased height in this instance. The requirements of this schedule are, therefore, considered to be satisfied.

Design and Development Overlay Schedule 7 (Urban Coastal Foreshore Setback Control Area)

This provision of the Scheme does not affect the subject site as it is not proposed to construct any part of the building within 4.5 metres of the Foreshore Reserve. As noted above, amended plans have been submitted to Council, which now fully satisfies this requirement.

Clause 52.06 – Car Parking: One of the purposes of this Clause is to ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality.

The applicant has provided a traffic report in support of the above proposal. In section 4.2 of the report, there is an empirical assessment of parking demand for proposal, which is detailed as follows

Sailing Club Use

A significant increase in membership for the sailing club is not anticipated. It can therefore be considered that it would generate an additional parking demand of only 1-3 car spaces over and above what is currently generated by the improvements to existing facilities.

Restaurant Use

Based on surveys of restaurants undertaken by the consultant and other traffic engineering consultants, it can be anticipated that a restaurant in this location would generate peak evening parking demands at a rate of 0.30-0.35 car spaces per patron. Applying these rates to the proposed restaurant catering for up to 76 patrons translates to a peak parking demand of up to 23-27 car spaces.

Function Room Use.

Adopting the Planning Scheme rate of 0.30 car spaces per seat (patron) for the proposed second floor function room catering for up to 84 patrons translates to a peak parking demand of up to 25 car spaces.

Based on the above empirical assessment, the proposed redevelopment is anticipated to typically generate up to an additional 24-30 car spaces on Wednesday to Friday evenings and on Saturdays and Sundays at lunchtime and in the evening, associated only with the proposed restaurant use and a slight increase in sailing club members attending the club rooms.

Function room events will take place once a month, at which time is up to an additional 25 car spaces would be generated on a Friday or Saturday nights.

With respect to the function room events, it is noted that these already occur and that the demand for car parking already exists. Accordingly, the function room activities should not create any additional demand for car parking in the area.

The report also notes that there are 265 car spaces within 300 m of the site. Given the additional demand, which is anticipated to be an additional 24-30 car spaces, it is considered that it is unlikely that there will be a shortage of car parking in the area associated with the proposed uses.

Clause 63 Existing Use Rights

With respect to the existing use rights provisions within the planning scheme, Council is satisfied that the site enjoys existing use rights in regard to the sailing club and the function room.

As noted above a planning permit is required for the proposed buildings and works and for the proposed restaurant with reduced car parking requirements.

Clause 65.01 – Decision Guidelines: In considering the proposal, Council officers have had regard to the key decision guidelines under this Clause, particularly in relation to the affect on the amenity of the area and the relevant provisions of the Kingston Planning Scheme.

General Comment:

It is the view of Council officers that the proposal represents an appropriate land use and development opportunity for this site, given the current zoning of the subject site. The relevant policies under the State and Local Planning Policy Frameworks encourage the development and use of this facility as it attempts to address the needs of the local community.

In summary, the main attributes of the proposed development are summarised as follows:

- § The proposal represents a significant opportunity to utilise land that is highly accessible to the local community.
- § The redevelopment of the site represents an opportunity to replace a tired existing building that is passed its use by date and which is in a poor state with a new building that is consistent with the scale and form of the existing building currently on the site.
- § The location and size of the site provide some concerns in regard to gaining access to the site, however, on balance it is considered that the redevelopment of the site should generate positive benefits for the area given the restrictions that are present.

It is considered that the objector's concerns have been addressed, and that subject to the inclusion of suitable permit conditions, the proposal is considered reasonable for the site and warrants Council support.

Recommendation:

That Council resolve to issue a Notice of Decision to Grant a Permit to construct buildings and works on this site comprising a new two and three storey high and to use for a functions

room and restaurant with reduced car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme, subject to 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 to Council on 28 July, 2009, but modified to show:
 - a) the provision of acoustic treatment to the south facing windows of the club function room to satisfy relevant EPA noise guidelines.;
 - b) the provision of additional pavement areas where required;
 - c) full details of all external building materials and colours for the proposed buildings;
 - d) the provision of a 3m x 3m splay at the corner fence to facilitate adequate circulation and visibility for vehicle movement;
 - e) the provision of elevations showing the location of all external plant and equipment with appropriate screening and acoustic treatment provided on the site, and;
 - f) the provision of a wash down and bin storage area.
- 2 The development and/or use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3 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.
- 4 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.).
- 5 Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
- 6 The development must not be occupied and the permitted use/s must not commence until all buildings and works and the conditions of this permit have been complied with, unless with the further consent of the Responsible Authority.
- 7 The development and/or use hereby permitted by this Permit must not be commenced until the Owner of the land has entered into an Agreement with the Responsible

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Authority under Section 173 of the Planning and Environment Act 1987 to provide for the following matters:-

- The applicant shall be required to contribute toward the provision of adequate lighting at this low standard 'dual' corner location.

- 8 Before the development hereby permitted is occupied a Management Plan must be prepared to the satisfaction of the Responsible Authority which details how the future Functions room will be managed, when it is hired out to the public.
- 9 Without the further written consent of the Responsible Authority use of the Function Room for public functions must be restricted to no more than twelve (12) per year with a maximum of seventy (70) persons on the premises and must not operate outside the following hours:

7.00pm Friday – 1.00am Saturday; and
7.00pm Saturday – 1.00am Sunday.

- 10 Without the further written consent of the Responsible Authority, the use of the Function Room for club functions must be restricted to no more than six (6) per year with a maximum of fifty (50) persons on the premises and must not operate outside the following hours:

7.00pm Friday – 1.00am Saturday; and
7.00pm Saturday – 1.00am Sunday.

- 11 Without the further written consent of the Responsible Authority the restaurant use must operate only between the following hours

4.00pm -10.00pm Wednesday and Friday; and
12.00pm – 10.00 pm Saturday and Sunday.

- 12 No more than seventy-six (76) patrons must be permitted on the premises at any one time.

- 13 The delivery of goods to the premises must only be made during the hours of:

7.00am -10.00pm Monday to Friday; and
8.00am – 5.00pm Saturday.

without the further written consent of the Responsible Authority.

- 14 No rubbish is to be collected from the site or deliveries be made to the site before 7.00am Monday to Saturday and 10.00am on Sunday.

- 15 The emptying of bottles must not occur before 7.00am or after 10.00pm on any day.

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- 16 Without the prior written consent of the Responsible Authority, no form of public address system or sound amplification system shall be used on the premises so as to be audible outside the premises.
- 17 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 and containment of waste on site.
- 18 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.
- 19 All piping and ducting above the ground floor storey of the development must be concealed to the satisfaction of the Responsible Authority.
- 20 The amenity of the area must not be detrimentally affected by the development and/or use, through the:
- a) transport of materials, goods or commodities to or from the land;
 - b) appearance of any building, works or materials;
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d) Presence of vermin; and
 - e) In any other way.
21. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
22. Exterior lights must be installed in such positions to effectively light all pathways, car parks and other public areas to the satisfaction of the Responsible Authority.
23. 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 Council satisfaction.
24. 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.
25. Any plant and/or equipment proposed on the roof of the building must be screened and acoustically treated in a manner to complement the appearance of the building to the satisfaction of the Responsible Authority.
26. Construction on the site must be restricted to the following times:
- i. Monday to Friday: 7:00am to 7:00pm
 - ii. Saturday: 9:00am to 6:00pm

Or otherwise as approved by the Responsible Authority in writing.

27. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
28. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
 - The development and use are not started before two (2) years from the date of this permit
 - The development is not completed before one (1) year from the commencement of works

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

Note (1): Prior to the commencement of the development or use you are required to obtain the necessary building permit.

Note (2): Prior to the commencement of the development you are required the necessary Health Department approvals

In the event that Council is of a view to refuse the application for planning permit it can do so on the following grounds.

1. The proposal constitutes an overdevelopment of the site.
2. The proposal would have a detrimental affect on the amenity of the neighbourhood.
3. Inadequate provision has been made for off street parking to cope with the demands of the proposal

The Chairperson, Mayor Cr Athanasopoulos, declared a direct interest in this item as he has an interest in relation to property at 10 Johnson Street, Carrum. The Mayor left the Chamber at 7.52pm prior to the item being considered and remained outside until after the vote had been taken.

Temporary Chairperson

Cr Brownlees nominated Cr Ronke who refused the nomination stating that he wished to move a motion with respect to this item.

Cr West nominated Cr Staikos who accepted the nomination. There being no further nominations, Cr Staikos was elected as the temporary Chairperson for the duration of the discussion in relation to this item.

The meeting was addressed by Con Spanos on behalf of the objectors and Ian Blencowe on behalf of the applicant.

Motion:

Crs Ronke/Shewan

That Council resolve to issue a Notice of Decision to Grant a Permit to construct buildings and works on this site comprising a new two and three storey high building and to use for a functions room and restaurant with reduced car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme, subject to:

- The 28 conditions contained in the officer's report;
- The addition of condition 29 to read as follows:
 - “29. On-site car parking provisions shall be provided to facilitate the Restaurant and Function Centre's specific parking needs for the operation of the business, namely for:
 - Staff (chef, waiters, manager, receptionist, etc.)
 - loading zone for deliveries (foodstuffs, catering etc.)
 - DDA compliant 'disabled persons' parking for customers, patrons, clientele, special visitors and staff.”
- Condition 1 d) being amended to read as follows:
 - “1 d) The provision of a 3m x 3m splay at the corner fence to facilitate adequate circulation and visibility for vehicle movement, this splay to be assigned to Council and registered on the title by the owner at no cost to Council, by the time of completion of this building in accord with Council's traffic engineering recommendation of 27 May 2009.”

Formal Motion

Crs Dundas/Peulich

That the item be deferred to a time and date to be determined.

The formal motion was **put and lost**.

The motion (Crs Ronke/Shewan) was **put and carried**.

At 8.34pm, following the vote being taken in relation to this item, the Chairperson, Mayor Cr Athanasopoulos, returned to the meeting and resumed the Chair.

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L145 KP998/08 1228 Nepean Highway, Cheltenham

APPLICANT:	Bosco Jonson
ADDRESS OF LAND:	No.1228 (Lot 1 and Lot 2 on PS007726, Lot 1 on TP082082V, Lot 1 on PS429049C and Land in PC109855) Nepean Highway, Cheltenham
MELWAY REF:	86 J1-J2
PROPOSAL	The development and use of the site for the purpose of a seven (7) storey building with basement car park comprising a mixed use development including; showroom, offices, food and drinks premises, and a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme.
CONTACT OFFICER:	Sebastian Lorenzo
FILE NO:	KP998/08
ZONING:	Business 1 Zone
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<p><u>State Planning Policy Framework</u> Clause 12 – (Metropolitan Development) Clause 14 – (Settlement) Clause 15 – (Environment) Clause 17 – (Economic Development) Clause 18 – (Infrastructure) Clause 19 – (Particular Uses & Development)</p> <p><u>Local Planning Policy Framework</u> Clause 21.04 – (Vision) Clause 21.06 – (Retail and Commercial Land Use) Clause 22.01 – (Cheltenham Business Centre Policy)</p> <p><u>Zoning</u> Clause 34.01 – (Business 1 Zone)</p> <p><u>Overlays</u> Clause 44.05 – (Special Building Overlay) Clause 45.03 – (Environmental Audit Overlay)</p> <p><u>Particular Provisions</u> Clause 52.06 – (Car Parking) Clause 52.07 – Loading & Unloading of Vehicles) Clause 52.34 – (Bicycle Facilities)</p> <p><u>General Provisions</u> Clause 65: Decision Guidelines</p>
DECISION BY:	
NETT DAYS:	
CONSIDERED PLAN REFERENCES/DATE RECEIVED	12 th May, 2009 and 22 nd July, 2009

KEY ISSUES:

The key planning issues arising from this proposal relate to:

- Car Parking and Traffic Considerations;

EXISTING CONDITIONS:

The subject site is known as No.1228 Nepean Highway, Cheltenham. The subject site is located on the south-west corner of the intersection of Nepean Highway and Park Road, Cheltenham. The subject site front the Nepean Highway Service Road to the north-east, Park Road to the north and Railway Road to the south. The subject site comprises of four (4) separate allotments which include:

Lot 1 and Lot 2 on Plan of Subdivision 007726;
Lot 1 on Title Plan 082082V;
Lot 1 on Plan of Subdivision 429049C; and
Land in Plan of Consolidation 109855.

For the purpose of this application, the allotments have been amalgamated and are considered as one (1) allotment.

The subject site is irregular in shape with a frontage width of 24.3 metres to the Nepean Highway Service Road, a frontage of 59.96 metres to Park Road, a frontage of 53.29 metres to Railway Road, a maximum depth of 67.06 metres and an overall site area of approximately 3991m².

The subject site was recently partially rezoned as part of Planning Scheme Amendment C98 and now includes all the subject land within a Business 1 Zone. The land is also affected by a Special Building Overlay and an Environmental Audit Overlay. Land to the south and east of the subject site is also zoned Business 1 and is mainly used and developed for commercial / business purposes. Land to the north of the site is zoned Business 2 and is used and developed for an existing church. Land immediately to the north-east of the subject site is zoned Road Zone Category 1 (Nepean Highway). Land to the south-east of the subject site is zoned Business 3 and mainly used and developed for commercial and business purposes.

The subject site was used and developed for a commercial / business use, however, the site is currently being demolished. Vehicle access is via existing crossovers located along the site's Park Road property frontage and Railway Road property frontage. The subject site is relatively flat with no significant vegetation located on the site. The site is encumbered by a number of easements which run through the site. These are discussed in more detail later in this report.

TITLE DETAILS:

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

SITE HISTORY:

Council records indicate that no previous Planning Permits have been issued for the subject site.

PROPOSAL:

It is proposed to use and develop the site for a seven (7) storey commercial development consisting of the following;

- Single level basement car park;
- Ground floor showroom;
- Ground floor café / food and drinks premises and kiosk; and
- Office and car parking above the ground floor level.

In summary, the proposal would comprise the following elements:

- A total net showroom floor area of 1700m², a net office floor area of 9210m² and a net café floor area of 150m² is proposed over seven floors. The table below shows a breakdown of floor areas;

	Net leaseable office area (m²)
Ground Floor	1700 (showroom) 150 Café
First Floor	-
Second Floor	1460
Third Floor	3000
Fourth Floor	1800
Fifth Floor	1550
Sixth Floor	1400
Total	9210 (Office) 1700 (showroom) 150 (café)

- A ground floor café / food and drinks premises is proposed fronting Park Road.
- Pedestrian access is via two (2) main entrances. One (1) is located along the site's Park Road property frontage and opens up to a lobby area and one (1) is located along the site's Railway Road property frontage.
- A total of two-hundred and ninety-five (295) car spaces are proposed to be provided on-site with forty-two (42) provided as tandem car spaces. The car spaces are provided in a single level basement and in above ground car parking levels;
- At ground level, the proposed building would have a minimum setback for 2 metres from the site's Park Road and Nepean Highway property frontages while it is proposed to

construct directly on the site's west (side) property boundary and south (rear – Railway Road) property frontage. The proposed development is to be set back a minimum 3 metres from the site's east (side) property boundary;

- The upper floor levels would feature some variation with respect to building setbacks, particularly with regards to the site's south (rear – Railway Road) property boundary. The upper levels have also been provided with balconies along the building's north (Park Road) property frontage and an internal light court
- There is a proposed pedestrian link which runs along the site's east (side) property boundary between Nepean Highway and Railway Road. Furthermore, it is proposed to provide a small kiosk and 'break out space' in the south-east corner of the site.
- The redundant vehicle crossovers located along the site's Park Road property frontage would be reinstated as a part of the proposed development.

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION:

Amendments to the application were made by the applicant on 12th May, 2009. The amendments were largely made in response to Council further information and concerns letters dated 28th November, 2008 and 14th January, 2009.

Council decided to accept the amendments.

ADVERTISING:

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining three (3) notices on site for fourteen (14) days. The advertising process was correctly completed and a total of three (3) objections to the proposal were received.

The main grounds of concern may be summarised as follows:

- Car Parking and Traffic Concerns; and
- Built Form / Setback Concerns.

PRELIMINARY CONFERENCE:

It should be noted that only one (1) objection was received during the advertising stage (May, 2009) of the planning process. The additional two (2) objections were received in late August, 2009, prior to the application going to the September Ordinary Council Meeting.

A preliminary conference was organised for Thursday 23rd July, 2009 with one (1) objector, the three (3) Ward Councillors and the applicant advised. This preliminary conference did not proceed as the only objector did not wish to attend and was happy for their written objections to be taken into consideration.

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As a result of two (2) additional objections being received by Council in late August, a revised preliminary conference was held on Friday 18th September. The two (2) additional objectors, two (2) ward Councillors and Council Officers were in attendance at this meeting. It is noted that the applicant did not wish to attend this meeting.

Discussions were had with regard to the potential of setting the building further back along the site's Park Road property frontage as well as the potential to provide angled car parking in front of the building. It was agreed that Council officers would further investigate the potential for angled car parking, however, this would need to be in consultation with Council's Traffic Engineers. This is discussed in more detail below.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION:

An application pursuant to Section 57A of the Planning and Environment Act 1987 was received on 22nd July, 2009. The amendment includes:

- Amendments to the entrance pedestrian and vehicle entrance areas and revised floor levels in accordance with Melbourne Water Requirements.

Council decided to accept the amendment.

RELEVANT POLICIES:

State Planning Policy Framework

- Clause 12 – (Metropolitan Development)
- Clause 14 – (Settlement)
- Clause 15 – (Environment)
- Clause 17 – (Economic Development)
- Clause 18 – (Infrastructure)
- Clause 19 – (Particular Uses & Development)

Local Planning Policy Framework

- Clause 21.04 – (Vision)
- Clause 21.06 – (Retail and Commercial Land Use)
- Clause 22.01 – (Cheltenham Business Centre Policy)

Zoning

- Clause 34.01 – (Business 1 Zone)

Overlays

- Clause 44.05 – (Special Building Overlay)
- Clause 45.03 – (Environmental Audit Overlay)

Particular Provisions

- Clause 52.06 – (Car Parking)
- Clause 52.07 – (Loading & Unloading of Vehicles)
- Clause 52.34 – (Bicycle Facilities)

General Provisions

- Clause 65: Decision Guidelines

PLANNING CONSIDERATIONS AND DISCUSSION:

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

STATE PLANNING POLICY FRAMEWORK:

Clause 12: Metropolitan Development

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 generally satisfies the intent of this objective. In addition, it should be noted that energy efficiency regulations in relation to commercial buildings have been introduced as part of the Building Code of Australia which means that any new commercial buildings, such as the one proposed, must be certified as meeting strict energy efficiency guidelines.

Clause 12.05: A Great Place to Be

This seeks to create urban environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity. It promotes issues of good urban design, recognition and protection of cultural identity, neighbourhood character, sense of place heritage, improvement of community safety.

It is considered that the proposal generally satisfies the intent of this objective. Council’s in-house Urban Designers and external Urban Design Consultants have been involved throughout the planning process and consider the proposal (subject to compliance with the conditions recommended) to adequately respond to the built form intended for the Cheltenham Activity Centre in this location.

Clause 14: Settlement

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”.

The proposal is considered to satisfy this objective by creating a substantial amount of additional leaseable office floor space within the Cheltenham Business Centre, which is well-serviced by public transport and pedestrian activity.

Clause 15: Environment

Clause 15.12: Energy Efficiency

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

Further, planning and responsible authorities should:

- Promote energy efficient building.
- Promote consolidation of urban development and integration of land use and transport; and

Unlike ‘out of centre’ locations the alignment between this proposal and its relationship with public transport infrastructure is strong which will provide future visitors and users of the proposed buildings with realistic alternatives to car based transportation.

It is considered that the nature of the proposed development generally accords with the above strategies for general implementation.

Clause 17: Economic Development

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”.

In doing this, Council must balance these objectives with minimising the effects of commercial development on the amenity of residential areas, for example as a result of traffic congestion, noise or overshadowing. It is notable that the subject land does not contain any sensitive interfaces whereby overshadowing or noise impacts are prevalent. Further the proposal presents substantive opportunities to increase the employment role of the Cheltenham Major Activity Centre in a location that will derive substantial local economic benefit.

Overall it is considered that the proposal would provide a most suitable mix of retail and commercial opportunities (i.e. showroom, café, office etc) on the site while encouraging the concentration of various uses within the Cheltenham Activity Centre.

Clause 18: Infrastructure

Clause 18.02: Car Parking & Public Transport Access to Development

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

The proposal is located in close proximity to the Cheltenham Railway Station where there is excellent access to railway services as well as bus services. The site is also located within the Cheltenham Activity Centre and therefore takes advantage of pedestrian movements within the Activity Centre. Car parking is also provided on site in the form of a basement and above ground. Overall it is considered that the site's location within the Cheltenham Activity Centre takes advantage of all major forms of public and private transportation services available including train, bus, private vehicle, walking and bicycle etc.

Clause 19: Particular Uses And Development

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. As noted above, Council's in-house Urban Designers and external Urban Design Consultants have been involved throughout the planning process and consider the proposal to adequately respond to the built form of the surrounding neighbourhood and Activity Centre. The recommendations section of this report reinforces important planning permit conditions designed to ensure the architectural and urban design elements of the building and its immediate surrounds are responsibly addressed.

LOCAL PLANNING POLICY FRAMEWORK:

Clause 21.06 – Retail and Commercial Land Use

Cheltenham is identified as being a Major Activity Centre on Council's Retail and Commercial Land Use Framework Plan. It is policy to promote a diverse mix of use particularly along the centre's periphery and to reinforce the role of restricted retailing along Nepean Highway.

It is considered that the proposal is in accordance with the abovementioned policy directions. The proposal provides a mix of uses on site which provide for both restricted retailing (showroom) along the site's Park Road and Nepean Highway property frontages, commercial office tenancies above ground floor level and the provision of a café / food and drinks premises fronting Park Road and a kiosk to the rear of the site.

Clause 22.01 – Cheltenham Business Centre Policy

The subject site is located within an area designated for “mixed use (office and peripheral sales precinct)” under Council’s Cheltenham Business Centre Policy. For all land strategically identified for this purpose, it is policy that:

- Larger scale office, peripheral sales and commercial development be promoted on sites of at least 1000m², which complement the retailing role of the Cheltenham Business Centre and provide a regional focus for office related activities.
- High quality office and peripheral sales development be promoted which integrates with the landscape and urban design themes of the Cheltenham Urban Design Plan and complements the character of the Nepean Highway frontage.
- Development provides adequate on site car parking and safe and easy access to and from the Nepean Highway.
- Large high exposure sites be created through the consolidation of smaller sites.
- Pedestrian, landscape and visual amenity be enhanced by encouraging consistency in building setbacks of at least 5 metres on land with frontage to Nepean Highway and at least 3 metres on land with frontage to Park Road Station Road, Sinclair Street, Barker Street and May Street. Reductions in setbacks will be supported only where an exceptional design response can be demonstrated.

It is considered that the proposed development is generally in accordance with the abovementioned policy directions. The subject site, although occupied by a single business operator is the amalgamation of separate allotments into one larger lot in accordance with the abovementioned policies. Furthermore, the proposed development provides for the provision of increased retail and office space with on-site car parking. It should be noted that the proposed setbacks along both Park Road and Nepean Highway are considered appropriate given the built form of the existing buildings on site and the existing built form of adjoining properties.

ZONING PROVISIONS:

Clause 34.01 – Business 1 Zone

The subject site is zoned Business 1. The purpose of the Business 1 Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies; and
- To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

Pursuant to Clause 34.02 – Business 1 Zone of the Kingston Planning Scheme, a Planning Permit is required to:

- use the site for a showroom; and
- construct a building or construct or carry out works.

It is noted that the proposed office tenancies and café / food and drinks premises are an 'as of right' (Section 1) use and do not require a Planning Permit.

It is considered that the proposed development is consistent with the purpose of the zone and policy directions of the State and Local Planning Policy Framework, including the Municipal Strategic Statement

OVERLAYS:

Clause 44.05: Special Building Overlay

The purpose of this overlay control 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 land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority.
- § 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.
- § To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

Pursuant to Clause 44.05 – Special Building Overlay of the Kingston Planning Scheme, a Planning Permit is required to construct a building or construct or carry out works.

It is considered that this application is consistent with the purpose and policy directions of the Special Building Overlay.

Clause 45.03: Environmental Audit Overlay

The subject site is affected by an Environmental Audit Overlay which states;

Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
- An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

The application was discussed with the Environmental Protection Authority Victoria who advised that as the proposal was a more sensitive use, that an environmental audit should be undertaken of the site. It is considered that a suitable condition requiring the applicant to prepare an environmental audit of the site should be included on any permit issued.

PARTICULAR PROVISIONS:

Clause 52.06 – Car Parking

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

- To ensure that car parking facilities are provided in accordance with the State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies;
- To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality; and
- To ensure that the design and location of car parking areas:
 - a) Does not adversely affect the amenity of the locality, in particular the amenity of pedestrians and other road users;
 - b) Achieves a high standard of urban design;
 - c) Creates a safe environment for users, particularly at night;
 - d) Enables easy and efficient use;
 - e) Protects the role and function of nearby roads; and
 - f) Facilitates the use of public transport and the movement and delivery of goods.

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

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

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

As discussed previously, the application was referred to Council's Traffic Engineers for their comment and advice. An assessment of the car parking and traffic implications of the proposal is detailed below.

The table below summarises the provision of on-site car parking provided by the proposed development.

LOWER BASEMENT	
PROPOSED USE	NUMBER OF SPACES PROVIDED
Basement	98 spaces provided
Ground Floor	34 spaces provided
First Floor	118 spaces provided
Second floor	45 spaces provided
TOTAL SPACES	295 spaces provided

Empirical Assessment of Parking Demand:

- **Showroom:** Clause 52.06 – Car Parking of the Kingston Planning Schemes provides a rate of 1.5 car spaces per 100m² for warehouse use. This would equate to a car parking requirement of twenty (26) car spaces for the proposed showroom. However, given the site's location within a Major Activity Centre and the anticipated car parking demand for the showroom by staff and visitors, the applicant has applied a rate of 2.5 car spaces per 100m² of showroom. Council's Traffic Engineers consider this rate to be appropriate. Therefore, the proposed showroom would attract a car parking provision of forty-two (42) car spaces.
- **Office:** Clause 52.06 – Car Parking of the Kingston Planning Schemes provides a rate of 3.5 car spaces per 100m² for an office use. This would equate to a car parking requirement of three-hundred and twenty-two (322) car spaces for the proposed office use. However, given the site's location within a Major Activity Centre, its close proximity to public transport and the anticipated car parking demand for the office tenancies by staff and visitors, the applicant has applied a peak car parking rate of 3 car spaces per 100m² of office area. Council's Traffic Engineers consider this rate to be appropriate. Therefore, the proposed office tenancies would attract a total car parking provision of two-hundred and seventy-six (276) car spaces.
- **Restaurant and Café:** There is no car parking rate for the proposed café / food and drinks premises pursuant to Clause 52.06 – Car Parking of the Kingston Planning Schemes. Therefore, the amount of car parking provided for this use is to be to Council's satisfaction. The applicant suggests that a car parking rate of approximately 0.15 car spaces per seat during the daytime and 0.3 car spaces per seat during the evening would be appropriate for the proposed café / food and drinks premises. These rates are considered appropriate by Council's Traffic Engineers. Therefore, the proposed café / food and drinks premises would generate a car parking requirement of eight (8) car spaces during the day and fifteen (15) car spaces in the evening.

Based on the proposed car parking requirements discussed above, the overall proposed development would generate a peak car parking requirement of three-hundred and thirty-three

(333). The proposed development seeks to provide a total of two-hundred and ninety-five (295) car spaces on site which constitutes a short fall of thirty-eight (38) car spaces.

However, the applicant considers that the proposed on-site car parking will adequately satisfy the anticipated long-term parking demands associated with the proposed development (i.e. staff car parking demands) with visitors to the site being able to be accommodated off-site in the nearby area.

Council's Traffic Engineers consider that the proposed supply of on-site parking is considered reasonable provided that conditions are such that staff are prevented from parking all day in surrounding streets are included on any permit issued. This may necessitate some revision of current parking restrictions in the area. It is considered that there is adequate short term parking available on-street within reasonable walking distance of the site to cater for visitors and shoppers to the site.

Adequacy of Parking Supply:

Overall, having regard to the following;

- the proposed uses within the development;
- the overall number of staff car spaces provided on site;
- the car parking rates as detailed above;
- the site's location within a Major Activity Centre; and
- the various modes of public transport available in close proximity to the site.

It is considered that the proposal adequately satisfies the objectives of Clause 52.06 of the Kingston Planning Scheme and that the proposal provides an adequate number of car parking spaces on site to accommodate the anticipated demand for car parking as generated by the proposed development for staff and visitors to the subject site. It is considered that subject to the inclusion of suitable conditions, the proposal provides sufficient car parking for staff and visitors of the site.

Clause 52.07 – Loading & Unloading of Vehicles

The purpose of Clause 52.07 is to set aside land for loading and unloading of commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety. The following table outlines the provisions which are required to be met with regards to loading and unloading of vehicles.

Floor Area of Building	Minimum Loading Bay Dimensions	
2,600m ² or less in single occupation	Area	27.4m ²
	Length	7.6 metres
	Width	3.6 metres
	Height Clearance	4.0 metres
For every additional 1,800m ² or part	Additional 18m ²	

A Planning Permit may be granted to reduce or waive these requirements if either:

- The land area is insufficient; and
- Adequate provision is made for loading and unloading vehicles to the satisfaction of the responsible authority.

The proposed development is provided with one (1) loading bay facility which is accessed via Railway Road. The loading bay has minimum dimensions of 3.6 metres in width by 7.6 metres in length and with a minimum height clearance of 4 metres. However, at the entrance to the proposed loading bay, the height clearance has been nominated at 3 metres. It is considered that the accessway which leads to the loading bay itself should also have a height clearance of 4 metres to prevent potential conflict with larger vehicles and the building structure. It is considered that a suitable condition requiring this to occur should be placed on any permit issued.

Clause 52.34: Bicycle Facilities

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

Proposed Use	Requirement
Offices:	1 staff space to each 300m ² sq m of net floor area if the net floor area exceeds 1000m ² and 1 visitor spaces to each 1000 sq m of net floor area if the net floor area exceeds 1000m ²
Retail Premises:	1 staff space to each 300m ² and 1 customer space to each 500m ²
Café:	1 staff space to each 100m ² and 2 plus 1 customer spaces if the floor area available to the public exceeds 400m ²

Based on the abovementioned floor areas, the proposed development would require a total of fifty (50) bicycle parking spaces to be provided. The development is provided with bicycle parking spaces within basement car park level as well as on the ground floor level in a secure storage area fronting Railway Road and in the form of bicycle racks on the footpath at appropriate locations. The proposal is provided with a total of one-hundred and sixteen (116) bicycle parking spaces including one-hundred (100) staff bicycle parking spaces and sixteen (16) visitor bicycle parking spaces.

As noted above, the applicant proposes to provide bicycle parking on the nature strip at the main entrances to the building along the site's Park Road property frontage as well as in close proximity to the showroom entrances and the pedestrian link along the site's east property boundary. It is considered that these bicycle parking racks are ideally located to allow visitors to the site to park their bicycle in close proximity to the main entrances of the building and sited so as to have no impact on pedestrian flows.

Overall, it is considered that the proposal adequately satisfies the objectives and requirements of this clause.

REFERRALS:

The application was referred to the following external authorities pursuant to Section 55 of the Act. Where appropriate amended applications under Section 57C have been re-referred. The referral responses below relate to the current application only:

- Melbourne Water; and
- Director of Public Transport: Department of Infrastructure.

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

It is also noted that the application was referred to the following authorities for comment. The following referral authorities are not statutory referral authorities pursuant to Section 55 of the Planning And Environment Act 1987:

- VicRoads;
- United Energy; and
- Moorabbin Airport Corporation.

VicRoads and United Energy advised of no objection to the proposal subject to the inclusion of suitable conditions being placed on any permit issued.

The Moorabbin Airport Corporation has objected to the proposal as it infringes the Prescribed Airspace for the Moorabbin Airport. As noted above, the Moorabbin Airport Corporation is not a statutory referral authority pursuant to Section 55 of the Planning And Environment Act 1987. Therefore, the Moorabbin Airport Corporations objection should not form the basis of a refusal of the proposal. However, their objection should be taken into consideration as part of the formal planning process.

The application was referred to the following internal departments within Council (where appropriate amended applications have been re-referred):

- Council's Development Approvals Engineers;
- Council's Vegetation Management Officers;
- Council's Traffic Engineering Department;
- Council's Strategic Planning Department;
- Council's Urban Designer;
- Council's Heritage Advisor;
- Council's Parks Development and Planning Department;
- Council's Information Technology Department;
- Council's Property Services Department;
- Council's Maintenance Contracts & Waste Department; and
- Council's Road and Drains Department.

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

Development Approvals Engineers;

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

Vegetation Management Officers:

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

Traffic Engineering Department:

As discussed above, Council's Traffic Engineers consider that the proposed on-site car parking provided is adequate to satisfy the anticipated car parking demand for the proposed development.

However, concern was raised with regard to the proposed single access point located to the rear of the subject site along Railway Road. All car parking and loading bay facilities (including waste collection) is proposed to be accessed via Railway Road. Concern was raised with the potential impact on queuing times at the intersection of Railway Road and Charman Road as well as the ability of the existing road network to accommodate the anticipated increase in traffic (in particular during peak periods).

This is considered to be a reasonable concern raised by Council's traffic Engineers based on the existing conditions. However as part of structure planning for Cheltenham, Council's Strategic Planning Department are exploring opportunities to provide a more integrated access solution for all properties with Highway frontage and rear access either to Railway Road or the multi deck car park. It is anticipated that the future road network within the Cheltenham Activity Centre would provide for a new road which will connect Railway Road to Station Street. Such an extension of Railway Road will allow vehicles to exit the subject site and provide the option of exiting the Cheltenham Activity Centre via Charman Road to the west of the subject site or via Station Street / Nepean Highway to the south-east of the subject site. Work is currently being prepared to develop these strategies further but it is anticipated that the provision of improved vehicle access out of the Cheltenham Activity Centre will allow for a reduction in queuing times and improved traffic flow within the current road network.

Strategic Planning Department:

Council's Strategic Planning Department advised of no objection to the proposed development. However, comments were provided with regard to the following:

- The proposed setbacks to Nepean Highway and Park Road; and
- The overall height of the proposed development.

As discussed above, the proposed development does not accord with the setback requirements of Clause 22.01 – Cheltenham Business Centre Policy with regards to the front setback to Nepean Highway and Park Road. However, the setbacks proposed are considered appropriate

having regard to the setbacks of the existing building on site and the built form of the existing buildings on adjoining site.

The proposed development seeks permission for the construction of a seven (7) storey building with a maximum height of 29.37 metres. This is in excess of the proposed Amendment C100 (Draft Design and Development Overlay Schedule 16) which is currently with the Minister for Planning for approval. Proposed Amendment C100 would allow for a permit to be issued which exceeds the proposed height limits of six (6) storeys or 20 metres as the location in which the subject land is set is not deemed to contain a characteristic whereby a mandatory height limit should be applied. Further the Strategic Planning Department have advised that in undertaking the consultation that led to proposed Amendment C100 as part of the PLAN work, it was the areas whereby residential interface was immediate in the Cheltenham Major Activity Centre that community concern was most significant regarding building height and not instances such as that proposed by this application.

It is considered that the overall height proposed as part of the development is appropriate having regard to the built form of the immediately surrounding area and the comments from Council's Urban Designers which are discussed below.

Urban Designer;

The application was referred to Council's in-house Urban Designer and external Urban Design consultant who advised of no objection to the proposed development subject to the inclusion of suitable conditions being placed on any permit issued

Heritage Advisor;

The application was referred to Council's Heritage Advisors for comment given the existing church located directly opposite the subject site is covered by a Heritage Overlay. Council's Heritage Advisor advised of no objection to the proposal as the proposed development does not detrimentally impact on the heritage values of the existing church located opposite the subject site.

Parks Development and Planning Department;

Overall, Council's Parks Development and Planning Department had no objection to the proposed development. However, comments were provided with regard to the proposed landscape plan. It is considered that a number of improvements should be made to the proposed landscape plan. These can be included as conditions on any permit issued.

Council's Vegetation Management Department;

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

Property Services Department;

Council's Property Services Department advised of no objection to the proposed development.

Maintenance Contracts & Waste Department;

Council's Maintenance Contracts and Waste Department advised of no objection to the proposed development subject to appropriate conditions relating to waste management associated with this proposal.

Roads and Drains Department.

Council's Roads and Drains Department advised of no objection to the proposed development subject to appropriate conditions regarding the responsibilities of the developer to undertake appropriate reinstatement works around the subject site.

RESPONSE TO GROUNDS OF OBJECTION:

Car Parking and Traffic Concerns: Concerns were raised with regard to the impact of car parking and traffic as a result of the proposed development. In particular concern was a lack visitor car parking provided directly in front of the proposed development along Park Road.. As discussed previously in this report, it is considered that there is adequate car parking available in the immediate vicinity of the subject site to cater for visitor to subject site.

Furthermore, the provision of angled car parking directly in front of the subject site along Park Road has been explored and it is apparent that irrespective of safety concerns for this to be appropriately provided (given the proximity to Nepean Highway) vehicles reversing from the site would need to do so on the subject land (rather than on Park Road). The consequence of this would render a substantial amount of the subject land unable to be developed due to the technical requirement for suitable reversing areas to ensure user safety. It is considered that the provision of angled parking along Park Road would compromise the operation of Park Road and most important present substantial safety issues given its proximity to the intersection.

However, it is considered appropriate that the existing parallel car parking located directly on Park Road be increased so as to provide a minimum of five (5) parallel on-street car parking spaces directly in front of the site. Council's Planning Officers and Traffic Engineers consider this to be an appropriate solution to visitor car spacing in front of the site without causing safety concerns and without impacting on the operation of Park Road. Therefore, it is considered that a suitable condition requiring the applicant to provide five (5) on-street car parking spaces in consultation with Council's Traffic Engineers should be included on any permit issued.

Built Form / Setback Concerns: As Council Officers understand, the built form / setbacks concerns raised relate to the abovementioned car parking concerns. It has been suggested that by setting the building further back from the site's park Road property frontage, the provision of angles car parking can be accommodated within the front of the buildings. As discussed above, this is considered to be inappropriate and would cause traffic implications with regards to the operation of Park Road and safety concerns.

However, it is considered appropriate to bring the proposed building in line with the existing building line of the adjoining property to the west of the subject site. This would require the moving of an existing structural pole in order to 'open up' the footpath and sightlines and allow the entry to the proposed building to be in-line with the existing building on the adjoining site. This can be included as a condition of any permit issued.

CONCLUSION:

There is a strong strategic justification for the proposal given the site's location within the Cheltenham Major Activity Centre which takes advantage of excellent public transport. The State and Local planning policies discussed in this report identify the subject site as one whereby substantial change is justified. The key issue with this proposal is the car parking and traffic implications of the proposal, especially having regard to the single access proposed via Railway Road.

The development has been assessed by various Council departments including Council's Strategic Planning Departments, Council's Urban Designer, Council's external design consultant and Council's Traffic Engineering Department, all of which have advised that the proposal adequately satisfies the provisions of the Kingston Planning Scheme and subject to the inclusion of suitable conditions being placed on any permit issued should be supported.

The proposed development adequately satisfies the requirements, objectives and policy directions of the State Planning Policy Framework, the Local Planning Policy Framework, the Zoning provisions and the Particular Provisions of the Kingston Planning Scheme as discussed previously in this report.

Therefore, having considered all of the above, it is considered that the proposal, subject to the inclusion of suitable conditions being placed on any permit issued, should be supported.

RECOMMENDATION:

That Council resolve to issue a Notice of Decision to Grant a Permit for the development and use of the site for the purpose of a seven (7) storey building with basement car park comprising a mixed use development including; showroom, offices, food and drinks premises, and a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme.

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 on 12th May, 2009 and 22nd July, 2009 but modified to show:
 - a) the provision of an improved landscape plan and associated planting schedule for the site and its immediate surrounds showing the proposed location, species type, mature height and width, pot sizes and number of species be planted on the site, with such plans to be prepared by a qualified landscape professional and in consultation with Council's Urban Designer ;

- b) a minimum four (4) metre high clearance for the entire accessway to be used for the loading bay facilities;
- c) that appropriate access to all entries to the building is provided for people with limited mobility.
- d) the provision of a notation on the plans stating that any bicycle parking along Nepean Highway and / or Park Road must be constructed in accordance with the engineering plans submitted to and approved by the Responsible Authority;
- e) the provision of suitable line markings and signage for pedestrian within proposed car parking areas to improve pedestrian safety within the basement car park levels;
- f) the internal layout of the toilet facilities (including any showers / change rooms) on each level clearly shown;
- g) the provision of a notation on the plans stating that a minimum 2.3 metre height clearance is to be provided throughout the proposed car park areas;
- h) all tandem car spaces to have a minimum length of 5.4 metres;
- i) the provision of a notation on the plans stating that all car parking access ramps are to be to the relevant Australian Standard;
- j) the provision of a notation on the plans stating that the car parking provided on the land must always be made available for use by persons employed and / or visitors of the subject premises to the satisfaction of the Responsible Authority and no measure restricting access by such persons to the car park may be taken without the prior permission of the Responsible Authority;
- k) the substation located on the ground floor level set a minimum 2 metres further west so as to allow suitable sightlines for vehicles exiting the basement car park level, with the bicycle parking provide to the west of the substation reduced accordingly so as to allow this change to occur;
- l) details including height, type, materials and colours of any proposed balustrade located along the site's Nepean Highway and / or Park Road frontage which separates the footpath level and the level of the proposed building
- m) the existing stormwater drain located within the property must be relocated as shown on Easement Relocation Concept Plan Rev. B;
- n) the proposed 300mm diameter stormwater drain along the western property boundary and Railway Road;
- o) the proposed 3 metre wide drainage easement along western property boundary clears from any obstruction and building on the basement, ground and first floor levels;

- p) relocated service core (including stairs and lifts) to north of the proposed easement;
- q) the note stating: "Relocation of the stormwater drains must be in accordance with the engineering plans approved by the Council";
- r) the provision of a notation stating that the treatment for the pedestrian footpath along Park Road and Nepean Highway needs to be finalised in consultation with Council's Urban Designer;
- s) the provision of a notation on the plans stating that the design for the walkway and public space between the subject site and 1230 Nepean Highway needs to be developed in conjunction with Council's urban designer and landscape architect. This would include the overall concept design, material selection, lighting and landscape design.
- t) the structural support / wall located in the north-west corner of the subject site set back a minimum six (6) metres from the site's north (Park Road) property boundary with the entry area for the proposed building redesigned accordingly;
- u) the provision of a notation on the plans stating that the owner / developer / permit holder will, in consultation with Council's Traffic Engineering Department provide for the provision of a minimum of five (5) parallel on-street car parking spaces along the site's Park Road property frontage, with all costs associated with the construction / implementation of these on-street car spaces to be at the full cost of the developer / owner / permit holder;
- v) the conditions required by VicRoads provided on the plans, pursuant to Condition 2 of this Permit;
- w) the conditions required by Melbourne Water provided on the plans, pursuant to Condition 3 of this Permit;
- x) the conditions required by United Energy provided on the plans, pursuant to Condition 4 of this Permit; and
- y) the provision of a full colour and building materials schedule for all external surfaces (including samples).

2. Conditions Required by VicRoads:

- i. Prior to the commencement of the use of the permitted development, the existing crossovers along Nepean Highway and Park Road must be removed and footpath, nature strip and kerbing re-instated to the satisfaction of the Responsible Authority; and
- ii. All vehicles associated with the development and use must drive forward when both entering and leaving the declared road reserve.

3. Conditions Required by Melbourne Water:

- i. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Waters drains or watercourses;
- ii. The finished floor levels of the building must be 300mm above the applicable floor level;
- iii. The entry / exit driveway of the basement car park must incorporate a flood proof apex of minimum 300mm above the applicable floor level; and
- iv. All doors, windows, vents and openings to the basement car park must be a minimum 300mm above the applicable floor level.

4. Conditions Required by United Energy:

- i. The applicant shall enter into an agreement with United Energy Limited for extension, upgrading or re-arrangement of the electricity supply to lots on the plan as required. (A payment to cover the cost of such work will be required and easements internal and external to the subdivision and provision of sites for substations may also be required).

5. Before commencement of the development written consent of the Secretary of the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government must be obtained and any conditions required must be indicated on the plans submitted pursuant to Condition 1 of this Permit.

6. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

7. Prior to the commencement of development, the Owner of the land must enter into an Agreement with the Responsible Authority and to their satisfaction under Section 173 of the Planning and Environment Act 1987 for:

- a) Any required works beyond the boundary of the subject land associated with the development as identified on the plans endorsed to the permit including the replacement of footpaths, required road works, installation of street furniture, relocation of power poles and street tree planting.
- b) A requirement which prevents the development from containing Promotion or Major Promotional Signage as defined by the Kingston Planning Scheme.

All costs associated with the Agreement will be borne by the owner.

8. The developer / owner is responsible for all costs associated with the construction and maintenance (for a period of no less than 12 months) of all footpath and associated landscape works along Park Road, Nepean Highway and Railway Road adjacent to the

subject site in accordance with Council requirements, and to the satisfaction of the Responsible Authority.

9. The developer / owner is responsible for all costs associated the relocation, removal or replacement of any existing assets that are deemed necessary by the relevant authority, to the satisfaction of the Responsible Authority.
10. 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 must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
 - (b) An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.
11. Before construction of the development starts, a Traffic and Car Parking Management Plan to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must include but is not limited to:
 - a) the location of all areas to be used for staff / visitor car parking for the showroom, office tenancies and cafe within the car park levels of the building;
 - b) the provision of suitable signs and pavement markings to direct and control the flow of traffic into, within and exiting the site including for the basement and loading bay areas, with this to include suitable warning signs / signals for drivers and pedestrians;
 - c) the provision of all lighting and security arrangements for the car parking areas;
 - d) full details of access arrangements to and from the site including full details of any proposed security arrangements for staff and visitors to the site (.e. boom gates restricting access, swipe cards to be used etc);

The Traffic and Car Parking Management Plan must be implemented to the satisfaction the Responsible Authority. The Traffic and Car Parking Management Plan must not be modified unless with the further written consent of the Responsible Authority.

12. Before the development starts the developer will need to contact Council's Traffic Engineering Department to arrange traffic management plans and **WORKS ZONE** for any works that may affect traffic (both vehicular and pedestrian) in Park Road or Nepean Highway or any of the surrounding streets. The developer will be responsible for the costs of arranging a **WORKS ZONE** and reinstatement of parking restriction signs should they be required.

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13. All loading and unloading must occur within the specifically designated loading bay;
14. The loading bay must be closed off and screened from view except as required for the entry and exit of vehicles to the satisfaction of the Responsible Authority;
15. Unless with the written consent of the responsible authority, deliveries to and from the site (including waste collection) must only take place between the following hours:
 - 5am to 10pm Monday to Sunday and Public Holidays; and
16. Council's Waste Management Department must be consulted regarding the location of rubbish bins and the options for collecting waste from the site.
17. Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the Planning Permit. Three (3) copies of the plan must be submitted. The plan must include but is not limited to:
 - a) Waste collection in accordance with the loading and collection conditions included on this permit.
 - b) Provision on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.
 - c) All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.
 - d) In accordance with Environmental Protection Authority (EPA) requirements, arrangements for the storage, segregation and disposal of any infectious waste, potentially infectious waste (as defined by the EPA), and any prescribed waste.

The waste management plan must be implemented to the satisfaction the responsible authority. The waste management plan must not be modified unless with the written consent of the Responsible Authority.
18. Before the use starts, areas set aside for parked vehicles, access lanes and associated access ramps as shown on the endorsed plans must be:
 - a) Constructed to the satisfaction of the Responsible Authority;
 - b) Properly formed to such levels that they can be used in accordance with the plans;
 - c) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;

- d) Drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
 - e) Line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority;
 - f) Generally in accordance with the relevant Australian Standard for car parking facilities;
 - g) Directional signage indicating car parking areas to be erected as required by the Responsible Authority and to the satisfaction of the Responsible Authority; and
 - h) Parking areas and access lanes must be kept available for these purposes at all times.
19. 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 staging and anticipated construction timing program, storage and parking of all vehicles related to the construction of the development, delivery of materials (including delivery times), containment of waste on site and suppression of dust, provision of site amenities, location of site sheds, the contact details of key construction personnel, construction over the public domain etc.
20. Before the commencement of any building or works on the land an existing conditions audit of all existing infrastructure immediately surrounding the subject site must be provided to the satisfaction of the Responsible Authority.
21. The existing stormwater drains located within the property must be relocated in accordance with conditions l m), n) and o) at the developer's cost prior to any building works commencing over the existing drains/easements. All works associated with drainage relocation must be in accordance with engineering plans submitted to and approved by the Council. A priced schedule of works within the easement and road reserve and the payment of Council's engineering fees of 3.25% of the cost of works are required to be submitted prior to the approval.
22. 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.
23. 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

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including all existing and proposed features that may have impact (e.g. crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).

24. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties
25. Construction on the site must be restricted to the following times:
- a) Monday to Friday 7:00am to 7:00pm;
 - b) Saturday 9:00am to 6:00pm: and
 - c) No construction is allowed on Sundays and Public Holidays;

Or otherwise as approved by the Responsible Authority in writing.

26. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
- a) Transport of materials, goods or commodities to or from the land;
 - b) Appearance of any building, works or materials;
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d) Presence of vermin; and
 - e) In any other way
27. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
28. 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.
29. 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.
30. No signs or other advertising or identification may be erected or displayed on the site without written Council consent.
31. 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.

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32. 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.
33. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the responsible authority.
34. 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.
35. 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.
36. 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.
37. The location of external fans, air-conditioning apparatus and the like must be to the satisfaction of the Responsible Authority and installed to prevent loss of amenity to the area by its appearance, noise, emission or otherwise.
38. Any plant and equipment proposed on the roof of the building must be screened in a manner to complement the appearance of the building to the satisfaction of the Responsible Authority.
39. Finished floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the responsible authority.
40. Once the development has started it must be continued and completed to the satisfaction of the responsible authority.
41. In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
 - The development and use are not started before two (2) years of the date of the permit issued.
 - The development is not completed before five (5) years of the date of the permit issued.

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.

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

Note: The flood line for the property grades from 31.2 metres to Australian Height Datum (AHD) at the northern boundary down to 30.5 metres to Australian Height Datum (AHD) at the southern boundary.

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 157488.

Note: New 3 metre wide drainage easement must be created in favour City of Kingston as specify in condition 1o) for relocated stormwater drains and the existing easements with redundant drains must be removed from the subdivision plan.

Note: The entry/exit driveway of the of the basement car park must incorporate an apex no less than 100mm above existing back of footpath on Railway Road or implement an alternative engineering solution for major flooding, approved by the Council.

Note: Minimum length of car space is 5.4m

Note: The levels at site boundary must not be altered.

The meeting was addressed by Tony Falvo on behalf of the objectors.

Crs Brownlees/Dundas

That the recommendation be adopted.

Carried

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L146

KP241/09 26 Tennyson Street, Carrum

APPLICANT:	Fulcrum Town Planners
ADDRESS OF LAND:	No. 26 (Lot 1 on TP659543V) Tennyson Street, Carrum
MELWAY REF:	97 D7
PROPOSAL	Two (2) Dwellings
CONTACT OFFICER:	Sebastian Lorenzo
FILE NO:	KP241/09
ZONING:	Residential 1
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	Clause 12.00: Metropolitan Development Clause 14.01: Planning for Urban Settlement Clause 16.02: Housing – Medium Density Housing Clause 21.05 MSS – Residential Land Use Clause 22.11: Residential Development Policy Clause 22.12: Carrum Activity Centre Policy Clause 32.01: Residential 1 Zone & Schedule Clause 55: Two or More Dwellings on a Lot Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA:	Increased Housing Diversity Area
NEIGHBOURHOOD CHARACTER AREA:	Area 80
DECISION BY:	24 th October, 2009
NETT DAYS:	7 days as of 1 st September, 2009
CONSIDERED PLAN REFERENCES/DATE RECEIVED	25 th August, 2009

1.0 KEY ISSUES

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

- Neighbourhood character
- Amenity impact (external)
- Front fence height

2.0 SITE & SURROUNDS

2.1 The subject site comprises a 718m² allotment on the south-western side of Tennyson Street in Carrum. It currently contains a single storey weatherboard dwelling and associated outbuilding. The site contains a 9.7 metre high (approximate) tree along the north-western boundary, at the rear of the dwelling. The site is presently accessible via a crossover at the south-eastern end of the Tennyson Street frontage. There appears to be no restrictions listed on the Certificate of Title.

2.2 The site is located within an established residential area. The surrounding area typically comprises of single storey brick and weatherboard dwellings. Front fencing

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is varied, with the majority of front fences at least below 1.8 metres in height. The site is within close proximity of local services, facilities and transportation.

3.0 PROPOSAL

3.1 It is proposed to demolish the existing dwelling and outbuildings on the land and construct two (2) double storey dwellings on this site.

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
Car Parking	One (1) car parking space for one (1) or two (2) bedroom dwelling, and two (2) car parking spaces for each three (3) or more bedroom dwelling	Dwelling 1: complies (2 spaces provided in the form of a double garage) Dwelling 2: complies (2 spaces provided in the form of a double garage)
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.	Dwelling 1: does not meet standard (refer to the ResCode discussion section within this report)
Site Coverage	Maximum 60% - as per ResCode	Site coverage is 49.4% and therefore complies

3.2 **Dwelling 1 comprises:** living room, meals room, kitchen, study and amenities at ground level and three bedrooms, laundry and amenities at first floor level. The dwelling would have a double garage accessible via a shared driveway along the south-eastern boundary that connects to Tennyson Street via the existing crossover. The dwelling would have a 25.2m² courtyard to the north-west of the dwelling, and an additional 56.9m² within the front setback of the dwelling. The dwelling would be face brick at ground level and render at first floor level, with a colorbond roof.

3.3 **Dwelling 2 comprises:** living room, meals room, kitchen, study, bedroom and amenities at ground level, and two bedrooms and amenities at first floor level. The dwelling would have a double garage accessible via a shared driveway along the south-eastern boundary. The dwelling would have 99.5m² private open space to the rear of the dwelling. The dwelling would be face brick at ground level and render at first floor level with a colorbond roof.

3.4 The proposal has an overall site coverage of 49.4% and a permeability percentage of 23%.

4.0 PLANNING CONTROLS

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

5.0 PLANNING PERMIT REQUIREMENTS

5.1 Pursuant to Clause 32.01 – Residential 1 Zone of the Kingston Planning Scheme a Planning Permit is required to construct two (2) or more dwellings on a lot.

6.0 RELEVANT HISTORY

6.1 Planning Permit KP974/03 was issued by the City of Kingston on 23rd June, 2006, for the development of this site for two (2) double-storey dwellings. This planning permit was not acted upon and has subsequently expired.

7.0 ADVERTISING

7.1 The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Two (2) objections to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Proximity to boundary and wall on boundary (No.24 Tennyson St);
- Visual bulk and roof style;
- Privacy Concerns; and
- Noise Concerns due to location of garage and vehicle movement.

8.0 PRELIMINARY CONFERENCE

8.1 A preliminary conference was held on 13th August 2009, with the relevant Planning Officer, the Permit Applicant and four (4) objectors in attendance. The above-mentioned issues were discussed at length.

8.2 Following the preliminary conference, the applicant agreed that all walls proposed to be located along the site's north (side) property boundary would be set back 150mm from this boundary with the provision of a minimum 1.7 metre high timber paling fence erected along the site's north (side) property boundary to be at the full cost of the developer / owner. One (1) objection was withdrawn, however one (1) objection still stands.

9.0 AMENDMENT TO THE APPLICATION AFTER NOTIFICATION

Following on from the preliminary conference, the applicant submitted amended plans on 25th August, 2009. The following changes were made;

- A screen provided to the south facing bedroom 2 and bedroom 3 windows of dwelling 1;
- The proposed storage areas located within each garage set back a minimum 150mm from the site's north (side) property boundary;
- The existing fence located along the site's north (side) property boundary to be retained as part of setting the storage areas 1500mm from this boundary; and

- Clarification of the existing paling fence to run along the site's north (side) property boundary.

A copy of the amended plans showing the abovementioned changes were forwarded to each objector, by the applicant.

The applicant also provided written consent on 1st September, 2009, to include a condition on any permit issued which requires the study of dwelling 1 to be located a minimum of 150mm from the site's north (side) property boundary and accordingly, extend / retain the existing fence along this section of the boundary. Council Officer's have no objection to these changes and / or the inclusion of such a condition on any permit issued.

One objection has since been withdrawn on the basis that this condition is imposed on any permit issued.

10.0 REFERRALS

10.1 The application was referred to the following internal departments within Council (where appropriate amended applications have been re-referred):

- Council's Development Engineer who advised of no objection to the proposal, subject to the inclusion of a number of conditions on any permit issued.
- Council's Vegetation Management Officer who advised of no objection to the proposed vegetation removal or landscape plan provided as part of the application.

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)
Clause 22.12 (Carrum Activity Centre Policy)

11.3 Zoning

The site is located in the following Zone:

Clause 32.06 (Residential 3 Zone)

11.4 Overlays

No overlay provisions apply to the subject site.

11.5 Particular Provisions

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

11.6 General Provisions

Clause 65 (Decision Guidelines)

11.7 Other

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

The land is located within Area 80 of the Neighbourhood Character Guidelines. The proposal is generally in accordance with the applicable character profile. Any areas of non-compliance are as follows:

- **Building placement:** The characteristic distances between buildings and their front and side boundaries are as follows: narrower side setback 1-2m, front setback 5-7m and wider side setback 2-5m. The development would be placed directly on both side boundaries. Dwelling 1 is provided with a setback of 3.7 metres from the site’s south (side) property boundary and is located partly along the site’s north (side) property boundary. Dwelling 2 is partly located along the site’s south (side) property boundary and provided with a minimum 1 metre setback along the site’s north (side) property boundary, except for a small section of wall which forms part of the store / garage of dwelling 2. Overall, while the building placement of the proposal is not entirely in accordance with the Neighbourhood Character Guidelines, it is considered appropriate and in keeping with the general pattern of dual-occupancy and newer dwelling developments in the street and surrounding areas where sections of dwellings are located on a boundary.
- **Materials:** Most walls and roofs are clad as follows, roof tiles, various colours, and walls weatherboard, mainly white. The proposal seeks to provide a colorbond roof with brick walls at ground floor level with a rendered first floor component. Given that “materials” makes a “critical” contribution to the streetscape, it is considered that some modifications should be made to the building materials, in order for the proposal to adequately satisfy the Neighbourhood Character Guidelines. It is considered that the brick walls at ground floor level are appropriate and although the roofing materials are quite varied throughout Tennyson Street, the proposed colorbond roof is in accordance with the coastal character of the streetscape. However, it is considered that the upper floor component of each dwelling should be provided with a weatherboard or similar finish, particularly where it can be viewed from Tennyson Street. This can be included as a condition on any permit issued.

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

The Designing 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 double storey nature of dwelling 2, which is located towards the rear of the site, is inconsistent with the “building form, siting and scale of development” provision which encourages double storey development to be located towards the street. This inconsistency will be discussed further in Section 12.1 of this report.

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.

Clause 22.12 (Carrum Activity Centre Policy)

The site is located within the Eastern Residential Precinct of the Carrum Activity Centre Policy at Clause 22.12 of the Scheme. Within this area, the following is Policy:

Activities and uses

- Promote increased housing diversity with an emphasis on small medium density dwellings.

Built form & Character

- Promote the development of appropriately designed smaller medium density housing with strong encouragement for smaller dwellings consistent with the preferred coastal cottage character.
- Promote the development of sensitively designed medium density housing in the form of small dwellings reflecting an ‘historic’ coastal cottage character. This may be achieved in the following ways:
 - Interpreting traditional building designs which include single and double frontages, pitched, hipped and gable roofs, eaves, vertical rectangular window openings and verandahs.
 - Using traditional building materials including horizontal weatherboard cladding, light tone rendered brickwork, corrugated iron roofs, brick chimneys, timber verandahs, and door and window joinery and painted finishes.
 - Using building materials, finishes and colours appropriate to the coastal location which are non-reflective and are of natural and muted colours that will blend with the suburban coastal setting.

- Ensure front fences are low, transparent and constructed of traditional materials.

Building siting, Height & Setback

- Ensure two storey dwellings are sensitively designed to integrate with the predominantly single storey building height throughout the area. This may be achieved by:
 - Reducing the floor area of upper levels compared to ground levels.
 - Increasing the setback of second storey walls to that of first storey walls.
 - Including second storey rooms in attics or mezzanines or the like.
 - Ensure any two storey component of a dwelling at the rear of a site is considerably less in area than the ground floor and is set back from property boundaries to avoid overshadowing or visual intrusion to the rear yards of neighbours.

Landscape Vegetation & Open space

- Ensure the area of soft landscaping is 50 per cent of the required private open space, and hardstand areas consist of porous surfaces to maximise infiltration.

Drainage

- Ensure floor levels for all new developments are assessed by Council as part of the planning application process.

12.2 Zoning Provisions

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

The Schedule to the Residential 1 Zone specifies variations to one 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 development proposes a 1.5m high front fence to Tennyson Street which is considered appropriate in this instance having regard to the proposed style and height of the front fence and the existing dwelling in the immediate surrounding area which have been provided with a 1.5 metre high front fence. Therefore, it is considered that a variation in this Standard is appropriate.

13.0 **CLAUSE 55 (RESCODE ASSESSMENT)**

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

Clause 55.02 – Neighbourhood Character & Infrastructure

Standard B2 – Residential Policy: The Residential Development Policy (Clause 22.11) encourages the double storey component of new medium density housing to be located towards the front of a site, to respond to the character of the local neighbourhood, and be sensitively designed to avoid unreasonable adverse amenity impacts on neighbours. 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.

Single storey development has not been identified as a major or critical contribution to neighbourhood character in the Neighbourhood Character Guidelines. However, it is noted that single storey is typical of the immediately adjoining dwellings. Given this, it is considered that any double storey elements should be sensitively designed with the second storey set back from its ground floor footprint, in order to reduce the impact of visual bulk.

Overall, it is considered that the proposed development as required to be amended, will be provided with adequate setbacks at first floor level from the site's north (side), south (side) and west (rear) property boundaries. Furthermore, the upper level component of each dwelling has been adequately set in from their respective ground floor building envelope. Where the first floor component has not been set in from the ground floor building envelope, the proposal is provided with a visual break such as an open and / or roofed pergola / verandah, varied ground to first floor building materials and / or the incorporation of windows at first floor level. Therefore, it is considered that the proposed double storey dwelling located towards the rear of the site is reasonable in this instance.

Clause 55.03 - Site Layout and Building Massing

Standard B6 – Street Setback: In accordance with requirements under this standard, dwelling 1 fronting Tennyson Street should have a minimum setback of 7.85 metres, based on the average of the adjoining properties front setbacks. The proposed front setback of 7.5m is less marginally than the required 7.85m average, however, the proposed setback is considered to be appropriate for the following reasons:

- § Although the proposed setback does not meet the technical requirements of this Standard, it is considered that the development provides a reasonable transition between the adjoining properties and meets the overriding objective of this Clause;
- § There is no prevailing setback rhythm in the street;

- § The front setback is large enough to accommodate substantial landscaping including the provision of canopy trees; and
- § The variation to the standard is minor.

Clause 55.06 – Detailed Design

Standard B31 – Design Details: As outlined previously in this report, it is considered that a suitable condition requiring any first floor component of each dwelling which is visible from the street to be provided with a weatherboard or similar finish should be included on any permit issued.

Standard B32 – Front Fences: As discussed above, it is considered that the proposed 1.5 metre high fence is appropriate in this instance.

14.0 RESPONSE AGAINST GROUNDS OF OBJECTIONS

- 14.1 **Proximity to boundary and wall on boundary (No.24 Tennyson St):** As previously noted in this report, the applicant has proposed that all walls along the site's north (side) property boundary be located a minimum 150mm from this site's boundary. Furthermore, it is considered that the length of walls on boundaries adequately satisfies the requirements of ResCode and should not unduly impact on the adjoining property to the north of the subject site.
- 14.2 **Visual bulk and roof style:** As discussed above, it is considered that the proposal as required to be amended is provided with good setbacks at first floor level with the provision of varied setbacks, varied materials and the use of additional features such as open pergolas and windows to reduce the visual impact of the proposed development, particularly when viewed from adjoining properties to the south and north of the subject site.
- 14.3 **Privacy Concerns:** The new dwellings have been designed with upper level windows that are strategically placed, highlight type or obscure glazed to prevent any overlooking of abutting properties. Overall, it is considered that the proposal should not result in any detrimental overlooking.
- 14.4 **Noise Concerns due to location of garage and vehicle movement:** It is not envisaged that there would be any substantial noise from vehicles entering or leaving the site. Furthermore, it is considered that any noise generated would be residential in nature and should not detrimentally impact on adjoining or surrounding properties.

15.0 CONCLUSION:

- 15.1 The proposed development is considered appropriate for the site as evidenced by:
 - The design and siting of the proposed development to be compatible with the surrounding area;
 - The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,

- The proposal generally satisfies the requirements of the Kingston Planning Scheme, including the MSS, Residential Development Policy (inclusive of the Neighbourhood Character Area Guidelines and the Designing Contextual Housing Guidelines), Residential 1 zoning and the Schedule to the zone, Clause 55 – Two or more dwellings on a lot and Residential Buildings, and Clause 65 – Decision Guidelines (subject to appropriate conditions).

15.1 It is considered that the objectors concerns have been addressed where appropriate and on balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

16 RECOMMENDATION:

That Council resolve to issue a Notice of Decision to Grant a Permit for the development of this site for two (2) dwellings, 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 25th August 2009, but modified to show:
 - a. the provision of an improved landscape plan and associated planting schedule for the site showing the proposed location, species type, mature height and width, pot sizes and number of species be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent actual canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
 - iv. a range of plant types from ground covers to large shrubs and trees;
 - v. adequate planting densities (e.g. plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi. the provision of two (2) suitable medium sized (at maturity) canopy trees within the front setback of the property and two (2) medium sized (at maturity) trees 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 high at time of planting;
 - ix. medium to large shrubs and trees provided in pot sizes of 200mm;
 - x. the provision of a notation on the landscape plan regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements;
 - xi. removal of the existing tree within the front setback; and
 - xii. join the landscape strip along the boundary fence to make one continuous garden bed.
- b. all walls located along the site's north (side) and south (side) property boundary nominated as being set back a minimum 150mm from their respective property boundary;
 - c. the timber paling fence along the site's north (side) property boundary nominated as being constructed at a minimum height of 1.7 metres above natural ground level for the length of the boundary, with this fence to be at the full cost of the developer / owner;
 - d. the first floor component of each dwelling nominated as being finished in a white or light colour weatherboard material (or similar);
 - e. an elevation plan of the front fencing, which provides full details of its height, materials and colour(s);
 - f. the door of each garage nominated as a panel lift door, or similar;
 - g. the provision of a water tank clearly nominated for each dwelling;
 - h. the location of all externally-located heating and cooling units, and the like, clearly shown; and
 - i. the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development.
- 2. Prior to the occupation of the dwellings hereby permitted, the new fences required under conditions 1 c) of this permit must be erected to Council's Satisfaction at the owner's / developers full cost.
 - 3. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 - 4. Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.

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5. Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
6. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration or bioretention system, rainwater tanks connected for reuse and a detention system.
7. Before the development commences, a Stormwater Management Plan showing the stormwater works to the nominated point of discharge must be prepared to the satisfaction of the Responsible Authority. The Stormwater Management Plan must be prepared by a qualified person and show all details of the proposed stormwater works including all existing and proposed features that may have impact (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).
8. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
9. 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.
10. 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.
11. 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.
12. 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.

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

13. 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.
14. 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.
15. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
16. External clothes drying facilities must be provided for each dwelling.
17. The cost of the fence to be constructed on the north (side) boundary must be borne by the owner/developer.
18. Construction on the site shall be restricted to the following times:
 - i. Monday to Friday 7.00am to 7.00pm
 - ii. Saturday 9.00am to 6.00pm
 - iii. No construction is allowed on Sundays and public holidays

Or otherwise as approved by the Responsible Authority in writing.

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.

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

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Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

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

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

1. The proposal would have an adverse effect on the amenity of an established residential neighbourhood;
2. The proposal constitutes an overdevelopment 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 the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives, Clause 55.02-2 Residential Policy Objectives, Clause 55.03-1 Street Setback Objective, Clause 55.03-8 Landscaping Objectives, Clause 55.05 Private Open Space Objective, Clause 55.06-1 Design Detail Objective and Clause 55.06-2 Front Fence Objective.

Crs Ronke/Staikos

That the recommendation be adopted.

Carried

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L147

KP122/09 98 Station Street, Aspendale

APPLICANT	Natalia Ontikova
ADDRESS OF LAND	No. 98 (Lot 10 on PS017914) Station Street, Aspendale.
PROPOSAL	Three (3) Dwellings
PLANNING OFFICER	Mitch Hodgson
REFERENCE NO.	KP122/09
RELEVANT STATE PLANNING POLICY FRAMEWORK	Clause 12: Metropolitan Development Clause 14: Settlement Clause 16: Housing
RELEVANT LOCAL PLANNING POLICY FRAMEWORK	Clause 21.05: MSS – Residential Land Use Clause 22.11: Residential Development Policy
ZONE	Clause 32.01: Residential 1 Zone
OVERLAYS	None
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	16 th August, 2009
STATUTORY DAYS	77 days at 02/09/2009
CONSIDERED PLAN REFERENCES/DATE RECEIVED	27 th May, 2009

1.0 KEY ISSUES

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

- Compliance with local planning policies
- Neighbourhood character
- Amenity impact (internal and external)
- Any areas of non-compliance with ResCode

2.0 PROPOSAL

2.1 It is proposed to construct three (3) dwellings on this site, comprising two (2) double-storey dwellings and a single-storey dwelling to the rear. The existing dwelling would be demolished as a part of the proposal.

2.2 Development summary:

Dwelling	Floor Area (m ²)	Private Open Space (Total m ²)	No. of Bedrooms	Car Parking Spaces
1	113m ²	40.0m ²	3	1
2	121m ²	42m ²	2	1
3	112m ²	87m ²	3	2

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2.3 The proposal has an overall site coverage of 42% and permeability of 38%.

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: complies
Car Parking	One (1) car parking space for one (1) or two (2) bedroom dwelling, and two (2) car parking spaces for each three (3) or more bedroom dwelling	Dwelling 1: complies (refer to the ResCode discussion section within this report) Dwelling 2: complies Dwelling 3: complies
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.	Dwelling 1: does not meet standard (refer to the ResCode discussion section within this report)
Site Coverage	Maximum 60% - as per ResCode	Site coverage is 42% and therefore complies

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

Roof:	Colourbond cladding (“charcoal”).
Walls:	Combination: face brickwork and rendered finish.
Garage doors:	Colourbond roller doors (colour not specified).
Windows:	Aluminium frames with powdercoat finish.
Driveways:	Concrete with stones (aggregate finish).
Front fencing:	A new, 1.0 metre high stone and rendered brick fence is proposed along the site’s Station Street frontage.
Internal fencing:	Details not specified.
Boundary fences:	The existing boundary fences along the site’s north-west (side) and south-east (side) would be replaced with 1.8 metre high timber paling fences whilst the fencing along the site’s north-east (rear) property boundary would be retained.

Vehicle access to the site would be from the existing crossover at the site’s Station Street frontage and a common driveway adjacent to the site’s south-east (side) property boundary would service each of the three (3) dwellings.

All existing vegetation would be removed as a part of the proposed development.

3.0 SITE & SURROUNDS

- 3.1 The subject site is located on the north-east side of Station Street, Aspendale, approximately 46 metres north-west of its intersection with Laura Street. The land is regular in shape and has a frontage width of 15.24 metres, a depth of 50.41 metres and an overall area of 763m². The topography of the land features a gradual fall of approximately 1.4 metres from the north-west corner of the site at the site's Station Street frontage to the north-east corner at the rear of the site. A 1.83 metre wide easement is contained within the site and is located adjacent to the site's north-east (rear) property boundary.
- 3.2 At present, the subject site is occupied by a single-storey, detached, weatherboard dwelling which is set back approximately 7.8 metres from the Station Street frontage. The land is devoid of any significant vegetation. The surrounding land to the north-west, south-east and north-east (rear) is developed and used for residential development, whilst the land directly opposite Station Street is occupied by the Melbourne to Frankston Railway Line.
- 3.3 The subject site is located approximately 400 metres north-west of the Aspendale Railway Station on Nepean Highway and the local shopping strip. The Aspendale Foreshore Reserve is also situated approximately 400 metres south-west of the subject site. A number of primary and secondary schools are located within reasonable proximity of the site, including Mordialloc College, located approximately 1.3 kilometres north-west of the subject land. The land is zoned Residential 1 with no overlay controls.

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 and is not subject to any Overlays.

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 There is no relevant planning history relating to this site.

8.0 ADVERTISING

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- 8.1 The proposal was advertised by display a notice at the front of the site and sending notices to all surrounding property owners and/or occupiers for a minimum period of fourteen (14) days.
- 8.2 The advertising process was satisfactorily completed with six (6) objections and one (1) petition received. The main grounds of concern can be summarised under the following headings:
- Visual bulk/mass;
 - Vehicle access;
 - Overdevelopment;
 - Overshadowing;
 - Loss of privacy (overlooking);
 - Car parking; and
 - Neighbourhood Character.

9.0 PRELIMINARY CONFERENCE

- 9.1 A preliminary conference was held at Council's Cheltenham Office on 23rd July, 2009, with the relevant Planning Officer, Ward Councillor(s), the Permit Applicant and five (5) objectors in attendance. The above-mentioned issues were discussed at length.
- 9.2 The above issues were discussed at length, with a general agreement reached between all parties that visual screening should be provided to both the north-east (rear facing) elevation of the proposed balcony for Dwelling 2 and the south-east elevation of the front facing balcony for Dwelling 1. This could be required as a condition of any permit issued for the proposed development.
- 9.3 There was no common ground reached in regard to:
- Visual bulk/mass;
 - Vehicle access;
 - Overdevelopment;
 - Overshadowing;
 - Car parking; and
 - Neighbourhood Character.

10.0 REFERRALS

- 10.1 Pursuant to Clause 66.02 of the Scheme, this application was not required to be referred to any external authority.
- 10.2 The application was referred to the following internal Council departments:
- Vegetation Management Officer; and
 - Development Engineer.

- 10.3 No objections were received to the proposed development, subject to the inclusion of suitable permit conditions (where applicable).

11.0 RELEVANT POLICIES

11.1 State Planning Policy Framework (SPPF)

Clause 12 (Metropolitan Development)
Clause 14 (Settlement)
Clause 16 (Housing)

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 63 of the Neighbourhood Character Guidelines. The proposal is generally in accordance with the applicable character profile. Any areas of non-compliance are as follows:

Roof Materials: A major characteristic of Area 63 is tiled rooves. Whilst the proposed colorbond cladding roofing to all three (3) dwellings is not consistent with the roofing material identified within Neighbourhood Character Area No. 63, Council officers consider that it would be acceptable in this instance as the built form of the development should result in a positive contribution to the character of the area.

- 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 an adequate standard of amenity for the future occupants of each dwelling, as well as for occupants of existing dwellings in the immediate area. It is considered that the development will make a positive contribution to the existing streetscape, 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:

- 13.0** 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.
- 14.0** 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.

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.
- § 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.

It is noted that the development proposes a double storey dwelling toward the middle of the site, which is contrary to the local policy specified under *Built form, siting and scale of development* above. It is submitted that the design of dwelling 2 has incorporated a variety of building materials to reduce visual bulk, as well as treating all first floor windows with appropriate screening measures to protect the amenity of the adjoining properties at 97 and 99 Station Street, Aspendale. The proposed north-east facing first floor balcony for dwelling 2 has 1.7 metre high timber screens proposed to prevent any downwards views into adjoining private open space areas. While this element of the proposal is contrary to local policy, it is considered that the development addresses and alleviates any potential amenity impacts on adjoining properties and warrants support, in this instance.

In summary, the proposal is seen to be mostly consistent with Council's Local Planning Policy Framework and, while not explicitly in accordance with the policy for built form, siting and scale of development, it is considered that the proposal is sympathetic to the neighbouring properties, as well as delivering on some very specific objectives for the type and form of medium density development expected in areas such as this before the Council.

14.1 Zoning Provisions

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

The Schedule to the Residential 1 Zone specifies variations to 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 development proposes a 1.0 metre high brick pier fence with metal infill, and therefore accords with the Schedule requirements.

14.2 Overlay Provisions

The subject site is not affected by any overlays.

15.0 CLAUSE 55 (RESCODE ASSESSMENT)

- 15.1 The proposal has been assessed against the objectives and standards of Clause 55 (ResCode) of the Kingston Planning Scheme. It is considered that the proposal satisfactorily meets all of the objectives and the majority of standards under ResCode. However, the following areas of non-compliance have been identified:

Clause 55.02-1 – Neighbourhood Character Objectives

One of the key objectives under this Clause is “*to ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character*”.

A major characteristic of Area 63 is tiled rooves. Whilst the proposed colorbond cladding roofing to all three (3) dwellings is not consistent with the roofing material identified within Neighbourhood Character Area No. 63, Council officers consider that it would be acceptable in this instance as the built form of the development should result in a positive contribution to the character of the area.

It is considered that the proposal is an appropriate design response for the site, and warrants support in this instance.

Clause 55.02-2 – Residential Policy Objectives

One of the key objectives of this Clause is “*to ensure that residential development is provided in accordance with any policy for housing in the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies*”.

Council’s Residential Development Policy strongly discourages the construction of double-storey dwellings through the middle and to the rear of a site. It is noted, however, that the building footprint of both Dwellings 1 and 2 would be relatively small at both the ground floor and first floor levels. Accordingly, the visual impact of the proposed development on the adjoining properties directly to the north-west and south-east should not be adversely affected.

Clause 55.03-1 – Street Setback Objective

The objective under this Clause is “*to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site*”.

The proposed minimum front building setback for Dwelling 1 fronting Station Street would be 5.8 metres whereas the minimum required is 6.6 metres.

However, Council officers consider that the reduced front building setback from the street frontage is reasonable in this instance given that it would be generally consistent with existing “staggered” setbacks along this section of Station Street.

Clause 55.03-9 – Access Objectives

One of the key objectives under this Clause is “*to ensure vehicle access to and from a development is manageable, safe and convenient*”.

Standard B14 suggests that a four metre turning radius should be provided for vehicles to egress the development in a forwards direction. It is noted that the reversing area for Dwelling 3 is not fully workable and would not allow vehicles from the proposed double car garage to reverse in a safe and convenient manner. Council officers consider that any permit issued for the proposed development should impose a condition to redesign the turning area for this dwelling to ensure that it would be fully workable.

Further, it is considered that the width of the common driveway should be reduced to a maximum of 2.6 metres to allow for additional landscaping opportunities along either side. This could be satisfactorily addressed through the inclusion of a suitable condition on any permit issued for the proposed development.

Clause 55.03-11 – Parking Provision Objectives

The two (2) objectives under this Clause are “*to ensure that car and bicycle parking for residents and visitors is appropriate to the needs of residents*” and “*to ensure that the design of parking areas is practical and attractive and that these areas can be easily maintained*”.

Standard B16 suggests that a minimum of two (2) car parking spaces should be provided where dwellings contain three (3) or more bedrooms. It is noted that Dwelling 1 would be provided with three (3) bedrooms although one (1) has been nominated as a “sitting room” with built-in robes.

A condition of any planning permit issued for the proposed development should require the third bedroom or “sitting room” to be deleted given that only (1) on-site car parking space is nominated for Dwelling 1.

Clause 55.04-6 – Overlooking Objective

The objective of this Clause is “to limit views into existing secluded private open space and habitable room windows”.

The submitted plans show that the first floor level balcony for Dwelling 2 would allow overlooking opportunities both into the adjoining property to the north-west (side) and also into the secluded private open space area for Dwelling 3.

A condition of any permit issued for the proposal should require visual screening to be provided at a minimum height of 1700mm above the first floor level along the north-west (side) and north-east (rear) elevations of the balcony of Dwelling 2.

The south-east elevation also shows the boundary fence between No. 98 Station Street and No. 99 Station Street to not protect against potential overlooking from the ground floor of the dwellings into the adjoining private open space areas at No. 99 Station Street, Aspendale.

A condition on any permit issued for the proposal should require a 400mm lattice extension to the boundary fence between No. 98 Station Street and No. 99 Station Street to protect against any potential amenity impact.

Clause 55.04-7 – Internal Views Objective

The objective of this Clause is “to limit views into the secluded private open space and habitable room windows of dwellings and residential buildings within a development”.

As previously discussed, internal overlooking may be afforded from the first floor balcony of Dwelling 2 into the rear secluded private open space area of Dwelling 3. This could be satisfactorily addressed through the provision of visual screening, to Council’s satisfaction.

16.0 RESPONSE AGAINST GROUNDS OF OBJECTIONS

16.1 Visual Bulk

The proposal has incorporated a variety of materials, as well as setting the first floor footprint in from the ground floor and providing articulation at first floor level. It is considered that the proposal has addressed any concerns in regard to visual bulk, and proposes an appropriate use of materials to minimise the visual impact of the development.

16.2 Vehicle Access

The development proposes to retain the existing crossover and utilise it as access for all three (3) dwellings. The proposal also allows for vehicles to both enter and egress from the site in a forwards direction. Currently, the existing dwelling on site does not

allow for vehicles to enter and egress from the site in a forwards direction. The proposal is therefore considered to be an improvement on the current circumstance of the site.

16.3 Overdevelopment

One of the major concerns raised in objections is in regard to the overdevelopment of the site. The subject site is located in the Residential 1 Zone, and nominated as an area for Increased Housing Diversity. While there appears to be no other three (3) dwelling developments within the immediately surrounding area, Council Officers considers that the proposed development has been designed to provide adequate internal amenity for the future occupants of the dwellings, as well as preventing any potential amenity impacts on adjoining properties. For the above reasons, it is considered that the proposal is suitable for the area and warrants support.

16.4 Overshadowing

The proposal is fully compliant with the overshadowing requirements of ResCode, and is considered to have a reasonable level of overshadowing impact on the adjoining property at No. 99 Station Street, Aspendale.

16.5 Loss of privacy (overlooking)

All first floor windows have been treated with obscure glazing to 1.7 metres above finished floor level, as well as a 1.7 metre high timber screen to prevent overlooking from the north-east facing first floor balcony of dwelling 2. It is also noted by Council Officers that the existing fence along the south-east property boundary does not protect the adjoining property against potential overlooking from the ground floor areas of the proposed dwellings. A 400mm lattice extension to the fence between No. 98 Station Street and No. 99 Station Street, Aspendale, is considered to be an appropriate method to address this issue, and can be required as a condition on any permit issued.

16.6 Car parking

As discussed earlier in the report, the development satisfies the requirements of Clause 55 for car parking, subject to the removal of the sitting room for dwelling 2 which can be a condition placed on any permit issued. It is considered that the proposal should not result in any additional car parking issues in the local neighbourhood.

16.7 Neighbourhood Character

As discussed earlier in this report, the development of the site is considered to be appropriate for the area, as it is in accordance with local policies for the area as well as minimising amenity impacts on adjoining properties. In relation to the specific built form of the development, the proposal will present to Station Street as a single detached double-storey dwelling, with a variety of building materials incorporated into the design.

A major concern raised by objectors is the lack of similar multi-dwelling developments within the immediately surrounding area. Council officers consider that due to the zoning of the land and the objectives set out within Clause 21.05 and Clause 22.11 of the Kingston Planning Scheme in regard to Increased Housing Diversity areas, the proposal is appropriate for the site.

The proposal was also assessed against the Neighbourhood Character Guidelines, 2003, of which the subject site falls within Area 63.

A major characteristic of Area 63 is tiled rooves. Whilst the proposed colorbond cladding roofing to all three (3) dwellings is not consistent with the roofing material identified within Neighbourhood Character Area No. 63, Council officers consider that it would be acceptable in this instance as the built form of the development should result in a positive contribution to the character of the area.

It is considered that the proposal satisfactorily addresses the existing neighbourhood character, as well as providing an appropriate design response for the site through good urban design.

17.0 CONCLUSION:

17.1 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.

17.2 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).

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

19.0 RECOMMENDATION:

That Council resolve to issue a Notice of Decision to Grant a Permit for the development of this site for three (3) dwellings, 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 27th May, 2009, but modified to show:

- a. provision of an improved landscape plan and associated planting schedule 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;
 - ii. the delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. 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;
 - iv. a range of plant types from ground covers to large shrubs and trees, species must comprise a minimum of 80% indigenous coastal species;
 - v. adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi. the removal of all existing vegetation within the front setback of the property;
 - vii. the provision of two (2) suitable medium sized (at maturity) native canopy tree within the front setback of the property and one (1) small (at maturity) tree within the rear private open space area of each dwelling with species chosen to be approved by the Responsible Authority;
 - viii. sustainable lawn areas and plant species taking current water restrictions into consideration;
 - ix. all trees to be provided at a minimum of two (2) metres in height of the time of planting;
 - x. medium to large shrubs to be provided at a minimum pot size of 200mm; and
 - xi. 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 a 1.5m high, painted, timber picket type fence or similar along the site's Station Street frontage, with the fence provided with a gate(s), a 1.5m x 1.5m splay adjacent to the driveway, and the fence returned and continued to meet the corner of the meals room, with an elevation plan provided for the front fence;
- c. the removal of the set in timber paling fence for dwelling 1;
- d. the "sitting room" of Dwelling 1 deleted and the internal layout of the first floor level reconfigured to ensure that no more than two (2) bedrooms are provided;

- e. the car port for dwelling 1 and dwelling 2 each modified to a single car garage, with a timber panel lift door;
 - f. the provision of suitable fixed visual screening to a minimum height of 1700mm above the first floor finished floor level for the south-east (side) facing elevation of the balcony for Dwelling 1, in accordance with the requirements of Standard B22 of ResCode;
 - g. the provision of suitable fixed visual screening to a minimum height of 1700mm above the first floor finished floor level for the north-east (rear) facing elevation of the balcony for Dwelling 2, in accordance with the requirements of Standard B22 of ResCode;
 - h. the provision of a 600mm high boxed, closed trellis fence extension attached securely to the top of the site's north-west (side), north-east (rear) and south-east (side) property boundary fences;
 - i. the width of the common driveway reduced to a maximum of 2.6 metres, with the additional area created provided as landscaping along the driveway;
 - j. the turning area for Dwelling 3 redesigned to provide vehicles with a fully workable turning area;
 - k. the storage area for each dwelling nominated as being minimum of 6m³;
 - l. the provision of a colour, finishes and building materials schedule (including colour samples) for all external elevations of all dwellings, driveways, fencing, garage doors and gates;
 - m. the stairwell windows of dwelling 1 and dwelling 2 fitted with fixed obscure glazing for the entirety; and
 - n. the garage for dwelling 3 nominated as being fitted with a panel lift door.
2. The development, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
 3. Prior to the occupation of the dwellings hereby permitted, the fence extension required under Condition 1g) of this permit must be erected to Council satisfaction at the full cost of the permit holder, and all boundary fences must be repaired and/or replaced as necessary to the satisfaction of the Responsible Authority, at the full cost of the applicant/owner.
 4. Before occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
 5. Before occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
 6. Before the development hereby approved commences, a drainage plan showing the method of treatment of stormwater from the development to the nominated point must be submitted to the Responsible Authority for approval. The plan must be prepared by a qualified person and show all drainage works required. The plan must also show all existing and proposed features that may have an impact on the drainage (e.g. trees to

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- be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.)
7. Stormwater drainage of the site must be provided so as to prevent any overflows onto adjacent properties and be in accordance with the approved drainage plan.
 8. The development of the site must be provided with stormwater mitigation works which will entail the detention of stormwater on site and/or the use of water sensitive urban design principles (including re-use) to reduce stormwater run-off quantity and improve discharge quality. Discussion with Council's Development Approvals Engineer is advised prior to a design being submitted. The stormwater system must be constructed in accordance with the approved drainage plan and maintained to the satisfaction of the Responsible Authority.
 9. Construction on the site must be restricted to the following times:
 - a. Monday to Friday 7:00am to 7:00pm
 - b. Saturday 9:00am to 6:00pm
 - c. No construction is allowed on Sundays and public holidaysOr otherwise as approved by the Responsible Authority in writing.
 10. Convenient taps or fixed sprinkler system must be provided to the satisfaction the Responsible Authority capable of watering all communal and private land and landscaped areas, including turf block visitor car parking where provided.
 11. A street number of 100mm minimum height and contrasting in colour to its background, must be fixed at the front boundary of the property and as near as practicable to, or on the letterboxes with such numbering to be in accordance with Council's Street Numbering Policy. Separate unit numbers of 75mm minimum height must be placed adjacent to the front entrance of each dwelling. Such numbers must be clearly legible from the access driveway.
 12. Exterior lights must be installed in such positions as to effectively illuminate all pathway and porch areas. Such lighting must be controlled by a time clock or sensor unit, and must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
 13. Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.
 - c. Surfaced with an all-weather exposed aggregate 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.
 14. 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.

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15. 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.
16. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
17. External clothes drying facilities must be provided for each dwelling.
18. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
19. 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 of the date of issue.
 - The development is not completed within one (1) year from the date of commencement of works.

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

- Note (1):** Prior to the commencement of the development you are required to obtain the necessary Building Permit.
- Note (2):** 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 (3):** It is noted the development includes a storage shed to be built over an easement. Separate consent from Council and the relevant service authority is required to build over an easement and will need to be obtained prior to the issue of a Building Permit.

In the event the Council wish to oppose the application, it can do so on the following grounds:

1. The proposal would have an adverse affect on the amenity of an established residential neighbourhood.
2. The proposal constitutes an over-development of the site.
3. The proposal exhibits excessive visual bulk.
4. The proposal fails to satisfy all the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objective, Clause 55.02-2 Residential Policy Objective, Clause 55.03-1 Street Setback Objective, Clause 55.03-9 Access Objective, Clause 55.03-11 Parking Provision Objective, Clause 55.04-6 Overlooking Objective and Clause 55.04-7 Internal Views Objective.

The meeting was addressed by Wayne Greig on behalf of the objectors.

Crs Bauer/Ronke

That a Notice of Refusal to Grant a Permit be issued on four grounds:

1. The proposal would have an adverse effect on the amenity of an established residential neighbourhood;
2. The proposal constitutes an overdevelopment 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 the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives, Clause 55.02-2 Residential Policy Objectives, Clause 55.03-1 Street Setback Objective, Clause 55.03-8 Landscaping Objectives, Clause 55.05 Private Open Space Objective, Clause 55.06-1 Design Detail Objective and Clause 55.06-2 Front Fence Objective.

Carried

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L148

KP121/09 57 Scotch Parade, Bonbeach

COUNCIL REPORT

<i>Applicant:</i>	<i>Derek Farrington - Architect</i>	
<i>Location:</i>	<i>No. 57 (Lot 3 on PS032277) Scotch Parade, Bonbeach.</i>	
<i>Melways Ref:</i>	<i>97E2</i>	
<i>Proposal:</i>	<i>Two (2) Dwellings (Comprising the construction of two, (2) double-storey, detached, dwellings).</i>	
<i>File Number:</i>	<i>KP121/09</i>	
<i>Planning Officer:</i>	<i>Nikki Taylor Author: Sherie Kirby</i>	
<i>Objections:</i>	<i>One (1) objection</i>	
<i>Zoning:</i>	<i>Residential 3</i>	<i>Metropolitan Development</i>
<i>Kingston Planning</i>	<i>Clause 12</i>	<i>Settlement</i>
<i>Scheme Ordinance</i>	<i>Clause 14</i>	<i>Housing</i>
	<i>Clause 16</i>	<i>Infrastructure</i>
	<i>Clause 18</i>	<i>Land Use Challenges for the New Millennium</i>
	<i>Clause 21.03:</i>	<i>Strategic Framework Plan</i>
	<i>Clause 21.04:</i>	<i>Residential Land Use</i>
	<i>Clause 21.05:</i>	<i>Residential Development Policy</i>
	<i>Clause 22.11:</i>	<i>Residential 3 Zone</i>
	<i>Clause 32.06:</i>	<i>Two or More Dwellings on a Lot (ResCode)</i>
	<i>Clause 55:</i>	<i>Decision Guidelines</i>
	<i>Clause 65:</i>	<i>Referrals</i>
	<i>Clause 66:</i>	
<i>Residential Policy Area</i>	<i>*Incremental Change Area</i>	
<i>Neighbourhood Character Area</i>		
<i>Decision By:</i>		
<i>Nett days</i>		
<i>Considered Plan References/Date Received</i>	<i>27th July, 2009</i>	

1.0 KEY ISSUES:

1.1 The key issue arising from this proposal relates to: Neighbourhood Character.

2.0 EXISTING CONDITIONS:

2.1 The subject site is situated on the north-east side of Scotch Parade, Bonbeach, with the north-west corner of the site located adjacent to the intersection of Scotch Parade and Broadway. The land is triangular in shape with a frontage of 36.6 metres to Scotch Parade, a maximum depth of 42.8 metres and an overall area of 841.3m². The topography of the land is relatively flat. An established tree exists within the front setback of the existing dwelling, and a large Liquidamber tree located directly adjacent to the site's north property boundary. No easements are contained within the subject site.

At present, the land is occupied by a single-storey, weatherboard dwelling set back a minimum distance of 8.3 metres from the site's Scotch Parade frontage. The surrounding land is developed for residential purposes and existing development comprises predominantly single-storey dwellings, with more recent examples of medium density housing in the immediate locality.

The site is located within reasonable proximity to local shops, schools and public reserves. Both the Bonbeach Railway Station and Chelsea Railway Station are situated approximately 2.0km from the subject site with the Chelsea Activity centre also located approximately 2.0km to the west.

3.0 RESTRICTIVE COVENANTS:

The applicant has signed a statutory declaration stating that there are no covenants or restrictions registered on the current Certificate of Title for the subject site.

4.0 SITE HISTORY:

Council records indicate that no Planning Permits have issued for the subject site.

5.0 PROPOSAL IN DETAIL:

5.1 The plans for consideration are those received by Council on 27th July, 2009.

It is proposed to construct two (2) double-storey, detached dwellings, on this site. Both dwellings would be orientated towards the site's Scotch Parade frontage given the configuration of the subject land. The existing dwelling would be demolished as a part of the proposal.

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5.2 DEVELOPMENT SUMMARY:

SITE AREA	841.3m ²
FRONTAGE/S	36.6 metres to Scotch Parade
DEPTH	42.8 metres
SITE COVERAGE	40.3%
NO. OF DWELLINGS	2
NO. OF STOREYS	2
NO. OF BASEMENT LEVELS	0
FRONT SETBACK	7.2 metres to Scotch Parade
MINIMUM SIDE SETBACK	1.0 metre to the south-east (side) property boundary.
REAR SETBACK	3.0 metres (Dwelling 1); 1.0 metre (Dwelling 2).

5.3 Key elements of the proposal are as follows:

Dwelling	Floor Area (Excluding Garage/Carport Areas)	Private Open Space Area (Total)	No. of Bedrooms	Car Parking Spaces
1	258.1m ²	98.3m ²	4	3
2	150.5m ²	67.3m ²	3	3

5.4 Building materials and colours have been nominated as:

Roof:	Concrete tiles (charcoal colour).
Walls:	Combination: face brickwork at ground level (Boral Sydney Town) and rendered brick at first floor level (Boral Hobart with White Mortar Joints).
Garage door/s:	Panel lift (Cedar finish timber).
Windows:	Aluminium window frames (“primrose” colour).
Driveways:	Exposed aggregate (colour details not provided).
Front fencing:	A new, 1.2 metre high brick fence with timber “merbau” slats would be constructed along the site’s Scotch Parade frontage.

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Boundary fences:	All existing fencing along the site's north (rear) and south (side) property boundaries would be retained as a part of the development (where appropriate).
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Each dwelling would be provided with a double car garage with direct vehicle access from the site's Scotch Parade frontage.

The existing vegetation within the front building setback of the subject site would be retained as a part of the proposal.

The proposed development would result in a site coverage area of 40.3%.

5.5 DEVELOPMENT ASSESSMENT TABLE:

Criteria	ResCode Requirement	Proposed Development Provision
Private Open Space	An area of 40 m ² , with one part of the private open space to consist of secluded private open space at the side of the 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: does not fully comply. Has the area of Private open space, but not the minimum 5m dimension Dwelling 2: complies
Car Parking	One (1) car parking space for one (1) or two (2) bedroom dwelling, and two (2) car parking spaces for each three (3) or more bedroom dwelling.	Dwelling 1: complies (3 spaces provided – 2 in double garage and 1 in tandem.) Dwelling 2: complies (3 spaces provided – 2 in double garage and 1 in tandem.)
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.	Dwelling 1: does not meet standard (refer to the ResCode discussion section within this report)
Site Coverage	Maximum 60% - as per ResCode	Site coverage is 40% and therefore complies.

6.0 AMENDMENTS PRIOR TO NOTIFICATION OF APPLICATION:

6.1 Amended plans were received by Council on 30th April, 2009, showing design modifications made in response to Council's request for further information made on 27th March, 2009. These amendments can be summarised as follows:

- Deletion of one (1) bedroom/study from Dwelling 2;
- A reduction in the height of the proposed front fence from 1.8 metres to 1.2 metres.

6.2 The amended plans were accepted and the application proceeded to advertising.

7.0 ADVERTISING:

7.1 The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a public notice on site for fourteen (14) days. One (1) objection from the adjoining property at No. 59 Scotch Parade was received to the application with the main grounds of concern summarised under the following headings:

- Overshadowing;
- Environmental Impact;
- Visual Impact; and
- Property Setback.

8.0 PRELIMINARY CONFERENCE:

8.1 A preliminary conference meeting was held at Council's Cheltenham Office on 25th June, 2009, with the applicant, owners, objector/s, Ward Councillor and Council Planning Officer in attendance.

The above issues were discussed at length, however, no resolution was reached.

9.0 AMENDMENTS AFTER THE NOTIFICATION OF THE APPLICATION:

9.1 On 27th July, 2009, amended plans were received by Council from the applicant showing design modifications to the proposal in response to the objectors concerns, comprising:

- The southern-most wall of Dwelling 1 relocated one (1) metre north so the proposed garage wall would be one (1) metre off the site's south property boundary;
- The subsequent modification would result in reduced overshadowing to the adjoining property at No. 59 Scotch Parade; and
- The distance between Dwelling 1 and Dwelling 2 at ground level reduced from 1800mm to 1200mm.

9.2 Amended plans were circulated to the objectors at No. 59 Scotch Parade to the application allowing further comments to be lodged with Council within a fourteen (14) day period. An additional letter was received in response to the amended plans which essentially reiterated the initial concerns raised by the objectors.

10.0 PLANNING SCHEME PROVISIONS:

10.1 A Planning Permit is required to develop land for two (2) or more dwellings on a lot and also to extend a dwelling on a lot with more than one (1) dwelling, pursuant to Clause 32.06 of the Kingston Planning Scheme (the Scheme). In addition, according to ResCode at Clause 55 and the decision guidelines at Clause 65 of the Scheme, Council must consider the State Planning Policy Framework (Clause 16) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement of the Scheme.

11.0 OTHER

11.1 The subject land is zoned Residential 3. The site is located in an “Incremental Housing Area”, as identified by the Residential Land Use Framework Plan that forms part of the Municipal Strategic Statement.

No overlay controls affect the subject site.

12.0 REFERRAL:

Pursuant to Clause 66.02 of the Scheme, the application did not require referral to any external authority. However, the application was referred to the following Council departments:

- Development Approvals Engineer;
- Vegetation Management Officer; and
- Council’s Street Tree Coordinator.

No objections were offered to the proposed development, subject to the inclusion of suitable conditions of any permit issued.

13.0 DISCUSSION:

13.1 Kingston Planning Scheme Provisions:

Clause 12: Metropolitan Development

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

Clause 12.01 A more compact city seeks to:

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

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

- § Promotion of good urban design to make the environment more liveable and attractive.
- § Recognition and protection of cultural identity, neighbourhood character and sense of place.
- § Improvement of community safety and encouragement of neighbourhood design that makes people feel safe.
- § Protection of heritage places and values.

- § Promotion of excellent neighbourhood design to create attractive, walkable and diverse communities.
- § Improvement of the quality and distribution of open space and ensuring the long term protection of open space.
- § Improvement of the environmental health of the bays and their catchments.

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

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

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

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

Clause 12.08 Better transport links seeks to:

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

It is considered that this application meets these objectives.

13.2 Clause 21.05 Municipal Strategic Statement - Residential Land use

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

Incremental Housing Change Area

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

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

- **Objective 1:** To provide a wide range of housing types across the municipality to increase housing diversity and cater for the changing needs of current and future

populations, taking account of the differential capacity of local areas in Kingston to accommodate different types and rates of housing change.

- **Objective 2:** To ensure new residential development respects neighbourhood character and is site responsive, and that medium density dwellings are of the highest design quality.
- **Objective 3:** To preserve and enhance well landscaped/vegetated environments and protect identified significant vegetation.
- **Objective 4:** To promote more environmentally sustainable forms of residential development.
- **Objective 5:** To manage the interface between residential development and adjoining or nearby sensitive/strategic land uses.
- **Objective 6:** To ensure residential development does not exceed known physical infrastructure capacities.

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

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

the local street network and the proximity of public transport and nearby on and off street car parking.

- Ensure that all new medium density housing provides adequate private open space that is appropriately landscaped.

It is considered that the proposed development is consistent with the relevant objectives of Council's Municipal Strategic Statement as outlined above. The proposal creates an adequate standard of amenity for the future occupants of the existing and proposed dwelling, as well as for occupants of existing dwellings in the immediate area. It is considered that the development will have minimal impact on the existing neighbourhood character.

Average lot size within this area has been calculated to be 289.05m² and it is, therefore, considered that this proposal would not meet the minimum "average lot size" area given the site's area of 841.3m².

14.0 Clause 22.11: Residential Development Policy

14.1 The proposal has been assessed against the objectives and policy of the Residential Development Policy, which can be summarised under the following headings:

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

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

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

Council officers consider that the siting and design of the proposed double-storey dwellings have been well considered and, as a result, should not detrimentally affect the amenity of the existing dwellings to the north (rear) and south (side). The particular areas of ResCode compliance will be discussed in further detail in the following sections of this report.

Further, the Policy aims to ensure that new development is responsive to the character elements identified in the *Kingston Neighbourhood Character Guidelines – May 2000, revised February 2003*, particularly those identified as making a *major* or *critical* contribution to neighbourhood character.

The land is located within Area No. 76 of the Neighbourhood Character Guidelines, which identifies four (4) built form characteristics that make a “major contribution” to the profile area, being:

- Perceived lot pattern;
- Building placement;
- Roof shape; and
- Materials (concrete tiles of various colours and red brick walls).

Council officers consider that the proposed dwellings would be generally consistent with each of the major built form characteristic identified within this Neighbourhood Character Profile Area.

14.3 Clause 32.06: Residential 3 Zone

The purpose of the Residential 3 zone includes the provision of residential development at a range of densities with a variety of dwellings to meet the housing needs of all households. A Planning Permit is required to construct a new dwelling or extend an existing dwelling on a lot less than 300m².

Schedule

Schedule 1 to the Residential 3 zone imposes higher requirements for new multi-dwelling developments (being private open space, site coverage and front fencing) in areas identified for “incremental change” under Council’s MSS.

It is considered that the proposal fully satisfies each of these requirements.

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

The proposal has been assessed against the objectives and standards of Clause 55 (ResCode) of the Kingston Planning Scheme. It is considered that the proposal would satisfy the relevant objectives and standards of ResCode, with the only areas of non-compliance being identified as follows:

14.5 Clause 55.05-3 – Street Setback Objective

The objective under this Clause is “*to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site*”.

The proposed minimum front building setback for the development would be 7.2 metres whereas the minimum setback required under Standard B6 is 8.3 metres. However, Council officers consider that a variation to this standard is warranted in this instance given that proposed setbacks for both Dwelling 1 and Dwelling 2 would be generally consistent with existing residential development within the surrounding area.

14.6 Clause 55.04-1 – Side and Rear Setbacks Objective

The objective of this Clause is “*to ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of the existing dwellings*”.

The proposed first floor level setback of Dwelling 2 from the site’s north (rear) property boundary is approximately 1.65m, whereas the minimum suggested under Standard B17 is 2.0 metres. However, Council officers consider that the proposed first floor setback at this point is reasonable as it is the corner of the rear section of the dwelling and encroaches in this setback given the triangular configuration of the subject site.

Accordingly, Council officers consider that a minor variation to Standard B17 is warranted in this instance given that the height and setback of the dwelling at this point should not detrimentally affect the existing property at No. 96 Broadway.

14.7 Clause 55.05-4 – Private Open Space Objective

The objective of this Clause is “*to provide adequate private open space for the reasonable recreation and service needs of residents*”.

As previously discussed, Dwelling 1 would be provided with a total of 46m² of private open space whereas a minimum of 80m² is required under the variation to Standard B28 under the Schedule to the Residential 3 zone.

Council officers consider that the “alfresco” area nominated for Dwelling 1 should be removed to allow for additional secluded private open space given that it would contain three (3) bedrooms. Further, the proposed “family room” area should be reduced in area to allow for an increased length of the secluded private open space area to a minimum of 6.5 metres.

The proposed modifications would allow for approximately 55 square metres of secluded private open space for this dwelling and could be required as a condition of any permit issued. Although the area and dimensions of the proposed private open space area for Dwelling 1 would still be less than that required under the Schedule to the zone, Council officers believe that it would allow for an adequate area for the recreation and service needs of the likely residents.

14.8 Clause 55.06-4 – Site Services Objectives

The objectives of this Clause are “to ensure that site services can be installed and easily maintained” and “to ensure that site facilities are accessible, adequate and attractive”.

It is noted that the submitted plans do not show details of the proposed mail box facilities for either of the dwellings. A condition of any Planning Permit issued for the proposed development should require these to be shown on any endorsed plans.

15.0 Clause 65: Decision Guidelines

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

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

16.0 Designing Contextual Housing Guidelines – April 2003 (Reference Document):

16.1 The Designing Contextual Housing Guidelines supplement the Kingston Neighbourhood Character Guidelines, Residential Development Policy and ResCode provisions and offer a range of design techniques and suggestions to assist with residential design which is responsive to local character.

Council officers consider that the proposed development generally satisfies the relevant design techniques and suggestions outlined in this document.

17.0 RESPONSE TO GROUNDS OF OBJECTION:

17.1 The following comments are offered in relation to the main grounds of objection, being overshadowing, overlooking and noise.

- Overshadowing;
- Environmental Impact;
- Visual Impact; and
- Property Setback.

17.2 *Overshadowing*

The amended plans submitted after the Preliminary Conference show that the amount of overshadowing generated from Dwelling 1 on the existing dwelling at No. 59 Scotch Parade would be reduced with the increased setback of the proposed car garage wall on the site’s south property boundary.

Further, the amount of shadowing generated by Dwelling 1 is well within the maximum specified under Standard B21 of ResCode.

17.3 Environmental Impact

The objectors have raised concern that the loss of solar access to their north-facing windows would result in a significant increase in the amount of heating costs for their property. Council officers consider that the amended plans show that the amount of overshadowing to be cast by Dwelling 1 would be minimal and should not adversely affect the Owners at No. 59 Scotch Parade.

It is important to note that the minimum building setback required for Dwelling 1 from any existing north-facing habitable room window is satisfied, as set out under Standard B20 of ResCode.

17.4 Visual Impact

It is considered that the visual impact of Dwelling 1 to the adjoining property at No. 59 Scotch Parade will be reduced given the setback of the car garage 1.0 metre off the site's south property boundary. As previously discussed, the increased setback of the south-facing garage wall will improve solar access for the objectors in addition to providing visual relief from the proposed built form.

17.5 Property Setback

The objectors consider that the proposed building setback for Dwelling 1 is not appropriate as deemed under the Victorian Planning Provisions. However, Council officers consider that this element of the proposal fully satisfies the relevant performance standards under ResCode with the submission of the amended plans on 27th July, 2009.

18.0 GENERAL COMMENT:

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

- The design and siting of the development should respect existing or preferred neighbourhood character;
- The proposal satisfies the objectives and criteria of Council's Residential Land Use Policy (Clause 21.05); Clause 22.11 (Residential Development Policy); Clause 32.06 (Residential 3 Zone & Schedule) and Clause 55 (Two or More Dwellings on a Lot) of the Kingston Planning Scheme; and
- The proposed development of this site is considered to be appropriate, having regard to its design and the standard of amenity provided for future residents.

It is considered that the objector's concerns have been addressed where appropriate, and on balance and subject to the inclusion of conditions, the proposal is considered reasonable and warrants support.

19.0 RECOMMENDATION:

That Council resolve to issue a Notice of Decision to Grant a Permit for the development of this site for the construction of two (2) dwellings, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans received by Council on 27th July, 2009, but modified to show:
 - a) the provision of an improved 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, species type, mature height and width, pot sizes and number of species to be planted on the site;
 - ii) the delineation of all garden beds, paving and grassed areas 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 (i.e. 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 rear 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 water restrictions into consideration all trees provided at a minimum of two (2) metres in height at time of planting;
 - viii) all trees provided at a minimum of two (2) metres in height at the time of planting;
 - ix) medium to large shrubs to be provided at a minimum pot size of 200mm;
 - 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;
 - xi) the provision of a notation of the Tree Protection Details as provided in Conditions 2, 3, 4 and 5 of this permit. This includes all nominated Tree Protection Zones to be drawn to scale on the plans.
 - b) the provision of 6m³ of externally accessible storage space for Dwelling 1;
 - c) the provision of a mail box for each dwelling directly adjacent to the site's Scotch Parade frontage;
 - d) the location of any externally located heating/cooling units, service meters, etc.;
 - e) the provision of a colour, finishes and building materials schedule (including colour samples) for all external elevations of all dwellings, driveways, front fence and garage;
 - f) the front fence for Dwelling 1 and Dwelling 2 returned and 90° to the site's Scotch Parade frontage and continued to abut the respective dwelling so as to

- enclose the front open space of each dwelling, with an additional gate provided in each side component of fence;
- g) the stairwell window of Dwelling 1 and Dwelling 2 fitted with fixed obscure glazing; and
 - h) all windows shown as being fitted with obscure glazing nominated as being fitted with “fixed obscure glazing.”
2. A Tree Protection Zone (TPZ) must be observed at a distance of three (3) metres in a radius surrounding the *Liquidambar styraciflua* (Liquidambar) located on the neighbouring property towards the north-west corner of the site.
 3. Prior to the commencement of the development hereby permitted, a Tree Protection Fence defined by a 1.2 metre (or larger) high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence’s side panels to be constructed or cyclone mesh wire or similar strong metal mesh or netting, must be erected around the *Liquidambar styraciflua* (Liquidambar) at the distance specified for the TPZ.
 4. The following must be observed within the TPZ area (without the further consent in writing of Council’s Vegetation Management Officer):
 - a. the existing soil level must not be altered either by fill excavation;
 - b. the soil must not be compacted or the soil’s drainage changed;
 - c. no fuels, oils, chemicals, poisons, rubbish and other materials harmful to trees are to be stored or dispersed;
 - d. no storage of equipment, machinery or materials is to occur;
 - e. open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used;
 - f. tree roots must not be severed or injured; and
 - g. machinery must not be used to remove any existing concrete, bricks or other materials.
 5. All tree pruning work must be in accordance with the Australian Standards AS4373 (2007) “Pruning of Amenity Trees” and be undertaken by a qualified and experienced arborist.
 6. The development, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
 7. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
 8. Prior to the occupation of the dwellings hereby approved, all boundary fences must be repaired and/or replaced as necessary to the satisfaction of the Responsible Authority, at the cost of the applicant/owner.
 9. Before occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
 10. Prior to the removal of the existing street tree from the site’s nature strip the Developer/Owner must pay to Council a compensation, removal and replacement fee of \$385 (including GST) for the removal of this existing street 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.

11. Before occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
12. Before the development hereby approved 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 an impact (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).
13. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
14. The development of the site must be provided with stormwater works which will incorporate the use of water sensitive urban design principles to improve stormwater run-off as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration or bio-retention system, rainwater tanks connected for re-use and a detention system.
15. Construction on the site must be restricted to the following times:
 - a. Monday to Friday 7:00am to 7:00pm
 - b. Saturday 9:00am to 6:00pm
 - c. No construction is allowed on Sundays and Public Holidays.Or otherwise as approved by the Responsible Authority in writing.
16. Before 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.
17. Convenient taps or fixed sprinkler system must be provided to the satisfaction the Responsible Authority capable of watering all communal and private land and landscaped areas, including turf block visitor car parking where provided.
18. A street number of 100mm minimum height and contrasting in colour to its background, must be fixed at the front boundary of the property and as near as practicable to, or on the letterboxes with such numbering to be in accordance with Council's Street Numbering Policy. Separate unit numbers of 75mm minimum height must be placed adjacent to the front entrance of each dwelling. Such numbers must be clearly legible from the access driveway.
19. Exterior lights must be installed in such positions as to effectively illuminate all pathway and porch areas. Such lighting must be controlled by a time clock or sensor

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

20. Prior to the occupation of the dwellings hereby approved, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
- a) Constructed to the satisfaction of the Responsible Authority.
 - b) Properly formed to such levels that they can be used in accordance with the plans.
 - c) Surfaced with an all-weather exposed aggregate, natural sand colour, 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.

21. 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.
22. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
23. External clothes drying facilities must be provided for each dwelling.
24. 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.
25. Once the development and/or use has started it must be continued and completed to the satisfaction of the Responsible Authority.
26. In accordance with Section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
- a) The development is not started within two (2) years of the date of issue.
 - b) The development is not completed within one (1) year from the commencement of works.

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

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

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

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In the event that Council wish to oppose the application, it can do so on the following grounds:

1. The proposal would have an adverse affect on the amenity of an established residential neighbourhood.
2. The proposal constitutes an over- development of the site.
3. The proposal exhibits excessive bulk and mass.
4. The proposal does not satisfy all the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular 55.02-1 Neighbourhood Character Objectives, Clause 55.03-8 Landscaping Objectives, Clause 55.04-1 Side and Rear Setbacks Objective, Clause 55.05-3 Street Setback Objective, Clause 55.05-4 Private Open Space Objective, Clause 55.06-1 Design Detail and Clause 55.06-4 Site Services Objectives.

The meeting was addressed by Wayne Henry addressed on behalf of the objectors and Derek Farrington on behalf of the applicant.

Crs Ronke/Shewan

That a Notice of Refusal to Grant a Permit be issued on four grounds:

1. The proposal would have an adverse effect on the amenity of an established residential neighbourhood;
2. The proposal constitutes an overdevelopment of the site;
3. The proposal exhibits excessive bulk and mass.
4. The proposal does not satisfy all the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular 55.02-1 Neighbourhood Character Objectives, Clause 55.03-8 Landscaping Objectives, Clause 55.04-1 Side and Rear Setbacks Objective, Clause 55.05-3 Street Setback Objective, Clause 55.05-4 Private Open Space Objective, Clause 55.06-1 Design Detail and Clause 55.06-4 Site Services Objectives.

Carried

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L149

KP110/06 20 Levanto Street, Mentone

APPLICANT:	Aurecon Australia Pty Ltd
ADDRESS OF LAND:	No. 20 Levanto Street, Mentone (Lot 1 on Plan of Subdivision 315709V and Certificate of Title Volume 10087 Folio 347); known "Chiquita Park."
MELWAY REF:	87 C5
PROPOSAL	To amend Planning Permit KP110/06-A (endorsed plans), which allows for the development of the site for the construction of fifty-six (56) dwellings, the construction of buildings and works associated with the existing place of assembly (Scout Hall) and the removal of native vegetation, pursuant to Clause 52.17 of the Kingston Planning Scheme, by making minor changes to the built form of the approved dwellings.
CONTACT OFFICER:	Angela Hughes
FILE NO:	KP110/06
ZONING/OVERLAYS:	Residential 3 Zone; Development Plan Overlay, Schedule 3
CONSIDERED PLAN REFERENCES/DATE RECEIVED	15 th May 2009

MAIN ISSUES RELATING TO THIS APPLICATION:

- The use of an orange/terracotta colour (paint/render) in the development;
- Changes to the architectural features of the development resulting in a 'squarer' finished development; and
- Changes in building materials throughout the development.

EXISTING CONDITIONS:

The site is former Department of Defence land located on the east side of Levanto Street in Mentone, in close proximity to the south-east corner of Levanto Street and Savona Street.

The site benefits from Planning Permit KP110/06 which was granted by the City of Kingston on 3rd July 2006 and allows the development of the site for the construction of fifty-six (56) dwellings, the construction of buildings and works associated with the existing place of assembly (Scout Hall) and the removal of native vegetation, pursuant to Clause 52.17 of the Kingston Planning Scheme. This planning permit was amended on 10th July 2006 to delete Condition 1(u) relating to the building envelope of the scout hall, to be retained on the site. (KP110/06-A).

The site has been recently developed in general accordance with Planning Permit KP110/06-A. The development appears to have been recently completed.

PROPOSAL IN DETAIL:

It is proposed to amend the plans endorsed under planning permit KP110/06-A, under secondary consent provision, to provide for various changes across the development.

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It is noted that the development of this land is largely completed and that therefore the changes proposed as part of this request have, in fact, been constructed.

The proposed changes outlined in this report relate only to those changes that may cause concern in relation to the main issues regarding this application; namely, the impact of these changes on the use of an orange/terracotta colour throughout the development, changes to the architectural detail and changes in building material.

Proposed changes that are considered to be minor and raise no concern in relation to the issues with the application will be determined under delegation.

Lot Number	Proposed Changes which may cause concern in relation to the main issues concerning this application
<p style="text-align: center;">Block A Lots 27 – 32 (inclusive)</p>	<p><u>Lots 27 and 28:</u></p> <ul style="list-style-type: none"> • Straightening out of the southern (front) and eastern (side) walls of Unit 27 (ground and first floor) and consequently minor alterations to the size and shape of rooms; <p><u>Lots 29 to 32 (inclusive)</u></p> <ul style="list-style-type: none"> • Increase in the ground floor building footprint of Lot 32 by approximately 22.5 square metres, including the construction of an additional 7.5 metres on the western (side) to provide a larger dwelling; • Minor alteration to the dwelling entry of Lot 32 to provide a smaller porch area and consequently an additional south facing, ground floor window. • Variation to the setback of the first-floor building envelopes from the south (front) boundary of 1.9 metres stepping to 2.4 metres instead of one consistent setback of 2.3 metres; • Provision of additional south facing windows to the first floor building envelope of these dwellings; • Increase in the building envelope of the second floor by 9.8 square metres to provide an enlarged Bedroom 2, an additional south facing balcony of 703 square metres and the internal rearrangement of the bathroom, toilet and laundry. • The dwelling entries (north elevation) revised so as to delete the ‘angle’ feature and consequently ‘squaring’ off the elevation;
<p style="text-align: center;">Block B Lots 35 – 38 (inclusive)</p>	<ul style="list-style-type: none"> • Loss of Alucobond, EcoPly and ribbed metal cladding and loss of steel cabling on the west facing balconies, replaced by greater areas of painted and rendered surfaces and glazing; • The west (Levanto Street) elevation ‘squared’ off by virtue of the loss of angled dwelling entries and front fences and a reduction in

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	the variety of materials used on all elevations.
Block C Lots 33 and 34	<ul style="list-style-type: none"> • Loss of metal cladding, oxide sand cement render and semi-opaque corrugated polycarbonate cladding on all elevations replaced by greater areas of painted/rendered surfaces, EcoPly cladding and brickwork; • Alterations to the articulation and built form of these elevations.
Block D	*** <i>No changes proposed</i> ***
Block E Lots 45 to 50 (inclusive)	<ul style="list-style-type: none"> • Loss of metal deck roofing, blue-green Pilkington glass with aluminium frames, timber louvers and oxide sand cement rendered surfaces on all elevations replaced by painted/rendered surface, glazing, small areas of EcoPly cladding and timber slatted fencing; • The west (Levanto Street) elevation 'squared' off by virtue of the loss of angled features and loss of articulation by virtue of the reduction in the variety of materials used on all elevations.
Block F Lots 51 to 56 (inclusive)	<ul style="list-style-type: none"> • Loss of metal cladding, timber cladding, oxide sand cement render and timber slatted garage doors replaced by large areas of painted/render surfaces, EcoPly cladding, selected panel lift garage doors and the introduction of face brickwork on the lower levels; • Elevations 'squared' off by the loss of angled, architectural features and a reduction in the variety of materials used on all elevations, particularly the west (Levanto Street) elevation.
Block G Lots 1 and 2	<ul style="list-style-type: none"> • Loss of metal cladding, timber cladding, oxide sand cement render replaced by painted/render surfaces, EcoPly cladding and the introduction of face brickwork on the lower levels; • Loss of articulation to the east and north elevations by virtue of a reduction in the variety of materials in these elevations; • Increased articulation provided to the west (internal road) elevation by virtue of an increase in the variety of materials used on this elevation.
Block H Lots 3 to 6 (inclusive)	<ul style="list-style-type: none"> • Loss of oxide sand cement render and industrial sized (garage) roller doors replaced by painted/render surfaces on the upper floor, the introduction of face brickwork on the lower flowers, and the provision of smaller, panel-lift garage doors; • The west (internal road) elevation by 'squared' off by virtue of a loss of angled features; • Minimal change to the extent of articulation on the east (rear)

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	elevation.
Block J Lots 7 to 10 (inclusive)	<ul style="list-style-type: none"> • Loss of metal cladding and oxide sand cement render replaced by painted/render surface and the introduction of face brickwork; • Alteration to the articulation of elevations by virtue in the change to building materials and colours.
Block K Lots 11 to 14 (inclusive)	<p><u>(a) Internal changes</u></p> <ul style="list-style-type: none"> • No change to Lot 11 at ground floor; but increase in the size of Bedroom 1 at first floor by constructing the first floor building envelope with a zero setback to the ground floor building envelope on the northern (front) elevation; • Alterations to the first floor layout of Lots 11, 12 and 13 to delete the south facing (rear) balconies to accommodate an additional bedroom with en suite and walk-in wardrobe and increase in the size and shape of the north facing (front) balconies from 14 square metres to 17 square metres. <p><u>(b) External changes</u></p> <ul style="list-style-type: none"> • Loss of metal cladding, oxide sand cement render and semi-opaque polycarbonate finish to garage doors replaced by painted/render surface, selected panel-lift garage doors, the introduction of face brickwork, and the introduction of a small area of ‘rusty metal’ cladding on the west (internal road) elevation.
Block L Lots 15 to 21 (inclusive)	<ul style="list-style-type: none"> • Loss of metal cladding, oxide sand cement render and timber louvers replaced by large areas of painted/render surface and the introduction of face brickwork; • Loss of articulation by ‘squaring’ off angled features and reducing the variety of building materials and colours used in elevations.
Block M Lots 22 to 26 (inclusive)	<ul style="list-style-type: none"> • Loss of metal cladding, oxide sand cement render and timber louvers replaced by large areas of painted/render surface and the introduction of face brickwork; • Industrial sized roller doors on the west (internal road) elevations replaced by smaller, selected panel-lift garage doors; • Loss of articulation by ‘squaring’ off angled features and reducing the variety of building materials and colours used in elevations.

ADVERTISING:

Under the Development Plan Overlay, where a Planning Permit is generally in accordance with an approved Development Plan, there is no requirement to give notice of an amendment to a planning permit. Therefore this request was not advertised.

It is noted that a number of the lots located within this development have been sold to private owners, separate from the developer.

Council officers had sought from the Applicant to have this application signed by all property owners within this development, as the changes sought under this application, undoubtedly affect their properties. However, Council officers have received the following response from the Applicant regarding the issue of consent

“For the purpose of this advice we assume that Council is correct that a person must be a 'specified person' pursuant to s. 48 of the Planning and Environment Act 1987 ('the Act') in order to make a request for secondary consent, though we note that this is not regulated by either the Act or the relevant condition.

Pursuant to s148; a specified person includes "the owner, user or developer of the land directly affected by the matter". In the present instance we submit that our client qualifies in all three capacities.

You (the Council) have been provided with copies of documentation which demonstrates the contractual relationship between our client and the owners of individual lots, That documentation confirms that our client is authorised by the owners to seek secondary consent. On this basis we submit that the request is either made by the owner, through our client as agent, or by our client as 'user of the land directly affected" pursuant to the contractual rights set out in that documentation.

Further, we submit that our client is the developer of the land. In this regard we note that Council, on 11 July 2006, issued the amended planning permit specifically to our client as the developer of the land.”

Council officers have received legal advice to verify that separate consent is not required from individual property owners within this development in order to consider this application for the reasons outlined by the Applicant.

ASSESSMENT:

Condition 3 of Planning Permit KP110/06-A states:

The development, as shown on the endorsed plans, must not be altered without the prior written consent of the Responsible Authority.

Therefore, this condition allows the Developer to apply to Council (as the Responsible Authority) to amend the plans endorsed under this Planning Permit.

The Victorian Civil and Administrative Tribunal (VCAT) have established a series of ‘tests’ to be applied when considering an application for ‘secondary consent’ to a planning permit on

various occasions, including at *Westpoint Corporation PL v Moreland CC [2005]*). These tests are listed below and will be used to assess whether this secondary consent application is appropriate:

1. It [proposed amendment] does not result in a transformation of the proposal.
2. It [proposed amendment] does not authorise something for which primary consent is required under the planning scheme.
3. It [proposed amendment] is of no consequence having regard to the purpose of the planning control under which the permit was granted.
4. It [proposed amendment] is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.

Each of these tests is assessed below:

It [proposed amendment] does not result in a transformation of the proposal.

It is not considered that this application will result in a transformation of the development approved under Planning Permit KP110/06-A. As a whole, the proposed changes comprise cosmetic alterations which will have no bearing on the number of dwellings approved or the general form and development of the site. It is considered that the application is consistent with this test.

It [proposed amendment] does not authorise something for which primary consent is required under the planning scheme.

As above, the application comprises minor, cosmetic changes to each of the fifty-six (56) dwellings to be constructed. These changes are generally consistent with Planning Permit KP110/06-A and would not warrant primary consent on their own. It is therefore considered that the application is consistent with this test.

It [proposed amendment] is of no consequence having regard to the purpose of the planning control under which the permit was granted.

It is considered that the proposed changes are inconsequential to the overall development of the site. The proposed development is, and remains, generally consistent with the purpose and objectives of the Residential 3 Zone and the Development Plan Overlay, particularly Schedule 3. It is therefore considered that the application is consistent with this test.

It [proposed amendment] is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.

The proposed changes have been requested voluntarily by the developer. The changes are not contrary to any provisions contained within the Planning Permit; rather the changes are already generally consistent with the form of the development approved in the endorsed plans. It is considered that the proposed changes will have a negligible impact on the overall development of the site and that there, the application is consistent with this test.

CONCLUSION:

It is considered that the proposed changes are of a minor nature and will have a negligible impact on the form, bulk, mass and scale of the development approved under Planning Permit KP110/06-A.

RECOMMENDATION:

That Council resolve to:

- (a) Approve the amended plans to be endorsed to form part of Planning Permit KP110/06-A.

In the event that Council wishes to oppose the application (or a part of the application), it could:

- Refuse the changes proposed to be made to the endorsed plans attached to Planning Permit KP110/06-A (as detailed in this report).

Cr Dundas declared a direct interest in this item as it is reasonably likely that his residential amenity will be directly affected if the matter was decided in a particular way, and left the meeting at 9.15pm prior to the item being considered.

Crs West/Staikos

That Council refuse the changes proposed to be made to the endorsed plans attached to Planning Permit KP110/06-A (as detailed in this report):

1. from which the following points can be deleted:
 - Block A: dot points 2 – 6;
 - Block H: dot points 1 and 3;
 - Block K: all dot points;
 - Block L: from dot point 1, the words: “and the introduction of face brickwork.”
 - Block M: from dot point 1, the words: “and the introduction of face brickwork”; dot pt 2;
2. to which is added an added separate point (after Block M) to read:
“* Replacement of various complying materials and colors by orange-rendered panels on a number of units that face parkland open space or Levanto or Savona Street frontages. (This includes units 2-4, 10, 12, 14, 15, 17, 20-22, 26, 46-52; 54-6.) “
3. And the changes deleted under point 1 above be approved.

Carried

Cr Dundas returned to the meeting at 9.30pm after the vote had been taken.

L150

Cat Confinement Consultation

Approved by: Tony Rijs General Manager Environmental Sustainability

Author: Neil Sheppard -Team Leader Local Laws

1. Purpose

The purpose of this report is to brief Councillors on submissions received through the consultation process relating to cat management and cat confinement options. The consideration of cat confinement was highlighted as a proposed activity in Council's Domestic Animal Management Plan 2008-2011 to help address issues such as predation on wildlife, community nuisance and attacks on domestic pets. This report nominates a preferred confinement option for Council consideration.

2. Background

With the introduction of the Domestic Animals Act in 1994, Victorian Animal Control Officers were faced with the daunting task of managing cats, not just feral cats, but owned cats.

Overnight, our feline companion animals were hoisted onto an almost equivalent legal footing as dogs and that new status came with some discontent. Some cat owners begrudged having to pay registration for their animals and one could only think that some of their arguments may have mirrored those of dog owners when registration laws came into force for them many decades earlier.

The new legislation covered cat registration, management of nuisances and confinement options. The later gave local government bodies the authority to independently determine the level of confinement controls they wish to apply in their individual municipalities. The State legislation does not require cats to be confined to the owner's property.

Alternatively Kingston addresses complaints against an identified nuisance cat (wandering on a private property other than that where they are housed) through a reactive trapping program. Once a cat has been impounded under this program the cat owner is issued a Notice of Objection to prevent the cat returning to the property from where it was trapped and causing a nuisance.

This report addresses the lack of previous public consultation on this issue and contains data received from Kingston residents offering their views on cat confinement options within Kingston.

Legislation and Local Laws

The Domestic Animals Act 1994 has many sections devoted to the responsible ownership of cats. Some sections allow Councils to make orders by Resolution about what areas cats are allowed or not allowed to enter. Councils are given the power to make Local Laws on the number of owned cats per property.

Kingston's Local Law No.6.10 states:

2 cats per unit or house property less than 4000m²

4 cats per property greater than 4000m²

Section 23 of the Act provides Councils to serve a Notice on a cat's owner if the cat has been present on private property, more than once, without permission. This section allows Animal Control Officers to deal with cats on private property without permission. The City of Kingston has used this section effectively to reduce the incidents of residential disputes between neighbours over an owned cat nuisance.

Section 25 of the Act allows Councils to make an order, by resolution, of the hours that a cat must be securely confined or not allowed to wander at large. Kingston currently does not have an Order of this type in place.

Section 26 of the Act allows Councils to prohibit the presence of cats in any public place by making an order by resolution. The City of Kingston does not currently address cats at large in public places.

Section 42 of the Act provides Councils to make a Local Law prohibiting the keeping of cats in a specified area where threatened native fauna are at risk of attack. To date Kingston has one Order under this Section of the Domestic (Feral and Nuisance) Animals Act 1994 which prohibits the keeping of cats within the Waterways Estate. This Order was adopted to protect threatened and endangered species that were identified in this estate. No other confinement controls have been introduced.

Statistics

The following information is provided as requested by Councillors:

Number of cat complaints received and investigated by Kingston Local Laws last financial year: **323 cat related complaints**

Number of barking dog complaints received and investigated by Kingston Local Laws last financial year: **122 animal noise complaints**

Number of Cats currently registered within Kingston: **6168**

Estimated number of cats owned in Kingston based on the national average cat ownership (25.3% of Australian households) - **15,503**

Estimated number of cats owned in Kingston based on our local data collected through the 2007 animal registration door knock (house to house registration audit) – **11,000**

Number of Dogs currently registered within Kingston: **15,013**

Estimated number of dogs owned in Kingston based on the national average dog ownership per household (37.3% of households) – **21,387**

Estimated number of dogs owned in Kingston based on our local data collected through the 2007 animal registration door knock (house to house registration audit) – **20,500**

The percentage (%) pet ownership is from the National People and Pets Survey 2006. Research undertaken by “Roy Morgan Research” and author of the report is Professor Bruce Heady, Melbourne Institute of Applied Economic and Social Research, University of Melbourne.

Number of cat's impounded last financial year: 255 impounded, 40 released to owners, over 80% cats impounded euthanised.

**City of Kingston
Ordinary Council Meeting**

Minutes

28 September 2009

Number of dogs impounded last financial year: 828 impounded, 669 released to owners, approximately 20% re-homed or euthanised.

Cat fines, amount for first fine and then subsequent fines, and the maximum in court: **\$58** for fine and then in court between 1 penalty unit and 3 penalty units (**\$117 - \$351**). Can only issue 1 fine and then matter must be heard in court for subsequent offences.

Dog fines, day and night: day **\$175** night **\$234**

3. Summary and Conclusion

It is important to keep any conclusions drawn from these submissions in context. Any statistics drawn from these submissions need to be mindful that the views represented are only representative of those people who took the time to respond and so do not necessarily reflect the views of all ratepayers or residents. Care therefore needs to be taken in drawing definitive conclusions. The results from the submissions nevertheless do provide some guidance on the feeling of the community.

In addition to community attitude Council should give consideration to the objectives of animal management as identified in Kingston's Domestic Animal Management Plan. This includes promoting responsible cat ownership, reducing nuisances, promoting animal welfare and reducing un-owned stray cats. It is for this reason that Council should consider options for cat confinement and management that achieve our objectives for the benefit of cats and the greater community.

The Kingston cat management strategy aims to promote enjoyable, nuisance free and healthy cat ownership. This complements the objectives of State legislation pertaining to animal care and management.

The introduction of a curfew at a local or State level would enable Council to target wild cat colonies and remove them from the community minimising the chance of capturing owned domestic cats. Wild cats within the suburban environment spread disease within the domestic population such as Feline Aids and are generally unhealthy in themselves. This is another mechanism to remove diseased and un-owned and unwanted cats in the community.

The question then is, "Is this a local or State issue and how affective would the introduction of legislation or an Order for confinement be at either level of Government?" Cat confinement issues are not unique or specific to the City of Kingston alone. The same issues of animal welfare, nuisances and over breeding are found across the State. It is for this reason that we believe it is a State wide issue therefore an issue for State Government to address more proactively.

If Council addressed this at the local government level we would need to actively address cultural change in promoting the benefits of cat confinement to pet owners who traditionally have allowed their cats to wander. A State wide educational campaign/program is perceived to be a more effective option. Notwithstanding this Council can and will commence an education program to heighten public awareness and encourage confinement of cats to their owners property.

It is also fair to conclude that if a cat confinement order is implemented there will need to be a greater level of enforcement, particularly with respect to wandering and nuisance cats. Many comments indicate that there should be a much higher level of enforcement during the time of the confinement Order. Responsible cat ownership requires a balanced approach between education and enforcement to achieve the goal. Educating residents is equally important as the combined effect of trapping, curfews and prohibiting cats in specified areas.

If you provide for all their needs cats will be happy to stay indoors. Most de-sexed cats are happy to live in a suitable enclosed area. Contrary to popular belief, cats do not have an innate need to roam; they simply require opportunities for exercise and play, as well as around 19 hours of sleep per day. Many city cats become better pets and enjoy long, healthy and contented lives inside a house or flat 24 hours a day. Should owners wish to allow their cats the freedom of their back yard then methods and products are available to enable this whilst keeping the cat confined.

As we do not consider this to be a local issue alone, we propose that Council advocate on behalf of the community to the State Government requesting a review of cat confinement legislation and amend the Domestic Animals Act 1994 to include compulsory night/24 hour cat confinement. In addition request that an education strategy be put in place to increase cat confinement across the State.

4. Consultation

Methodology

The consultation process undertaken involved the following:

- 23000 colour printed survey flyers were included with the annual animal registration renewal forms. This form contained a question relating to cat confinement with 4 options including tick boxes. Council requested that the survey question be completed and returned to Council. The flyer also contained information guiding people to Kingston's website where a short survey could also be found.
- The above flyer was also available at all customer service centres for residents to complete.
- An online survey form was placed on the City of Kingston website inviting interested parties to complete online submissions.
- Articles placed in the Leader newspapers informing the community that we were seeking public comment on cat confinement options.

Results

1750 submissions were received via Kingston website's online survey and survey flyers.

583 were in favour of no cat curfew at all

562 were in favour of a 24 hour cat curfew

516 were in favour of a 9pm to 6am hour cat curfew

58 were in favour of various different cat curfews ranging in hours

31 ticked more than one box and could not be counted

It is fair to say that those people supporting a 24 hour confinement support a night curfew. Where as a large percentage of those residents who support a night time curfew have indicated that they do not support a 24 hour curfew.

Please refer to **Attachment 1** – General Comments Received.

The vast majority of responses were constructive in their comments and people seem appreciative of being given the opportunity to comment.

5. Issues

Enforcement

- § Issuing Nuisance Notices is time consuming
- § Night Curfew - time cat trapped or caught if wandering outside owners' property will be questioned.
- § Can't identify who owns the cat
- § Property owners often are unable to identify a specific nuisance cat
- § Trapping program – purchase, supply, maintenance, tracking of traps
- § There is no after hours enforcement currently in place for the control of cats
- § Residents frustrated that they have to establish a feeding routine prior to us trapping – this results in time delays in resolving problem
- § Additional statutory steps when an order not in place restricting cats
- § Feral verses domestic
- § Availability of Officers – staff resources/rosters
- § Steps in impounding reduced if Order in place
- § Phasing of implementation

Cultural change

- § Emotive
- § Polarised views
- § Perception that it is cruel to confine
- § Managing change of culture/community attitude
- § Education

Impact on Owner

- § Housing/control methods
- § Additional equipment (kitty litter trays, scratching poles, environmental enrichment items etc)
- § Financial – dependant on method of confinement
- § Medical conditions (housing cat inside could cause a health issue with people with allergies or respiratory,
- § Behavioural changes in cat

Animal Welfare

- § Reduced chance of injury sustained from being at large – hit by cat, fighting with other cat, falling from height, dog attack, spread of disease (Feline aids, ringworm)
- § Reduced impact on wildlife
- § Behaviour changes due to introduction of confinement (can be addressed through environmental enrichment)
- § Emotional impact –lonely
- § Help reduce wild un-owned cat population – identifying, removing, encouraging formal adoption

Nuisance

§ Reduced incidents of nuisances – unwanted trespass, spraying, defecation, fighting, calling (noise), digging up gardens, eating neighbours pet food, over breeding (formalising ownership will see more cats de-sexed as required under Council's Order)

Benchmarking

Cat Confinement Orders in place with other Councils

Some Councils already have orders or local laws requiring cats to be confined during specified hours (e.g. between dusk and dawn or even 24 hours a day), and/or restricting the presence of cats in certain public areas (e.g. parks or reserves). Most Council's strongly encourage confining cats to the owners' property.

Frankston City Council has a resolution requiring all cat owners to secure their cat/s indoors between dusk and dawn.

Mornington Peninsula Shire has adopted a municipality-wide Order which requires all cats to be contained within the owner's property at all times.

The City of Monash restrict cats from entering five environmentally sensitive parks.

Since February 1999 **The City of Casey** has had an order in accordance with the provisions of clause 25 of the 'Domestic (Feral & Nuisance) Animals Act 1994'. The order states: "If a cat is found at large outside the premises of its owner at any time, the owner is guilty of an offence."

Wyndham City Council requires cats to be securely confined to the owner's premises between 10pm and 6am and it also prohibits the presences of cats in any public area where an authorised officer forms the opinion that the cat is a stray or is creating a nuisance.

Nillumbik Shire Council has an order under the Act which states that cats must be securely confined between the hours of 7.30pm and 6am.

Bayside City Council is currently considering cat confinement options.

6. Options

Confinement Options

There are several options for confining a cat. Simply keep the cat inside the house or flat. Confine a cat at night in the shed or garage. Build a cat enclosure in a back yard. You can build an A-frame enclosure with chicken wire, or adapt an aviary into a cat enclosure. Cat access to the house can be provided via a window or cat door. Alternatively you can enclose a veranda or the section of garden between the house and fence with chicken or fly wire.

Cat enclosures (solid or net) or modular cat parks for a yard can be purchased. They can be found in the Yellow Pages under Pet Shop Suppliers. Modifying fencing products are available to prevent the cat from climbing over fences or a cat owner may build a cat-proof boundary fence around their property. It is possible to attach small gauge chicken wire or aluminium flashing to the top of existing fences, and angle it into the property, so the cat has difficulty in jumping over.

Devoted cat lovers will take the challenges involved with cat confinement in their stride. The benefits far outweigh the risks and problems that wandering cats can cause. They will be able to relax at home knowing that their cat is safe from all the dangers that exist outside the home. They will be able to enjoy the companionship of their cat, secure in the knowledge that they are benefiting not only their own cat, but also every animal and every person in their neighbourhood.

Option 1

Do not introduce a cat confinement order. Council should acknowledge that there is clear indication from the community for a confinement order. The question is, “Is this a local or State issue and how affective would the introduction of legislation or an Order for confinement be at either level of Government?”

Cat confinement issues are not unique or specific to the City of Kingston alone. The same issues of animal welfare, nuisances and over breeding are found across the State. It is for this reason that we believe it is a State wide issue therefore an issue for State Government to address more proactively. In addition to this a State wide educational campaign/program is perceived to be a more effective option. Not withstanding this, the Local Laws and Health Services Department intend to commence an education program to heighten public awareness and encourage confinement of cats to their owners’ property irrespective of the Option adopted by Council.

In the short term, failing to introduce an order would temporarily limit Council’s ability to minimise nuisances created by cats wandering at large, the ability to improve cat welfare and reduce the threat to native wildlife.

It is recommended that Council advocate on behalf of the community to the State Government requesting a review of cat confinement legislation and request the Government to amend the Domestic Animals Act 1994 to include compulsory night/24 hour confinement. In taking this action Council demonstrates they believe that cat confinement is a matter for the State and is not a localised issue and acknowledges the benefits of confinement of cats to the owners’ property.

State legislation requiring confinement of cats to owners’ property would provide for clear and uniform cat confinement controls across the State. An educational campaign run by the State and implemented at the local level would be more effective in modifying the current cultural attitude and behaviour, making the legislation more effective.

This option is recommended.

Option 2

Implement a night time cat confinement order requiring all cats to be confined from 9pm to 6am. There is clearly a call from within the community supporting a night time curfew. This has some clear advantages in that it will meet the community’s expectations and address some of the key objectives listed in Kingston’s DAMP.

The major disadvantage of a night curfew is its level of effectiveness. One specific disadvantage will be the time the cage is set and cat caught. The time the cat is caught is likely to be questioned verses the actual fact the cat was at large outside the owners’ property during the curfew period. This will be a specific issue where traps are provided to a property

owner to catch an offending cat rather than an Authorised Officer setting the trap themselves at night after 9pm.

Therefore introducing a night time confinement order will be more difficult to enforce than a 24 hour confinement order and does not fully address the reduction of nuisances and improve animal welfare.

Cats allowed to wander during the day will still have the ability to create a nuisance and present as a danger to themselves through external risks such as road trauma.

This is not the preferred option

Option 3

Implement a confinement order requiring all cats to be confined 24 hours a day. It is clear that cats are causing a nuisance both day and night. There are two distinctive positive outcomes resulting from the introduction of a 24 hour confinement order.

The first is in addressing domestic owned cats. In this instance we aim to meet community expectation, reduce nuisances occurring from wandering cats that are defecating, urinating, fighting, causing noise problems and stealing food from neighbouring pets.

The second instance is addressing the wild unowned community of cats. With respect to this latter group the aim is to clearly identify them as being unowned and then commence a removal program to reduce unwanted breeding, spread of disease and address the associated animal welfare issues.

The security that a 24 hour confinement order provides to owned domestic cats will see them less likely to be caught in a wild cat trapping program.

In the short term there may be an increased number of requests for cat trapping but the long term strategy is to reduce the number of stray unwanted cats within the community causing a nuisance.

This action would still be considered more effective if undertaken by the State Government due to the huge cultural change expected in introducing such legislation. State legislation would provide for clear and uniform cat confinement controls across the State and support the objectives of the Act.

An educational campaign run by the State and implemented at the local level would be more effective in modifying the current cultural attitude and behaviour, making the legislation more effective. Notwithstanding this, the Local Laws and Health Services Department intend to commence an education program to heighten public awareness and encourage confinement of cats to their owners' property irrespective of the Option adopted by Council.

This is not the preferred option

Statutory Process

In accordance with S223 of the Local Government Act 1989 the process for the implementation of a proposed Order under the Domestic Animals Act 1994 is as follows:.

- Publish a Public Notice of Council's intention; local papers, Government Gazette, display information on Kingston website; and submissions invited.
- Submissions close following a 14 day period to receive submissions.
- Section 223 Submission Committee hearing (verbal submissions).
- Report to Council (Ordinary Council Meeting) including consideration of Section 223 Committee submissions; National Competition Policy Review; and Council decision.
- Advertisement in the Government Gazette.
- Confinement Order to come into operation on a specified date once advertised in the Government Gazette.

7 Triple Bottom Line Checklist

• Financial

If Council or the State Government chooses to implement a cat confinement order there will be an increase in the requirement for cat trapping. This will mean that Council will have to purchase a substantial number of new cat traps. Each trap costs approximately \$110. Additional staff may also need to be employed to deal with wandering cat issues.

There would be addition costs incurred by cat owners who may wish to purchase a cat park or construct a cat proof enclosure or modify fencing to ensure their cat is securely confined to their property. Additional items for the care of cat/s would also need to be purchased by cat owners if animal confined indoors or in an enclosure.

• Environmental

At present there is no cat curfew and cats may wander at all times of the day. The submissions contain many comments stating that wandering cats have an impact on the environment by spraying, defecating and destroying flower beds and killing of wildlife. These impacts would be reduced if cats were required to be confined to the owner's property.

• Social

There would be a benefit to the community with the introduction of a cat confinement order. Likewise advocating to the State Government on the communities behalf demonstrates that Council acknowledges the views of its residents and therefore will advocate on their behalf as this is viewed to be a State issue and not a local issue.

Most cat related complaints are about cats being on other people's property without permission causing damage, territory marking by urinating, defecating in flower beds and engaging in fights with other cats. It is hoped that a State or local confinement requirement including enforcement provisions would reduce the opportunity for cats to cause neighbourhood problems. In either respect, there would need to be an education campaign to address cultural changes in promoting the benefits of cat confinement.

8. Recommendation

1/ That Council advocate on behalf of the community to the State Government requesting a review of cat confinement legislation and request the Government to amend the Domestic Animals Act 1994 to include compulsory night/24 hour confinement.

Attachment 1 – General Comments Received during consultation process.

Motion:

Crs West/Shewan

That Council:

1. adopt option 2 (Dusk to Dawn) for cats to be confined to the owners property; and
2. investigate the practice of the City of Monash and restrict cats from entering environmentally significant parks, including the foreshore and the natural resource areas.

Extension of time:

Crs Brownlees/Staikos

That the meeting be extended until 10.30pm.

Carried

With the approval of the chairperson, the motion was voted on in two parts.

Part 1 of the motion (Crs West/Staikos) was **put and carried**.

Part 2 of the motion (Crs West/Staikos) was **put and carried**.

The Council resolution, in its entirety, reads as follows:

Crs Staikos/West

That Council:

1. adopt option 2 (Dusk to Dawn) for cats to be confined to the owners property; and
2. investigate the practice of the City of Monash and restrict cats from entering environmentally significant parks, including the foreshore and the natural resource areas.

Carried

Attachment 1

Comments supporting no change to cat confinement restrictions

<i>Leave the arrangements as they are and stop pestering people to change them</i>
<i>A curfew is unnecessary but I suspect this stupid idea may be railroaded through. If so, it should be phased in as applicable to new rego's only. It would be cruel to curtail the freedom suddenly of cats that aren't used to forced confinement</i>
<i>Don't change the rules, if you want to keep cats inside then keeps dogs inside too to stop them barking all night</i>
<i>What about a survey on dogs barking during the night in Kingston</i>
<i>My cat is 8 years old and it would be impossible to keep him in at night</i>
<i>I am strongly opposed to more regulations where pets are concerned. The dog laws are already over legislated and restricting beyond reasonable consideration</i>
<i>Cats keep the mice and rat population down</i>
<i>We would have to buy more kitty litter and the expense of a cat enclosure is out of the question</i>
<i>I did not realise there was a cat problem within the community</i>
<i>My cat is in the house at night but sometimes it is difficult to get him in early</i>
<i>My children have asthma and the cat stays in the garage most nights</i>
<i>I think this is absolutely ridiculous! I have more of an issue with barking dogs than roaming cats! How about the council focus their time and money on more important things like the copious amounts of graffiti around our community</i>
<i>Dogs are more of a problem than cats</i>
<i>I have never encountered cat droppings on washing hanging on the line but I have encountered bird droppings on it. Should birds be required to be locked up? In my view the whole situation seems to be driven by emotion and hysteria rather than common sense. I think that it is time to take a good hard look at the reality of the situation before any action is taken.</i>
<i>My cat Cooper loves being outside it would be cruel for me to have to keep him in when he wants to go outside he loves it outside I am strongly against this cat curfew</i>
<i>If Cats have to have a curfew, then teach them how to use a mobile phone so that they can be called to come home. Ridiculous. Cats MUST be neutered, but leave them to behave naturally otherwise</i>

Comments supporting a 24 hour cat curfew

<i>I am concerned about the large number of native birds and small lizards that are stalked and killed by cats</i>
<i>Cats are an introduced pest and a danger to our native wildlife which they stalk to maim or kill.</i>
<i>Why are our neighbours cats allowed to dig and defecate in our garden and make a mess and spray everywhere?</i>
<i>I am regularly woken at night by our neighbours cats fighting in our garden</i>
<i>Cat owners should take the same responsibility as dog owners</i>
<i>We are sick of finding dead possums in our garden, neighbours (cat owners) take no responsibility for their actions</i>
<i>I do not allow my dog to wander the streets alone and off a lead, or leave its droppings in a public place or neighbours gardens. I think cat owners need to be responsible for where their pets are at any time, and what damage or mess they are causing</i>
<i>I am sick and tired of cats roaming in my garden during the day and at night. They mate on the front lawn and make horrific noises. They poo in my garden and I want it stopped!</i>
<i>I believe that cat owners should be responsible for containing and controlling their cats for 24 hours per day, as dog owners are.</i>
<i>Dogs are not allowed on other peoples property- why are cats allowed to wander in and out</i>
<i>They kill the local wildlife, they crap in our sandpit, they molest our chooks, and they spray near our front door</i>
<i>What happens if my children get Toxoplasmosis from cat poo in the sand pit?</i>
<i>I am sick of having to clean up dead pigeon/bird feathers from my backyard following attacks from neighbouring cats in OUR BACKYARD</i>
<i>Cats should be treated the same as dogs, make sure you know where it is, ON YOUR OWN PROPERTY OR UNDER YOUR CONTROL. I own a dog</i>
<i>Roaming cats wreak havoc on native wildlife - birds, lizards and small mammals as well as being a nuisance in general - droppings, spraying, fighting and caterwauling</i>
<i>The next door neighbour's cat is constantly in our back yard taking fish from the fish pond and harassing my small dog. It is ridiculous that I can be fined by having my dog in my front yard, even under supervision, yet a cat is free to go wherever it wishes. And now I have no fish! Cats should be confined to an owners property, the same as dogs</i>
<i>As a responsible cat owner with an appropriate cat-run for my felines, I think it is every cat owners responsibility to ensure that they have FULL control of their cats 24 hours a day</i>
<i>Local cats (that I do not own) have killed possums in and around my property recently. It is very disturbing, particularly when you have to clean up the mess. It also annoys me that the cats treat my property like their private roaming ground. Do I have to get a dog to stop them coming on my property???</i>

Comments supporting a 9pm to 6am cat curfew

<i>It is not natural to lock pets inside for 24 hours a day - it goes against nature</i>
<i>I believe the cats have a right to go outside during the day. They should always wear a collar with a nametag & owners contact details. They should also have something around their neck which jingles to scare away the birds.</i>
<i>For the cats safety they should be confined at night. I think a 24 hour curfew is cruel to the animal and impossible to achieve. If this type of curfew is introduced I would expect it would apply to dogs equally. They after all are in the news for attacking other dogs and people</i>
<i>Problem with cats from homes getting onto nature reserves and causing problems for wildlife/birds etc needs to be addressed</i>
<i>I really hope the night curfew will go ahead. I hate to think of cats being injured by cars or other cats. I also hate being woken on many nights by fighting/mating cats!</i>
<i>Cats should have a curfew at night for the safety of wildlife. I recently found a ringtail possum in my yard that had been mauled to death by a cat. I saw a neighbour's cat run away from the body when I went into my backyard</i>
<i>By and large there should be some similarity in the treatment of both cats and dogs. Dogs must be on a leash when at large (unless in a leash free park) yet cats seem to be able to roam with impunity. This does not seem to be equitable treatment for what are essentially similar companion animals</i>
<i>We need to protect native birds from local cats! As a dog owner I have to take responsibility for my pet's droppings, why should I let cats poo all over my garden! And they do, killing plants</i>
<i>I think there are a large number of cat owners who are very responsible with their cats - and a militant few who continue to let theirs roam free, not de-sexed and usually unregistered</i>
<i>Why should cats go without any restrictions, the law is not a fair playing field when it comes to this cat problem. The Kingston city council have a responsibility for our environment and should be acting by now</i>
<i>Unit development in the area has resulted in many more residents owning cats. These cat owners allow their pets to wander throughout our streets at all times of the day and night. I am getting sick of finding cat urine and poo on my property</i>
<i>I am prepared to keep my cat indoors overnight</i>
<i>There is no way you could enforce a 24 hour cat curfew. It would be impossible to keep a cat confined to one property without locking it in a cage</i>
<i>I am concerned about what happens in the odd situation when our cat may be out at night time, 99 per cent of the time the cat is indoors from sundown to sunrise, however occasionally the cat can be outside. What would happen in this situation</i>
<i>Night curfew would be an acceptable compromise as 24 hour is too harsh and would be impossible to enforce</i>
<i>Confining cats 24 hours is outrageous but night-time would be acceptable</i>

Comments relating to other possible cat confinement options

Education and Awareness issues should be promoted before implementing curfews. Such as de-sexing, microchip, immunising, etc. Compulsory de-sexing and micro-chipping with registration discounts that reflect this combination

Perhaps introduce night curfews for new pets, but for cats who have not been restricted it could be difficult to keep them restrained. My cat has rid the area of mice and rats! However, he is used to being outside and it would be unfair to change that now. He is 10years old

Neighbours cats often wander through my property, but have caused no harm to my garden or wildlife. As long as strays are dealt with, there is no need to place restrictions on cat owners

Curfew should be from sunset to sunrise. The biggest problem is cats on the road at night. A driver may swerve to avoid one and cause an accident

Night curfew requires some flexibility. For example, the cat may not be able to be contained until 10pm but owners must actively begin containing their cat between sunset and 9pm

A dusk to dawn curfew. I realise this may be difficult to maintain as the times will change throughout the year. Damage to native animals is a concern and they are mainly nocturnal

Tighter restrictions on the purchasing of cats would be better

How about 12 midnight to 10am as it is often difficult to get the cat in at night

I believe that 10pm to 7am would be more effective and more beneficial

I suggest a 10pm to 6am curfew

I would like Kingston to immediately introduce a 24 hr cat curfew to take effect in 10 years time

L 151 Agreement with United Energy for Installation of Road Signs of Power Poles

Approved by: Tony Rijs, General Manager Environment Sustainability

Author: Warren Ashdown, Manager Infrastructure

1. Purpose

To seek Council's approval for entering into an agreement with United Energy, for the installation of Council Road signage on United Energy power poles and similar assets.

2. Background

Historically Council has installed Road signage on power poles where they have been conveniently located. This has been a practice to minimise clutter in the streetscape, to minimise vandalism and to achieve the efficient establishment of signage.

Recently United Energy has requested that the use of their assets be formalised through council entering into a formal agreement outlining the obligations of both parties.

3. Summary and Conclusion

Council does not always use power poles for the installation of Road signage, however from time to time it is desirable to use them where they are appropriately and conveniently located. For Council to avail itself of this opportunity the entering into this Agreement with the asset owner, namely United Energy, is reasonable and appropriate.

The Agreement will be reviewed at its expiry at the end of the year 2020, and there are no fees payable by Council to United energy for this licence agreement.

4. Consultation

N/A

5. Overview of Agreement

A copy of the Agreement is attached in the confidential attachments to the Agenda. The agreement contains conditions relating to:

- the attachment zone on the power pole
- the method of fixing signs
- the maximum size of Road signage to be installed
- the maximum number of road signs installed on a single pole
- defines the safe work zones around the poles and training requirements for personnel installing signs
- defines which power pole assets the agreement is applicable to
- the Agreement has a term of over 10 years, expiring at the end of 2020.

6. Indemnities and Insurances

The Agreement has standard provisions for the indemnity by Council for personal injury or damage to property. The main Council assets installed on the United Energy power poles are street signs which have a low replacement value should they be damaged. Council sign installation contractor has undertaken the appropriate training and has approved Occupational Health and Safety systems.

The Agreement includes a Principal's Indemnity Extension clause in favour of United Energy. This is not an uncommon provision and Council will be issued from its insurer a certificate of currency endorsing the extension of coverage to United Energy. Council's insurance does not cover our third party contractor working on United Energy's power poles. Accordingly Council will also be forwarded from its current contractor an insurance certificate of currency endorsing the extension of coverage to both Council and United Energy.

7 Triple Bottom Line Checklist

Environmental

Minimises material usage and therefore reduces impact on the environment

Social

The practice has been accepted by the public for many years and reduces clutter in the streetscape.

Financial

Reduces councils costs through minimising the need for separate sign poles

8. Recommendation

That Council approve entering into the attached Agreement with United energy for the installation of road signage on power poles.

*Attachment:
Agreement*

Crs Shewan and West left the meeting at 10.17pm.

Crs Staikos/Brownlees

That the recommendation be adopted.

Carried

**City of Kingston
Ordinary Council Meeting**

Minutes

28 September 2009

*Licence Agreement for the installation of street signage and general street hardware on
United Energy Assets*

This Licence Agreement is made the 9th day of October 2008

BETWEEN UNITED ENERGY DISTRIBUTION PTY LTD (ABN 70 064 651 029)
of Level 3/501 Blackburn Rd, Mt Waverley, VIC 3149 (United Energy)

AND KINGSTON CITY COUNCIL (ABN 80 640 377 247)
of 1230 Nepean Hwy, Cheltenham, VIC 3192 (the “Applicant”)

1. Definition and Interpretation

In this Agreement, unless the context otherwise requires:

“**Jemena**” means Jemena Asset Management (6) Pty Ltd (ABN 52 104 352 650), Jemena Asset Management (2) Pty Ltd (ABN 82 073 613 733), Jemena Asset Management Pty Ltd (ABN 53 086 013 461), Jemena Asset Management (4) Pty Ltd (ABN 86 009 641 187) and Jemena Asset Management (5) Pty Ltd (ABN 37 081 638 217);

“**Applicant**” includes the Applicant and its officers and employees;

“**Applicant’s Equipment**” or “**Equipment**” means a sign or other equipment owned by the Applicant as set out in Item D of Schedule 1 appended to this agreement.

“**Attachment Zone**” means the area on a United Energy Asset described in clause 5(c) of this Agreement;

“**Commencement Date**” means the date set out in Item A of Schedule 1 appended to this agreement;

“**Fee**” means the fee set out in Item C of Schedule 1 appended to this agreement;

“**Licence**” means the licence granted to the Applicant under clause 2;

“**Principal’s Indemnity Extension Clause**” means the clause set out in Schedule 2 appended to this agreement;

“**Responsible Persons**” means the United Energy and Applicant contact persons for all notifications related to this Agreement;

“**Term Expiry Date**” means the expiry date of this Agreement as set out in Item B of Schedule 1 appended to this agreement;

“**United Energy**” includes United Energy and its employees, agents, consultants and contractors including AAM;

“**United Energy Asset**” means a pole or other structure including crossarms, raiser brackets and other facility owned by United Energy to support its electricity distribution system;

“**Working Zone**” means the area described in clause 10 of this Agreement;

2. *Licence*

Subject to complying with the terms and conditions of this Agreement, the Applicant will be entitled to attach, install and maintain the Applicant's Equipment within the Attachment Zone on United Energy's Assets.

3. *Condition Precedent to Licence*

The grant of the Licence to the Applicant under Clause 2 is subject to the Applicant obtaining prior to the Commencement Date such written authorisations and/or permits as may be required by law from the relevant local Council and/or any Government Department or any Statutory Corporation or Authority with respect to the attachment, installation or maintenance of the Applicant's Equipment pursuant to this Licence Agreement.

A copy of such authorisations and/or permits shall be provided to United Energy by the Applicant upon request prior to the Commencement Date.

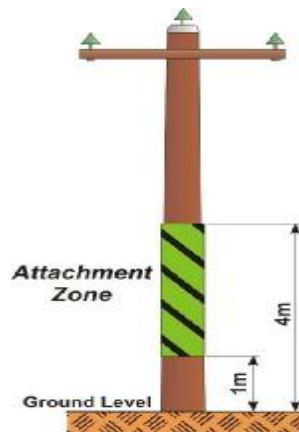
4. *Compliance with Laws*

The Applicant agrees to comply with the requirements of all Acts, Ordinances, Laws, Regulations, By-laws or Orders, Codes, determinations or awards having the force of law which may apply to this Licence Agreement or the attachment, installation or maintenance of the Applicant's Equipment on United Energy Assets including without limitation, all obligations under the Code of Engineering Practice for Shared Use of Poles, Network Asset Regulation 1999, Occupational Health & Safety Act 2004 (Vic) and other relevant standards and shall be liable for all fees or costs and expenses associated with such compliances.

5. *Technical Conditions & Requirements*

Unless otherwise approved by United Energy the Applicant must ensure that the Applicant's Equipment:

- a) is not attached or installed on the following United Energy Assets;
 - substation poles;
 - high voltage cable head poles;
 - hinged poles;
 - fuse switch disconnecter (FSD) box poles, unless FSD is mounted within 1 metre of the crossarm;
 - poles with telecommunication antennae, and
 - unserviceable poles;
- b) does not interfere with or impair the use of United Energy or third parties access, use, function or operation of any United Energy Asset or equipment or any third party equipment;
- c) is attached and installed within the Attachment Zone as described in the diagram below. Where the Applicant's Equipment is attached and installed outside the *Attachment Zone*, any attachment or installation work must only be undertaken with the approval of United Energy. In such cases a request must be made in writing to United Energy in order for United Energy to consider the matter on a case by case basis;



- d) has been approved by United Energy and is listed in Schedule 3 appended to this agreement. If not listed in Schedule 3, then details of the proposed Applicant's Equipment, including dimensions and mounting details, must be submitted to United Energy for approval prior to installation;
- e) is attached using a method approved by United Energy and listed in Schedule 3 appended to this agreement. In particular, no masonry fasteners designed to penetrate concrete or steel is permitted to be used and no hole is permitted to be drilled in concrete or steel poles;
- f) complies with the Code of Engineering Practice for Shared Use of Poles (including any successor Codes) as amended from time to time. In particular, the attachment must comply with the following minimum requirements:
 - i. the wind area must not exceed 0.3m^2 and the longest dimension must not exceed 1.0m; and
 - ii. where the Applicant's Equipment projects over a footpath, its lower edge must be not less than 2.7m from ground level;
- g) shall be securely fixed and be of such construction that it will not dislodge under high wind conditions;
- h) shall not exceed a total of 5 Applicant Equipment attachments to any one United Energy Asset including all third party attachments unless specifically approved by United Energy;
- i) is safe and does not contain any sharp points, edges or burrs that could cause injury to a person or the perforation of any rubber insulation gloves that an employee of United Energy or any contractor engaged by United Energy or any third party may be required to wear when working on United Energy's Assets;
- j) does not create any risk to the safety of any persons;
- k) shall be constructed and erected in such a way that they can be removed by United Energy when United Energy determines that the removal of the Applicant's Equipment is required;
- l) shall be permanently labeled to identify the Applicant as the owner of the Applicant's Equipment;
- m) shall only be attached, installed and maintained by trained persons who have been given clear written directions by the Applicant to perform the works; *and*
- n) shall not readily enable persons to climb the United Energy Asset.

6. Existing Attachments

Where at the Commencement Date of this Agreement, any existing Applicant Equipment attached to United Energy Assets which does not comply with the technical conditions and requirements as set out in clause 5 of this Agreement, then the Applicant agrees that:

- a) during its ordinary course of maintenance, it will at its own expense take all necessary steps to ensure that the existing Equipment complies with the terms and conditions of this Agreement. For the avoidance of doubt, the Applicant agrees that when it performs any works to existing Equipment it will ensure that the Equipment and all other Equipment affixed to that particular United Energy Asset adheres to the terms and conditions of this Agreement;
- b) if it becomes aware of existing Equipment attached to a United Energy Asset which does not comply with the technical conditions and requirements as set out in clause 5 of this Agreement and which the Applicant considers is inaccessible to the Applicant due to electrical clearance requirements it will promptly contact United Energy and United Energy will at the cost of the Applicant arrange for the removal of the existing Equipment;
- c) if United Energy identifies existing Equipment which it considers does not comply with the technical conditions and requirements as set out in clause 5 of this Agreement, and poses an unacceptable risk to the health and safety of persons or interferes with the use, access, operation and function of United Energy's Asset or third party equipment then United Energy may direct the Applicant at the Applicant's cost to immediately take all necessary steps to remedy the situation;
and

7. Recording of Applicant's Equipment

Unless otherwise approved by United Energy the Applicant must ensure that:

- a) any Equipment including new installations and existing Equipment to which the Applicant has undertaken maintenance after the Commencement Date shall be recorded by the Applicant (**'the List'**) and include details such as, the nature of the Applicant's Equipment, street location, the United Energy Asset unique identification number (LIS), and where available details as to the owner of the asset;
and
- b) the List is available to United Energy upon request.

8. Auditing

The Applicant agrees that:

- a) it will undertake annual quality control audits of all works procedures and practices associated with the Applicant's Equipment;
- b) it will report its auditing results to United Energy upon request;
- c) United Energy may from time to time undertake an audit to check compliance with the requirements of this Agreement. In the event United Energy finds there is a material breach, United Energy may require the Applicant to undertake a full independent audit of the Applicant's Equipment at the Applicant's cost and provide a copy of the audit report to United Energy;
- d) any reasonable cost incurred by United Energy in undertaking audits under this clause may be passed on to the Applicant.

9. *Training Requirements*

Unless otherwise approved by United Energy, the Applicant must ensure that any works undertaken on United Energy's Assets is carried out by persons who have received training and the person must be assessed by a Registered Training Organisation ('RTO') as competent. The training material must be developed by an RTO and be approved by United Energy. The training material must as a minimum enable a person to;

- a) have an adequate level of awareness of electrical safety;
- b) identify excluded types of United Energy Assets in accordance with the requirements of clause 5(a);
- c) identify the difference between high voltage and low voltage distribution equipment on any United Energy Asset;
- d) identify the difference between electricity cables, catenary and communication cables;
- e) identify the difference between insulated and bare aerial lines or cables on United Energy Assets;
- f) know and understand all relevant clearance requirements to United Energy's electrical equipment including both persons and plant;
- g) know and understand all relevant personal protective equipment requirements including but not limited to natural fibre clothing with wrist to ankle cover, fully enclosed footwear and protective headwear and safety requirements including safety requirements for working at heights;
- h) know and can perform appropriate first aid procedures including first aid procedures for burns and electric shock; *and*
- i) know and can perform all appropriate procedures (including visual assessment procedures) for ensuring that a United Energy Asset is safe in all respects before commencing any work in relation to that United Energy Asset.

The Applicant must also ensure that any works undertaken on United Energy's Asset is carried out by persons who have been subject to ongoing assessment of their competency in regard to the above minimum competency requirements. They shall be competency assessed at no more than 3-yearly intervals and, where appropriate, training given to restore competency.

To effectively demonstrate ongoing competency of such persons the Applicant must maintain a record of all person's competency assessments which are to be made available to United Energy upon request.

The Applicant warrants that it will, and that it will ensure that any person (including any contractor) it engages in relation to the installation and maintenance of the Applicant's Equipment will, comply with this agreement and any instruction from United Energy

The Applicant acknowledges that it is responsible for any person it authorises to carry out any activity in relation to the Applicant's Equipment, and in particular acknowledges that it is responsible for the safety awareness competency of all such persons.

10. *Personal Electrical Clearance Requirements*

The Applicant must ensure that any works undertaken on United Energy's Asset is carried out by persons who maintain personal electrical clearances by only undertaking work within the Working Zone as described in the below diagram.



Notwithstanding the Working Zone indicated above, the Applicant must ensure that when work is performed within this zone, or where individual approval may have been granted to attach the Applicant's Equipment above the Attachment Zone, the Applicant must ensure that any works undertaken on United Energy's Assets is carried out by persons who maintains the personal electrical clearances as outlined in the relevant Regulations or Codes as amended.

11. Installation & Maintenance Requirements

Unless otherwise approved by United Energy the Applicant must ensure that when attaching, installing, maintaining, removing, replacing, or repairing new or existing Equipment ('the works') it:

- a) must use only ladder's or insulated access platforms of a type recognised as suitable for work near live electrical assets; and any access platform used must be accompanied by a current electrical test certificate;
- b) will have in place safe work procedures which will as a minimum requirement
 - specifically relate to the terms and conditions of this agreement
 - specifically relate to the tasks being undertaken; *and*
 - be clearly readable and available on site at all times;
- c) will regularly inspect the Applicant's Equipment and maintain them in good condition; *and*

12. Make Ready Works

The Applicant must contact United Energy if, in the Applicant's reasonable opinion, any work needs to be performed by United Energy in order to make ready the United Energy Asset to house the Applicant's Equipment.

The Applicant must not perform any works until such time as United Energy has completed the make ready works. All make ready works completed under a request from the Applicant will be at the Applicant's cost.

13. Right to Remove the Applicant's Equipment for Works

Where:

- a) United Energy wishes to carry out maintenance work on any United Energy Asset or replace or move United Energy's Asset; *or*
- b) United Energy considers there is an emergency effecting health or safety; *or*
- c) the Applicant's Equipment is affecting the operation or maintenance of United Energy's Assets or equipment;

Then United Energy, at its discretion , shall:

- d) at its own cost, detach and/or relocate the Applicant's Equipment and give notice to the Applicant of such detachment and/or relocation. In such circumstances, United Energy shall store the Applicant's Equipment at an agreed location for a period of 5 business days;
- e) at it's own cost, detach and/or relocate the Applicant's Equipment by giving reasonable prior notice to the Applicant; or
- f) by written notice, require the Applicant to detach and/or relocate the Applicant's Equipment within 5 business days at no cost to United Energy.

Where United Energy detaches and/or relocates any Applicant's Equipment pursuant to this clause 13 (d) or (e), United Energy shall not be liable for any costs incurred by the Applicant in re-attaching or re-locating the Applicant's Equipment or for any damages to the Applicant's Equipment.

14. *Term and Termination*

This agreement will start on the Commencement Date referred to in Schedule 1 appended to this agreement and will remain in force until the Term Expiry Date referred to in Schedule 1 appended to this agreement (the "Term"). Either party can terminate the agreement at the end of the Term by written notice to the other party at least 90 days before the end of the Term. If no such notice is given, then at the end of the Term, this agreement shall continue month by month until terminated by 90 days written notice . Either party may terminate this agreement at any time by giving 120 days written notice. .

15. *Consequences of Termination*

Upon termination of this agreement for any reason the Applicant must at its own cost remove or cause to be removed all the Applicant's Equipment from United Energy's Assets within a reasonable period specified in writing by United Energy and in any event within 12 months of the date of termination. If the Applicant fails to remove the Applicant's Equipment within 12 months, then United Energy may take such action as is necessary to remove the Applicant's Equipment. The Applicant must pay the reasonable costs incurred by United Energy as a result of the removal.

The Applicant acknowledges and agrees that United Energy will not be liable to the Applicant in respect of any loss, costs or damage suffered or incurred by the Applicant as a result of the removal of the Applicant's Equipment.

16. *Fees*

- a) The Applicant agrees to pay the Fees to United Energy as set out in Item C of Schedule 1 appended to this agreement.
- b) If United Energy is or becomes liable to pay any fees, charges, imposts or levies related to the attachment, installation, operation, maintenance or removal of the Applicant's Equipment on United Energy Assets, then those additional fees, charges, imposts or levies must be paid by the Applicant, and United Energy may seek reimbursement for the charges from the Applicant.
- c) The Applicant agrees to pay all other costs associated with this Agreement, including but not limited to any reasonable auditing costs incurred by United Energy under clause 8.

17. Indemnity

- 17.1 Save for the negligent or willful actions of United Energy, the Applicant indemnifies and agrees to keep indemnified (“the indemnity”) United Energy against any claim or proceeding that is made, threatened or commenced against United Energy and its officers, employees, agents or contractors for any Loss incurred or suffered by United Energy in relation to:
- a) any death, injury, loss or damage caused to any person or property by or in connection with the Applicant’s Equipment;
 - b) any defect or error in or faulty workmanship in relation to the Applicant’s Equipment, the maintenance or operation of the Applicant’s Equipment or the installation or removal of the Applicant’s Equipment on or from any United Energy Asset; or
 - c) any interference by the Applicant’s Equipment with United Energy’s Asset including the operation of its electricity distribution network.
- 17.2 This indemnity applies regardless of whether:
- a) the Applicant has complied with any guideline or code of practice applicable to the Applicant’s Equipment; or
 - b) United Energy or its officers, employees, agents or contractors have inspected or approved any aspect of the Applicant’s Equipment or its design, method of attachment or location, or issued any instructions in relation to the Applicant’s Equipment.
- 17.3 For the purpose of this clause 17 “Loss” includes loss, damage or liability (including liability for costs) of every kind, including legal costs and expenses incurred on a solicitor and own client basis. The Applicant acknowledges that United Energy need not incur any expense before enforcing its right of indemnity.
- 17.4 Each indemnity included in this agreement is continuing and will not end when the Applicant’s Equipment is removed from United Energy’s Assets.

18. Liability

To the maximum extent permitted by law, United Energy and its officers, employees, agents or contractors is not liable to the Applicant in contract, tort (including negligence), under statute or otherwise for any loss or damage the Applicant suffers (including lost profits, lost business or consequential losses) arising or in any way connected with this agreement, United Energy’s Asset or the Applicant’s Equipment. The Applicant acknowledges that it has not relied and will not rely on any warranties, representations or undertakings made or given by United Energy or its officers, employees, agents or contractors in relation to or in any way connected with this agreement including without limitation, the fitness of United Energy’s Assets for the purpose of affixing or removing the Applicant’s Equipment.

19. Insurance

- 19.1 The Applicant must take out and maintain, at all times during the currency of this Agreement:
- a) a public liability insurance policy with a minimum cover of \$20 million for each and every claim; and
 - b) a products liability insurance policy with a minimum cover of \$20 million for each and every claim.

- 19.2 The Applicant must ensure that the insurance policies taken out under clause 19.1:
- a) include the Principal's Indemnity Extension Clause, or any similar clause receiving United Energy's prior written approval, to cover the liability of the Applicant to United Energy; and
 - b) will not be cancelled, altered or amended without prior written consent from United Energy.
- 19.3 Upon request, the Applicant must provide to United Energy written proof of the currency of the insurance set out in this clause.

20 *Structures owned by others*

The Applicant acknowledges that there are some structures owned by third parties including but not limited to, other distribution business, Vic Roads, VicTrack and Local Government within the United Energy Distribution electricity network area. If the Applicant wishes to affix the Applicants Equipment to a third party owned structure, then the Applicant must seek permission to do so from the owner of that structure.

21 *No Waiver.*

United Energy may waive any of the terms of this Agreement but no such waiver shall be legally effective unless United Energy has given the Applicant a written notice specifying the waiver. The failure of any party to enforce any term of this Agreement shall not be a waiver of such term and shall not affect the enforcement of this Agreement. The exercise by any party of any of the rights under this Agreement shall not preclude or prejudice such party from exercising the same or any other rights it may have irrespective of any previous action taken by that party.

21. *No Assignment*

The Applicant shall not assign its rights or obligations under this Agreement without the prior written consent of United Energy.

22. *No Variation*

This Agreement cannot be amended or varied except in writing signed by the Parties

23. *Governing Law*

This Agreement shall be governed by and construed in accordance with the law of and applying in the State of Victoria. Each party to this Agreement submits to the non-exclusive jurisdiction of the Courts of Victoria.

24. *Execution by AAM*

This Agreement is executed by AAM for and on behalf of United Energy pursuant to authorities granted to AAM by the Boards of United Energy and Multinet Gas (DB No.1) Pty Ltd (ABN 66 086 026 986) and Multinet Gas (DB No. 2) Pty Ltd (ABN 57 086 230 122), together trading as the Multinet Gas Distribution Partnership (ABN 53 634 214 009), on 2 November 2006.

**City of Kingston
Ordinary Council Meeting**

Minutes

28 September 2009

Executed by the parties:

EXECUTED by **Kingston City Council**)
ABN 80 640 377 247 by being signed by)
those persons who are authorised to sign)
for the company:)

Signed on the day of 2008

.....
Authorised Signature

.....
Name and position held (print)

.....
Witness Signature

.....
Name

EXECUTED by an authorised)
representative of **Jemena Asset**)
Management (6) Pty Ltd ABN 52 104)
352 650 for and on behalf of **United**)
Energy Distribution Pty Limited ABN)
70 064 651 029 in the presence of:)

Signed on the day of 2008

.....
Authorised Signaturer

.....
Name and position held (print)

.....
Witness Signature

.....
Name

SCHEDULE 1

- A. This **Commencement Date:** The 9th day of October 2008
- B. **Term Expiry Date:** 31 December 2020
- C. **Fees:** Nil
- D. **Applicant's Equipment**

The Applicant's Equipment includes all attachments as set out in Schedule 3 of this Agreement.

- E. **Particulars for Service**

United Energy

C/O Jemena
Facilities Access Manager
Locked Bag 7000
Mount Waverley VIC 3149

Fax (03) 8544-9488
Email: customerrelations@jemena.com.au

Applicant

Kingston City Council
General Manager Environment & Sustainability
PO Box 1000
Mentone, VIC 3194

SCHEDULE 2

PRINCIPAL'S INDEMNITY EXTENSION CLAUSE

- a) Subject to paragraph (b) of this clause, the definition of "the insured" referred to in this policy is extended to include United Energy and Jemena in respect of claims arising from the activities specified in the License for which the Applicant would be entitled to indemnity under this policy if the claims were made upon the Applicant.
- b) This indemnity shall be reduced proportionally to the extent that any negligent act or omission of United Energy and/or Jemena or their employees, agents or contractors contributed to the loss or liability.

**City of Kingston
Ordinary Council Meeting**

Minutes

28 September 2009

SCHEDULE 3

Applicant's Equipment (Type)	Dimensions (mm)	Method of Attachment (Wooden Poles)	Method of Attachment (Concrete or Steel Poles)	Comments
Street Name sign	200 x 1200	Brackets and screws or coach bolts or strapping	Strapping	
General Road Signage	600 x 600	Brackets and screws or coach bolts or strapping	Strapping	Traffic, signs, speed signs etc
Parking Signs	450 x 225	Brackets and screws or coach bolts or strapping	Strapping	
Miscellaneous (signs only)	600 x 600	Brackets and screws or coach bolts or strapping	Strapping	

L152

Council's submission to the Climate Change Green Paper

Approved by: Tony Rijs General Manager Environmental Sustainability

Author: Desiree Lovell, Team Leader Environment & Planning
Emily Boucher, Environment Officer

1. Purpose

For Councillors to consider the comments prepared in response to the Victorian Government Climate Change Green Paper, prior to its formal adoption at the 28th September Ordinary Council Meeting.

2. Background

In recent months the Victorian Government released the Victorian Climate Change Green Paper. A document outlining a strategic vision for climate change actions, ensuring Victoria does its part in the national effort to reduce emissions, preparing for and adapting to the unavoidable impacts of climate change. The Climate Change Green paper is the next step in the development of a comprehensive new climate change strategy for Victoria.

Officers have attended a number of Green Paper information sessions and provide comment into submissions currently being prepared by: the Municipal Association of Victoria (MAV), the Western Port Greenhouse Alliance (WPGA) and the Association of Bayside Municipalities (ABM).

Officers have prepared a Council submission (attached) to the Climate Change Green Paper. The main themes captured in the submission include:

- It is felt the Green Paper contains motherhood statements, preferring to set 'goals' rather than strong targets and that the document provides little direction on what solutions will be implemented and how.
- There needs to be a stronger emphasis on alternative transport options and an improved public transport network.
- The Green Paper needs to remove it's self from reliance on the coal industry and seriously consider alternative energy supplies.
- The Victorian State Government need to develop strong Ecologically Sustainable Design (ESD) principles for residential, industrial and commercial buildings.

Submissions to the Green Paper close on Wednesday 30th September 2009.

3. Summary and Conclusion

The Victorian Government recently released the Victorian Climate Change Green Paper. Officers have attended a number of information and feedback sessions. Attached is Officers proposed submission the Green Paper for Councillor consideration and adoption.

4. Consultation

Officers attended a number of information and feedback sessions hosted by the Victorian Government and Municipal Association of Victoria.

Comment was sought from a wide range of key internal stakeholders within Council as well as Councillors. Officers received feedback from seven Council staff representing the areas of Environmental Health, Leisure & Culture, Economic Development, Strategic Planning and Environment and Planning.

5. Triple Bottom Line Checklist

- **Environmental** – Council’s Climate Change Green Paper submission provides feedback to the Victorian State Government on key areas that require strengthening, to provide Victorian’s with a strong strategy to assist to live in the changing climate.
- **Social** – The Green paper highlights the need to work with the industrial sector and home owners, especially vulnerable communities, to reduce their energy consumption and adapt to the changing climate.
- **Financial** – There are no financial implications for Council when making a submission to the Climate Change Green Paper.

6. Proposed Action

That the attached comments on the Victorian Government Climate Change Green Paper be presented for adoption at the 28th September Ordinary Council Meeting, and subsequently submitted to the Victorian Government prior to the closing date of the 30th September 2009.

Attachments:

Council feedback on the Victorian Government Climate Change Green Paper

Cr Bauer left the meeting at 10.17pm.

Crs Staikos/Ronke

That the recommendation be adopted.

Carried

City of Kingston welcomes the opportunity to provide feedback on the Victorian Government Climate Change Green Paper. City of Kingston and its community is particularly vulnerable to the impacts of climate change located in Melbourne's south and boasting 13km of beaches, a RAMSAR wetland and around 400 homes directly backing onto the foreshore.

The State and Commonwealth Governments have significant investment opportunities for environmental projects and policies. However in reading the green paper it would appear the State Government does not want to turn its back on the coal industry, demonstrating a reliance on the coal energy generating income. The City of Kingston feels the government is putting too strong a focus on carbon capture and storage (CCS) and neglecting other opportunities. In this submission the City of Kingston has presented are some alternatives for the government to consider, focusing on our role in supporting our community.

City of Kingston has provided input into several other green paper submission, namely Municipal Association of Victoria (MAV), South East Councils on Climate Change Alliance (SECCCA formally the Western Port Greenhouse Alliance), South East Metro Councils (SEM) and the Association of Bayside Municipalities (ABM).

1.4 Our long term goals

We believe the government has an excellent chance to achieve something that works. The Green Paper contains motherhood statements, preferring to set 'goals' rather than strong targets. The document provides no direction on how these things will be implemented and what solutions will be used to address the problems.

1.5 Our Priorities

The City of Kingston would like to see the government make a strong commitment to drive innovation and feel that public transport and de-centralising the power supply should be at the centre of any priorities made. For example the first priority listed on page 12 states "The Government can help Victorians to become more innovative in their responses to climate change by ensuring Victoria has a flexible and dynamic economy with good infrastructure, institutions, low regulatory burden, and especially by promoting a strong skills framework". The City of Kingston disagrees with reduced regulation and would like to see public transport and de-centralised energy supply at the centre of the infrastructure support provided by the State Government. These are seen as critical in protecting our communities from climate change and other risks such as peak oil.

1.6 Choosing between different policy 'levers'

Education and information strategies

City of Kingston would like to challenge the Education and Information Strategies approach and wish to advocate for a behaviour change approach. Community Based Social Marketing has proven to be far more effective in changing behaviour than education based approaches. State government needs to invest in research into the common barriers to the community changing behaviour and ensure all campaigns support the research. The City of Kingston would argue that Local Governments are best placed to deliver these behaviour change programs at a local level as much of the research shows that personal contact is most effective.

3.0 Complementing the CPRS: A new world of opportunities

The City of Kingston would like to express its concern with failure of the draft CPRS to recognise the need for individual and community entities who want to reduce their emissions beyond the national target level to be able to make a difference to national emissions. The draft CPRS means that the choices such entities make which lead them to need less pollution permits make more permits available for other polluter, which perversely makes it cheaper for those entities who pollute. Perhaps the most significant impact of this design flaw will be in the process of community engagement, because an unintended side effect of the present legislation will be to effectively remove the greenhouse emissions reduction benefit in a huge range of community activities such as installation of energy efficiencies (e.g. compact fluorescent light bulbs, solar panels), less polluting forms of transport, and so on. In short, a vast array of practical measures which the community could formally undertake in order to 'do the right thing' and reduce their emissions *will no longer contribute to lowered national emissions* under the proposed CPRS.

This section of the green paper suggests that it makes good economic sense to work towards a target by 'using up' the cheapest abatement options first, before making significant economic investments towards larger projects which would achieve more significant reductions. However, in the City of Kingston's view the more expensive projects should not have to wait years until the carbon targets are tightened to make them viable. Projects such as biogas production, urban co-generation schemes and electric vehicle networks were being implemented overseas, long before their Emissions Trading Scheme (ETS) was established. Additionally, these larger projects often have the capacity to reduce more greenhouse gas emissions than a greater number of smaller projects.

The Victorian Government must work with stakeholders to enhance the viability of these larger projects from the outset of the CPRS. Such initiatives could include regulatory reform in the planning and waste regulations (e.g. for large scale, waste to energy projects) or helping to make private sector investment more attractive.

The statement on page 31 under the 'Opportunities to reduce emission in Victoria' that carbon capture and storage (CCS) will be viable, once the carbon price rises, is an area of concern. The Victorian community expects a gradual move away from coal-fired energy but investing significant resources into research and development for carbon capture and storage is a step in the wrong direction for sustainability. There are many successful technologies that are applicable for Victoria and have the ability to make significant reductions in our emissions. Resources earmarked for CCS investment may be better directed toward solutions that are viable now instead of being wasted on supporting the coal industry.

Another point to consider, particularly with vehicle associated emissions, is that the drivers for fuel efficiency will most likely come from external market forces such as peak oil and supply disruption, rather than from an Australian carbon market. The City of Kingston would like to see the government create fuel efficient or electric vehicle policies regardless of external market forces such as the carbon market.

Setting emissions targets

We must concentrate on the short term targets to avoid dangerous climate change i.e. 25-40% reductions by 2020 (Ref; Bali).

The recommended targets of 80% by 2050 do little to address emissions in the short term. Allowing ourselves to commit to a 41 year target will dilute the message of urgency, regardless of how impressive this percentage target may appear.

The opportunities to reduce emissions in Victoria

On pages 31 & 32 of the green paper the government presents the results of a study it commissioned into practical options to reduce emissions. The City of Kingston has a number of comments to make about this study.

Coal drying and carbon capture and storage (CCS)

The Victorian Government's proposal to adopt the Federal Government's commitment to developing policies for 'clean coal' is a backwards step in progressing sustainability and a lost opportunity for the Victorian community.

It is commonly accepted that generating energy through a centralised system (e.g. the Latrobe Valley) is grossly inefficient. Even if science is able to prove that carbon capture and storage is viable, two thirds of this energy will be lost through heat and transmission losses before electricity reaches the consumer. Real and significant emissions reductions can be achieved today, with current 'alternative' technologies when delivered through a decentralised system i.e. generating the energy close to where it is consumed.

Some viable alternatives are reflected on page 2 of this green paper in the section; 'what Victorians are saying'. Here there is mention of needing greater provision for advancing solar power and on-site cogeneration. Case studies from overseas have demonstrated how effective these technologies are in reducing emissions whilst meeting the energy needs of urban areas.

Rather than investing resources to force the economics to suit CCS, it is recommended the Government re-address their priorities and support the rapid adoption of decentralised energy supply technologies that are already viable (e.g. natural gas fired tri-generation networks as an interim measure, switching to biogas generated from organic waste in the future).

Alternatives sources of energy

The City of Kingston feels this sector must be considered the highest priority and the largest recipient of government assistance (grants, research and development, demonstration projects).

Alternative technologies are already viable, particularly when distributed as a decentralised energy supply network within urban areas. The green paper should strongly reflect economic mechanisms to encourage widespread implementation of these already viable technologies instead of 'clean coal'.

Fuel efficiency

In addition to improving information and incentives at the time of vehicle purchase, the Victorian Government should also support the introduction of 'incentives' for drivers of fuel efficient or electric cars.

Some of the successful initiatives from overseas include; annual registration fees based on vehicle engine size, toll free driving (tollways and congestion zones) for 'green' cars, priority use of traffic lanes, free grants that cover the additional purchase cost of a new electric car

and 'scrappage' schemes where buyers are given a significant reduction in the cost of a new vehicle when they surrender their old car (e.g. over 10 years old) for recycling.

Introducing schemes like this not only assist in reducing greenhouse gas emissions in the short term, but they will also help prepare Victoria for the effects of peak oil.

Changing transport modes

This section of the report states the governments need to act on non CPRS related factors including availability of public transport, convenience and safety, yet this green paper outlines no significant investment to address any of these factors.

In the City of Kingston's view to improve the convenience of public transport, the Victorian Government could support the development of significant transport hubs within urban areas. Such as multi-level car parking and bus interchanges at strategic rail terminals, serviced by more frequent, express trains to main centres of employment. .

3.1 Stationary energy sector

"What we need to do"

This section reflects that no single technology will provide sufficient capacity to meet Victoria's future energy needs and that tomorrow's energy will be provided by a range of technologies. However, the strong bias in this green paper towards investing in CCS suggests that the Victorian Government still supports coal as the major energy source.

Other carbon capture options should also be considered as a key means of mitigating and adapting to climate change. As well as [post combustion capture](#) at point source carbon polluting power sources, forestry and planting schemes should be considered as key ways of offsetting the carbon pollution of both stationary energy and other sectors:

- Reforestation around existing ecosystems
- Increasing the carbon capture opportunities of carbon sinks in green wedge zones including the rehabilitation of brown field sites after their previous use has expired
- Agroforestry farm management techniques such as those applied in Victorias Otway Ranges to strengthen the ability of the agriculture sector to adapt to climate change.
- Conservation of native woodlands and grasslands and of appropriately managed pastures shown to have carbon sequestration content

"Our focus"

This green paper indicates that the state level policies will complement the commonwealth policies and include research and development into areas that are vital to the Victorian economy. Once again, it asserts the need to support the Victorian coal industry by advocating for carbon capture and storage. This position is reflected as the main theme throughout this section.

The Energy Technology Innovation Strategy (ETIS) is briefly mentioned here as one of the measures under the CPRS to achieve lower emissions. The current round of ETIS funding (April 2008) equates to \$72M for large scale, sustainable energy demonstration projects and another \$127.4M to secure Victoria's clean coal future. This will take the State Government's funding of CCS to \$244M since 2002.

The total costs of these coal based projects were estimated (in 2005) to be around \$750M for the 400MW integrated drying and gasification combined cycle (IDGCC) power station and \$370M for the coal drying/CCS facility.

Council argues that this large amount of funding would be better suited for investing in renewable energy technologies. Further support to this investment could be provided through new policies and regulatory reform to encourage the wider uptake of renewable energy technology in a decentralised approach. This would generate more 'green' jobs than the 25,000 estimated to be working in the national coal industry, and lead to a better environmental outcome.

One example of this could see serious state government investment to improve incentives for voluntary renewable energy projects outside of the CPRS.

It is crucial to encouraging, in the uptake of renewable energy generation, that the impact of renewable energy facilities on their surrounds also needs to be considered. Ideally renewable and low emission technologies should be integrated into our existing urban environments.

Locally generated electricity has a number of benefits:

- Reduction in transition losses by having the power source close to the point of use
- Using 'waste' to generate electricity at the waste source rather than transporting waste and electricity such as biomass. Such opportunities require a revisiting of the pricing structure attributable to waste whereby it is seen as a commodity that holds a value and is priced appropriately against current land filling levies.
- Raising awareness about green technology and serving as a reminder to urban energy users of production requirements of the energy they consume.
- Providing energy jobs in location where people want to work

Locally generated power facilities will need to address issues of local amenity particularly pertaining to noise, glare, overshadowing and odour which should all be minimised where possible. Recognising the need for these technologies and accepting other aspects of their impact on the local environment such as their appearance is a key part of a balanced assessment of their introduction to the urban environment.

The State Government will play a key policy role in decentralising locations for energy generation by identifying around metropolitan Melbourne locations where it is appropriate for investment in renewable energy facilities to occur. A policy platform that prescribes ideal locational characteristics for the different forms of facilities will then allow local strategic planning and community engagement to occur to assist with subsequent implementation.

3.2 Energy Efficiency

The City of Kingston recognises the state government's work in this field over the past few years. However, we wish to comment on the reliance of an education based approach, as opposed one founded in behaviour change methodology. The City of Kingston would like to see the government invest in research to identifying key barriers to the community undertaking more energy efficiency actions, we would like this information shared amongst all tiers of government and other interested parties.

Significant synergies exist between this section of the Green Paper and area 3.4 as the effectiveness of introducing renewable energy outcomes at a local level is contingent upon enabling legislation that creates a new economic environment that facilitates such technologies. In much the same vein as the Federal Government, the State plays a crucial role in the initial subsidisation of 'green industries' that provide for carbon reductions. Subsidies must go beyond creating a regulatory landscape to 'leading by example' and ensuring that all State and Local Government funded buildings are mandated to implement best practice technologies thus creating a sustained investment in such technologies. It is such practices that will create 'new economies' and result in substantive reductions in the price of alternative energy technologies that can be readily applied at a local level.

With respect to the Carbon Pollution Reduction Scheme, it is essential that the shorter term targets are seen through the creation of policy as an important increment rather than relying on distant end point targets. The basis for ensuring that policy and incentive schemes are established around this principal is best demonstrated when considering a commercial building built in 2010 and the environmental performance sought from it over a 60+ year life cycle. Thus the energy performance standards for such a building need to be matched against its 'anticipated life' rather than immediate policy goals outlined in the CPRS. The immediate carbon reduction goals are better linked to a 'retrofitting' program for an existing building rather than a performance standard for a new building which will most likely still be standing in 2060. Federal/State Government policy must make this distinction.

3.3 Transport

It is recognised that over recent years State government has developed some significant initiatives in relation to transportation through the Victorian Transport Plan, which in part seek to create a mode shift to non car dependant forms of transportation. Over the last few years it has become increasingly apparent to Kingston that a key role played by local government in relation to transport is identifying opportunities to create more pedestrian and cycle friendly neighbourhoods driven very much by discussions at the 'grass roots' community level. As such Councils have become more involved in developing local bicycle strategies, activity centre structure plans and identifying urban improvements to assist in providing improved pedestrian environs.

The City of Kingston thinks the provision of quality, connected cycling & walking networks is critical to encouraging modal shift. To achieve this federal and state governments are required to contribute significantly to the establishment of such infrastructure. Local monies are minimal and can address local access needs only. For broader, more effective linkages which support access and connectivity across municipal boundaries; to the CBD; and to the proposed Central Activity Districts, significant financial resources will need to be found and it is unlikely that they will be found at a local level. By building on the commitments made in the Victorian Transport Plan and Melbourne 2030 (and now Melbourne @ 5 million) and extending the focal radius for creation of access via cycling/walking to the CBD beyond 10km, a truly integrated network can possibly be realised.

The need for collaboration between parties such as VicRoads, local governments, VicTrack and Melbourne Water is often the greatest hindrance to developing improved cycling/walking infrastructure when funding is available. Obtaining consent from the responsible authority (this can occur for example, even when a commuter route has been identified by VicRoads as

a future PBN route) can create significant delays and financial costs, so any assistance state government can provide in streamlining this process would greatly benefit our community.

The City of Kingston believes it is important for the state government to recognise that climate change may also impact the modes of transport we choose and the times we choose to travel. For example, in our increasingly hot climate we are more likely to choose a mode which requires less effort and provides air conditioned comfort. We are also likely to choose to travel at cooler times of the day. Thus government investment must recognise these alternations in travel choices and times.

The City of Kingston feels the State Government has a strong role to play in lobbying the Federal Government to review its fringe benefit tax which creates an incentive to businesses to use the leased motor vehicle as much as possible.

At a local level Kingston's level of car ownership has increased over the past three censuses and if sustained at the same level against population growth will increase by over 25% (approximately 21,000 extra cars) by 2026. The congestion cost associated with this in relation to access to Kingston's substantive employment areas alone will be enormous thus the need to provide for meaningful alternative transport options is critical. In this regard Kingston has began looking at what are the local investments required to create the desired model changes as the cumulative impact of population growth make reaching policy targets substantially more difficult.

Having undertaken much of this local strategic work, what is apparent to council is the inability for local government to have sufficient influence to obtain a greater proportion of the broader 'transportation budget' to facilitate stimulus projects that come from local initiatives. A more effective policy/budgetary response may be to 'quarantine' a segment of the State's overall expenditure on 'transport' to provide Local Government with a clear annual allocation of funding for capital works that deliver local projects that encourage mode shift. If each Local Government could be guaranteed a reasonable revenue stream each year for such initiatives it is felt that this would provide a meaningful connection back directly to the community for projects which could practically illustrate modal shift. Such an action would provide a clear mechanism whereby the State could illustrate how its Transport Plan and Melbourne 2030 are working across all communities to facilitate the 'local' infrastructure differentiated from big road and rail projects.

In addition to commitments around funding for annual capital works more structured strategic planning discussions are required involving VicRoads, Department of Transport and Local Government to explore forward planning for significant capital projects that will increase such mode share. For example, opportunities to explore the role performed by Nepean Highway from Mordialloc to Moorabbin and then into the CBD as a means of providing improved bus transit and dedicated cycle lanes should be explored as a response to the climate challenges and even greater road congestion.

3.4 The built environment

The biggest failure in the built environment is the lack of planning and building design standards advocating for smart and efficient building design. For Kingston, which is essentially now fully urbanised to meet its Victoria in Future household projection by 2026 it would need to create approximately 17 new 'Waterways Suburbs' between 2006 and 2026.

Whether or not this projection is met, what is clear is that partnering between State and Local Government will be essential in developing shared planning policies about how this growth can be accommodated. At times this will require significant infrastructure support and some innovative responses to people's perceptions around future housing forms and how we will move around the City.

The green paper and subsequent legislation to flow from it provides a much greater opportunity to align the State's Transport Plan (Victorian Transport Plan) and Land Use Plans (Melbourne @ 5 Million / Melbourne 2030) with a clearer environmental purpose. In much the same vein as the State have promoted through the mass media the challenges associated with the scarcity of water, it is now necessary to reinforce the challenges associated with a continuing sprawled metropolis in relation to 'environmental cost'. Local communities now understand the importance of water conservation but the same cannot be said for the merits of 'urban consolidation' which will lead to modifications to the built form of established areas. Given this change will come at some cost greater resources need to be placed in constantly promoting the benefits of contain sprawling through visualisations that illustrate what a future city may look like. Planning and urban design are key to creating sustainable communities and it seems that at this stage the state government are still following the model of suburban sprawl releasing more land on the fringes for suburban development.

The green paper identifies planning and urban infrastructure decisions are a potential area for action, however City of Kingston feels detailed studies need to be carried out to develop a strategy which identifies how we can better utilise our suburbs to create a more efficient living and working environment. There is so much built stock in our suburbs which cannot be ignored for we need to think about how we can retrofit our suburbs for a more sustainable living. Rob Adams from City of Melbourne has done some work on intensifying development along tram routes and arterials to increase density and accommodate new development. This strategy works for the inner city but not for a municipality like Kingston where there is a lot of suburban type development and lack of public transport away from train lines.

In relation to the mechanisms, the 5 star rating system has many limitations including not being capable of accessing passive solar heating measures and natural ventilation. A new rating system which provides a more detailed assessment of the sustainable building design is required to accurately determine the environmental impact of new buildings. New regulations are also required to ask more of buildings in terms of energy and water efficiency as well as energy generation, rainwater harvest and reuse and WSUD. These regulations could ensure energy efficient building design and construction across a range of building types (not just residential), reducing energy consumption in the building operational phase and ensuring new buildings are made with sustainable products and processes.

Kingston believes that the substantive investment in community housing/schools attributable to the Federal economic stimulus package makes this the ideal time to shift towards higher building standards for the following reasons:

- The investment in schools and community housing provides an enormous source of new 'public investment' that can create multiple exemplar projects across the State.
- The substantive potentially 'one off' investment in community housing by State and Federal Governments over the next two years will assist to shield those segments of

the community least able to afford the new technologies from having to fund them, thus reducing the cost inequities in mandating higher building standards.

The City of Kingston also wishes to highlight the without meaningful Government regulation insufficient economies of scale can be created whereby technologies readily applied overseas to reduce energy dependency in domestic and industrial/commercial construction can become mainstream in Victoria. The state government should assist to ensure that costs become comparable.

Innovation and industry development is also identified as an area for action, City of Kingston would like to see solutions at neighbourhood scale which have various benefits in terms of sustainability and also allows for interaction with the community. For example at neighbourhood scale, many new technologies like co-generation, tri-generation can be viable energy alternatives.

Stormwater harvesting and reuse is also a major issue at an urban level. We encourage rain water tanks for houses but that captures very little of the total rainwater. Huge quantities of water run out of our stormwater drains into the bay and there is a potential to reuse this water. This will be critical for Melbourne which is likely to experience reduced rainfall in the future. The other element the City of Kingston would like the state to consider is the current misconceptions in the community around rebates, for example residents believe installing a rainwater tank will result in higher water bills.

As a coastal community Kingston believe the State play a key role in establishing parameters for adaptation to coastal inundation and increased storm-related flooding. It is essential that an agreed set of development principles are established for all potentially affected municipalities as a priority as these may have implications on the desired rates of change within affected areas. It is apparent that the 'green paper' recognises the State should be performing this role.

Building on from the previous point Kingston's coastal relationship has also meant that its efforts in relation to stormwater reuse and quality treatments have been substantial. That being said Kingston recognise that municipalities with a reduced relationship with rivers, creeks or the bay have generally not been taking such a proactive response to stormwater quality. It is considered that the State Government must be formalising unified ways in which greater stormwater quality improvement and reuse opportunities are mandated for all new development across Victoria as a practical and immediate response to climate change.

3.5 Solid waste management

One possible mechanism to assist in increasing innovation in resource recovery industries and technologies is to increase the landfill levy. This would also drive waste from landfill towards these technologies.

3.6 Land use and forestry

The City of Kingston feels that the government should consider withdrawing funding from unsustainable farming practices (currently known as drought relief funding). These farmers should be assisted to diversify their farming practices in consideration of the new climate.

The City of Kingston feels that in order for Victoria to be at the cutting edge of green markets significant research and development funding needs to be invested. Some scope should also

be given to predicting future markets. For example, bamboo is a highly sustainable and popular material for flooring and other uses, has the government explored the possibility of this being a major industry in Victoria?

4.1 creating opportunities

What new sectors offer the greatest opportunities for Victoria's green economy under CPRS?
Advanced manufacturing – (i.e. Advanced materials technology, nanotechnology, and clean technology). Kingston has a large diverse manufacturing base which could support manufacturing of components and materials for advanced manufacturing sectors which will increase in importance for Victoria to move to a 'low carbon' economy. However, close collaboration will need to occur between local industry and the research capabilities of CSIRO and Monash University to exploit new technologies. It is of particular importance to highlight the need for local manufacturing companies to develop close working relationships with the Australian Synchrotron (a key piece of R & D infrastructure which could be utilised to develop new products and materials). Many of the plastic injection moulding, precision engineering, and metal fabricating firms could be part of a new 'clean technology' supply chain. Close proximity to the Eastern Treatment Plant may also present opportunities to develop and test new water treatment and waste management technologies.

Energy efficiency – The retrofitting of homes and businesses to make them more energy efficient will present business opportunities for tradespeople and technicians. These opportunities will range from insulating homes and installing solar hot water systems to installing smart energy meters and micro wind generators. Finally, local expertise could be utilised in increasing the 'eco-efficiency' of manufacturing companies - increasing process efficiency while simultaneously reducing water and energy usage.

Information and Communication Technology (ICT) – ICT industry could be utilised to strengthen local small to medium enterprises. Marketing, billing, procurement, etc. could be, potentially, enhanced to reduce cost and improve business outcomes. One recent example of this is a local plastic injection moulding company that has lost business due to the declining of the automotive industry. They are trying to identify new opportunities in different industries. Council referred them to a web-based Australia service that matches buyers with supplies <http://manufacturelink.com.au/> .

Carbon Accounting – When the CPRS is introduced, large companies will require their suppliers to account for their carbon footprint. Small to medium enterprises will need carbon accounting assistance to comply with emerging procurement requirements. There could be opportunities for specialised accounting services within the Kingston area. Clearly, additional skills in undertaking such activities will be required.

Improved Logistics - Establishment of an inland port container terminal will reduce the carbon miles associated with goods coming out of Melbourne's South East area. This could make the local supply chain more attractive to buyers operating under CPRS.

4.3 Developing skills

How can we ensure Victoria has the skilled workforce needed for the transition to a low carbon economy?

Attracting and training new entrants and existing workers – Fast track the development of accredited courses at TAFE to address the future demand for trades people with appropriate

skills in renewable technologies. See example of a training program established in South Australia http://www.tafesa.edu.au/Portals/13/files/careers/renewable_energy_courses.pdf.

It is vital for the government to assist training providers to ensure they are providing the needs to the future. It takes 2 to 3 years for people to be workforce ready and the desired skills & required training need to be identified early to ensure adequate qualified staff are available.

Increase the number of sustainable elective courses offered in applied science and engineering degrees at universities. Students in engineering and applied science programs need to be exposed to sustainability topics to encourage a career path leading to growth industries of the future.

Offer weekend and evening courses (i.e. evening MBA program) for existing workers willing to retrain in skills where future demand has been identified. Flexible delivery of courses in skills where future demand has been identified increases the potential for existing human capital to be fully utilised.

Reduce the Higher Education Loan Programme (HELP) debt for environmental science and sustainability degrees. This could stimulate demand for environmental science and sustainability degrees and mitigate the risk of future skills shortages.

4.4 Supporting adjustment to change

Kingston may need specific labour market and business adjustments to assist with in the orderly exit of businesses (and their employees) unable to survive due to the introduction of CPRS. The aforementioned adjustments might resemble the Button Plan of 1984, which was instrumental in the rationalisation of the Australian motor vehicle industry.

The VAMPIRE (Vulnerable Assessment for Mortgage Petroleum and Inflation Risks and Expenses) index identifies the relative degree of socio-economic stress in suburbs in Brisbane, Sydney, Melbourne, Adelaide and Perth. The study shows that transport and housing costs are now considerable concerns for many households and are likely to place pressure on household finances.

Some research suggests fringe “transport poverty” is a major and growing problem. These areas heavily rely on their private vehicles and have no access to public transport. The Australian Bureau of Statistics in 2005 showed that transport costs comprise around 15% of the average household expenditure in Australia, although some research suggests this has risen to 50%. Research also shows that six cylinder car ownership is highest in the fringe areas of Melbourne, making these owners the most vulnerable to fuel price rises and least likely to be able to afford new efficient vehicles. Thus the City of Kingston advocates that the government look to other transport options to support these at risk communities, such as bicycles with lower upfront and overhead costs.

The other option that Kingston would like the state government to consider is car sharing. If we are to support our communities to give up their cars altogether (or at least downsize to one vehicle) then there should be options available when they do require a car. Car sharing provides a cheap and flexible option to residents, business and government departments.

Another consideration should be supporting communities through the bulk purchase of large infrastructure, which otherwise would be unaffordable to many. For example water tanks, solar panels and solar hot water would be far more affordable to more people if the government supported a scheme (we saw the success of the bulk purchase schemes around the federal government solar panel rebates).

5.1 Managing our water resources

How can we build on the Government's Water Plan to secure Victoria's water future, by using water differently as individuals, households, communities and businesses?

The City of Kingston believes all water based agencies need to collaborate and work together and consider water as one integrated resource rather than separating potable water, grey water and ground water. This is necessary to ensure of water security into the future.

The state government should consider incentives for large consuming businesses to work with water retailers/local government to reduce water consumption

The state government should also remove legislative boundaries which prevent many alternative water projects eventuating.

The City of Kingston would like to see water based mandatory Environmentally Sustainable Development (ESD) for new and renovated building stocks including residential homes, commercial/industrial properties; with all three levels of government leading the way with their building stocks.

5.5 Health and wellbeing in a changing climate

With an increase in not just temperature but the number of days above 35 degrees people will be using their A/C more and for longer i.e. overnight. The City of Kingston would like some thought given to the need to have minimum sound level outputs legislated for A/C as we are already seeing an increase in complaints. City of Kingston can see this becoming a bigger issue for local governments than current. City of Kingston would also like to recognise that this will also have an impact on power usage.

There will be a need for increased availability of literature on appropriate storage and use of rain and greywater harvesting systems so that we can prevent some issues with contamination from occurring. City of Kingston would like to see a state government authority take the lead on disseminating this information, currently it is shared between Melbourne Water, EPA, local governments and the various water retailers.

Mosquito born diseases are likely to become prevalent within the metropolitan area. This will also require an increased public awareness/ education on how to live with the mosquitos as large scale chemical/pesticide treatment is not likely to be an effective option.

Load shedding by power companies and rolling black outs may ultimately compromise food supply by cutting off power to cool rooms, fridges and freezers where food will spoil and become unfit/unsafe for human consumption. The City of Kingston would like to ensure such things as rolling black outs don't disrupt people with specific health issues i.e. home dialysis etc.

Change in temperature profile may change exercise habits. This combined with changes to the diet could lead to other diet and lifestyle related issues (diabetes, obesity, etc)

There may be other changes to the animal population increases (insects, pests etc) which could have a negative impact on public health or amenity. These could be via transmission of zoonotic diseases we have never had before in this climate, or just through an increase in the number of pests i.e. cockroaches.

6.1 Communities and Climate Change

What do you think are the barriers to people changing their behaviour to address climate change in your community and across Victoria?

The City of Kingston feels that there is general confusion in the community about climate change. City of Kingston believes the climate change space is already crowded and the State government should work to reduce the numerous and sometimes mixed messages in this space. The Council strongly advocates for one climate change message (and potentially one program) to be created and that this be stuck to throughout campaigns and communications.

The City of Kingston also feels that the community now accepts climate change as a reality, but that they don't understand the potential impacts. The Council would like to understand the State's strategy on communicating this, mindful of the need to empower our residents to change, that it is not too late to avoid a catastrophic future.

This information about the new climate must be easy to understand information and suggestions on how the community can adapt to the changing climate.

One underlying cause of people not changing their behaviours is their intrinsic values. For example, the image that many first home buyers have grown up with of success is the ¼ acre block, three bedroom house with a backyard for the dog; not a one bedroom apartment with a communal living area. What do our current generation view as 'success'? Without these underlying values being addressed, and a new value system being embedded, urban sprawl is destined to continue.

Another key factor is the convenience and relatively low up front cost of the 'bad' option. The government needs to consider providing a cost incentive for doing the right thing, or at least penalising bad options (as per cigarettes).

6.2 Government Leading the way

How should Government lead the way in reducing its own emissions and adjusting to a carbon price?

The Northern Alliance for Greenhouse Action (NAGA) has released a State-wide Business Case for Sustainable Public Lighting in Victoria. The business case found that a state-wide replacement of mercury vapour lights with Twin 14 watt T5s on minor residential streets would cost the Victorian Government \$74 million over the next four years; provide almost one million tonnes of emissions abatement to 2020; and deliver \$95 million of savings to the year 2020 when compared to purchasing GreenPower to achieve the equivalent abatement. The report is available for download from http://www.naga.org.au/documents/NAGA_state-wide_business_case_final_report.pdf

City of Kingston would like to see the State government take over the co-ordinated roll-out of this technology to ensure efficiencies of scale and to maximise emissions reductions across the state.

In which area can Government use its significant expenditure on goods and services to drive Victoria's green economy?

All levels of government can use their buying power (as can all Victorian businesses and individuals) to choose green products and support the industry. The City of Kingston would like to recognise the work of EcoBuy in increasing the profile of green purchasing amongst local governments and now major business in Victoria.

City of Kingston believes Government's key areas of corporate influence are vehicle choice (fuel efficiency); IT equipment and building design.

Local Governments also have a critical role to play in the waste wise message, so successfully supported by Sustainability Victoria. City of Kingston recognises the need to evolve the state wide message into ResourceSmart, however there is still work needed to be done at a local level to ensure the state meets its zero waste targets.

Conclusion

The City of Kingston welcomes the opportunity to provide comment and reiterates the need for urgent action by the State Government to the challenges of climate change. Council would like to reiterate the need to see government make a strong commitment to drive innovation and feel that public transport and de-centralising the power supply should be at the centre of any priorities made.

Furthermore, the City of Kingston requests that the State Government provide an opportunity to comment on the policy options put forward as an outcome of the Green Paper consultation process prior to their finalisation in a White Paper. Without such an opportunity, it would be difficult to ensure council acceptance and commitment to the final policy actions.

L153

Management of Landfills and Recycling Activities

Approved by: Chief Executive Officer

Author: Tony Rijs - General Manager Environmental Sustainability

1. Purpose

Council has previously directed that a report be prepared detailing issues associated with the management of landfills and recycling activities in the City of Kingston.

The following report is divided into the following sections.

1. Background
2. Management of Landfills
3. Recycling
4. Issues for the Kingston Community
5. Dust Issues
6. Illegal Waste Activities
7. Visual Intrusion
8. Enforcement of Planning Controls
9. Community Engagement
10. EPA Audit – Landfill Gas
11. The Future

2. Background

Local Government has traditionally been responsible for the operation and management of landfills.

Up until the 1960s each of Melbourne’s municipalities operated individual landfills to cater for the needs of the local community.

These sites were generally areas of wasteland and much smaller than modern landfills and were scattered throughout metropolitan Melbourne. Many of the sites are now key parklands. Areas in Kingston that were former municipal landfills include Bald Hill Park, Heatherton Park, Keys Road Reserve, Walter Galt Reserve, The Doug Denyer Reserve and Bicentennial Park.

As Melbourne progressively developed municipalities looked at former quarry sites as a means of disposing of waste. In the seventies and early eighties it was not unusual for municipalities to purchase adjacent lots in quarry areas to dispose of their waste.

As environmental regulations and controls were strengthened it became difficult for individual municipalities to operate sites and regions of municipalities were formed. The Councils in the Kingston area were part of the former South Eastern Regional Waste Management Group.

In more recent years local government has not been involved in the provision of landfills but has entered into contracts with the private sector to provide waste disposal facilities.

A total of six landfills, three putrescible and four solid waste landfills are currently operating in the Clayton area. There are also two clean fill sites.

2. Management of Landfills

Modern day landfills are required to meet strict environmental standards to ensure minimal impact on the environment.

The processes involve approvals from both Council and the EPA prior to the commencement of filling.

Council planning controls generally relate the hours of operation, buffer distances, traffic and transport, drainage and final surface profile. EPA controls generally relate to the management of emissions such as:

- Odour - By efficient management ie daily cover over waste.
- Landfill Gas - By collection system that allow gas to be combusted by flaring or through the generation of electricity.
- Leachate (Polluted Water) - By the provision of lining system to protect groundwater to the base sides and capping systems to control moisture within the landfill by requiring final surface profiles.
- Leachate Collection Systems - To manage liquids generated in a landfill.
- Storm Water - By designing surface profiles that allow storm water to drain from the landfill cap without a risk of penetrating the cap.
- Litter Control

As can be seen from the above there is considerable overlap between the roles and functions of the EPA and Council. .

3. Recycling

Over the last 10 years, there has been a significant focus on preserving resources rather than the disposal of waste.

This transition has been led by policies developed by State Agencies that focus on reducing the volume of waste deposited in landfill.

Targets have been set for the municipal, construction and demolition and commercial and industrial sectors to progressively divert greater volumes of waste from landfill.

These policies have been supported by mechanisms such as landfill levies to discourage waste generation and funding to promote the provision of facilities to recycle waste products.

Whilst these initiatives have had a positive impact on recycling the overall level of waste produced in metropolitan Melbourne continues to grow.

4. Issues for the Kingston Community

In the past, when there were multiple landfills without environmental controls the key issue for the Kingston community was the odour from landfills. This issue is nowhere near as prevalent today due to the gas extraction systems that operate on both current and former landfills.

The key issues in managing landfills today are:

- a. dust;
- b. illegal waste activities;
- c. visual intrusion; and
- d. enforcement of licences and permits.

5. Dust Issues

There are a range of activities in Kingston's non urban area that can potentially generate dust including agriculture, landfilling and recycling activities. Some of these activities are regulated by planning approvals others are not.

In response to community concerns, Council has introduced two initiatives to better regulate dust emissions in the residential areas abutting Kingston's non urban area.

Over the forthcoming summer period, Council's Environmental Health Department will be installing dust monitoring stations to gain a better understanding of the extent and sources of dust generated in the area. This information will assist Council in better managing dust issues in the area.

Council has also appointed a Planning Enforcement Officer dedicated to monitoring activities in the non urban area. During the summer period a significant portion of the officer's time will be dedicated to the enforcement of planning controls relating to dust.

6. Illegal Waste Activities

With the increase in the landfill levies and the price paid for recycled materials there has been a noticeable increase in attempts to establish illegal waste activities in the non urban area.

The scenario generally involves the owners of land that is no longer viable for farming seeking to generate revenue by leasing land to operators who receive waste at little or no cost separate, recyclable materials and then bury the residue.

The enforcement processes in stopping these activities are generally slow and costly.

7. Visual Intrusion

Prior to the introduction of environmental controls completed landfills were often utilised as sporting fields.

EPA regulations now require that landfills are constructed with side slopes with minimum gradients of 1 in 20. In the Clayton area this will result in the highest points of landfills being greater than 15m above natural ground level.

Council has approved both pre-settlement and final contours for each of seven landfill sites that are currently being filled.

During the construction phase of a landfill it is often necessary for landfill operators to store top soil and daily cover material. Stockpiles recently constructed on the TPI site in Heatherton, whilst not permanent, have caused considerable concern to the local community. TPI have recently received approval to reduce the height of the stockpiles by relocating soil to another site.

8. Enforcements of Planning Controls

In response to community concerns, Council has allocated additional resources to planning enforcement. Council currently employ four officers in the Planning and Building Enforcement Area. One of those officers is now working exclusively in the non urban area to monitor planning permits and any illegal activities in the area.

9. Community Engagement

Three of Council's landfills have an active interface with residential communities. Each of these sites is operated by Transpacific Industries (TPI). The advantage of single operator is that the sites can be managed as a group with only one operating at a time, therefore minimising the impact on the sites on the local community. Detailed environmental management plans are currently being prepared for each of the sites.

10. EPA Audit – Landfill Gas

Following issues in the Cranbourne area the EPA has conducted an audit of 260 former and current landfills to assess the potential for methane gas movement.

The results of the survey identified three landfills in the Clayton area that require methane management works

The survey concluded that:

- *No landfills are likely to be having any methane effects on adjacent communities.*
- *No residential estates have been affected in the same way as the development adjacent to the Stevensons Road (Cranbourne) former landfill.*
- *A small number of landfill sites require improved gas management controls. Operators at these sites are working to ensure this work is completed as soon as possible, and EPA is monitoring their progress.*

A copy of the EPA Community Information Bulletin for the Clayton South area is attached.

11. The Future

The next step in waste management will be the construction of facilities to treat the waste in our "red bins" to further reduce the volume of waste to landfill and improve an overall levels of environmental performance. The siting and management of these facilities will provide a range of planning challenges but will substantially reduce the offsite impacts of waste and reduce the risk to the environment. Alternative waste facilities will most likely cater for the needs of a number of

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municipalities. The State Government has established a taskforce to oversee the implementation of alternative resource recovery facilities in Metropolitan Melbourne

8. Recommendation

That the report be received for information

Attachments:

- 09/82522 EPA Community Information Clayton South

Crs Brownlees/Peulich

That the report be received for information.

Carried

10. Community Sustainability Reports

L154 Disability Action Plan 2009 - 2013

Approved by: Mauro Bolin, General Manager Community Sustainability

Author: Dominic McCann, Coordinator, Community Projects
Heath Stenton, Team Leader Community Engagement

1. Purpose

To provide a background regarding the *Draft Kingston Disability Action Plan 2009 - 2013*, elaborate on the development process and seek Council endorsement of the plan.

This strategy relates to the Council Plan 2009 – 2013, Planned Outcome 3 – Healthy, Strong and Connected Communities.

The development of a Disability Action Plan is a requirement of all Statutory Authorities under the Commonwealth Disability Discrimination Act 1992 (DDA), and the State Disability Act 2006.

2. Background

As a local government authority, Council has legal and community obligations to ensure that all members of the community are afforded the same opportunities to be active and engaged citizens. Council has a range of roles in delivering services to its local community, and must ensure the needs of people with disabilities are considered at all levels.

Council has obligations under State and Commonwealth legislation to develop and implement a Disability Action Plan and to comply with the various legislative Codes and Guidelines.

3. Summary and Conclusion

The *Disability Action Plan 2009 – 2013* articulates Council's commitment to being a place in which people with disabilities and their families and carers can enjoy equitable access to and participation in all aspects of community life. At the core of this vision is a belief that although a disability may impact upon an individual's capacity or ability to participate in community life, it is the economic, social and environmental barriers that cause a person with a disability to enjoy less favourable treatment and access than a person without a disability.

Within each of the five key strategic directions discussed in this Action Plan, Council has identified the priority areas that will work towards achieving the goals of an inclusive community for all its citizens.

Endorsement of the *Disability Action Plan 2009- 2013* will continue to enable Council to take a lead role in enabling all members of the community to participate fully in the life of the community.

4. Consultation

The *Draft Kingston Disability Action Plan 2009 – 2013* includes data from a range of sources and key stakeholders. This has been collated to assist with the identification of the key issues affecting people with disabilities, their carers and families, and identify potential strategies to address these issues. A wide range of interest groups, key stakeholders and community members were invited to make comment in drafting this Plan.

A comprehensive series of consultation forums and information sessions were undertaken as part of the development of the *Draft Disability Action Plan 2009 – 2013*. Twenty staff from a wide range of departments within Council, 22 representatives from non-government service providers and a wide range of members of the public in excess of 100 participated in these forums and made valuable contributions to the Disability Action Plan. In total, more than 150 people participated in this consultation phase.

The *Draft Disability Action Plan 2009 – 2013* was then developed and distributed across all departments within Council for further feedback and comment and a series of follow up consultations were held with 45 Council staff.

The *Draft Kingston Disability Action Plan 2009 – 2013* also considered information and material from a range of sources including:

- The United Nations Declaration of the Rights of Disabled Persons
- Australian Human Rights Commission
- Victorian Government Policy – A Fairer Victoria
- Best practice in other local governments in Victoria
- Community Satisfaction survey
- Public consultation forums
- Input from the MetroAccess Community Mapping process.

Public Feedback

Supplementary to the consultation process the *Draft Disability Action Plan 2009-2013* was also released for public comment for 4 weeks during August 2009. During the feedback period Council received 7 written submissions. The submissions received identified several issues residents would like to see addressed in the plan. These included:

- For Council to have a committee to identify issues related to disability. (This currently occurs through the Access & Equity Advisory Committee and those residents who requested this have been invited to participate in this committee).
- Issues regarding enforcement and number of disabled parking bays was raised as an issue but has already been addressed within the *Draft Disability Action Plan*.
- The development of an Easy English policy and the identification of training packages for Council staff which may assist staff to communicate more successfully with people with various disabilities.

All of this feedback has been incorporated into the plan and those who made a submission have received a response from Council thanking them for their contribution.

5. Issues

The *Draft Kingston Disability Action Plan 2009 – 2013* articulates Council's commitment to Kingston being a place in which people with disabilities can enjoy equitable access to, and participation in, all aspect of local community life. It articulates the principles which underpin

this vision and the specific objectives which will guide Council towards the achievement of that commitment.

Link to Council Business

The implementation of the *Draft Kingston Disability Action Plan 2009 – 2013* is explicitly set out as actions within the Council Plan 2009 – 2013 and is also reflected in the following City of Kingston Plans and Strategies:

- City of Kingston Community Plan 2006 – 2010
- City of Kingston Youth Strategy 2007 – 2010
- City of Kingston Municipal Public Health Plan 2006 – 2009
- City of Kingston Positive Ageing Plan 2008 – 2013.

Council acknowledges its responsibilities to people with disabilities, their carers, their families and the broader community by currently delivering a range of services and programs to the local community that support and improve access for all. These include: Aged and Disability services, Residential Aged Care provision, MetroAccess Program and the Access and Equity Advisory Committee. Council also auspices Access Care Southern which supports people with disabilities to access the support services and programs required to live in the community.

Council also works in partnership with a range of disability service providers to ensure the needs of residents with a disability are being met in the most appropriate way.

People with Disabilities in Kingston

The definition of disability is included as *Attachment B*.

According to the Survey Disability Ageing and Carers data, in the City of Kingston it is estimated that up to 32,228 or 23% of the population has some kind of disability. Of these 32,228 residents, it is estimated that 1,951 are children aged 0 – 14 years, 16,522 are people of working age (15-64 years) and 13,755 are older residents aged 65 or more.

With regard to the range of disabilities, it is estimated that 10,751 residents (7.6% of the total population) have disabilities causing profound or severe restriction of communication, mobility or self care; with a further 12,691 residents (or 9% of the total population) having disabilities which place limits on their employment or educational opportunities.

Key Areas for Action

A number of common themes emerged from the consultations and these themes have formed the basis of the key strategic directions where Council's efforts and resources could be focused. The key strategic areas of focus were identified as:

- Key Strategic Direction 1
Improving access to the built environment (including physical infrastructure, outdoor public space and access to transport).
- Key Strategic Direction 2
Provision of flexible services which support, and are accessible and responsible to, those with disabilities.

- Key Strategic Direction 3:
Processes for provision of information for, and communication with, people with a disability which actively facilitates their capacity to participate in civic life.
- Key Strategic Direction 4
A corporate culture which sets the standard in Kingston for access and participation principles, including good governance and community planning which empowers people with disabilities and fosters positive community attitudes towards them.
- Key Strategic Direction 5
Recreational, cultural, leisure and learning opportunities which are inclusive of people with disabilities.

6. Options

- 6.1 That Council endorses the *Disability Action Plan 2009 – 2013* for implementation.

7. Triple Bottom Line Checklist

7.1 Environmental:

Activities pertaining to the implementation of the *Draft Kingston Disability Action Plan 2009 – 2013* will ensure that people with disabilities, their families and carers can access the physical environment in an equitable manner, including the built and natural environments.

7.2 Social:

The Action Plan seeks to achieve the following social outcomes:

- A community that is accessible and actively promotes equitable participation for people with disabilities
- A community that is inclusive of all community members
- A community that is supportive of all community members.

7.3 Financial:

Subject to maintaining available staff resources the majority of the strategies developed within the Disability Action Plan are achievable over the proposed four year period within existing Council resources. Additional external funding may also be sought to support the Plan's implementation.

8. Recommendation

1. That Council resolve to endorse the *Disability Action Plan 2009 – 2013* for implementation; and
2. That the *Kingston Disability Action Plan 2009-2013* is registered with the Australian Human Rights Commission.

Attachments:

- A *Draft Kingston Disability Action Plan 2009 – 2013*
B *The definition of disability*

Motion

Crs Staikos/Bauer

That the report be approved subject to the addition of a point 3 to read:

“3. That the Council thank the officers responsible for this preparation of this report.”

The motion was **put and carried**.

The Council resolution, in its entirety, reads as follows:

Crs Staikos/Bauer

1. That Council resolve to endorse the *Disability Action Plan 2009 – 2013* for implementation; and
2. That the *Kingston Disability Action Plan 2009-2013* is registered with the Australian Human Rights Commission.
3. That the Council thank the officers responsible for this preparation of this report

Carried



City of
KINGSTON

DRAFT DISABILITY ACTION PLAN

2009 – 2013

Endorsed by Council: _____ (*Date TBA*)

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INTRODUCTION

As a local government authority, Kingston Council has legal and community obligations to ensure that all members of the community are afforded the same opportunities to become active and engaged citizens. Council has a range of roles in delivering services to its local community, and must ensure the needs of people with disabilities are considered at all levels.

The City of Kingston conducted community consultations to evaluate its previous Disability Action Plan and to develop a new Disability Action Plan as a requirement of the Commonwealth Disability Discrimination Act 1992 (DDA), and the State Disability Act 2006 which came into effect in July 2007. These Acts provide uniform protection against discrimination for people with disabilities in Australia.

What is a Disability Action Plan

A Disability Action Plan is a strategy for Council to continue to address the barriers and challenges experienced by people with disabilities limiting their ability to be active and engaged citizens.

It aims to eliminate, as far as possible, discrimination and implement strategies within Council that encourage and facilitate change.

Why develop a Disability Action Plan

The development of a Disability Action Plan is a further opportunity for Council to enhance the provision and planning of services and community supports, including infrastructure.

The development of this Plan is a further step in developing an inclusive community, where people with disabilities feel recognised, accepted and valued for their skills and the contributions they make to society.

Kingston Council also has obligations under State and Federal legislation to develop and implement a Disability Action Plan and to comply with the various legislative Codes and Guidelines.

THE CITY OF KINGSTON – AT A GLANCE

The City of Kingston is a vibrant, multicultural municipality in which 141,550 residents from over 50 nationalities reside in 21 suburbs, ranging from Moorabbin, Clayton South and Clarinda in the north, to Carrum and Patterson Lakes in the south.

Covering an expanse of 91 square kilometres, Kingston combines substantial residential areas with significant industrial and commercial centres, non-urban and agricultural areas, major parks and gardens and significant conservation areas, including 13 kilometres of unbroken coastline, the largest of any municipality in metropolitan Melbourne.

Other notable features include Moorabbin *Harry Hawker* Airport, Patterson River Marina, the natural wetlands, 45 colleges and schools, 12 world-class golf courses and 6 hospitals.

Kingston provides an excellent mix of infrastructure for residents and visitors to enjoy living, working, socialising and recreating.

The City of Kingston is an extremely diverse municipality:

- 65.2% of residents were born in Australia
- 64% of migrants arrived in Kingston pre-1986, but there are also a number of emerging communities
- 20.3% speak a language other than English at home
- Most common languages spoken at home are Greek, Italian, Cantonese, Vietnamese and Russian
- Different regions within Kingston have diverse demographic profiles – the northern suburbs of Clayton South, Clarinda and Oakleigh South have a high proportion of residents speaking a language other than English
- Financial disadvantage – income levels are disparate across the municipality, with newly arrived migrants and people with disabilities often having significantly less financial resources.
- Social isolation – this can be a real issue for newly arrived migrants from smaller emerging communities, people with disabilities, the unemployed and the elderly.
- Geographic isolation – although well serviced by public transport from north to south, currently poor east to west transport links exist, e.g. between Clayton South and Moorabbin.
- Religion – 70.3% of Kingston residents have a religious denomination, compared to the Melbourne average of 73.5%, with Catholicism the predominant religion (20.3%)
- Housing – in the City of Kingston 36.2% of houses are owned while 34.8% are being purchased. This is slightly higher than the Melbourne average of 67.7%, which can be partly explained by the ageing population.

EXECUTIVE SUMMARY

The Federal Disability Discrimination Act 1992 (DDA) makes it unlawful to discriminate against a person on the grounds of disability. The broad objectives of the DDA include eliminating, as far as possible, discrimination against people with a disability, and promoting recognition and acceptance within the community that people with a disability have the same fundamental rights as the rest of the community.

The DDA sets out the specific areas in which it prohibits a person being discriminated against on the grounds of their disability (or the disability of an associate). These areas include access to buildings, accommodation, employment, goods, services and facilities, and public transport.

The objects of this Act are:

- (a) *to eliminate, as far as possible, discrimination against persons on the ground of disability in the areas of:*
 - (i) *work, accommodation, education, access to premises, clubs and sport; and*
 - (ii) *the provision of goods, facilities, services and land; and*
 - (iii) *existing laws; and*
 - (iv) *the administration of Commonwealth laws and programs: and*
- (b) *to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and*
- (c) *to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.*

Most importantly they include access to goods and services or use of ‘*any premises that the public, or a section of the public, is entitled or allowed to enter or use.*’ (Division 2, section 23 (1) (a) DDA 1992)

In July 2007 the Victorian Disability Act 2006 came into effect. Under this legislation the rights of people with disability have been further enhanced and protected. The responsibilities and obligations of the government and non-government sectors are clearly defined and legislated.

Part 4, Section 38(1) of the Victorian Disability Act clearly articulates the key requirements and the obligations of local governments to developing and implementing Disability Action Plans.

It is a statutory requirement that all public sector bodies in Victoria develop Action Plans to ensure that all people, regardless of ability, have equitable access to services and programs and to work to reduce discrimination in the areas of the provision of goods and services, access to facilities, employment, community participation and community attitudes.

Local governments are well placed in taking a leadership role in promoting the rights of people with disabilities, in reducing discrimination and in promoting a tolerant and vibrant community that recognises the worth of all its citizens.

In developing the *Disability Action Plan 2009-2013* Kingston Council acknowledges the right of people with a disability to participate fully in the life of the community and continues to reaffirm its commitment to meeting the needs of its residents who have a disability.

The adoption by Council of this Plan enhances Kingston's reputation as a place where people with disabilities are valued and where they can live, work and engage in their leisure activities and contribute fully to the social and economic life of the community.

The development of the *Disability Action Plan 2009 – 2013* involved an analysis of international and national approaches to disability, a review of Council and state government legislation and policies and extensive community and Council consultation.

The *Disability Action Plan 2009 – 2013* considered information and material from a range of sources including:

- The United Nations Declaration of the Rights of Disabled Persons
- Australian Human Rights Commission
- Victorian Government Policy - A Fairer Victoria
- Best practice in other local government areas in Victoria
- Community Satisfaction survey
- Public consultation forums.

Recommendations

As part of the strategy development, five key areas were identified where Council's efforts and resources could be concentrated.

The key strategic directions are:

- Access to the built environment, facilities and transport
- Provision of services
- Provision of information
- Developing an inclusive culture within Kingston City Council
- Developing recreational, cultural, leisure, learning and employment opportunities.

The strategic actions related to these areas of focus are outlined in the *Disability Action Plan 2009 – 2013*.

Relationships to the Plan

The implementation of the Disability Action Plan is explicitly set out as actions within the Council Plan 2007 – 2012 and is also reflected in the following City of Kingston Plans and Strategies:

- City of Kingston Community Plan 2006 – 2010
- City of Kingston Youth Strategy 2007 – 2010
- City of Kingston Municipal Public Health Plan 2006 – 2009
- City of Kingston Positive Ageing Plan 2008 – 2013.

It is intended that the strategies that come from the Disability Action Plan be integrated into the policies and work plans of Council and its key partners in the disability area, rather than being seen as an additional area of work.

The *Disability Action Plan 2009 – 2013* embraces a whole of Council approach to disability. This reflects Council's approach that access for people with a disability is the responsibility of all of Council.

The Plan encourages corporate ownership and makes issues of disability and access a priority within Council's planning and decision making processes. It emphasises that we all have obligations to break down the barriers that prevent people with disabilities from participating in all aspects of community life.

This Action Plan will apply to all Council staff. It will also be applicable to Committees of Council and Council Reference and Advisory Groups. It should also serve to guide Council in any decisions it makes which may impact on the lives of those in Kingston with a disability and their families and carers.

1. BACKGROUND AND CONTEXT

1.1 *Kingston's commitment to people with a disability*

The *Disability Action Plan 2009 – 2013* articulates Council's commitment to Kingston being a place in which people with disabilities can enjoy equitable access to and participation in all aspect of local community life.

It articulates the principles which underpin this vision and the specific objectives which will guide Council towards the achievement of that commitment.

1.2 *Principles*

Inherent in Council's *Disability Action Plan 2009 – 2013* are three core principles:

- to create a community that is accessible and actively promotes equitable participation,
- to ensure the communities are inclusive of all members regardless of ability,
- to develop an environment that is supportive of people with disabilities, their carers and families.

Council acknowledges its responsibilities to people with disabilities, their carers, their families and the broader community through the delivery of a range of specific services and programs to the local community that support and improve access for all. These services include: Aged and Disability Services, Residential Aged Care provision, MetroAccess Program and the Access and Equity Committee. Council also auspices AccessCare Southern which supports people with disabilities to access the support services and programs they need to live in the community.

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Council also works in partnership with a range of disability service providers to ensure the needs of residents with a disability are being met in the most appropriate way.

The *Disability Action Plan 2009 – 2013* is a strategy for Council to continue to address the barriers and challenges experienced by people with disabilities which limit their ability to be active and engaged citizens. It aims to eliminate discrimination and implement strategies to encourage and facilitate change.

1.3 Definition of Disability

Defining disability is difficult because any such definition is likely to include some subjective opinion. For the purposes of this policy, disability has been defined in accordance with that defined in the Disability Discrimination Act 1992 (DDA).

Disability means:

- Total or partial loss of the person's bodily or mental functions; or
- total or partial loss of a part of the body; or
- the presence in the body of organisms causing disease or illness; or
- the presence in the body of organisms capable of causing disease or illness; or
- the malfunction, malformation or disfigurement of a part of the person's body; or
- a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour; and
- includes a disability that:
 - presently exists; or
 - previously existed but no longer exists; or
 - may exist in the future; or
 - is imputed to a person.

1.4 The Social Context of Disability

The definition as recognised by the DDA is considered by some to lack a social context. The social context of disability reframes the concept of disability as the impact on a person's ability to manage their daily lives or access opportunities in the community due to their illness, disease or impairment. This exclusion is seen to result in socio-economic, cultural or political disadvantage.

1.5 Definition of a Carer

For the purposes of this document, a carer is defined as a person who provides regular support to a person with a disability.

1.6 People with a Disability in Kingston

According to the Survey Disability Ageing and Carers (SDAC) data, in the City of Kingston it is estimated that up to 32,228 or almost 23% of the population have a disability of some kind.

Of this 32,228, it is estimated that 1,951 of these residents are children aged 0 – 14 years, 16,522 are people of working age (15 - 64 years) and 13,755 are older residents aged 65 or more.¹

With regard to the range of disabilities, it is estimated that 10,530 residents (7.6% of the total population) have disabilities causing profound or severe restriction of communication,

¹ Survey of Disability, Ageing and Carers (SDAC) – Health Profile for the City of Kingston February 2009, Bonato and Associates Page 26 and <http://www.vlga.org.au/resources/items/2008/02/193242-upload-00001.xls> - Accessed April 2009

mobility or self care, with a further 12,580 residents (9% of the total population) having disabilities which place limits on their employment or educational opportunities.²

The overall range of disabilities includes:³

- Physical disability (75% of all disabilities)
- Sensory disability (13.3%)
- Psychological disability (6.2%)
- Acquired Brain Injury (2.6%)
- Intellectual disability (2.3%).

1.7 Disability by age

Kingston also has a rapidly ageing population. It is estimated that by 2016 the number of people living in Kingston aged 70 or over will increase by 32% and the number aged 80 or over will increase by 54%.

There has been a significant decrease in the age group 25–34 years and a significant increase in the numbers in the age group 35–69 years. With increased age comes a greater likelihood of reduced mobility and disability.⁴

The prevalence of disability increases by age, with the lowest prevalence amongst 0-4 year olds (4%) and the highest prevalence amongst persons aged 85 plus (72%). The increase in prevalence by age group is constant except for 10-14 year olds, who have a higher prevalence (10%) than 15-19 year olds and 20-24 year olds (8.3% and 8.6% respectively).

The Australian Bureau of Statistics (ABS) categorises disability impact levels as being profound, severe, moderate or mild. Of those in Kingston with a disability, the most commonly found level of disability is either moderate or mild, with an even spread across the remaining three categories.

However the prevalence of profound/severe disability is highest among those aged 75 years plus.

The occurrence of disability, coupled with an ageing population and significant culturally and linguistically diverse (CALD) communities, has raised important challenges for communities ranging from lack of mobility, isolation, unemployment, to poverty, and ultimately the inability to participate fully in the life of the community.

² Victorian Local Governance Association findings of the 2003 National Survey of Disability, Ageing and Carers and population and aged profile of the City of Kingston, 2007

³ Department of Human Services, Disability Estimates for Local Government Area's and Regions in Victoria, June 2001

⁴ ID Consulting, 2007. (The Department of Planning and Community Development has published the first releases of the new Victoria in Future Series; this does not, however, yet include age by sex forecasts at the municipal level. Projections produced by Kingston City Council are pending).

The diverse and evolving demographics of the City of Kingston pose interesting challenges when developing strategies for addressing disability and developing and promoting an inclusive community.

While Council policy and planning takes into account the needs of the entire municipality, the *Disability Action Plan 2009 – 2013* focuses on addressing the needs of those who have a disability.

In line with the Victorian State Disability Plan, where Council refers to people with a disability, it includes:

- Men and women with a disability.
- Children, young people, adults and parents with a disability.
- People with a disability who are ageing.
- People with a disability from culturally and linguistically diverse backgrounds.
- Aboriginal and Torres Strait Islanders who have a disability.⁵

2. RELATIONSHIPS TO THIS PLAN

In 2004, Council developed its first Disability Action Plan (DAP).

The DAP was developed in response to a legislative requirement of the Commonwealth Disability Discrimination Act 1992 as a blueprint for organisational change to ensure that all Council services, facilities, programs and planning processes are available to all people and that the needs of people with a range of disabilities are considered in all areas of Council operations and service delivery systems.

The key strategies included:

- Information and communication
- Physical infrastructure and assets
- Planning and development
- Social planning
- Service development and delivery
- Human resources
- Corporate responsibilities
- Advocacy.

The achievements of this first DAP were evaluated in September 2006.

The *Disability Action Plan 2009 – 2013* is intended to build on the achievements of the earlier DAP and provide the broad key strategic directions with regard to people with disabilities over the next three year period.

⁵ http://www.dhs.vic.gov.au/disability/state_disability_plan/read-the-state-disability-plan/5 - Date accessed 09 January 2009

The strategies within the *Disability Action Plan 2009 – 2013* outline five key strategic directions which will enhance the capacity of people with disabilities in Kingston to have equitable access to and participation in all aspects of local community life.

The *Disability Action Plan 2009 – 2013* sets the foundation for the development of a range of more specific actions which accompany this document. (Please see pages: 21 – 34 of that document for specific detail).

2.1 Relationship to the City of Kingston Council Plan 2009 - 2013

The Kingston Council Plan 2009 – 2013 lists five Planned Outcomes which Council strives to achieve for the community. Planned Outcome 3 articulates Council's commitment to achieving '*healthy, strong and connected communities*'.

In achieving a healthy, strong and connected secure community, Council has identified social benefits to the community which include:

- Improved liveability
- Participation and connectivity
- Improved independent living
- Health, wellbeing and quality of life
- Access and equity
- Reduced isolation.

These social benefits need to be available to people with disabilities and their families and carers and have been taken into consideration throughout the development of the Disability Action Plan.

2.2 Relationship to the City of Kingston Community Plan 2006 - 2010

The Community Plan represents the input of residents into shaping the future of each of the 10 local areas of the City of Kingston. Key areas of focus were identified as areas of interest and requiring priority action. These include:

- Building strong communities
- Managing urban growth
- Prosperity and employment
- Transport
- A vibrant community
- Protecting our environmental legacy
- Community safety
- Our older people
- Our young people
- Access and equity.

2.3 Relationship to the City of Kingston Youth Strategy 2007 - 2010

The Kingston Youth Strategy aims to promote the development of well connected, healthy and positive young people. Strategic priorities incorporated in the Kingston Youth Strategy focus on the provision of services and programs to meet the needs of young people with disabilities and of linking into the strategies in the Disability Action Plan that impact on the lives of young people with disabilities.

2.4 Relationship to the City of Kingston Municipal Public Health Plan 2006 – 2009

This Plan provides an integrated approach to public health planning. It commits Council to providing a healthy and secure community with a major focus on people with disabilities, reducing barriers to services, improving service awareness, and developing integrated recreation approaches for people with disabilities.

2.5 Relationship to the Positive Ageing Plan 2008 - 2013

The Positive Ageing Plan outlines the strategic direction for Kingston City Council to promote the wellbeing of the older community. The Plan is based on a whole-of-community approach that embraces a range of themes that underpin the notion of positive ageing. According to 2006 census data, there are 36,474 people over the age of 55, which is 27.1 percent of the Kingston population. As Kingston has an ageing population, it is expected that due to this the rates of people with a disability will increase.

The Positive Ageing Plan identifies seven key themes to assist Council to develop strategic responses to address the needs of those aged over 55 years who live and work in the area. Issues of ageing and disability are addressed over the seven key themes in the plan.

2.6 Relationship to the MetroAccess Project

The MetroAccess program is a key initiative of the Victorian State Disability Plan 2002 - 2012.

MetroAccess is a community building program which strives to build the capacity of local communities so they are more welcoming and inclusive of people with disabilities. Council has a MetroAccess Officer whose role is to lead Council's implementation of the MetroAccess program.

The Disability Action Plan, though not a responsibility of the MetroAccess Officer, draws on the expertise of this program. The MetroAccess Program connects with the aims and objectives of the Disability Action Plan.

3. RESEARCH AND CONSULTATION

3.1 Literature review

A literature review of Council and State Government policies and strategies was undertaken and extensive community consultation was conducted to determine what issues had an impact on people with disabilities, particularly:

- What are the barriers to people with disabilities?
- What are the potential solutions to these barriers?
- What is Council's role in addressing these barriers?

3.1.1 The International Context

The United Nations (UN) declared in its Declaration of the Rights of Disabled Persons (1971) that it is a basic human right that all people, regardless of whether or not they have a disability, have the right to have access to goods and services.

To fulfil its obligations to implement the UN Declaration the Australian Government enacted the Disability Discrimination Act in 1992.

The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted on 13 December 2006 at the United Nations Headquarters in New York. Australia ratified this Convention in July 2008.

This convention endorses the view that people with disabilities have rights and that they *are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society.*

Through its global program on disability, *ENABLE*, the key priorities of The United Nations are:

- support for full and effective participation of persons with disabilities in social life and development
- advancing the rights and protecting the dignity of persons with disabilities
- promoting equal access to employment, education, information, goods and services⁶.

3.1.2 Federal Government Initiatives – Disability Discrimination Act 1992 (DDA)

The Disability Action Plan (DAP) was developed in response to the requirements of the Commonwealth Government's Disability Discrimination Act 1992 (DDA), which requires Local Governments to develop and implement strategies to reduce discrimination in the areas of access to goods, services and facilities, employment, community participation and to promote positive attitudes and practices within the community.

The *Disability Action Plan 2009 – 2013* demonstrates Council's commitment to eliminating any discrimination people with disabilities may experience in their local community. Local Governments are also encouraged to lodge their Disability Action Plans with the Australian Human Rights Commission (formerly the Human Rights and Equal Opportunity Commission - HREOC). The Australian Human Rights Commission is responsible for administering the DDA and handling complaints relating to it.

The Victorian Disability Act 2006 also requires all public sector bodies to prepare a Disability Action Plan. Its requirements are similar to those of the DDA.

Local Governments are also required to adhere to a range of other types of legislation and standards which are related to equal opportunity and the rights of people with disabilities. These Acts and standards include:

- Victorian Equal Opportunity Act 1995
- Australian Standards for Access and Mobility (AS Standard 1428)
- Victorian Equal Opportunity Act 1995
- Victorian Building Act 1993
- Commonwealth Building Code of Australia

⁶ <http://www.un.org/disabilities/> - Date accessed 09 January 2009

- Victorian Local Government Act 1989
- Charter of Human Rights and Responsibilities Act 2006.

3.1.3 Victorian Government Context – Victorian State Disability Plan

The Victorian State Disability Plan 2002 – 2012 reaffirms the rights that people with a disability have to live and participate in the community on an equal footing with other citizens of Victoria. The goals of the Victoria State Disability Plan are:

- Pursuing individual lifestyles
- Building inclusive communities
- Leading the way.

The City of Kingston conducted community consultations to develop its Disability Action Plan as a requirement of the Commonwealth Disability Discrimination Act (DDA) and the State Disability Act. Both of these Acts provide uniform protection against discrimination for people with disabilities in Australia.

3.1.4 Council and community consultation

A comprehensive series of consultation forums and information sessions were undertaken as part of the development of the Disability Action Plan.

Twenty staff from a wide range of departments within Council, 22 representatives from non-government service providers, and a wide range of members of the public in excess of 100 participated in these forums and made valuable contributions to the Disability Action Plan.

In total, more than 150 people participated in the consultation phase, in one form or another.

3.1.5 Analysis of Consultation and Development of Key Strategic Directions

A number of common themes emerged from consultations held within Council and with the broader community, and these have formed the basis of the key strategic directions.

Key strategic directions:

- **Key Strategic Direction 1 – Access to the Environment:**
Improving access to the built environment (including physical infrastructure, outdoor public space and access to transport).
- **Key Strategic Direction 2 – Provision of Services:**
Provision of flexible services which support and are accessible and responsible to those with disabilities.
- **Key Strategic Direction 3 – Provision of Information:**
Processes for provision of information and communication with people with a disability which actively facilitates their capacity to participate in civic life.
- **Key Strategic Direction 4 – Corporate Culture:**
A corporate culture which sets the standard in Kingston for access and participation principles, including good governance and community planning which empowers people with disabilities and fosters positive community attitudes towards them.

- **Key Strategic Direction 5 – Participation Opportunities:**
Recreational, cultural, leisure and learning opportunities which are inclusive of people with disabilities.

4. RESOURCING AND EVALUATION

Subject to maintaining available staff resources most of the strategies developed within the Disability Action Plan are achievable over the proposed three year period within existing Council resources.

As part of its obligations under the Disability Discrimination Act, Council will conduct regular evaluation of the Disability Action Plan with the requirement for a complete review at the end of its three year term.

Through evaluation, Council will be able to modify its strategies, allocate resources more effectively, and better respond to the needs of people with disabilities over time.

The City of Kingston DAP will be evaluated by:

- Regular evaluation of outcomes of identified actions by project co-ordinators and officers with input provided by Council's Access and Equity Advisory Committee.

Updates on the progress and evaluation of the Disability Action Plan will be made available to the public by:

- Public reporting against the actions in the Strategic Plan on a half-yearly basis on Council's website and in Kingston Your City (KYC).
- Regular updates provided to the Access and Equity Advisory Committee.
- An annual report to Councillors on the implementation of the action plan.

5. CONCLUSION

Council's aim is for the City of Kingston to be a place in which people with disabilities and their families and carers can enjoy equitable access to and participation in all aspects of community life.

At the core of this vision is a belief that although a disability may impact upon an individual's capacity or ability to participate in community life, it is the economic, social and environmental barriers that cause a person with a disability to enjoy less favourable treatment and access than a person without a disability.

Within each of the five key strategic directions outlined in this Action Plan, Council has identified the key strategic directions that will go some way to achieving the goals of an inclusive community for all its citizens.

ABBREVIATIONS

ABS	Australian Bureau of Statistics
CALD	Culturally and Linguistically Diverse Backgrounds
DAP	Disability Action Plan
DDA	Disability Discrimination Act 1992
DPPS	Disabled Persons Parking Scheme
HREOC	Australian Human Rights Commission (Formerly the Human Rights and Equal Opportunity Commission)
SDAC	Survey of Disability, Ageing and Carers
SDS	Special Developmental School

DISABILITY ACTION PLAN

STRATEGIC ACTIONS 2009 - 2013

KEY STRATEGIC DIRECTIONS

Key strategic directions

1. Improving access to the built environment (including physical infrastructure, outdoor public space and access to transport).
2. Provision of flexible services which support and are accessible and responsive to those with disabilities.
3. Processes for provision of information and communication with people with a disability which actively facilitates their capacity to participate in community life.
4. A corporate culture which sets the standard in Kingston for access and participation principles, including good governance and community planning which empowers people with disabilities and fosters positive community attitudes towards them.
5. Recreational, cultural, leisure and learning opportunities which are inclusive of people with disabilities.

LEGEND:	YEAR 1	2009 – 2010 financial year
	YEAR 2	2010 – 2011 financial year
	YEAR 3	2011 – 2012 financial year
	YEAR 4	2012 – 2013 financial year
	ON-GOING	2009 – 2013 financial years

ACTION PLAN

Strategic Direction 1: Access to the Built Environment

Objective: Improve access for people with disabilities to the built environment, transport and community facilities

PLANNING AND THE BUILT ENVIRONMENT

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
1.1	When undertaking council building upgrades and refurbishment ensure accessibility for people with disabilities is considered as part of the process.	Building Facilities	Community Engagement Sports and Recreation	Building policy and assessment criteria applied.	Existing Action, Ongoing implementation
1.2	Maintain in house expertise with regard to Australian Standards on Accessibility, the Disability Discrimination Act (DDA) and the Disability Act and how they apply.	Infrastructure	Community Engagement	Training resources identified and developed. Staff members trained in DDA compliance.	Existing Action, Ongoing implementation
1.3	Continue to work in partnership with housing agencies to advocate to the State and Federal Governments for improved access to secure housing for people with disabilities.	Community Engagement Strategic Planning	MetroAccess	Participation in working groups and networks.	Existing Action, Ongoing implementation
1.4	Continue to apply standards for the installation of outdoor equipment and furniture to ensure DDA compliance.	Community Engagement	Parks, Leisure and Culture	Standards applied.	Existing Action, Ongoing implementation

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			Maintenance Contracts and Waste		
1.5	All accessibility appraisals continue to be conducted for all major building works by a registered access auditor.	Community Engagement	Leisure Planning Strategic Planning Communications	Policy developed and trial implementation.	Existing Action, Ongoing implementation
1.6	Progress access ramps for public buildings that are compliant with DDA and current standards.	Traffic	Community Engagement	Increased ramps compliant in public buildings.	Existing Action, Ongoing implementation
1.7	Progress all public buildings having adequate provision of accessible toilets for people with disabilities.	Building Facilities	Community Engagement	Toilets provided are accessible to people with disabilities.	Existing Action, Ongoing implementation
1.8	Ensure all new buildings are DDA compliant.	Building Facilities	Community Engagement	All new buildings compliant.	Existing Action, Ongoing implementation
1.9	Respond to complaints on accessibility within Council Guidelines.	All Council	All Council	Complaints responded to appropriately.	Existing Action, Ongoing implementation
1.10	Review Corporate signage policies to ensure compliance with accessibility requirements.	Community Engagement	Governance Leisure and Culture Building Facilities Traffic and Transport	Review completed.	Year One
1.11	Equip major public buildings with hearing loops.	Building Facilities	Community	Hearing loops installed in	Year Two

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			Engagement	Kingston City Hall, Cheltenham and Mentone buildings.	
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COMMUNITY ACCESS

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
1.12	Advocate to private shopping centre owners to improve accessibility of existing centres. In future centre developments all to be DDA compliant.	Community Engagement	Economic Development Metro Access	Accessibility guide for shopping centres distributed.	Existing Action, Ongoing implementation
1.13	Develop program of recognition and reward for local businesses displaying a commitment to accessibility.	Community Engagement	Economic Development Environmental Health MetroAccess	Program developed and piloted.	Year Two
1.14	Undertake pilot project offering free access audits to small businesses.	Community Engagement	Economic Development MetroAccess	Program developed and piloted.	Year Two
1.15	Provide appropriate seating and benches in public spaces and shopping areas for people with disabilities.	Roads Maintenance	Community Engagement	Accessible seating and benches provided. Gaps in seating are identified and responded to.	Year Four
1.16	Promote accessibility within Kingston strip shopping precincts through the provision of Business Access Toolkits and Footpath Trading Guidelines.	Economic Development	Local Laws MetroAccess	Toolkits distributed to existing and new businesses.	Year Three

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PARKS

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
1.17	Improve accessibility for people with disabilities to public spaces. Undertake consultation with Community Engagement team regarding accessibility issues when developing plans for parks, gardens and open spaces.	Parks	Community Engagement MetroAccess	Ongoing improvements to public spaces to improve accessibility. Consultations conducted.	Year Two

FOOT AND VECHICLE TRAFFIC

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
1.18	Continue to ensure construction of new roads and renewal of older roads is DDA compliant.	Roads	Community Engagement	Roads DDA compliant.	Existing Action, Ongoing implementation
1.19	Continue to ensure all new pathway ramps are DDA compliant.	Roads	Community Engagement	Pathways compliant.	Existing Action, Ongoing implementation
1.20	Monitor and enforce disabled parking bay regulations.	Parking and Prosecutions	Community Engagement Economic Development	Review conducted, including consultation with DPP holders.	Existing Action, Ongoing implementation
1.21	Continue the distribution of Disabled Parking Permits to people with a disability.	Local Laws	Community Engagement	DPP distributed.	Existing Action, Ongoing implementation

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1.22	Ensure Council disabled parking bays are compliant with DDA and meet current Australian standards.	Traffic	Community Engagement	Parking bays compliant.	Existing Action, Ongoing implementation
1.23	Ensure adequate provision of disabled parking bays at all Council facilities.	Traffic	Community Engagement	Parking bays provided.	Existing Action, Ongoing implementation
1.24	Ensure safe parking bays available for community buses at public buildings.	Traffic	Community Engagement	Parking bays provided for community buses.	Existing Action, Ongoing implementation
1.25	Continue footpath maintenance program to reduce incidence of falls and injuries.	Maintenance Contracts and Waste	Roads Traffic	Footpath inspections schedule implemented and works actioned as identified.	Existing Action, Ongoing implementation
1.26	Compile and promote a database of accessible parking bays at public toilets and make available to the community through the National Toilet Register.	Parking and Prosecutions	Customer Service Community Engagement Traffic MetroAccess	Database developed and promoted.	Year One
1.27	Consult with Community Engagement team when planning new pathways and refurbishment of existing pathways.	Parks Roads	Community Engagement MetroAccess	Consultations carried out.	Year Two
1.28	Advocate for parking bays for electric scooters and wheelchairs in shopping areas.	Roads	Community Engagement	Increased electric scooter parking provided.	Year Three
1.29	Advocate to the State Government for a review into the requirements for access to Disabled Parking Permits.	Local Laws	MetroAccess	Letter to the state minister Advocacy through disability networks.	Year Three
1.30	Advocate to private land owners, especially shopping	Community	Local Laws	Council officers advocate on	Year Four

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	centre owners for appropriate location and number of designated accessible parking bays.	Engagement	Metro Access Traffic and Transport Town Planning Economic Development	identified accessible parking problems.	
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PUBLIC TRANSPORT

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
1.31	Continue to respond within Council guidelines to requests for bus stops.	Roads	Community Engagement	Requests responded to appropriately.	Existing Action, Ongoing implementation
1.32	In response to community concern advocate to improve access to public rail and road (bus, taxi) transport.	Community Engagement	MetroAccess Infrastructure	Participation in working groups and networks.	Existing Action, Ongoing implementation

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Strategic Direction 2: Provision of Services

Objective: To provide flexible services and programs which support, and are accessible and responsive to people with disabilities.

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
2.1	Continue to develop partnership opportunities with community service providers to support people with disabilities, including youth, children's and family programs.	MetroAccess	Family, Youth and Children's Services Aged and Disability	Participation in networks and working groups.	Existing Action, Ongoing implementation
2.2	Continue to provide a community bus with wheelchair access.	Council Depot	MetroAccess Community Engagement	Bus continued to be provided.	Existing Action, Ongoing implementation
2.3	Continue to deliver library services to local community organisations that support people with disabilities.	Library and Educational Services	Community Engagement, All Council	Services provided.	Existing Action, Ongoing implementation
2.4	Through Library Services provide new technology that enables people with disabilities to access information.	Library and Educational Services	Community Engagement, All Council	New Technology provided.	Existing Action, Ongoing implementation
2.5	Continue to work with waste collection contractor to support people with limited mobility to put out bins on nature strip.	Maintenance Contracts and Waste	Community Engagement	Alternative arrangement made for identified residents.	Existing Action, Ongoing implementation

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2.6	Continue to provide options for 120ltr recycle bins to support people with limited mobility.	Maintenance Contracts and Waste	Community Engagement	Bins made available to identified residents.	Existing Action, Ongoing implementation
2.7	Provide further training for staff, parents and community to increase knowledge of disability issues.	Family, Youth and Children's Services Metro Access	Community Engagement	Training sessions provided.	Year Two
2.8	Advocate for extra funding for children with special needs in Children's services such as Long Day Care and Before and After School Care.	Family, Youth and Children's Services	Community Engagement	Advocacy undertaken.	Year Three
2.9	Advocate on behalf of families and children with additional needs to support their inclusion in children's services.	Family, Youth and Children's Services	Community Engagement	Advocacy undertaken.	Year Three
2.10	Undertake awareness project with Division of General Practitioners aimed at increasing awareness amongst GPs of the needs of people with disabilities, focusing on availability of services for people with disabilities.	Community Engagement	Metro Access	Awareness raising project Completed.	Year Four
2.11	Promote the availability of Council documents and resources in alternative formats such as large font documents and audio CD.	Library & Educational Services Customer Services	MetroAccess	Alternative formats promoted.	Year Four
2.12	Development of on-line systems to enable people with disabilities to access information and services.	Information Services	Customer Services, Communications	System developed.	Year Four

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Strategic Direction 3: Provision of information

Objective: Provide information to and communicate with people with disabilities which actively facilitates their capacity to participate in community life

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
3.1	Continue to update the Community Services Directory to ensure accurate information on disability services.	Customer Services	Metro Access	Directories updated.	Existing Action, Ongoing implementation
3.2	Maintain the Kingston website to ensure accessibility for people with disabilities.	Communications	All Council	Website accessible.	Year One
3.3	Include TTY information on Council Electronic Letterhead.	Information Services	All Council	Letterhead developed.	Year One
3.4	Redevelop the 'Disability Access' webpage on Council website to provide links to local disability service providers and State wide services.	Community Engagement	Metro Access	Web page updated.	Year One
3.5	Assess and catalogue critical Council documents for translation to alternative formats such as audio CD or large font formats.	Community Engagement	Customer Service	Assessment completed.	Year Three
3.6	Expand distribution of Kingston Disability Service Directory to GP's and local hospitals.	Community Engagement	MetroAccess	Review of Disability Service Directory distribution plan.	Year Four

Strategic Direction 4: Corporate Culture

Objective 4: Develop a corporate culture which sets the standard in Kingston for access and participation principles utilising the Community Inspired Leadership model.

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
4.1	As Community Inspired Leaders facilitate and encourage participation of people with disabilities on Council reference and advisory groups, including Village Committees. Improve the awareness of committee members on disability issues.	Governance	Community Engagement Youth Services	Review recruitment and induction processes for Council committees.	Existing Action, Ongoing implementation
4.2	Council actively being 'Community Centric' by continuing to consult with the Access and Equity Advisory Committee and Village Committees on disability issues.	Governance	Community Engagement	Consultation carried out.	Existing Action, Ongoing implementation
4.3	Ensure all staff continues to be trained in EEO legislation, anti-discrimination legislation including DDA.	People and Culture	Community Engagement	Training workshops delivered.	Existing Action, Ongoing implementation
4.4	Utilising the Community Inspired Leadership model to engage community members with a disability.	All Council	All Council	Disability issues considered CIL Framework	Existing Action, Ongoing implementation
4.5	Promote implementation of Charter of Human Rights and all EEO and anti-discrimination legislation and policies within Council operations.	Governance	All Council	Charter of Human Rights adopted.	Year One
4.6	Include activities in Community Safety Month on issues affecting people with disabilities.	Community Engagement	MetroAccess	Issues explored and activities included.	Year One

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4.7	Review Event Check list to ensure the needs of people with disabilities are considered in Council planned events.	Community Engagement	Arts and Culture All Council	Review complete.	Year One
4.8	Review current disability awareness training programs on Corporate Training Calendar to assist staff becoming expert in Disability issues related to the work area.	People and Culture	Community Engagement Metro Access	Continue to provide disability awareness training as part of Corporate Training Calendar.	Year One
4.9	Include disability awareness training in Council's induction program. Provide on-going disability awareness training for all staff including relevant volunteers in Council.	People and Culture	Organisational Development Community Engagement	Exploration of training options and resource commitment identified.	Year One
4.10	Facilitate pilot disability awareness campaign amongst parents/carers and school aged children.	MetroAccess	Family, Youth and Children's Services Community Engagement	Campaign established and completed	Year Two
4.11	Ensure major event promotional material includes relevant information about special needs.	Festivals and Events	All Council	Information included on promotional material.	Year Two

Strategic Direction 5: Participation Opportunities

Objective 5: Developing recreational, cultural, leisure, learning and employment opportunities which are inclusive of people with disabilities

	Actions	Department in Council	Key partners	Performance Indicator	Timeline/ Priority
5.1	Continue to promote local sporting, recreational, educational and cultural activities, programs and facilities that are inclusive and accessible.	Leisure and Culture Planning	Metro Access	Identification of promotional activities.	Existing Action, Ongoing implementation
5.2	Continue a commitment to accessibility retrofitting within sporting and recreational facilities and advocate to State and Federal governments for funding to achieve this.	Sports and Recreation	Community Engagement	Accessibility issues addressed in all upgrades.	Existing Action, Ongoing implementation
5.3	Continue to advocate for State and Federal Governments to improve supports for children with disabilities and their families and carers during transition phases of education (the movement from primary to secondary and then into further education or employment).	Family, Youth and Children's Services	Metro Access	Support of Networks and Working Groups that are advocating to state and federal governments.	Existing Action, Ongoing implementation
5.4	Advocate to State and Federal Governments for increased supports within mainstream school settings.	Family, Youth and Children's Services	Metro Access	Participation in Networks and Working Groups. Council advocacy to state and federal government departments.	Existing Action, Ongoing implementation
5.5	Continue to advocate to State and Federal Governments for further supports for families of	Community Engagement	Metro Access	Participation in Networks and Working Groups.	Existing Action, Ongoing

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	children with disabilities.				implementation
5.6	Ensure Council is best practice for access and equity in recruitment policy and procedure.	People and Culture	Community Engagement	Policy developed.	Existing Action, Ongoing implementation
5.7	Continue to work with Central Bayside Adult Community Options in the Growing the Foreshore's Future Program.	Environment	Community Engagement	Programs delivered.	Existing Action, Ongoing implementation
5.8	Involve people with disabilities in the Foreshore Community Planting Days.	Environment	Community Engagement	People with disabilities included in Planting Days.	Existing Action, Ongoing implementation
5.9	Continue to engage with schools and special needs schools to provide education programs on the environment through Our Schools Program.	Environment	Community Engagement	Programs delivered.	Existing Action, Ongoing implementation
5.10	Continue to engage with Yarrabah Special Development School and provide training for people with special needs in propagation of seeds and plants and open space management.	Parks	Community Engagement Metro Access	Work program maintained.	Existing Action, Ongoing implementation
5.11	Promote accessibility through inclusive programming and facilities at Council Leisure Centres.	Leisure Centres	MetroAccess	On-going programs developed.	Year One
5.12	Develop and improve relationships with Access for All Abilities and Leisure Link-up to promote accessible sports programs, facilities and services.	Sport and Recreation	Metro Access	Relationships developed.	Year One
5.13	Develop and promote arts access events planned, developed and performed by people with disabilities.	Arts and Culture	MetroAccess	Events organised.	Year One
5.14	Support the inclusion of a person/s with disabilities in	Festivals and	Community	Review recruitment and	Year One

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	event planning committees and the on-going consideration of disability issues in planning for events.	Events	Engagement	induction processes for Council committees.	
5.15	Further explore participation barriers for people with disabilities in arts and cultural activities.	Arts and Culture	Festivals and Events MetroAccess	Barriers identified.	Year Two
5.16	Expand 'Good Access Good Business' to include employment and recruitment campaign for industry.	Economic Development MetroAccess	Community Engagement	Information developed and disseminated.	Year Three
5.17	Promote and support local industries and services that employ people with disabilities.	Community Engagement	All Council	Local industries and services supported.	Year Three
5.18	Develop partnerships with local employment and education agencies supporting placement of people with disabilities when vacancies occur in Council.	People and Culture	MetroAccess Community Engagement	Partnerships strengthened with local employment and education agencies.	Year Four

Attachment B

Definition of Disability

Disability means:

- total or partial loss of the person's bodily or mental functions; or
- total or partial loss of a part of the body; or
- the presence in the body of organisms causing disease or illness; or
- the presence in the body of organisms capable of causing disease or illness; or
- the malfunction, malformation or disfigurement of a part of the person's body; or
- a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour; and
 - includes a disability that:
 - presently exists; or
 - previously existed but no longer exists; or
 - may exist in the future; or
 - is imputed to a person.

Tenders for Contract 09-58 Kingston Heath Regional Soccer Centre – Pavilion Extension & Spectator Facility closed at 2.00pm on Thursday 17th September. The following is an alphabetical list of companies who submitted a tender by this time:-

<i>Alphabetical List of Companies who submitted tenders</i>
ADM Structures Pty Ltd
Andeco Pty Ltd
Conscope Constructions Pty Ltd
Cornerstone Constructions Pty Ltd
Fimma Constructions Pty Ltd
HHM Contructions Pty Ltd
Loizon Design & Engineering
ME Bell Projects Pty Ltd

The following is a list of tender sums received in ascending order:-

RECEIVED TENDER PRICES (GST EXCLUSIVE) IN ASCENDING ORDER
\$701,780.08
\$778,037.26
\$803,896.09
\$856,159.08
\$877,985.00
\$924,058.00
\$926,212.00
\$960,829.87

It should be noted that during the tender assessment stage, that the lowest tenderer identified that there was an omission from within their submitted tender which amounted to an additional \$20,800. The tenderer has requested that their tender be amended to include this omission, which results in a revised lowest tender sum of \$721,879.00.

For information, this element of the project is entirely funded from the Regional & Local and Community Infrastructure grant.

3. Summary and Conclusion

A detailed assessment has been undertaken on the tenders received using the following criteria:-

- Robustness of company OHS system – either third party accredited system to comply with the Australian Standards or passed Council assessment within previous 12 months
- Tender price compared against available budget
- Past experience in the successful delivery of similar projects
- Referee comments

A copy of the completed tender assessment report for this contract is attached as a confidential briefing paper for Councillor information.

Following completion of this assessment, Council is recommended to accept the lowest and best value tender, in the sum of \$721,879.00 (exclusive of GST), which was submitted by Conscope Constructions Pty Ltd.

Subject to approval by Council and Federal Government, the project will commence on site during early October 2009 and will be completed during late summer 2010.

4. Triple Bottom Line Checklist

- *Environmental* – The design and commissioning of any improvement works will take account of the need for reduction of the Council's impact on the environment.
- *Social* –The Club provide much needed social and recreational community facilities for residents in the area.
- *Financial* – This element of the project is fully funded by Federal Government Local and Community Infrastructure Program

5. Recommendation

That Council:

1. accept the lowest and best value tender received for Contract 09-58 Kingston Heath Regional Soccer Centre – Pavilion Extension & Spectator Facility and agree that the contract be awarded to Conscope Constructions Pty Ltd for the fixed lump sum of \$721,879.00 (exclusive of GST), subject to formal confirmation of funding from Federal Government;
2. authorise the Chief Executive Officer to execute the contract and to utilise resources up to 5% of the approved contract value, to act as a contingency sum to address minor site issues, should they arise during the implementation of the works.

Confidential Attachments:

1. *Evaluation matrix for tender submissions.*
2. *OHS approval for preferred tenderer.*

Cr Bauer returned at 10.20pm.

Crs Peulich/Brownlees

That the recommendation be adopted.

Carried

9. Organisational Development & Governance Reports

L 156 Expenditure of Ward Funds Schedule

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

Author: Jason Stubbs, Manager Governance and Performance Planning

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 Athanasopoulos	North	<i>Mentone Girls Secondary College Student Leadership Awards</i>	4/09/2009	165
Mayor, Cr Athanasopoulos	North	<i>Mordialloc College School Awards</i>	12/08/2009	100
Cr Bauer	South	<i>Mordialloc College School Awards</i>	12/08/2009	100
Cr Brownlees	Central	<i>Mordialloc College School Awards</i>	12/08/2009	100
Cr Dundas	Central	<i>Mordialloc College School Awards</i>	12/08/2009	100
Cr Peulich	North	<i>Mordialloc College School Awards</i>	12/08/2009	100
Cr Ronke	South	<i>Mordialloc College School Awards</i>	12/08/2009	100
Cr Shewan	South	<i>Mordialloc College School Awards</i>	12/08/2009	200
Cr Staikos	North	<i>Mordialloc College School Awards</i>	12/08/2009	100
Cr West OAM	Central	<i>Mordialloc College School Awards</i>	12/08/2009	200
Mayor, Cr Athanasopoulos	North	<i>Lord Mayor's Charitable Fund Heart of Melbourne Campaign – "Fill a Fridge" program</i>	7/09/2009	50
Cr Bauer	South	<i>Lord Mayor's Charitable Fund Heart of Melbourne Campaign –</i>	7/09/2009	50

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		<i>“Fill a Fridge” program</i>		
Cr Brownlees	Central	<i>Lord Mayor’s Charitable Fund</i> <i>Heart of Melbourne Campaign – “Fill a Fridge” program</i>	7/09/2009	50
Cr Dundas	Central	<i>Lord Mayor’s Charitable Fund</i> <i>Heart of Melbourne Campaign – “Fill a Fridge” program</i>	7/09/2009	50
Cr Peulich	North	<i>Lord Mayor’s Charitable Fund</i> <i>Heart of Melbourne Campaign – “Fill a Fridge” program</i>	7/09/2009	50
Cr Ronke	South	<i>Lord Mayor’s Charitable Fund</i> <i>Heart of Melbourne Campaign – “Fill a Fridge” program</i>	7/09/2009	50
Cr Shewan	South	<i>Lord Mayor’s Charitable Fund</i> <i>Heart of Melbourne Campaign – “Fill a Fridge” program</i>	7/09/2009	50
Cr Staikos	North	<i>Lord Mayor’s Charitable Fund</i> <i>Heart of Melbourne Campaign – “Fill a Fridge” program</i>	7/09/2009	50
Cr West OAM	Central	<i>Lord Mayor’s Charitable Fund</i> <i>Heart of Melbourne Campaign – “Fill a Fridge” program</i>	7/09/2009	50
Cr Bauer	South	<i>Patterson Lakes Community Centre and Library</i> <i>Provision of Artwork</i>	8/09/2009	333.34
Cr Ronke	South	<i>Patterson Lakes Community Centre and Library</i> <i>Provision of Artwork</i>	8/09/2009	333.33
Cr Shewan	South	<i>Patterson Lakes Community Centre and Library</i> <i>Provision of Artwork</i>	8/09/2009	333.33

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Mayor, Cr Athanasopoulos	North	<i>Greek Elderly Citizens of Clayton & District</i> <i>Operational Costs</i>	23/09/09	500
Cr Staikos	North	<i>Greek Elderly Citizens of Clayton & District</i> <i>Operational Costs</i>	23/09/09	500

Recommendation

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

Crs Brownlees/Bauer

That the recommendation be adopted.

Carried

10. Corporate Services Reports

L157 General Revaluation 2010

Approved by: Paul Franklin – General Manager Corporate Services

Author: Julian Harvey – Manager Property Services

1. Purpose

The purpose of this report is to recommend to Council that it instruct KA Reed Group to undertake a General Revaluation of all rateable property in the Municipal district as at 1 January 2010.

2. Background

In accordance with The Valuation of Land Act 1960 (VLA) sec13DC(3) Council is required to cause a general valuation of all rateable property in its municipal district to be undertaken once every two years. Council may appoint a suitably qualified and experienced Valuer to undertake this work. Council accepted a tender for the provision of Municipal Valuation services on 18 December 2006 from KA Reed Group Pty Ltd. This included the 2010 general valuation

Council is required to notify the Valuer General and every other interested rating authority of its resolution to cause a general valuation to be made.

A person appointed to undertake the general valuation must also declare that they will properly carry out their duties. A declaration has been executed based upon the oath of fidelity and secrecy as prescribed in the Valuation of Land (Oath of Fidelity and Secrecy) Regulations 1999.

3. Summary and Conclusion

The General Valuation is central to Council's rating system and its accuracy is essential in ensuring that the rating system remains equitable across the municipality. Council is required to formally resolve to cause a general valuation to be made. It is recommended that Council formally resolve to cause a general valuation to be made and appoint Mr Brett Reed of K.A Reed (Group) Pty Ltd for that purpose. Mr Reed has declared an oath of fidelity, secrecy and impartiality (attached) to enable him to undertake this work on behalf of Council.

4. Issues

The general valuation throughout Victoria takes place over an 18 month period and is required to be returned to Council by 30 June 2010. Initial statistical sales analysis and project planning has been undertaken. A further 4 stages follow this culminating in the final return of the valuations to Council in 2010.

Recommendation

That Council resolves that:

A general valuation of all rateable properties within the municipal district to be made as at 1 January 2010.

The general valuation be returned to Council no later than 30 June 2010.

The following parties be notified of Council's resolution to cause a general valuation to be made:

Valuer General – Victoria
Frankston City Council
Greater Dandenong City Council
Monash City Council
Glen Eira City Council
Bayside City Council
State Revenue Office – Victoria
South East Water

Mr Brett Reed of K.A Reed (Group) Pty Ltd be appointed to undertake the 2010 general revaluation.

Mr Reed's declaration of fidelity, secrecy and impartiality be noted.

Attachment x 1

Crs Ronke/Dundas

That the recommendation be adopted.

Carried

Crs Shewan and West returned at 10.21pm.

Cr Peulich left at 10.21pm.

Cr Shewan left at 10.22pm.

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Extension of time:

Crs Staikos/Ronke

That the meeting be extended until 11.00pm.

Carried

13. Notice of Motion

L 158

Notice of Motion

Cr West: Playground – Stanley Avenue, Cheltenham

1. That in the light of:

- The clear need for and shortage of public open space in the local area of Kingston bounded by Charman, Balcombe and Park Roads and Nepean Highway. Council's 2005 open space strategy identified this area, and the adjacent area to the east, bounded by Warrigal Road and Nepean Highway as having the lowest provision of public open space in the City of Kingston: 0.4 and 0.2 ha per 1000 residents respectively, compared with an accepted minimum standard of 2.4 ha per 1000 residents, in a municipality generally well-provided with public open space;
- Strong community support for retaining and developing this land as parkland since its former use as a car-park ended in 2005. In the ongoing debate, the use of this land for parkland has been supported by the Cheltenham Village Committee, Cheltenham Senior Citizens, Cheltenham Rotary, Cheltenham Chamber of Commerce, and local residents;
- Following strong support for the Stanley Avenue land to be developed as parkland at Council's community consultation meeting for the Cheltenham Interim Structure Plan in 2008, the then Council resolved to include a playground on the Stanley Avenue land which is well-situated next to the library and Cheltenham Activity Centre;
- Council has now prepared draft plans for the playground, which have been generally supported by residents who attended a community consultation meeting;
- However, discussion about optimal plans for the playground have been clouded by doubts about whether part of the land might still be used for future council building projects.

I move that Council;

1. Confirms Council's resolution of July 2008 to establish a playground on the Stanley Avenue land next to the Cheltenham Library, and
2. Retains the rest of the land as Public Open Space, plans for appropriate recreational and contemplative uses and landscaping for the whole of the site and progresses the land to full reserve status.

Cr Rosemary West

September 24, 2009

Crs West/Shewan

That Council:

1. Confirms Council's resolution of July 2008 to establish a playground on the Stanley Avenue land next to the Cheltenham Library; and
2. Retains the rest of the land as Public Open Space, plans for appropriate recreational and contemplative uses and landscaping for the whole of the site and progresses the land to full reserve status.

Carried

The Chief Executive Officer took on notice the question from Cr Brownlees as to whether this constituted a rescission of the Council resolution of July 2008.

14. Urgent Business

L 159 Gasworks Development Proposal

Crs Staikos/Shewan

That a motion in relation to the Gasworks Development Proposal, be accepted as an item of Urgent Business.

The motion was **put and carried**.

Extension of time:

Crs Peulich/West

That the meeting be extended until 11.30pm.

Carried

Motion:

Crs Staikos/Shewan

“That Council writes to the Minister for Planning requesting that the gasworks site is considered by Kingston Council rather than being ‘fast-tracked’;

That Council officers immediately arrange a public consultation to seek community feedback in regard to the proposed development at the former gasworks site in Highett; and

That this feedback is included in our submission to the Minister for Planning.”

Cr Peulich moved the following amendment:

“That Kingston Council urges the State and Federal Governments to reinstate due process and genuine consultation, including the organisation of a public meeting and preserve third party appeal rights, to enable full consideration of all matters relevant to the Gasworks Residential Development.”

Formal Motion:

Crs Ronke/Staikos

“That the meeting be adjourned for 2 minutes.”

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

Adjournment:

The meeting adjourned at 11.10pm.

Resumption:

The meeting resumed at 11.13pm.

Cr Peulich, with the consent of the Council withdrew his amendment.

Crs Staikos and Shewan, incorporating comments / suggestions from Councillors, and with the consent of the Council, amended their motion to read as follows:

Amended Motion (Crs Staikos/Shewan):

“That Council write to the Minister for Planning to request:

- that the gasworks site be considered by Kingston Council rather than being ‘fast-tracked’;
- it reinstate due process and genuine consultation; and
- preserve third party appeal rights;

That Council officers immediately arrange a public consultation to seek community feedback in regard to the proposed development at the former gasworks site in Highett; and

That this feedback is included in our submission to the Minister for Planning.”

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

L 160

**Proposed Planning Scheme Amendment – 29 Glenola Road,
Chelsea**

Crs Staikos/Shewan

That a motion in relation to the Proposed Planning Scheme Amendment in relation to 29 Glenola Road, Chelsea, be accepted as an item of Urgent Business.

The motion was **put and carried**.

Crs Staikos/Ronke

“That a request be made to the Minister for Planning to:

- (i) authorise the preparation of a Planning Scheme Amendment under Section 9(2) of the Planning and Environment Act 1987 to rezone land at 29 Glenola Road, Chelsea, from a Public Use Zone Schedule 2 to a Residential 1 Zone; and
- (ii) Exempt the Planning Scheme Amendment from the notice provisions of Section 20(2) of the Planning and Environment Act 1987; and

That, subject to Authorisation being granted in accordance with Part 1 of this matter of urgent business, Council also seek the consent of the Minister under Section 11 of the Planning and Environment Act 1987 to approve the Planning Scheme Amendment once it is certified by the Secretary of the Department of Planning and Community Development under Section 35A of the Planning and Environment Act 1987.”

The motion was **put and carried**.

L 161

999 Nepean Highway, Moorabbin

Crs Peulich/Ronke

That a motion in relation to 999 Nepean Highway, Moorabbin, be accepted as an item of Urgent Business.

The motion was **put and carried**.

Crs Peulich/Brownlees

“That the Kingston Council acknowledge the depth of concern in the community about the 7 storey development at the rear of the Kingston Town Hall

- Advocates to relevant authorities and parties not to proceed with the construction of a 7 storey development at the rear of the Kingston Council Town Hall;
- Asks that a more appropriate site be found without further delay;
- In view of the development at 973 Nepean Hwy (across the road) that Kingston Council makes representations to the relevant authorities urging them not to fast-track this project or any residential project.”

Extension of time:

Crs West/Peulich

That the meeting be extended until 12.00 midnight.

Carried

The motion (Crs Peulich/Brownlees) was **put and lost**.

A division was called.

Division

For

Cr Bauer
Cr Peulich

Against

Mayor Cr Athanasopoulos
Cr Brownlees
Cr Dundas
Cr Ronke
Cr Shewan
Cr Staikos
Cr West

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

L 162

Confidential Property Matter

Crs West/Ronke

That a motion in relation to a confidential property matter, be accepted as an item of Urgent Business.

The motion was **put and carried**.

This matter was dealt with in the confidential session.

15. Items in Camera

L 162

Confidential Property Matter

Closure of Meeting to the Public

Crs West/Staikos

That in accordance with the provisions of section 89(2)(h) of the Local Government Act 1989, the meeting be closed to members of the public for the consideration of Urgent Business item L 162, *Confidential Property Matter*, as it contains information, which, if disclosed, would prejudice the Council or any person.

Carried

The meeting was closed to members of the public at 11.35pm.

Crs Ronke/Brownlees

That the meeting be re-opened to members of the public.

Carried

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14. Urgent Business (Continued)

L 163

Confidential Property Matter

Cr West moved that a motion to consider alternative 3, be accepted as an item of urgent business.

The Chairperson ruled Cr West's motion to be out of order.

There being no further business, the meeting closed at. 11.44pm.

Confirmed His Worship, The Mayor 26 October 2009.