

**City of Kingston
Ordinary Council Meeting**

Minutes

23 March 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, 23 March 2009.

1. Apologies

2. Confirmation of Minutes of Previous Meetings

Minutes of Ordinary Council Meeting 23 February 2009.

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

Cr Paul Peulich declared an interest in relation to agenda item L 27, *Amendment C95 to the Kingston Planning Scheme & Planning Permit Application KP825/07 (Dingley Village Shopping Centre Redevelopment)* as he lives in Dingley Village.

Cr Lewis Dundas declared a direct interest in relation to agenda item L 35, *Chicquita Park*

4. Petitions

Cr Bauer tabled a petition from the residents of Governor Arthur Drive requesting that speed humps or chicanes and any other traffic control measures be implemented to reduce and deter excessive noise and speed from traffic in Governor Arthur Drive Patterson Lakes, between Wells Road and Ariel Way.

5. Presentation of Awards

A presentation was made to Laura John.

6. Reports from Village Committees

A report on issues arising out of the Village Committee meetings in March 2009 was attached.

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7. Reports from Delegates Appointed by Council to Various Organisations

8. Question Time

9. Environmental Sustainability Reports

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10. Community Sustainability Reports

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13. Notices of Motion

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L 36 Cr Peulich: State Parliamentary Upper House Inquiry on Public Transport

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14. Urgent Business

15. Items in Camera

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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, 23 March 2009 at 7.12pm.

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

In Attendance: John Nevins – Chief Executive Officer
Paul Franklin – General Manager Corporate Services
Tony Rijs – General Manager Environmental Sustainability
Elaine Sowerby – General Manager Organisational Development and Governance
Mauro Bolin – General Manager Community Sustainability
Michael Petit – Manager Communications and Promotions
Ian Nice – Manager Planning and Building
Michael Fry – Team Leader Council Business

1. Apologies

An apology was received from Cr John Ronke.

Crs Shewan/Brownlees

That the apology from Cr Ronke be received, and leave of absence from this meeting be granted.

Carried

The Mayor, on behalf of his fellow Councillors, offered the Council's condolences to Cr Ronke and his family on their recent family bereavement.

2. Confirmation of Minutes of Previous Meetings

Crs Shewan/Brownlees

That the minutes of the Ordinary Council Meeting held on 23 February 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 Paul Peulich declared an indirect interest in relation to agenda item L 27, *Amendment C95 to the Kingston Planning Scheme & Planning Permit Application KP825/07 (Dingley Village Shopping Centre Redevelopment)*

Cr Lewis Dundas declared a direct interest in relation to agenda item L 35, *Chicquita Park*

4. Petitions

Cr Bauer tabled a petition from the residents of Governor Arthur Drive requesting that speed humps or chicanes and any other traffic control measures be implemented to reduce and deter excessive noise and speed from traffic in Governor Arthur Drive Patterson Lakes, between Wells Road and Ariel Way.

Crs Bauer/West

That the petition be accepted and referred to the Chief Executive Officer for attention.

Carried

5. Presentation of Awards

The Mayor, Cr Athanasopoulos, advised the meeting of the following presentation:

Laura John

The Mayor, Cr Nixon, in presenting a Certificate of Appreciation to Jack Mitchell, made the following statement:

“It gives me great pleasure to recognise the achievements and community contribution of one of the City of Kingston’s young citizens, Laura John.

Following serving as College Captain at Kilbreda College where she made many contributions including organising numerous fund raising events, Laura’s social consciousness and her devotion to helping others has been evident. Now studying at Monash University Laura has volunteered at many organisations such as Oaktree Foundation, United Nations Youth Association, Parliament of the World’s Religions Youth Committee, Multicultural Multi-faith Youth Network and Kingston Youth Consultative Committee.

Laura has a passion for social justice and is active in local and global issues. She strongly believes young people can drive the movement to see an end to extreme poverty. Laura’s key achievements include: CFV Clarke Scholarship for academic excellence in VCE, recipient of City of Kingston’s award for outstanding community service, nominated for VCAA VCA Achiever Award, Encouragement Award in the Ern Ainger Public Speaking Competition, Oglethorpe Award for excellence in language, triple student achievement awards for Leadership, Community Service and Participation in school life, highly commended in the FAW Alan Marshall Short Story Award, DAV Debating Swannie Award for best speaker in Keysborough region.

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As we can see, Laura sets high standards for herself. On behalf of my fellow Councillors, I wish you all the best in your endeavours, and I'm sure this is not the last time we will hear about your achievements."

6. Reports from Village Committees

PRESENTATION OF VILLAGE COMMITTEE REPORTS

**6(a) Cheltenham Village Committee
Chairperson-John Natoli**
Report of Meeting held on 11 March 2009

Highlight Attendance of the Mayor, Cr Arthur Athanasopoulos at the meeting.

**6(b) Mordialloc Village Committee
Chairperson-Andrew Gustke**
Report of Meeting held on 11 March 2009

Highlight: Bruce Wheeler's service to the Village Committee.

**6(c) Mentone/Parkdale Village Committee
Chairperson-Dorothy Booth**
Report of Meeting held on 11 March 2009

Highlight: The Council staff responsible for looking after street trees, as they do a mighty job.

**6(d) Dingley/Heatherton Village Committee
Chairperson-Bruce Reynolds**
Report of Meeting held 11 March 2009

Highlight: The request from Cr Rosemary West OAM and all members for Council to explore the use of different lighting strategies or other measures to assist in reducing vandalism attacks on Council assets.

**6(e) Chelsea/Chelsea Heights/Bonbeach Village Committee
Chairperson-Nigel McGillivray**
Report of Meeting held on 11 March 2009

Highlight: Bicentennial Park Community Day on 28 February 2009.

**6(f) Patterson Lakes/Carrum Village Committee
Chairperson-Glen Baker**
Report of Meeting held on 11 March 2009

Highlight: The proposal to establish a Senior Citizens Register in conjunction with Chelsea Police Station.

**6(g) Moorabbin/Highett Village Committee
Acting Chairperson-Robyn Cochrane**
Report of Meeting held on 12 March 2009

Highlight: The Committee once again highlight its concern for improved safety at Chesterville Road / Keys Road intersection – MB 08/22.

**6(h) Aspendale/Edithvale/Aspendale Gardens Village Committee
Chairperson- Kevin Griffiths
*Report of Meeting held on 12 March 2009***

Highlight: Nil.

7. Reports from Delegates Appointed by Council to Various Organisations

Cr Shewan reported on the meetings of the:

- Victorian Local Governance Association in relation to the Victorian Housing Alliance;
and
- Metropolitan Transport Forum in relation to public transport.

The Mayor, Cr Athanasopoulos, reported to the meeting on the opportunities and challenges of the Metropolitan Waste Management Group's trip to NSW

Crs Brownlees/West

That the reports of the delegates be accepted and the delegates thanked for their reports.

Carried

8. Question Time

There were no questions lodged.

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9. Environmental Sustainability Reports

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Town Planning Application Decisions – February 2009

Approved By: Tony Rijs – General Manager, Environmental Sustainability

Author: Ian Nice – Manager, Planning

Attached for information is the report of Town Planning Decisions for the month of February 2009.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	72	72
Notice of Decision	8	8
Refusal to Grant a Permit	6	6
Other - Withdrawn (5) - Prohibited (0) - Permit not required (3) - Lapsed (6)	14	14
Total	100	100

(NB: Percentage figures have been rounded)

Recommendation

That the report be noted.

Crs Bauer/Brownlees

That the recommendation be adopted.

Carried

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Planning Decisions February 2009						
APPL. No.	PROPERTY ADDRESS	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT DECISION
KP1008/08	119 WARREN ROAD PARKDALE, VIC 3195	6-Nov-08	20-Feb-09	WATER TANK	Permit Issued	
KP1013/08	195-205 CHESTERVILLE ROAD MOORABBIN, VIC 3189	6-Nov-08	23-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP1020/08	7 ELNA COURT MOORABBIN, VIC 3189	11-Nov-08	26-Feb-09	OFFICE / WAREHOUSE	Permit Issued	
KP1024/08	39 PIER ONE DRIVE PATTERSON LAKES, VIC 3197	12-Nov-08	2-Feb-09	DWELLING	Permit Issued	
KP1030/08	2/41 YORK STREET BONBEACH, VIC 3196	14-Nov-08	2-Feb-09	ALTERATIONS & ADDITIONS	Permit Withdrawn	
KP1036/08	78-84 MALCOLM ROAD BRAESIDE, VIC 3195	17-Nov-08	13-Feb-09	SILOS	Permit Lapsed	
KP1040/08	35 GWENDA AVENUE MOORABBIN, VIC 3189	18-Nov-08	11-Feb-09	TWO DWELLINGS	Permit Lapsed	
KP1043/08	1 BIRDWOOD STREET ASPENDALE, VIC 3195	12-Nov-08	25-Feb-09	2 LOT SUBDIVISION	Permit Issued	
KP1044/08	2-4 LANGSLOW ROAD ASPENDALE GARDENS, VIC 3195	18-Nov-08	16-Feb-09	SERVICE STATION	Notice of Decision	
KP1054/08	34 MELALEUCA DRIVE CARRUM, VIC 3197	20-Nov-08	24-Feb-09	TWO DWELLINGS	Permit Lapsed	
KP1056/08	12 GWENDA AVENUE MOORABBIN, VIC 3189	21-Nov-08	26-Feb-09	TWO DWELLINGS	Permit Issued	
KP1061/08	26/477-481 WARRIGAL ROAD MOORABBIN, VIC 3189	24-Nov-08	25-Feb-09	OFFICE	Permit Issued	
KP1063/08	4 SPRINGVALE ROAD ASPENDALE GARDENS, VIC 3195	27-Nov-08	9-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP1067/08	SHOP/230-234 COMO PARADE	26-Nov-08	17-Feb-09	ALTERATIONS & ADDITIONS	Permit Lapsed	

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	WEST PARKDALE, VIC 3195					
KP1073/08	233 GOVERNOR ROAD BRAESIDE, VIC 3195	1-Dec-08	10-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP1082/08	5/150-156 CHESTERVILLE ROAD CHELTENHAM, VIC 3192	2-Dec-08	10-Feb-09	CAFÉ	Permit Issued	
KP1084/08	5-7 BATE DRIVE BRAESIDE, VIC 3195	4-Dec-08	16-Feb-09	WATER TANKS	Permit Issued	
KP1095/08	584 MAIN STREET MORDIALLOC, VIC 3195	8-Dec-08	10-Feb-09	ADVERTISING SIGN	Permit Issued	
KP1105/08	10 POWLETT STREET MOORABBIN, VIC 3189	12-Dec-08	3-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP1110/08	4/74 KEYS ROAD CHELTENHAM, VIC 3192	15-Dec-08	3-Feb-09	CHANGE OF USE	Permit Issued	
KP1115/08	150 WELLS ROAD CHELSEA HEIGHTS, VIC 3196	16-Dec-08	11-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP1127/08	537 HIGHETT ROAD HIGHETT, VIC 3190	19-Dec-08	3-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP1129/08	8/430 WARRIGAL ROAD HEATHERTON, VIC 3202	18-Dec-08	11-Feb-09	CHANGE OF USE	Permit Issued	
KP1130/08	54-70 THOMPSON ROAD PATTERSON LAKES, VIC 3197	16-Dec-08	4-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP1135/08	1296 NEPEAN HIGHWAY CHELTENHAM, VIC 3192	22-Dec-08	20-Feb-09	ALTERATIONS & ADDITIONS	Permit Not Required	
KP1143/08	1-9 BALCOMBE ROAD MENTONE, VIC 3194	23-Dec-08	6-Feb-09	LIQUOR LICENCE	Permit Issued	
KP12/09	MEDIUM/1312 FORESHORE CITY OF KINGSTON, VIC 3192	9-Jan-09	25-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP16/09	71 BERRY AVENUE EDITHVALE, VIC 3196	6-Jan-09	25-Feb-09	3 LOT SUBDIVISION	Permit Issued	
KP17/09	33 BERRY AVENUE EDITHVALE, VIC 3196	12-Jan-09	25-Feb-09	2 LOT SUBDIVISION	Permit Issued	

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KP172/03	8 IRISH COURT BONBEACH, VIC 3196	17-Mar-03	18-Feb-09	SIXTY-SIX DWELLINGS	Permit Withdrawn	
KP173/08	30 CLAY ST MOORABBIN, VIC 3189	7-Feb-08	10-Feb-09	3 DWELLINGS	Permit Withdrawn	
KP188/08	71 CHURCH RD CARRUM, VIC 3197	14-Feb-08	5-Feb-09	3 DWELLINGS	Permit Refused	
KP208/08	38-40 STATION ST ASPENDALE, VIC 3195	19-Feb-08	2-Feb-09	ALTERATIONS & ADDITIONS	Permit Refused	
KP211/04- A	27 SUNRAY AVENUE CHELTENHAM, VIC 3192	26-Aug-08	23-Feb-09	SINGLE DWELLING	Permit Issued	
KP23/09	CENTRE ROAD OAKLEIGH SOUTH, VIC 3167	16-Jan-09	24-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP255/08	44 SECOND AVE CHELSEA HEIGHTS, VIC 3196	6-Mar-08	17-Feb-09	2 DWELLINGS	Permit Refused	
KP26/09	9 CATANIA STREET MENTONE, VIC 3194	20-Jan-09	4-Feb-09	ALTERATIONS & ADDITIONS	Permit Not Required	
KP265/02- A	146-150 WOODLANDS DR BRAESIDE, VIC 3195	2-Dec-08	4-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP267/08	148 LOWER DANDENONG RD PARKDALE, VIC 3195	11-Mar-08	13-Feb-09	2 DWELLINGS	Permit Issued	
KP27/09	6 ELMA ROAD CHELTENHAM, VIC 3192	15-Jan-09	26-Feb-09	2 LOT SUBDIVISION	Permit Issued	
KP293/07	195 STATION ST EDITHVALE, VIC 3196	3-May-07	19-Feb-09	7 DWELLINGS	Permit Withdrawn	
KP3/09	32 BALMORAL DRIVE PARKDALE, VIC 3195	6-Jan-09	18-Feb-09	CREATE EASEMENT	Permit Issued	
KP308/08	67 - 69 MCLEOD ROAD CARRUM, VIC 3197	31-Mar-08	9-Feb-09	5 DWELLINGS	Permit Issued	
KP31/09	1 WESTBRIDGE COURT WATERWAYS, VIC 3195	21-Jan-09	18-Feb-09	DWELLING	Permit Issued	
KP35/09	383 WARRIGAL ROAD CHELTENHAM, VIC 3192	23-Jan-09	25-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP367/07	321 OLD DANDENONG RD	25-May-07	4-Feb-09	CLEANFILL	Permit Issued	

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	DINGLEY VILLAGE, VIC 3172					
KP385/08	101 BONDI RD BONBEACH, VIC 3196	22-Apr-08	26-Feb-09	2 DWELLINGS	Permit Issued	
KP39/09	10 SECOND AVENUE ASPENDALE, VIC 3195	28-Jan-09	25-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP45/09	10 WESTBRIDGE COURT WATERWAYS, VIC 3195	30-Jan-09	17-Feb-09	1 DWELLING	Permit Issued	
KP465/08	6 ALLEYN AVENUE BONBEACH, VIC 3196	20-May-08	10-Feb-09	3 DWELLINGS	Notice of Decision	
KP475/06-B	GRANGE ROAD DINGLEY, VIC 3172	4-Dec-08	26-Feb-09	AMENDMENT	Permit Issued	
KP50/09	18 FOAM STREET ASPENDALE, VIC 3195	2-Feb-09	25-Feb-09	2 LOT SUBDIVISION	Permit Issued	
KP53/09	71 CATHERINE AVENUE CHELSEA, VIC 3196	2-Feb-09	23-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP54/07-B	2A BENDIGO ST CHELTENHAM, VIC 3192	2-Feb-09	10-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP54/09	7 PORTLAND PLACE WATERWAYS, VIC 3195	2-Feb-09	24-Feb-09	DWELLING	Permit Issued	
KP592/07-A	26 BOWMAN STREET ASPENDALE, VIC 3195	21-Jan-09	2-Feb-09	2 LOT SUB	Permit Issued	
KP597/07	1375 NEPEAN HWY CHELTENHAM, VIC 3192	8-Aug-07	4-Feb-09	3 LOT SUBDIVISION	Permit Issued	
KP60/09	8 WESTBRIDGE COURT WATERWAYS, VIC 3195	3-Feb-09	17-Feb-09	DWELLING	Permit Issued	
KP600/02-A	376 WARRIGAL RD HEATHERTON, VIC 3202	9-Feb-09	26-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP635/08	19 BLACKWOOD AVENUE MENTONE, VIC 3194	4-Jul-08	9-Feb-09	TWO DWELLINGS	Permit Issued	
KP667/08	11 BATH STREET CHELSEA, VIC 3196	17-Jul-08	5-Feb-09	EIGHT DWELLINGS	Permit Refused	

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KP67/09	2-6 CHURCH ROAD CARRUM, VIC 3197	6-Feb-09	20-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP674/08	30 MYOLA STREET CARRUM, VIC 3197	18-Jul-08	26-Feb-09	THREE DWELLINGS	Permit Issued	
KP693/08	1458 CENTRE ROAD CLAYTON SOUTH, VIC 3169	23-Jul-08	10-Feb-09	TWO DWELLINGS	Notice of Decision	
KP701/08	4 ELORA ROAD OAKLEIGH SOUTH, VIC 3167	25-Jul-08	4-Feb-09	TWO DWELLINGS	Notice of Decision	
KP720/08	19 RUVINA STREET ASPENDALE, VIC 3195	1-Aug-08	18-Feb-09	USE - SWIM SCHOOL	Notice of Decision	
KP789/07	6 WREN RD MOORABBIN, VIC 3189	5-Oct-07	25-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP790/08	20-26 SULLIVAN STREET MOORABBIN, VIC 3189	20-Aug-08	3-Feb-09	SIXTEEN WAREHOUSE UNITS	Permit Issued	
KP792/08-A	93 CHAPEL ROAD MOORABBIN, VIC 3189	18-Nov-08	2-Feb-09	AMEND FLOOD LEVEL	Permit Issued	
KP808/07	1144-1146 NEPEAN HWY HIGHETT, VIC 3190	11-Oct-07	16-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP812/08	1440 CENTRE ROAD CLAYTON SOUTH, VIC 3169	28-Aug-08	23-Feb-09	EIGHT DWELLINGS	Permit Lapsed	
KP823/08	93 WELLS ROAD CHELSEA HEIGHTS, VIC 3196	2-Sep-08	25-Feb-09	3 LOT SUBDIVISION	Permit Issued	
KP829/08	5 MARINA GROVE BONBEACH, VIC 3196	3-Sep-08	24-Feb-09	2 LOT SUBDIVISION	Permit Issued	
KP842/08	31A ANTIBES STREET PARKDALE, VIC 3195	9-Sep-08	13-Feb-09	ALTERATIONS & ADDITIONS	Permit Lapsed	
KP861/08	53A ALBERT STREET MORDIALLOC, VIC 3195	16-Sep-08	25-Feb-09	CHANGE OF USE	Permit Issued	
KP872/08	7 WELLWOOD ROAD BONBEACH, VIC 3196	18-Sep-08	23-Feb-09	TWO DWELLINGS	Notice of Decision	
KP89/09	20 BALMORAL DRIVE PARKDALE, VIC 3195	17-Feb-09	25-Feb-09	ALTERATIONS & ADDITIONS	Permit Not Required	
KP893/08	REAR/8A PARK ROAD	25-Sep-08	2-Feb-09	CAR PARK	Permit Issued	

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	CHELTENHAM, VIC 3192					
KP894/08	13 ASHLEY PARK DRIVE CHELSEA HEIGHTS, VIC 3196	26-Sep-08	5-Feb-09	FACTORY/WAREHO USE/OFFICE	Permit Issued	
KP896/08	627C NEPEAN HIGHWAY CARRUM, VIC 3197	29-Sep-08	11-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP899/07	24 NEPEAN HWY ASPENDALE, VIC 3195	13-Nov-07	25-Feb-09	8 DWELLINGS	Notice of Decision	
KP9/09	3/272-280 LOWER DANDENONG ROAD MORDIALLOC, VIC 3195	8-Jan-09	24-Feb-09	MOTOR VEHICLES DISPLAY	Permit Issued	
KP903/08	5 MASCOT AVENUE BONBEACH, VIC 3196	30-Sep-08	6-Feb-09	TWO DWELLINGS	Permit Issued	
KP907/08	22C CHURCH ROAD CARRUM, VIC 3197	1-Oct-08	18-Feb-09	ONE DWELLING	Permit Issued	
KP911/07	2 NEWINGTON LA CHELSEA, VIC 3196	14-Nov-07	26-Feb-09	2 DWELLINGS	Permit Issued	
KP922/08	10 MCMILLAN STREET CLAYTON SOUTH, VIC 3169	1-Oct-08	4-Feb-09	2 LOT SUBDIVISION	Permit Issued	
KP923/08	699 HEATHERTON ROAD CLAYTON SOUTH, VIC 3169	2-Oct-08	18-Feb-09	10 LOT SUBDIVISION	Permit Issued	
KP929/08	217-221 GOVERNOR ROAD BRAESIDE, VIC 3195	6-Oct-08	25-Feb-09	BUILDINGS & WORKS	Permit Issued	
KP940/08	409 NEPEAN HIGHWAY CHELSEA, VIC 3196	9-Oct-08	19-Feb-09	BUILDINGS & WORKS	Permit Withdrawn	
KP942/08	145-149 WOODLANDS DRIVE BRAESIDE, VIC 3195	10-Oct-08	25-Feb-09	BUILDING & WORKS	Permit Issued	
KP952/08	275-295 NEPEAN HIGHWAY PARKDALE, VIC 3195	15-Oct-08	25-Feb-09	INSTALLATION OF LIGHTS	Permit Issued	
KP961/08	35-45 CANTERBURY ROAD BRAESIDE, VIC 3195	14-Oct-08	23-Feb-09	3 LOT SUBDIVISION	Permit Issued	
KP976/08	7 HELAND PLACE BRAESIDE, VIC 3195	22-Oct-08	23-Feb-09	2 FACTORIES/WARE HOUSES/	Permit Issued	

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KP977/07	1144-1146 NEPEAN HWY HIGHETT, VIC 3190	7-Dec-07	16-Feb-09	BUILDING & WORKS	Permit Issued	
KP988/08	13 STAYNER GROVE MOORABBIN, VIC 3189	27-Oct-08	26-Feb-09	THREE DWELLINGS	Permit Refused	
KP992/08	7 WYMAN PLACE BRAESIDE, VIC 3195	28-Oct-08	24-Feb-09	SELF STORAGE FACILITY	Permit Issued	
KP993/08	1/12 HIGH STREET MORDIALLOC, VIC 3195	29-Oct-08	25-Feb-09	ALTERATIONS & ADDITIONS	Permit Issued	
KP994/08	61-111 ROSEBANK AVENUE CLAYTON SOUTH, VIC 3169	29-Oct-08	20-Feb-09	BUILDINGS & WORKS	Permit Issued	

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Planning Application KP554/08 – 43 Clay Street, Moorabbin

APPLICANT:	Blueprint Pty Ltd
ADDRESS OF LAND:	No.43 (Lot 11 on PS 023894) Clay Street, Moorabbin
Melway Ref:	77F6
PROPOSAL	Two (2) dwellings
CONTACT OFFICER:	Helen Walker
FILE NO:	KP554/08
ZONING:	Residential 3
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<p><u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 16.02: Housing – Medium Density Housing</p> <p><u>Local Planning Policy Framework</u> Clause 21.05 MSS – Residential Land Use Clause 22.11: Residential Development Policy Clause 32.06: Residential 3 Zone & Schedule Clause 55: Two or More Dwellings on a Lot & Residential Buildings Clause 65: Decision Guidelines</p>
RESIDENTIAL POLICY AREA:	Incremental Housing Change
NEIGHBOURHOOD CHARACTER AREA:	Area 1
AVERAGE LOT SIZE	613.10m ² (Local Area 2)
LOT SIZE OF SUBJECT LAND	721.07m ²
DECISION BY:	1 st November 2008
NETT DAYS:	202 days @ 23 rd March 2009

Main Issues Relating to this Application

- Neighbourhood character
- Amenity impact (external)
- Energy efficiency
- Vegetation/landscaping considerations

Development Assessment Table

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
Private Open Space	An area of 40m ² , located to the side / rear of the dwelling, achieving a minimum dimension of 5 metres for a 2 bedroom dwelling with convenient access from a living room. An additional 20m ² is required for each additional bedroom, which achieves a minimum dimension of 3 metres.	Proposed dwellings each comprise three (3) bedrooms as well as a study and, therefore, 80 square metres of secluded private open space is required, as the study is capable of being used as a bedroom. Dwellings 1 & 2 – 96.3m ² each of secluded private open space to the rear of the dwelling, with a minimum width of 11.6 metres.	Complies
Car Parking	Two (2) spaces for each 3 bedroom dwelling.	Dwellings 1 & 2 each have a single garage with a tandem car space in the front of the garage.	Complies.
Dwelling Setback to Street	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser. No. 41 Clay Street – 7.3m No. 45 Clay Street – 7.5m Average setback: 7.4m	Dwellings 1 & 2 are set back a minimum of 7.5 metres from Clay Street.	Complies.
Site Coverage	Maximum 50%	Site coverage is 49.8%	Complies

EXISTING CONDITIONS:

The subject site comprises a 721.07m² allotment on the east side of Clay Street, Moorabbin. It currently contains a single storey, faux brick dwelling, with a hip tiled roof. The site contains scattered vegetation which includes an 11 metre high Himalayan Cedar tree within it's front setback area. The site is encumbered by a 1.83 metre wide easement that cuts through the rear portion of the land in a north-south direction. There appear to be no restrictions listed on the Certificate of Title.

The surrounding area typically comprises of detached, single storey, brick dwellings, with a scattering of double storey dwellings/extensions. Dwellings are generally set back between 7-8 metres from the frontage. Front fencing is varied.

The dwelling at No. 41 Clay Street is a single storey residence, with an in-ground swimming pool to its rear.

The residence at No. 45 Clay Street is a single storey dwelling, with a large private open space area to its rear.

The site is about 900m from Moorabbin Railway Station and shopping centre, 400m from Holmesglen TAFE, 500m from Bentleigh Primary School and 200m from Moorabbin Reserve.

PROPOSAL IN DETAIL:

It is proposed to demolish the existing dwelling and construct two (2) double-storey, side-by-side (duplex) dwellings on this site. Key elements of the proposal are as follows:

Dwelling	Floor Area (excluding garage / verandah)	Private Open Space	No. of Bedrooms	Car Parking Spaces
1	242.10m ² (comprising a ground Floor area of 149.5 m ² and a first floor area of 100.1m ²)	168.5m ² of private open space, including 96.3m ² of rear private open space.	3 bedrooms and a study	2 car spaces comprising a single garage and tandem car space.
2	242.10m ² (comprising a ground Floor area of 149.5 m ² and a first floor area of 100.1m ²)	168.5m ² of private open space including 96.3m ² of rear private open space.	3 bedrooms and a study	2 car spaces comprising a single garage and tandem car space.

The dwellings are both set back a minimum of 7.5m from their Clay Street frontage, thus complying with the requirement for the objective of the street set back standard.

Both dwellings would be brick, part rendered clad first floor level. Each dwelling would have a pitched, cement tiled roof. The duplex style dwellings each have a ground floor containing an open plan family/kitchen/meals area, laundry, bathroom, living area and a study, along with a porch entrance area. There is access to the private open space area to the rear and the side (10.8m²) of each dwelling from it's living areas. An alfresco area is located to the rear of each dwelling and forms part of the private open space areas of each dwelling. The rear private open space area of each dwelling has a courtyard dimension of approximately 11.6 x 8.5m.

The first floor of each dwelling is a ‘mirror’ of the other (like the ground floor) and comprise three (3) bedrooms (master with ensuite and WIR), a hallway and a ‘nook’ area located between the bathroom and bedroom 3. A bathroom is located centrally. No balconies are proposed.

Each dwelling would have a single garage and tandem car parking space, accessible via a single crossover and driveway at either end of the site’s Clay Street frontage.

New rear and side fences are proposed by the applicant, in the form of, 1800mm high with 600mm trellis positioned on top of these fences.

The site coverage for the proposed development is 47.89%, which conforms to the Schedule to the Residential 3 Zone. Hard surface area is calculated at 54.88%, which conforms to ResCode.

The average lot size in this area (Local Area 2) is 608.5m². The subject site has an area of 721m².

TITLE DETAILS

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

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

An application pursuant to Section 50 of the Planning and Environment Act 1987 was received on 2nd September 2008. The amendment includes:

- Minor changes to the design detail of the eastern (Clay Street) elevation of the proposed development.
- Notations to denote where windows will be fitted with fixed and obscure glazing on the first floor, north and south (side) elevations of the development.
- Notation of the canopy of the existing cedar tree located to the north east corner of the site and a notation to say that “existing cedar tree to be removed.”

Council decided to allow the amendment and proceed the application to advertising.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Four (4) objections to the proposal were received.

The valid grounds of objection raised are summarised as follows:

- Decreased amenity in a residential zone
- Too many dwellings on the land
- Visual bulk with double storey development proposed
- Removal of the mature tree in the front setback of the site.

PRELIMINARY CONFERENCE

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A preliminary conference was held on 28th October, 2008, with the relevant Planning Officer, Ward Councillor, the applicant and one (1) objector in attendance. The above-mentioned issues were discussed at length, with the following outcomes:

- a new 1.8 metre high fence with 600m trellis attached to the top of it, be erected along the west rear common boundary fence; and
- fixed louvres facing the sky/ Juliet balconies or other design elements to restrict overlooking from the west rear elevation of the dwellings.

The above can be required via Conditions of any permit issued.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

Minor changes to the Neighbourhood and Site Description plan, Design Response Plan and Site Plan were made, as well as the provision of a streetscape elevation plan.

PLANNING SCHEME PROVISIONS

A planning permit is required to develop land for two dwellings, pursuant to Clause 32.06-4 of the Kingston Planning Scheme (the Scheme).

In addition, pursuant 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 Kingston Planning Scheme.

REFERRAL

No external referrals were required in respect of this application.

Internal Council Referrals (where appropriate amended applications have been re-referred)	Advice/Response/Conditions
Development Engineer	No objection subject to the inclusion of nominated conditions on any permit issued.
Traffic Engineer	No objection subject to the inclusion of nominated conditions on any permit issued.
Vegetation Management Officer	No objection subject to a condition requiring the replacement of the existing Himalayan Cedar tree in the front setback of the site with a minimum of four (4) canopy trees across the site.

Discussion

Kingston Planning Scheme Provisions:

Clause 12: Metropolitan Development

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

Clause 12.01 A more compact city seeks to:

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

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

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

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

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

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

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

Clause 12.08 Better transport links seeks to:

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

It is considered that this application meets these objectives.

Clause 14.01: Planning for Urban Settlement

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

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

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

It is considered that this application meets these objectives.

Clause 16.02: Housing - Medium Density Housing

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

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

It is considered that the principle of the proposed development meets these objectives, but that modification is required to the site and design of the proposed development to improve the development's sympathy to neighbourhood character.

Clause 21.05 MSS - Residential Land use

Incremental Housing Change Area

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

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

- **Objective 1:** To provide a wide range of housing types across the municipality to increase housing diversity and cater for the changing needs of current and future populations, taking account of the differential capacity of local areas in Kingston to accommodate different types and rates of housing change.
- **Objective 2:** To ensure new residential development respects neighbourhood character and is site responsive, and that medium density dwellings are of the highest design quality.

- **Objective 3:** To preserve and enhance well landscaped/vegetated environments and protect identified significant vegetation.
- **Objective 4:** To promote more environmentally sustainable forms of residential development.
- **Objective 5:** To manage the interface between residential development and adjoining or nearby sensitive/strategic land uses.
- **Objective 6:** To ensure residential development does not exceed known physical infrastructure capacities.

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

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

It is considered that the principle of 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. The development will result in a change to the existing streetscape; however it is not considered that this change will be substantially detrimental to the neighbourhood character of the area.

As stated, under the provisions of Clause 22.11 of the Scheme, the site is located within an area designated for "Incremental Housing Change", whereby development of this site for two dwellings can be supported on the basis that such development does not exceed the equivalent of a dual occupancy on an average sized lot. The average size lot in this area has been calculated at 613.10m² which would mean a development density of 1 dwelling per 306.55m² of site area is a "permissible density outcome" Council would consider. Hence, for Council to consider a two (2) dwelling development on this site, the site area should be at least 613.10m². The subject site is 721.07m², well above the average lot size in the area; and its proposed density would be 1:306.55m².

Clause 22.11 – Residential Development Policy

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
- Built form, siting and scale of development
- Car parking and vehicle access
- Stormwater run-off mitigation and quality management

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.

The first floor building envelope of the proposed dwellings is located to the front and middle of the site, and follows a similar but smaller alignment of the ground floor of the dwellings. This design is considered acceptable in an established residential area such as this.

It is considered that the first floor envelope of both dwellings is set back generously from the northern and southern (side) and west (rear) boundaries so as to reduce first-floor bulk, scale and mass to adjoining properties, and provide a graduation in building height between existing single-storey dwellings on the immediately adjoining properties and in the wider area.

Given that the site is located within a predominately single-storey streetscape, it is considered that the proposed dwellings should present as predominantly single-storey to the street. This can be achieved by reducing the first floor building envelope and provide a greater setback of the first floor from the street. This is discussed further in the ResCode section of this report.

It is considered that the proposed development predominantly satisfies the above policies under Clause 22.11 of the Kingston Planning Scheme.

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 for the development of 2 or more dwellings in this zone.

Schedule

The proposal meets the additional requirements listed in the Schedule to the Residential 3 Zone, particularly with regard to the provision of private open space to the rear of each dwelling.

Clause 55: Rescode

The proposal has been assessed against the objectives and standards of Clause 55 (ResCode) of the Kingston Planning Scheme. The proposed development complies with all objectives, standards and decision guidelines of ResCode with the exception of Standards B1 (neighbourhood character) and B22 (overlooking). These are discussed in further detail below:

Standard B1 – Neighbourhood Character

It is considered that the character of the surrounding area generally comprises 1950s/1960s style dwellings; low scale, modest, single-storey dwellings; hipped and gabled roof forms; horizontal windows; porches; low scale planting in front gardens with occasionally tall trees of both native and exotic species.

In accordance with Council's Neighbourhood Character Guidelines (Incorporated Document), the site is located within Area 1 of Council's Neighbourhood Character Guidelines. Within this Area, the following characteristics are considered to make contributions to the neighbourhood character:

- a. Perceived lot pattern depth 40-45m, frontage 15-20m;
- b. Materials are tiles of various colours for roofs and walls are white or light brown brick
- c. Building placement: 1-2 metre narrower side setback, 7-9 metre front setback and 2-3 metre wider side setback (major contributor);
- d. Low front wall and landscaped front gardens (major contributor);
- e. Predominantly single and double storey;
- f. Modulated building footprint;
- g. Detached dwellings orientated towards the street;
- h. Complex hipped roof;
- i. Window shape typical and no gaps;

- j. Porches; and
- k. Rear gardens: boundary screens planting and trees visible from the street

The proposed development, while not fully consistent with neighbourhood character, shows sympathy to key elements of neighbourhood character of the area by including porches to the front of each dwelling; hipped/complex roof forms; low, open style front fencing and the opportunity for landscaping within the front setback areas.

The development, however proposes boundary to boundary construction by locating a single garage for each dwelling on a side boundary. This element of the design and layout is inconsistent with the narrower side setback outlined above. It is considered that the boundary to boundary construction on the site is appropriate in this instance as the total length of boundary construction is minimal (6 metres in length on the northern and southern – side - boundaries); the garages are located 1 metre behind the main building line of the dwellings and, therefore, should not be as dominant an element within the streetscape. There is also the opportunity for landscaping to minimise the impact of boundary to boundary construction on the site.

The upper level of each dwelling, however, is considered to be excessive in size at present, and the design of the dwellings at the first floor level could be improved by increased articulation. To achieve this, it is considered appropriate that the first floor “nook,” which is a relatively unusable space within the upper floor area of each dwelling, be deleted to allow for greater articulation, and in particular, the upper level set back by a further 2m from the front (eastern) setback. This would allow the proposed dwellings to be recessed further from the street, reduced in floor area at their upper level, and present better to the street. This can be required via Condition 1 on any permit issued.

In addition, the setback of the walk-in wardrobe (WIR) for bedroom 3 of each dwelling should be increased to 2.33 metres from site’s the north and south (side) boundaries respectively to further recess and minimise the size of the first floor building envelope and its impact on the street. Again, this can be required as a condition 1 on any permit issued.

To ensure that the proposed development demonstrates sympathy to neighbourhood character at the ground floor level, as well as the first floor level, it is considered that the proposed dwellings east (front) elevation should be modified to provide a complex/pitched roof form for the ground floor roof form, including the porches. Roof form is a key element of the character of this area, and one which has not been included in the design of the proposed dwelling at the ground level. This can also be required as a condition on any permit issued.

Subject to these design improvements, the development is considered appropriate in terms of streetscape presentation and its consistency with the neighbourhood character of the area.

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

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. Taking into consideration changes which will be required to be made to the proposed plans as part of any planning permit issued, it is considered that the proposed development does not raise any issues of non-compliance with these guidelines.

Standard B22 – Overlooking

Standard B22 of ResCode is included within the provisions of Clause 55.04-6 of the Planning Scheme. As its objective, this clause seeks to “*limit views into existing secluded private open space and habitable room windows.*”

Standard B22 requires screening of first floor windows if they allow direct views into the back garden or habitable room windows of an adjoining dwelling within a distance of 9 metres. The site’s boundary with the adjoining western (rear) property at No. 9 Margaret Street is more than 9 metres and no screening of the first floor, west facing windows is currently proposed. However, in assessing an application, regard must be had to the decision guidelines of Clause 55.04-6 of the Kingston Planning Scheme. These guidelines require regard to be had to the impact on the amenity of the secluded private open space or habitable room window and the existing extent of overlooking into the secluded private open space and habitable room windows of existing dwellings. Within this context, it is considered appropriate to require external fixed screening devices to be fitted to the first floor, west facing windows of the proposed dwellings to limit overlooking into the adjoining property. This was agreed to by the Applicant at the PC Meeting and will be required as a condition on any permit issued.

The first floor, habitable room windows on the north and south (side) elevations of the proposed dwelling should be fitted with fixed and obscure windows to a height of 1.7 metres above finished floor level to comply with Standard B22.

Clause 65: Decision Guidelines

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

It is considered that the proposed development meets the requirements as set out in this Clause of the Planning Scheme. The development should have minimal impact of the amenity of adjoining properties, as the proposed dwellings are provided with generous setbacks from adjoining boundaries; the dwellings are each provided with a large area of open space, and the provision of off-street car parking is ResCode compliant.

Response to Grounds of Objection

Objection: *Decreased amenity in a residential zone*

Response: Clause 65 of the Planning Scheme relates to general amenity. As discussed above, it is considered that the proposed development is compliant with this Clause as the proposed development is sited so as to ensure minimal construction on the boundary, ensures that the first floor is set back from the common boundaries; and overlooking can be limited by the provision of fixed obscure glazing and external screens (on the west elevation). It is considered that the design of the proposed development should have minimal impact on residential amenity of the area.

Objection: *Neighbourhood character, building height and visual bulk*

Response: Subject to changes to the first floor building footprint and front (east) elevation, as described earlier in this report, it is considered that the principle, siting and design of the development are acceptable and sympathetic to neighbourhood character. While it is acknowledged that proposal is for two (2) double-storey dwellings, it is considered that the first floor is sufficiently articulated and will be further setback from the front (eastern) boundary so as to reduce the impact of building height and visual bulk on the character and amenity of the surrounding area.

Objection: *Too many dwellings on the land*

Response: As stated, under the provisions of Clause 22.11 of the Scheme, the site is located within an area designated for “Incremental Housing Change”, whereby development of the site for two dwellings can be supported on the basis that such development does not exceed the equivalent of a dual occupancy on an average size lot. The average lot size in this area has been calculated at 613.10m² which would mean a “permissible density outcome” Council would consider. Hence, for Council to consider a two (2) dwelling development on this site, the site area should be at least 613.55m². The subject site is 721.07m², well above the average lot size in this area; and its proposed density would be 1:360.5m².

Objection: *Removal of the tree from the site (front setback)*

Response: Council’s Vegetation Management Officer has assessed the proposal removal of the tree (identified as a Himalayan Cedar) from the site’s front setback and considers its removal is acceptable on the basis that the tree is replaced by the planting of at least four semi-mature canopy trees on this site. A condition of any permit issued will require a landscape plan to be submitted to and approved by Council (as the Responsible Authority). This condition will further require the provision of two canopy trees in the front setback of the site and one canopy tree within the rear private open space area of each dwelling.

General Comment

The proposed development as required to be amended, is considered appropriate for the site as evidenced by:

- The design and siting of the proposed development to be compatible with the surrounding area;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS, Residential Development Policy (inclusive of the Neighbourhood Character Area Guidelines and the Designing Contextual Housing Guidelines), Residential 3 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).

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

Recommendation

That Council resolve to issue a Notice of Decision to Grant a Permit for the development of this site for 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 submitted to Council on 2nd September 2008, but modified to show:
 - a. the provision of a landscape plan in accordance with the submitted development plan and the City of Kingston Landscape Plan Checklist, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent actual canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
 - iv. a range of plant types from ground covers to large shrubs and trees;
 - v. adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi. the provision of two (2) suitable medium sized (at maturity) canopy trees within the front setback of the property and one (1) small (at maturity) tree within the 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 current water restrictions into consideration;
 - viii. all trees provided at a minimum of two (2) metres in height at time of planting;
 - ix. medium to large shrubs to be provided at a minimum pot size of 200mm;
 - x. the provision of notes on the landscape plan regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements;
 - b. the provision of a full colour, finishes and building materials schedule (including samples) for all external elevations of the proposed dwellings;
 - c. the provision of new 1.8 m high timber paling fences along the site's north and south (side), and the west (rear) property boundaries, with a 600mm high boxed lattice fence extension attached securely to the top of these fences, with the side fences to taper down to 1m in height at 3m from the site's frontage;;
 - d. the provision of a water tank clearly nominated for each dwelling;

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- e. the delineation of existing boundary fences in relation to the title boundaries of the site in accordance with the re-establishment survey;
 - f. the provision of fixed louvers facing / angled to the sky or Juliet balconies or other similar design detail window treatments to prevent overlooking from the windows on the first floor west elevation;
 - g. the deletion of the “nook” from the first floor plan of each dwelling, and the resultant recessing of the first floor level of each dwelling from the ground floor level below, along the eastern (front) elevation;
 - h. an increase in the side setback of the WIR for bedroom 3 on the first floor level of each dwelling to 2.33 metres from the north and south boundaries, respectively;
 - i. the ground floor east (front) elevation of the dwellings modified to provide for a complex/pitched roof form, including the porches;
 - j. the dimensions of the tandem car parking spaces clearly nominated as being 4.9m in length by 2.6m in width;
 - k. the provision of landscaping along the entire north and south sides of each of the driveways, at least 0.5m in width, and the front fences returned at 90 degrees to the site’s frontage and continued until they meet with the garage of the respective dwelling, so as to enclose the front open space of each dwelling, with an access gate(s) also provided;
 - l. the guttering pertaining to the garages on the site’s north and south property boundaries nominated as being contained wholly within the title property boundaries of the subject land;
 - m. the provision of a 3 metre wide vehicle crossover nominated for each dwelling with each vehicle crossing having a note stating “vehicle crossings constructed to Council’s standards – industrial strength for both dwellings”;
 - n. the location of mailboxes and external air conditioning units clearly nominated for each dwelling;
 - o. the surface material of all driveways / accessways and car parking spaces nominated as coloured concrete;
 - p. all boundary walls nominated as no higher than an average 3 metres;
 - q. the door for each garage nominated as a panel lift door;
 - r. notation to the effect that no trees are to be planted within the rear easement with intrusive roots that may affect the drainage; and
 - s. the bedroom 2 windows of each dwelling nominated as being fitted with fixed obscure glazing to a height of 1.7m above the respective first floor finished floor level.
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Prior to the occupation of the dwellings hereby permitted, the new fence/s required under Condition 1c) of this permit must be erected to Council’s satisfaction, at the applicant/owners full cost.

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4. Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
5. Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
6. The development of the site must be provided with stormwater 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 system 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. Construction on the site must be restricted to the following times:
 - a. Monday to Friday 7:00am to 7:00pm; and
 - b. Saturday 9:00am to 6:00pm.Or otherwise as approved by the Responsible Authority in writing.
10. 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.
11. 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.
12. 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.

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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 in accordance with the endorsed plans under this permit, to the satisfaction of the Responsible Authority.
 - d. Drained and maintained to the satisfaction of the Responsible Authority.

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

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.
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 has not started within two (2) years of the date of this permit.
 - The development is not completed within one (1) year of 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.

Crs West/Staikos

Motion:

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

1. The proposal would have an adverse affect on the amenity of an established residential neighbourhood.
2. The proposal exhibits excessive bulk and mass.
3. The proposal does not satisfy all of the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives and Clause 55.03-8 Landscaping Objectives.”

Cr Brownlees foreshadowed a motion to support the recommendation contained in the officer’s report in the event that the above motion is put and lost.

The motion was put and **lost**.

Crs Brownlees/Dundas

Motion

Crs Brownlees/Bauer

That the recommendation contained in the officer’s report be adopted.

Carried

A division was called

For

Mayor Cr Athanasopoulos
Cr Bauer
Cr Brownlees
Cr Dundas
Cr Peulich

Against

Cr Shewan
Cr Staikos
Cr West

The Motion was **Carried**.

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**Planning Application KP950/08 – 1040 Nepean Highway,
Moorabbin**

APPLICANT:	Guy Hannaford
ADDRESS OF LAND:	No.1040 (Lot 23 on LP 34504) Nepean Highway, Moorabbin
Melway Ref:	77E8
PROPOSAL	Two (2) dwellings
CONTACT OFFICER:	Helen Walker
FILE NO:	KP950/08
ZONING:	Residential 3
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 16.02: Housing – Medium Density Housing <u>Local Planning Policy Framework</u> Clause 21.05 MSS – Residential Land Use Clause 22.11: Residential Development Policy Clause 32.06: Residential 3 Zone & Schedule Clause 55: Two or More Dwellings on a Lot & Residential Buildings Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA:	Incremental Housing Change
NEIGHBOURHOOD CHARACTER AREA:	Area 34
AVERAGE LOT SIZE:	613.10 square metres (Local Area 2)
LOT SIZE OF SUBJECT LAND:	585.3 square metres
DECISION BY:	20 February 2009
NETT DAYS:	89 days @ 23 March 2009

Main Issues Relating to this Application

- Neighbourhood character
- Amenity impact (external)
- Energy efficiency
- Vegetation/landscaping considerations

Development Assessment Table

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
Private Open Space	An area of 40m ² , located to the side / rear of the dwelling, achieving a minimum dimension of 5 metres for a 2 bedroom dwelling with convenient access from a living room. An additional 20m ² is required for each additional bedroom, which achieves a minimum dimension of 3 metres.	The proposed dwellings comprise three (3) bedrooms and therefore 60 square metres of secluded private open space is required. Dwellings 1 & 2 – each provided with 60.6m ² of secluded private open space to the rear of the dwelling, with a minimum width of 7.62 metres.	Complies
Car Parking	Two (2) spaces for each 3 bedroom dwelling.	Dwellings 1 & 2 each have a single garage with a tandem car space in front.	Complies.
Dwelling Setback to Street	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser. No. 1038 Nepean Highway – 9.0m No. 1042 Nepean Highway – 7.5m Average setback: 8.25m	Dwelling 1 is set back 8.41m & dwelling 2 is setback 8.88m metres from the site's Nepean Highway service road frontage.	Complies.
Site Coverage	Maximum 50%	Site coverage is 45%	Complies

EXISTING CONDITIONS:

As advised the subject site comprises a 585.29m² allotment on the south-west side of Nepean Highway in Moorabbin. It has a frontage (to the north-east) of 15.24m and side boundaries of 38.405m. It is a regular rectangular shaped allotment which is part of a larger typical residential subdivision in this area.

It currently contains a single storey, brick dwelling that has been fire damaged internally, and an associated carport. The site contains about three (3) existing trees. There is also an existing tree on the Nepean Highway (service road) nature strip in front of the site. The site is accessible from the Nepean Highway service road via a crossover at the north-western end of the site frontage. A 1.2m high brick fence is located along the frontage of the site, with existing timber paling fences along the side boundaries. The subject site has a frontage of 15.24m, a depth of

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38.405 m and an overall site area of 585.3m². It is encumbered by a 1.83 metre wide easement along its rear (south-western) property boundary. There appear to be no restrictions listed on the Certificate of Title.

The site is located within an established residential area, with surrounding residential development typically comprising single and double storey, brick dwellings. Land on the opposite (north-east) side of Nepean Highway is essentially commercial in nature, including KFC, Dom's Restaurant and Officeworks.

The site is located approximately 400m from Highett Railway Station and activity centre, 400m from Moorabbin Primary School, 400m from Dane Road Reserve and 1.7km from Southland Shopping Centre.

PROPOSAL IN DETAIL:

It is proposed to demolish the existing dwelling and construct two (2) double-storey, side-by-side dwellings on this site. Key elements of the proposal are as follows:

Dwelling	Floor Area (excluding garage / carport)	Private Open Space	No. of Bedrooms	Car Parking Spaces
1	187m ² (comprising a ground floor area of approximately 124m ² and a 1 st floor area of 187m ² each)	26.7m ² of private open space is provided to the front of the site and 60.6m ² is provided to the rear of the site for dwellings.	3 bedrooms	2 car spaces comprising a single garage and tandem car space.
2	182m ² (comprising a ground floor area of 124m ² approximately and a 1 st floor are of approximately 58m ² each)	AS ABOVE	3 bedrooms	2 car spaces comprising a single garage and tandem car space.

The proposed dwellings will each comprise an open plan living/dining and kitchen area and master bedroom with en suite and lounge room on the ground floor; two bedrooms, a sitting room and bathroom on the first floor. Both dwellings would be constructed in brick with part rendering and timber cladding, with pitched tiled rooves.

Each dwelling would have access to a single garage, with an individual vehicle crossover and driveway accessed via the Nepean Highway service road. There is capacity for a tandem car space in front of each garage.

TITLE DETAILS

The land is contained in Certificate of Title Volume 08170 Folio 849, and is known as Lot 23 on Plan of Subdivision 034504. The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the title.

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

An application pursuant to Section 50 of the Planning and Environment Act 1987 was received on 19 November 2008. The amendment includes:

- Major changes to the design detail of the Neighbourhood and Site Description Plan, Design Response Plan, Elevation Plan and the Site Plan.
- Provision of Shadow Diagrams
- Provision of a Streetscape Elevation Plan
- Provision of photographs to illustrate neighbourhood character

Council decided to approve the amendment and proceed the application to advertising.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Twenty three (23) objections to the proposal were received.

The valid grounds of objection raised are summarised as follows:

- Not consistent with neighbourhood character /Excessive visual bulk and mass
- Inadequate landscaping to address visual bulk and for privacy
- Loss of sunlight and overshadowing to neighbouring properties (setbacks)
- Reference to recent VCAT decisions in Stayner Grove

PRELIMINARY CONFERENCE

A preliminary conference was held on 21 January 2009 with the relevant Planning Officer, Ward Councillor, the applicants/owners and their town planner, and four (4) objectors were in attendance. The above-mentioned issues were discussed at length, with the following outcomes:

- the Applicant was prepared to look at design detail measures to reduce overlooking into the neighbour's properties.

The above can be required via Conditions or any permit issued.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

No amendments made.

PLANNING SCHEME PROVISIONS

A planning permit is required to develop land for two dwellings, pursuant to Clause 32.06-4 of the Kingston Planning Scheme (the Scheme).

In addition, according to ResCode at Clause 55 and the decision guidelines at Clause 65 of the Scheme, Council must consider the State Planning Policy Framework (Clause 16) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement of the Scheme.

REFERRAL

External Council Referrals	Advice/Response/Conditions
Vic Roads	No objection and no conditions required.

Internal Council Referrals (where appropriate amended applications have been re-referred)	Advice/Response/Conditions
Development Engineer	No objection, subject to the inclusion of nominated conditions on any permit issued.
Vegetation Management Officer	No objection, subject to a condition requiring the submission of a landscape plan.

Discussion

Kingston Planning Scheme Provisions:

Clause 12: Metropolitan Development

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

Clause 12.01 A more compact city seeks to:

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

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

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

- § Improvement of the quality and distribution of open space and ensuring the long term protection of open space.
- § Improvement of the environmental health of the bays and their catchments.

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

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

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

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

Clause 12.08 Better transport links seeks to:

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

It is considered that this application meets these objectives.

Clause 14.01: Planning for Urban Settlement

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

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

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

It is considered that this application meets these objectives.

Clause 16.02: Housing - Medium Density Housing

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

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

It is considered that the principle of the proposed development meets these objectives, but that modification is required to the design of the proposed development to improve the presentation to adjoining neighbours.

Clause 21.05 MSS - Residential Land use

Incremental Housing Change Area

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

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

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

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

- Promote lower density housing in established suburban areas that do not have direct access to activity/transport nodes and “encourage” only incremental change in housing density (*incremental housing change areas*). Such areas will retain their predominantly single dwelling character and incremental change will occur in the form of single dwellings or the equivalent of dual occupancy developments on average sized lots.
- Promote new residential development which is of a high standard, responds to the local context and positively contributes to the character and identity of the local neighbourhood.
- Promote new residential development which provides a high standard of amenity and quality of life for future occupants.
- Encourage the retention of existing vegetation wherever possible.
- Improve landscape character by accommodating appropriate landscaping within new residential developments.
- Ensure that the planning, design, siting and construction of new residential development responds to best practice environmental design guidelines for energy efficiency, waste and recycling, and stormwater management.

- Promote medium density housing development in close proximity to public transport facilities, particularly train stations.
- Ensure the siting and design of new residential development sensitively responds to interfaces with environmentally sensitive areas, including the foreshore.
- Ensure that where medium and higher density residential areas are proposed adjacent to lower density residential areas, the design of such development takes proper account of its potential amenity impacts.
- Ensure that the siting and design of new residential development is consistent with Urban Stormwater Best Practice Environmental Management Guidelines and that new development contributes to the maintenance and upgrade of local drainage infrastructure as required, where such new development will impact on the capacity of such infrastructure.
- Require the provision of car parking to satisfy the anticipated demand having regard to average car ownership levels in the area, the environmental capacity of the local street network and the proximity of public transport and nearby on and off street car parking.
- Ensure that all new medium density housing provides adequate private open space that is appropriately landscaped.

It is considered that the principle of the proposed development is consistent with the relevant objectives of Council's Municipal Strategic Statement as outlined above. The development will result in a change to the existing streetscape; however it is not considered that this change will be substantially detrimental to the neighbourhood character of the area. The streetscape is within a growth area in general, and it is expected that that part of Moorabbin will continue to undergo new development opportunities. The articulation of the first floors of the dwellings provides a good transition between the single storey houses on either side. It provides a 'stepping down' effect from the first floor element to the single storey ground floor level, so as to alleviate any sheer two storey elements on, or near, boundaries to allotments containing single storey dwellings.

Further to this the proposal provides a good standard of living for future occupants, adequate carparking, landscaping opportunities, presents as part of a range of housing type and does not exceed any infrastructure capabilities.

As stated, under the provisions of Clause 22.11 of the Scheme, the site is located within an area designated for "Incremental Housing Change", whereby development of the site for two dwellings can be supported on the basis that such development however in this instance, does not exceed the equivalent of a dual occupancy on an average sized lot. The average lot size in this area has been calculated at 613m² which would mean a development density of dwelling per 1.306.55m² of site area. To support the development of two dwellings on the land where the average lot size is not fully met, a proposal should satisfy all other requirements of ResCode and Council policy. It is considered that this proposal should be subject to the modifications required in this report. Further it should be noted that the proposed subject site is 27.8m² smaller than the average lot size in the area.

Clause 22.11 - Residential Development Policy

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
- Built form, siting and scale of development
- Car parking and vehicle access
- Stormwater run-off mitigation and quality management

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.

The first floor building envelope of the proposed dwellings is located to the front of the site, consistent with the objective of the incremental area. The double storey component is contained generally within the front half of the building envelope. The first floor component is sited 2.09m from the neighbour’s boundaries on either side however the applicant’s have stated that they will provide further articulation should that be deemed appropriate by Council at the first floor level. The graduation of the first floor of the dwellings to the ground floor levels respects the private open space which has been provide to the rear of the site. The principle of this development is considered acceptable in an established residential area such as this, where incremental change to the character and built environment is expected under the Planning Scheme.

The graduation in building height between existing single-storey dwellings on the immediate adjoining properties and in the wider area has achieved the objective of not diminishing the neighbourhood character by virtue of form (eg. articulation, hipped roofs, brickwork elements), siting and scale.

Given that the site is located within a predominately single-storey streetscape, it is considered that the proposed dwellings should present as predominantly single-storey to the street. This could be further achieved by reducing the first floor building envelope and provide a greater setback of the first floor from the street, and possibly from the side boundaries. This is discussed further in the ResCode section of this report. It is considered that the proposal adequately accommodates on-site car parking. Furthermore, it is considered that the surrounding road network should be able to accommodate any additional vehicle movements that are generated by the new dwellings. The proposal does not raise any traffic concerns.

The proposed dwellings should not result in any unreasonable overlooking of abutting properties, and the overshadowing resulting from the dwellings should not cause any undue detriment to abutting properties due to its shadow cast being compliant with ResCode. The development does not appear to raise any amenity issues.

Dwelling 2 would receive poor access to northern sunlight to the main living/dining room. It is noted however, that this dwelling has direct access to the private open space that has good northern orientation, and all habitable room windows would receive adequate natural light. The northern sunlight to the main living/ dining room can be waived in this instance.

It is considered that the proposed development substantially satisfies the above policies under Clause 22.11 of the Kingston Planning Scheme.

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 for the development of 2 or more dwellings in this zone.

Schedule

The proposal meets the additional requirements listed in the Schedule to the Residential 3 Zone, particularly with regard to the provision of private open space to the rear of each dwelling and site coverage.

Clause 55: ResCode

The proposal has been assessed against the objectives and standards of Clause 55 (ResCode) of the Kingston Planning Scheme. The proposed development complies with all objectives, standards and decision guidelines of ResCode with Standards B1 (neighbourhood character) requiring further clarification. These are discussed in further detail below:

Standard B1 – Neighbourhood Character

It is considered that the character of the surrounding area generally comprises 1950s/1960s style dwellings; low scale, modest, single-storey dwellings; hipped and gabled roof forms; horizontal windows; porches; low scale planting in front gardens with some trees.

In accordance with Council's Neighbourhood Character Guidelines (Incorporated Document), the site is located within Character Area No.34. Within this area, the following Characteristic is considered to make a major contribution to the Neighbourhood Character:

- Tiled roofs and cream brick walls

In relation to neighbourhood character, when considering applications for development, Clause 22.11 states that the Neighbourhood Character Guidelines should be applied. There is one (1) element that is considered to be a major characteristic in this area, being tiled rooves and cream brick walls. The proposed pitched tiled rooves and part brick, rendered weatherboard clad dwellings are considered appropriate in the context of the streetscape and broader neighbourhood character.

It is noted that both dwellings are double storey, and it is considered that the first floor of the dwellings have been adequately recessed in from the ground floor and articulated so that they do not appear bulky in the streetscape. Overall, the dwellings are considered appropriate in the

context of the broader neighbourhood character especially as they are designed sympathetically to typical elements of neighbourhood character by including porches to the front of each dwelling; simple and complex roof form; rear gardens and opportunity for landscaping within the front setback. The setback of the sitting room on the first floor of each dwelling could be increased from front boundary to further recess and minimise the impact of the first floor as it presents to the street.. This can be required as a condition on any permit issued..

The development proposes essentially boundary to boundary construction by locating a single garage for dwelling 1 only on the side boundary and the carport for Dwelling 2 on the other side boundary. This element of the design and layout is inconsistent with the narrower side setback of 1m (being a typical narrower side setback). Given that the garage for Dwelling 1 is the only instance of boundary wall construction (6.56 metres in length), a reduction in the typical side setback from 1 metre to 0 metres is considered appropriate in this instance. There is adequate opportunity for landscaping to minimise the impact of boundary construction on the street.

It is considered that the carport for dwelling 2 should be set back behind the line of the front setback of this proposed dwelling, in compliance with Council's Designing Contextual Housing Guidelines.

Again this can be required as a condition on of any permit issued.

To ensure that the proposed development demonstrates sympathy to neighbourhood character at the ground floor, as well as the first floor, it is considered that the proposed dwellings (front elevation should be modified to provide a pitched roof form of the ground floor element of the dwellings which comprise the lounge rooms. Roof form is a typical element of the character of this area, and one which has not been included in the design of the proposed dwellings at the ground level. Again this can be required as a condition 1 on any permit issued.

Subject to these improvements, the development is considered appropriate in terms of streetscape presentation and neighbourhood character.

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

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. Taking into consideration changes which will be required to be made to the proposed plans as part of any planning permit issued, it is considered that the proposed development does not raise any issues of non-compliance (other than garage and carport setbacks) with these guidelines.

Clause 65: Decision Guidelines

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

It is considered that the proposed development meets the requirements as set out in this Clause of the Planning Scheme. The development will have a limited impact of the amenity of adjoining properties, as the proposed dwellings are setback from adjoining boundaries (other than the garage on the north east boundary and carport on south west); the dwellings are set within a generous area of open space; and the provision of off-street car parking is ResCode compliant.

Response to Grounds of Objection

- Loss of neighbourhood character/excessive visual bulk and mass
- Inadequate landscaping to address visual bulk and for privacy
- Loss of sunlight and overshadowing to neighbouring properties (setbacks)
- Reference to recent VCAT decisions in Stayner Grove

Objection: *Loss of neighbourhood character/Excessive visual bulk and mass*

Response: It is considered that the first floor is sufficiently articulated, but could be further set back from the street's front boundary so as to reduce the impact of building height and visual bulk on the character and amenity of the surrounding area. This could be in the form of deleting the 'sitting' room of both dwellings, thereby encouraging a greater sight distance perspective when being viewed from the street. There is minimal construction on the boundary which ensures that the first floor is set back from the common boundary, and is significantly articulated in accordance with ResCode.

The properties to the rear of the site have a good separation distance from the proposed development (much greater than 9m) and the visual impact of the first floor element should not appear to constitute a dominant visual bulk form from those properties.

The maximum height of the dwellings is, 7.15 metres, which is well under the maximum permitted under ResCode. This height is not inconsistent with that area of the Nepean highway as a double storey dwelling exists at No.1044 Nepean Highway, only 3 houses from the subject site. It appears that this house, according to the streetscape perspective, is marginally taller than the height proposed for this application. The houses either side of the subject site have high pitched roofs, ensuring a higher form of roof line. In perspective, and with the greater articulation by removing the 'sitting' rooms, the presentation to the street will respect the existing character.

Objection: *Inadequate landscaping to address visual bulk and for privacy*

Response: The applicant's are not requesting the removal of existing street tree. The front open space area has sufficient land for landscaping and Council's Vegetation Management Officer has required a mature tree in both the front and rear setbacks of each dwelling, as well as associated landscaping for the entire site. Existing trees on the site's north - west boundary are to be retained, which should continue the level of privacy provided for the adjoining owners.

Objection: *Loss of sunlight and overshadowing to neighbouring properties (setbacks)*

Response: Shadow diagrams have been provided by the applicants which show that there will be no impact on adjoining neighbours at 9.00am, with shadows falling onto the secluded open space area to the rear of the sites properties. Shadows at 12.00pm fall onto the covered carport, brick garage and metal shed on the adjoining property to the south-east. A portion of the shadow at 3.00pm affects 2 habitable room windows, the porch and driveway area of that property. The shadow impact is within the level permitted under ResCode.

Objection: *Reference to recent VCAT decisions in Stayner Grove*

Response: This application is considered on its own merits in response to the Kingston Planning Scheme. No decisions in Stayner Grove affect the development of this site.

General Comment

The proposed development, as required to be amended, 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 3 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).

The subject site is located within a Residential 3 Zone where Council's Local Policy (Clause 22.11) anticipates that change will occur in the form of dual occupancies on the average sized lot. Within this area, it is considered that this change will occur at a density of one new dwelling per (average) 306.55 square metres of land. In this case, each dwelling will have an average lot size of 292.65 square metres, which exceeds the expected average lot size. In principle terms, it is therefore considered that the development of this site for two dwellings is acceptable, as the proposed development is ResCode compliant and subject to minor changes to the design (mainly affecting the development's first floor front elevation) will demonstrate sympathy to neighbourhood character.

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

Recommendation

That Council resolve to issue a Notice of Decision to Grant a Permit for the development of this site for 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 submitted to Council on 2nd September 2008, 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 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;

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- ii. the delineation of all the garden beds, paved and 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 canopy width and labelled with botanical name, height and whether the tree is 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 secluded open space area of each unit. Species chosen must 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 2 metres high at time of planting;
 - ix. medium to large shrubs and trees to be provided in pot sizes of 200mm; and
 - x. 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 full colour schedule (including samples) for all external elevations of the proposed dwellings;
 - c. the provision of a water tank clearly nominated for each dwelling;
 - d. the deletion of the 'sitting' rooms of each both dwelling and increasing the front setback of the first floors from the frontage of the site by no less than 2.0m;
 - e. the secluded private open space to the rear of each dwelling shown as being no less than 60m² not including the 6m³ storage area;
 - f. the garage for dwelling 1 and the carport for dwelling 2 set back 1m behind the front façade of the respective dwelling and the ground floor of each dwelling modified accordingly.
 - g. the delineation of existing boundary fences in relation to the title boundaries of the site in accordance with the re-establishment survey plan;
 - h. the tandem car space for each dwelling shown as having a minimum length of 5.5 metres to allow for vehicle overhang;
 - i. the front elevation of both dwelling modified to provide a pitched roof form for the ground floor of the dwellings;
 - j. the provision of landscaping along the entire north-west and south-east sides of each of the driveways, at least 0.5m in width;
 - k. the guttering pertaining to the garage on the site's north-east property boundary nominated as being contained wholly within the title property boundaries of the subject land;

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- l. the provision of a 3 metre wide vehicle crossover nominated for each dwelling with the vehicle crossings having a note stating “vehicle crossings constructed to Council’s standards – industrial strength for both dwellings”;
 - m. the building material of all front fencing clearly nominated, with any such fencing to be no higher than 1.2 metres and located along the site’s front property boundary;
 - n. the location of mailboxes and external air conditioning units clearly nominated for each dwelling;
 - o. the driveway for each dwelling clearly delineated, and the surface material nominated as being coloured concrete;
 - p. the boundary wall (garage) nominated as no higher than an average 3 metres;
 - q. the door for each garage nominated as a panel lift door;
 - r. the provision of a notation to the effect that no trees are to be planted within the rear easement with intrusive roots that may affect the drainage.
 - s. The first floor bedroom 3 windows of each dwelling nominated as being highlighted windows with a minimum sill height of the first floor finished floor level, directly below and to the first floor bedrooms two windows of each dwelling nominated as being fitted with fixed obscure glazing to a height of 1.7m above the first floor finished floor level directly below and all plans shown at a scale of 1:100
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 3. The boundary fencing as shown on the endorsed plans must be retained or new fencing constructed at those heights shown on the endorsed plans, at the developer’s cost, prior to the occupation of the dwellings hereby permitted.
 4. Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
 5. Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
 6. The development of the site must be provided with stormwater 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 system 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.).

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8. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
9. Construction on the site must be restricted to the following times:
 - a. Monday to Friday 7:00am to 7:00pm; and
 - b. Saturday 9:00am to 6:00pm.Or otherwise as approved by the Responsible Authority in writing.
10. 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.
11. 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.
12. 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.
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:
 - e. Constructed to the satisfaction of the Responsible Authority.
 - f. Properly formed to such levels that they can be used in accordance with the plans.
 - g. Surfaced in accordance with the endorsed plans under this permit, to the satisfaction of the Responsible Authority.
 - h. Drained and maintained to the satisfaction of the Responsible Authority.Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
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.
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.

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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 has not started within two (2) years of the date of this permit.
 - The development is not completed within one (1) year of 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.

The meeting was addressed by Mr Graham Malloch on behalf of one of the objectors.

Crs Staikos/West

That Council resolve that a Notice of Refusal to Grant a Permit be issued on five 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 fully satisfy Clause 22.11 – Residential development Policy of the Kingston Planning scheme.
5. The proposal does not satisfy all of the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives, Clause 55.02-2 Residential Policy Objectives, Clause 55.03-8 Landscaping Objectives and Clause 55.6-2 Front Fence Objective.

Carried

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**Planning Application KP919/08 – 73 Barkley Street,
Mordialloc**

APPLICANT:	Design 79
ADDRESS OF LAND:	No. 73 (Lot 10 on PS00931) Barkley Street, Mordialloc
Melway Ref:	87F12
PROPOSAL	Three (3) Dwellings
CONTACT OFFICER:	Ian Nice
FILE NO:	KP919/08
ZONING:	Residential 1
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 16.02: Housing – Medium Density Housing <u>Local Planning Policy Framework</u> Clause 21.05 MSS – Residential Land Use Clause 22.11: Residential Development Policy Clause 32.01: Residential 1 Zone & Schedule Clause 55: Two or More Dwellings on a Lot & Residential Buildings Clause 65: Decision Guidelines
RESIDENTIAL POLICY AREA:	Increased Housing Diversity
NEIGHBOURHOOD CHARACTER AREA:	Area 27
DECISION BY:	17 th March, 2009
NETT DAYS:	90 days@17 March, 2009

Main Issues Relating to this Application

- Neighbourhood character
- Street setbacks
- Two storey design
- Visual bulk
- Front fence

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Development Assessment Table

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
Private Open Space	An area of 40m ² , with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling with a minimum area of 25m ² , a minimum dimension of 3 metres and convenient access from a living room.	Dwelling 1 – 63m ² of which 45m ² is secluded private open space Dwelling 2 – 40.02m ² is secluded private open space Dwelling 3- 40.45m ² is secluded private open space	As per the Schedule to the Residential 1 Zone for Increased Housing Change Areas
Car Parking	Two (2) spaces for each 3 bedroom dwelling.	Dwelling 1 – two (2) car spaces – double garage. Dwelling 2 – two (2) car spaces – double garage. Dwelling 3 – two (2) car spaces – double garage.	Adequate car parking for future residents and visitors
Dwelling Setback to Street	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.	Dwelling 1 – 6.9 metres	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments is 7.35 metres, therefore, the setback does not meet the standard as the proposed setback is 6.9 metre from the street frontage. It is considered however that this setback is justified as based on a site inspection which revealed that the street has varied setbacks and uses, and the street includes non residential uses. It is therefore considered that a variation to the standard is reasonable and justified.

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Site Coverage	Maximum 60% OR Incremental Housing Change requirements – Schedule to the Residential 1 Zone: Maximum 50%	Site coverage is 48.7%	As per ResCode
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EXISTING CONDITIONS:

The subject site is located on the north-east side of Barkley Street, Mordialloc. It is rectangular in shape with a frontage width of 15.54 metres, a maximum depth of 52.43 metres, resulting in an overall area of 814.76m². Vehicle access to the site is via a single width crossover located on the south-west side of the site's Barkley Street property frontage.

The subject site does not contain any significant vegetation.

The site is currently occupied by a single storey weatherboard house.

PROPOSAL IN DETAIL:

It is proposed to construct three (3) double storey dwellings on the land

Key elements of the proposal are as follows:

Dwelling	Floor Area (excluding garage / verandah)	Private Open Space	No. of Bedrooms	Car Parking Spaces
1	63m ²	45m ² is secluded private open space	Three (3) bedrooms plus one (1) study.	two (2) spaces in the form of a double garage
2	40.02m ²	40.02m ² secluded private open space	Three (3) bedrooms plus one (1) study.	two (2) spaces in the form of a double garage
3	40.45m ²	40.45m ² secluded private open space	Two (2) bedrooms plus one (1) study.	two (2) spaces in the form of a double garage

Building Materials and colours have been nominated as:

Roof:	Concrete tiles, charcoal colour steel deck.
Walls:	Brick, ground floor Selkirk Blue Rain and Storm Grey.
Garage doors	Deluxe Stowe White.
Windows:	Aluminium Black.
Driveways:	Charcoal coloured concrete.
Front fencing:	2metre high brick, Selkirk Blue Rain Dividing fence, treated pine.

Boundary fences:	1.75 metres plus 0.40 lattice.
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The proposal would result in a site coverage of 48.7%, and a site permeability of 24%.

TITLE DETAILS

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

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

No amendments made.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Three (3) objections to the proposal were received.

The grounds of concern may be summarised as follows:

- Loss of privacy
- Overshadowing
- Vehicular parking/ traffic congestion
- Visual bulk
- Overlooking
- Double storey
- Neighbourhood

PRELIMINARY CONFERENCE

A preliminary conference was held on the 20th January, 2009 where the above issues were discussed. As a result of the meeting, the applicant reduced the upper floor level of dwelling 3, however there was no other resolution achieved.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

An application pursuant to Section 57A of the Planning and Environment Act 1987 was received on 24th February. The amendment includes:

- The front setback reduced 500mm to 6.9 metres;
- Separation between dwellings has been increased at the first floor level ;
- Open space increased to provide 40sqm private open space for each dwelling; and
- Dwelling 3 increased setback of the first floor by three metres to the southern boundary.

Council decided to allow the amendment.

PLANNING SCHEME PROVISIONS

A planning permit is required to develop land for two dwellings, pursuant to Clause 32.01-4 of the Kingston Planning Scheme (the Scheme). In addition, according to ResCode at Clause 55 and the decision guidelines at Clause 65 of the Scheme, Council must consider the State Planning Policy Framework (Clause 16) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement of the Scheme.

REFERRAL

No external referrals were required in respect of this application.

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

Council's Development Engineer who advised of no objection, subject to the inclusion of a number of conditions on any permit issued.

Council's Vegetation Management Officer who advised of no objection, subject to the inclusion of a number of conditions on any permit issued.

Discussion

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 arguably meets these objectives, though it is not clear cut either way.

Clause 14.01: Planning for Urban Settlement

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

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

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

It is considered that this application again arguably meets these objectives, in a general sense , but may not have gone far enough to fully satisfy these objectives.

Clause 16.02: Housing - Medium Density Housing

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

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

Again it can be considered that this application meets these objectives, but the question / issue of Neighbourhood Character is particularly subjective and arguably it does not fully satisfy this policy.

Clause 21.05 MSS - Residential Land use

Increased Housing Diversity

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

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

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

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

- Promote increased housing diversity in residential areas that are within convenient walking distance of public transport and activity nodes (*increased housing diversity areas*). Such areas will accommodate a variety of medium density housing types and layouts at increased residential densities, responding to the established but evolving neighbourhood character.
- Promote new residential development which is of a high standard, responds to the local context and positively contributes to the character and identity of the local neighbourhood.
- Promote new residential development which provides a high standard of amenity and quality of life for future occupants.
- Encourage the retention of existing vegetation wherever possible.
- Improve landscape character by accommodating appropriate landscaping within new residential developments.
- Ensure that the planning, design, siting and construction of new residential development responds to best practice environmental design guidelines for energy efficiency, waste and recycling, and stormwater management.

- Promote medium density housing development in close proximity to public transport facilities, particularly train stations.
- Ensure the siting and design of new residential development sensitively responds to interfaces with environmentally sensitive areas, including the foreshore.
- Ensure that where medium and higher density residential areas are proposed adjacent to lower density residential areas, the design of such development takes proper account of its potential amenity impacts.
- Ensure that the siting and design of new residential development is consistent with Urban Stormwater Best Practice Environmental Management Guidelines and that new development contributes to the maintenance and upgrade of local drainage infrastructure as required, where such new development will impact on the capacity of such infrastructure.
- Require the provision of car parking to satisfy the anticipated demand having regard to average car ownership levels in the area, the environmental capacity of the local street network and the proximity of public transport and nearby on and off street car parking.
- Ensure that all new medium density housing provides adequate private open space that is appropriately landscaped.

It is considered that the proposed development is generally consistent with the relevant objectives of Council's Municipal Strategic Statement as outlined above. The proposal creates an adequate standard of amenity for the future occupants of each dwelling, as well as for occupants of existing dwellings in the immediate area. It is considered though that the development could have some inconsistency with the existing streetscape character, and the broader local neighbourhood character.

Clause 22.11 - Residential Development Policy

The proposal has been assessed against the objectives and policy of the Residential Development Policy. It is considered that the proposal satisfactorily meets these requirements. There is however, one areas of non-compliance which is as follows:

- Council Policy encourages the two storey component of new medium density housing to be located towards the front of a site. The proposal creates three (3) double storey dwellings one behind the other which has fairly substantial first floor built form.

Clause 32.01: Residential 1 Zone

The purpose of the Residential 1 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 for the development of 2 or more dwellings.

Clause 55: Rescode

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

Clause 55.02 - Neighbourhood Character & Infrastructure

Standard B1 Neighbourhood Character - It is considered that the proposed development is consistent with the surrounding area. The proposed development is comparable in size to newer development in the area. The street, at this point, is made up of a total of eight (8) dwellings and a mixture of uses including a school, a funeral parlour and a church, located directly opposite the site. A Concept Plan was submitted on March 13th, 2009, reduce the amenity impacts on the surrounding properties. This plan provides greater setbacks to the sensitive interfaces located to the site's rear (south-east) property boundary in particular, providing a minimum 5 metre break between dwelling 2 and dwelling 3 at first floor level and further articulation the first floor of Dwelling 3 by setting back the first floor component from the ground floor.

It is also proposed to erect a 2m high fence at the front of the property. According to the schedule to the Residential 1 Zone the maximum front fence height for this site should be 1.2m high. Council submits that it is not considered that a strong trend of high fences exists in the immediate area to warrant a variation of the schedule. It is considered that a condition should be included on any permit issued, requiring that the front fence be reduced to 1.2 metres in height.

Standard B2 Residential Policy - The proposal has been assessed against the objectives and policy of the Residential Development Policy. It is considered that the proposal satisfactorily meets these requirements. There are, however some areas of non-compliance which are as follows;

The Residential Policy encourages two storey component of new medium density housing to be located towards the front of a site. Whilst the proposed design is not fully in accordance with the design objectives of Clause 22.11 as the site has three (3) double storey dwellings. It is considered that the proposed development is not inconsistent with the surrounding area but, Council does acknowledge that the double storey built form throughout the site may be dominant as viewed from abutting properties. The reduction in the first floor of dwelling 3 slightly reduces this issue.

Clause 55.03 - Site Layout and Building Massing

Standard B6 Street Setback - requires that any new dwelling on this allotment be setback 7.35m. Having regard though to the layout of the proposed dwellings and the street configuration, it is considered that the proposal in its submitted format should respect the neighbourhood character and is considered appropriate. However, the setback does not strictly satisfy the ResCode provisions as the minimum setback required is 7.35m and the proposed setback is 6.9m.

Clause 55.06 - Detailed Design

Standard B31 Design Detail – The front fence is proposed at 2m high, it is considered this is not keeping with the neighbourhood character of the street and that the schedule to the Zone states that front fences should be 1.2 metres high. If any planning permit is issued a condition of the permit will require that the front fence be no higher than 1.2 metres in height.

Clause 65: Decision Guidelines

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

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

Neighbourhood Character Area Guidelines (Incorporated Document):

The land is located within Area 27 of the Neighbourhood Character Guidelines. The proposal is not considered to raise any issues of non-compliance with these guidelines, but the question remains, is the development specified as sympathetic to its neighbours as it can be?

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

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

Response to Grounds of Objection

Loss of privacy /overlooking

The first floor habitable windows of all dwellings have been treated appropriately, the provision of with highlight windows which are in accordance with the relevant standards of ResCode.

Overshadowing

The proposal should not generate excessive overshadowing of abutting properties, with the overshadowing meeting the standard objectives requirements of ResCode. Side and rear boundary setbacks are all considered reasonable and compliant with ResCode.

It is considered by Council that the proposal complies with the objectives and standards of Clause 55.04-6, Standard B22 for overlooking.

Vehicular parking/ traffic congestion

The proposal is in accordance with Standard B9 of Clause 55 of the Kingston Planning Scheme (Car Parking Requirements). Each dwelling is provided with a minimum of two (2) car parking spaces and the internal dimensions comply with Standard B9 requirements.

It is acknowledged that the proposed development will result with additional dwellings being sited on the subject site. However, Council recognises the potential of the site being redeveloped to provide an improved quality of housing and residential living for the area and considers it unlikely, that Barkley Street will experience a significant increase in traffic that will have a detrimental impact on the immediate area.

Visual bulk/Double storey

It is considered that the proposed development is consistent with the surrounding area which comprises a mixture of uses and dwelling variety. It is also considered that the Concept Plans submitted on March 13, 2009 has created a design response which is considered to provide greater articulation and visual interest at first floor level.

Neighbourhood Character

It is considered that the increased setbacks demonstrated in the concept plans submitted on 13th March, 2009, should result in a more sympathetic design as viewed from surrounding properties.

Recommendation

That;

- A.. Should Council choose to support this application that a Notice of Decision to Grant a Permit for the development of this site for three (3) dwellings be issued, subject following conditions:
1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council, but modified to show:
 - a. provision of an improved landscape plan and associated planting schedule for the site showing the proposed location, species type, mature height and width, pot sizes and number of species be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. delineation of all the garden beds, paved and grassed areas throughout the development;
 - ii. all existing trees on the site and close to the boundary on adjoining properties, accurately illustrated to represent canopy width and labelled with botanical name, height and whether the tree is to be retained or removed;
 - iii. the provision of two spreading canopy trees within the front setback;
 - iv. the provision of a suitable spreading canopy tree within the private open space of each dwelling;
 - v. suitable species should be selected for use within the landscape strip along the driveway i.e. take into consideration the mature width of the plant selected;
 - vi. all hard surfacing and fencing to be located at least 1 metre from any existing or proposed canopy tree;
 - vii. all trees provided at a minimum of 2 metres high at time of planting;
 - viii. a range of plant types from ground covers to large shrubs and trees;
 - ix. medium to large shrubs and trees to be provided in pot sizes of 200mm or greater;

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- x. notes regarding site preparation i.e. removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements;
 - xi. a notation that: A Local Law permit is required to remove any tree with a trunk circumference of 110cm or greater measured at ground level.
 - xii. a notation that: A Local law permit must be obtained to undertake earthworks within the Critical Root Zone of any tree (located on the site or adjoining properties) with a with a trunk circumference of 110cm or greater. No excavation is to occur within the Critical Root Zone. The area must be hand dug to determine the location of tree roots. Council's Vegetation Officer must be contacted to inspect the tree roots. A qualified and experienced arborist must carry out any root pruning permitted.
- b. plans to be submitted by Design 79 in accordance with first floor concept plan dated 13th March 2009
 - c. the front fence reduced to 1.2 metres in height, with a elevation providing full details of its materials and colours;
 - d. a reduction in driveway width to 2.6 metres where possible, with the additional areas created to be used for landscaping;
 - e. the surface material of all driveways / accessways and car parking spaces nominated in all-weather coloured concrete sealcoat, or similar;
 - f. the door of each garage nominated as a panel lift door, or similar;
 - g. provision of a full colour, finishes and building materials schedule (including samples) for all external elevations of the proposed dwellings; and
 - h. all first floor habitable and room windows of all dwellings on the side and facing elevation nominated as being fitted with fixed obscure glazing to a height of 1.7m above the first finished floor level dwellings below;
- 2. The development and/or use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 - 3. Before occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
 - 4. Before occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
 - 5. Before the development hereby approved commences, a drainage plan showing the stormwater discharge 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 to the nominated point. The plan must also show all existing and proposed features that may have an impact on the drainage (eg trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels etc.)
 - 6. 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.

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7. Prior to occupation of the dwellings hereby permitted, the increase in stormwater runoff from the development must be provided for by the use of on-site infiltration tanks with overflow to cater for a major storm. The soil suitability for infiltration must be confirmed by a soil report indicating percolation rates and the infiltration system is to be designed to act as a detention system.

Approved rain water tanks can be included as part of the storage volume.

The system must be constructed in accordance with the approved drainage plan and maintained to the satisfaction of the Responsible Authority.

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

- a. Monday to Friday 7:00am to 7:00pm; and
- b. Saturday 9:00am to 6:00pm.

Or otherwise as approved by the Responsible Authority in writing.

9. Before the occupation of the dwellings hereby permitted starts, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must be reinstated to the satisfaction of the Responsible Authority.
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. 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.
12. 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.
13. 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.
14. 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 sealcoat 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.

15. 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.
 16. 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.
 17. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
 18. External clothes drying facilities must be provided for each dwelling.
 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 and use are not started before two (2) years of the date of this permit.
 - The development is not completed before four (4) years of the date of this permit.In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.
-

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

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

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

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.

OR

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- B. Should Council resolve not to support the application that a Notice of Refusal to Grant a Permit be issued on the following grounds:
1. The proposal would have an adverse affect on the amenity of an established residential neighbourhood.
 2. The proposal constitutes an over-development of the site.
 3. The proposal exhibits excessive bulk and mass.
 4. The proposal does not satisfy all of the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives, Clause 55.02-2 Residential Policy Objectives, Clause 55.03-1 Street Setback Objective; Clause 55.03-8 Landscaping Objectives; and Clause 55.06-1 Design Detail.

The meeting was addressed by Mr Carlisle Coshan on behalf of the objectors and Ms Anna Young, the applicant.

Crs Brownlees/Bauer

1. That Council resolve to support the application as outlined in Part A of the recommendation contained in the officer's report.

Carried

This rezoning proposal is considered to be relevant to the following State and Local level policies as outlines below:

State Planning Policy Framework (SPPF):

The proposed Amendment is considered to be consistent with the State Planning Policy Framework (SPPF). The goal of the SPPF is to foster “appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.” More particularly, the Amendment gives effect to the following objectives of the SPPF:

- Clause 12 - Metropolitan Development – aims to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport and communication, water and sewerage and social facilities.
- Clause 14 - Settlement – aims to ensure that a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses.
- Clause 17 - Economic Development – aims 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.
- Clause 18 – Infrastructure – aims to integrate land use and transport planning around existing and planned declared highways, railways, principal bus routes and tram lines.

Local Planning Policy Framework:

Municipal Strategic Statement (MSS)

The following Clauses within the MSS are relevant to the proposed Amendment:

- Clause 21.06 Retail and Commercial Land Use

This clause relates to the need to harness new growth and development opportunities to ensure the longer-term sustainability of local centres. It specifies that the need to ensure the ongoing sustainability of Kingston’s established activity centres is a key challenge. Objectives are to “protect and strengthen the hierarchy of activity centres in Kingston” and to “reinforce the existing role of the Southland Principal Activity Centre complimented by the adjacent Cheltenham Major Activity Centre as the predominant regional focus for retail activity and for entertainment, community, professional services and business services”. It is considered that this Amendment responds appropriately to these goals and objectives.

- Clause 21.12 Transport, Movement and Access

This clause recognises the need for the City of Kingston to develop a balanced transport system based on public transport, road, pedestrian and cycle systems. It also aims to increase the range of transport choices available to Kingston’s residents. Given that the subject site is in close proximity to Cheltenham Station and to existing bus routes, it is considered this amendment is consistent with reducing pressure on private modes of transport and in offering a wider range of transport alternatives.

Local Planning Policies

- **Clause 22.01 Cheltenham Business Centre Policy**

The Kingston Planning Scheme identifies the Cheltenham Business Centre as “Kingston’s pre-eminent regional retailing activity centre.” It notes the following objectives:

“To recognise the regional role of the Cheltenham Business Centre as a focus for regional office and retailing activities within Kingston’s commercial centre hierarchy”; and

“To promote the restructuring of the built environment of the centre, through improved linkages and pedestrian networks, clustering of like functions, improved management of car parking and traffic management, integrated tree planting and landscaping and high quality urban design in the built form.”

The proposed amendment is considered to be consistent with these objectives.

- **‘PLAN’**

Council’s “Moorabbin to Mordialloc Integrated Framework Plan” for Prosperous, Liveable, Accessible Neighbourhoods (‘PLAN’) is also relevant to this Amendment.

The objectives of ‘PLAN’ are to:

- Provide a diversity of Housing
- Provide for integrated and well designed Activity Centres
- Provide for sustainable Transport
- Connect the Community

More particularly, the subject site has been identified in PLAN as precinct ‘H’ within the Cheltenham Activity Centre. In terms of future use of this site, PLAN specifies office and residential uses as being appropriate for the site. This is considered to be compatible with the proposed rezoning of a portion of the site from Business 3 to Business 1 to allow for residential uses on the subject land.

5. Discussion

The Cheltenham Activity Centre serves as Kingston’s pre-eminent retail activity centre. The strip shopping centre in Charman Road, to which the subject site is in close proximity, has been described in ‘PLAN’ as a vibrant strip offering key convenience retailing facilities...”

The proposed rezoning would provide for future use and development of the site in a manner which is compatible with Council’s vision for the Cheltenham Activity Centre, particularly as outlined in ‘PLAN’. Council’s Statutory Planning Department is currently considering an application for a planning permit for a multi storey development on the subject site which incorporates office, bulky goods retailing and a café. It is noted that the proposed development is permissible irrespective of the rezoning outlined in this report.

Given the proximity to public transport and the potential employment and retail opportunities afforded by the proposed Amendment, it is considered that the proposed rezoning and potential future redevelopment of the site would be of benefit to the City of Kingston.

The proposed introduction of the Environmental Audit Overlay (EAO) will ensure that any potential contamination issues are appropriately addressed prior to future redevelopment of the site.

6. Options

At this stage of the amendment process and in line with the provisions set out in sections 28 and 29 of the Planning and Environment Act 1987, Council may resolve to:

- Abandon the amendment; or
- Adopt the amendment, with or without changes.

7. Summary and Conclusion

The amendment seeks to rezone part of the land at 1228 Nepean Highway, Cheltenham from a Business 3 Zone to a Business 1 zone and to apply an Environmental Audit Overlay to the site. The amendment has been exhibited in accordance with the requirements of the Planning and Environment Act 1987 and no submissions were received. The Amendment is considered to have strategic basis when considered in the context of Local and State Planning Policy Framework. It is therefore recommended that Amendment C98 be adopted as exhibited and approved by Council.

7. Recommendation

That Council adopt amendment C98 to the Kingston Planning Scheme and submit the Amendment to the Minister for Planning for approval.

Attachment:

Zone Map – 1228 Nepean Highway, Cheltenham

Crs Brownlees/West

That the recommendation be adopted.

Carried

3. Issues

3.1 Panel Hearing

The Minister for Planning appointed a Panel to consider Amendment C95 and Planning Permit Application KP825/07. A Directions Hearing was held on 16 December 2008 and a Panel hearing was held on 27 January 2009. The Panel Hearing was chaired by Prof. Rodger Eade who was assisted by Mr. Richard Horsfall.

Over the course of the Panel Hearing Council Officers represented the City of Kingston and FR Perry and Associates represented the proponent. No submitters attended or made a subsequent submission to the Panel.

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

3.2 Panel Recommendations on Amendment C95 and Planning Permit Application KP825/07

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

- 1. Amendment C95 to the Kingston Planning Scheme should be adopted as exhibited, modified to delete clause 2.0 of Schedule 15 to the Design and Development Overlay and renumber the clauses accordingly.*
- 2. Planning Permit Application KP825/07 be issued in the form of and subject to the conditions set out in Appendix 1.*

As referred to in Recommendation 2, in the writing of the report the Panel made the following changes to the permit conditions:

- a) In the preamble to Condition 1 the amended plans have been described by reference to the drawing numbers,*
- b) In Condition 1(a) the revised landscape plan has been described by the numbers and a specific requirement for an in-ground irrigation system for the landscaped areas has been included,*
- c) A new paragraph 1(q) has been added to Condition 1 to require a revised plan for loading and unloading facilities for the supermarket with provision of the entry and exit of articulated vehicles from Marcus Road substantially in accordance with the revised swept path analysis submitted to the Panel after the Hearing modified to show a wider exit lane to Marcus Road allowing articulated vehicle to exit with a suitable margin of space on the right hand driver's side inside the exit lane'*
- d) A new Condition 14 has been added to include the standard provision in most permits for the ongoing maintenance of landscaped areas.*
- e) In Condition 54 the word 'articulated' has been inserted, 'No 'articulated' delivery vehicles associated with proposed supermarket...'*

3.3 Panel Recommendations Discussed

§ *Deletion of Clause 2.0 of Schedule 15 to the DDO.*

Support Recommendation

Post Hearing Council Officers agreed to the removal of Clause 2.0 from the DDO schedule, in response to the matter being raised by the Proponent and Panel during the Hearing. The S173 requirement will remain in Planning Permit KP825/07 Condition No. 11, and as is evidenced by the report must be signed by the landowner prior to the amendment being submitted to the Minister for approval.

§ *Planning Permit KP825/07 should be approved and in the form of and subject to the conditions set out in Appendix 1 of the Panel Report.*

Preamble to Condition 1 - Minor Modifications

Condition 1a) - Minor Modifications

Condition 1q) - Minor Modifications

Support Recommendation

The proposed changes to the preamble of Condition 1 and the wording of Condition 1a) are considered to be minor in nature, serving to add detail to the existing working of the conditions.

The proposed changes to Condition 1q) requires a wider swept path to be provided for trucks exiting the Safeway loading facilities, so that articulated vehicles avoid conflict with incoming traffic from Marcus Road when exiting the site.

Condition 1e) - Reworded to include 'articulate'

Do Not Support Recommendation

Proposed modification e) changes the wording of Condition 54 from:

'No delivery vehicles associated with the proposed supermarket are permitted to arrive or depart from the subject land from the Springs Road end of Marcus Road.'

To (Panel recommended wording):

*'No **articulated** delivery vehicles associated with the proposed supermarket are permitted to arrive or depart from the subject land from the Springs Road end of Marcus Road.'*

Thus the proposed change would allow for commercial traffic associated with the supermarket to continue to arrive and depart from the north of Marcus Road, with the exception of articulated vehicles. This issue was raised by the proponent at the Hearing. Council Officers opposed the change. In their report the Panel stated that 'Whilst we

understand Council's desire to restrict large commercial vehicles to arterial roads we believe that the condition in its original form would be most likely unenforceable' (pg. 31). It is considered that Council should *not* support the recommendation of the Panel for the inclusion of the word 'articulated' in Condition 54. The condition would not serve to adequately address the existing and future issues regarding large commercial vehicles using Marcus Road as a thoroughfare. The issue of enforcement is considered to be a matter for Council to address internally.

4. Options

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

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

Council received a favorable Panel report on Amendment C95. The Panel supported the strategic justification for the amendment and Planning Permit KP825/07. It is therefore considered appropriate that Council adopt the Planning Scheme Amendment and combined Planning Permit, once an agreement under Section 173 of the *Planning and Environment Act (1987)* is signed by the land owner.

5. Summary and Conclusion

Planning Scheme Amendment C95 and Planning Permit Application KP825/07 have now been considered by a Planning Panel who has recommended the adoption of Amendment C95 and granting of Planning Permit KP825/07 subject to changes. It was positive to note that the Panel was also of the view that 'the Centre is better located to serve the retail needs of the trade area than a centre located on the Moorabbin Airport land' (pg. 17). Furthermore, the Panel agreed with Council's submission that 'it is important that this amendment and planning permit application proceed to reinforce the Centre's retail position and the retail hierarchy in the City of Kingston supported by Clause 21.06' (pg. 17).

6. Recommendation

That Council resolve:

1. that an agreement pursuant to S.173 of the Planning and Environment Act (1987) be signed by all relevant parties prior to the amendment documentation being sent to the Minister of Planning for approval.
2. as Planning Authority, to adopt Planning Scheme Amendment C95 to the Kingston Planning Scheme and Planning Permit Application KP825/07 subject to changes as recommended by the Panel (with the exception of the modifications to Planning Permit Condition 54 relating to articulated vehicles travelling north along Marcus Rd) and submit it to the Minister for Planning for approval.
3. that all submitters be notified of the above resolution.

Attachments:

Dingley Village Shopping Centre Plans
Dingley Village Shopping Centre Draft Planning Permit

Cr Paul Peulich declared an interest in relation to this agenda item and left the room at 8.36pm, prior to discussion commencing.

Crs Staikos/West

That the recommendation be adopted.

Carried

Cr Paul Peulich returned to the meeting at 8.41pm after the vote had been taken.

L 28

Mentone Shopping Precinct Powerlines

Approved by: Tony Rijs – General Manager Environmental Sustainability

Author: Suzanne Ferguson – Manager Economic Development

1. Purpose

To consider the opportunity to underground power lines in the Mentone shopping precinct from the corner of Balcombe Rd and Como Parade to the corner of Mentone Parade and Brindisi St as part of the budgeted footpath replacement works.

2. Background

In early 2007, the local power company now known as Jemena, advised Council of the need to install a new substation in Como Parade West to accommodate an increasing power demand. The existing fuse servicing the area is currently overloading and the system is in urgent need of upgrading. Jemena originally advised that the work needed to be completed before the summer of 2007/08 but agreed to extend this timeline to allow Council to investigate the possibility of putting the powerlines underground.

Jemena's proposal will result in the replacement of the four existing poles with taller poles; the erection of a high voltage conductor on top of these poles and the placement of a new transformer substation box at the south end of these works.

As part of Council's amenity improvements in shopping centres, budget was allocated in the 2007/08 financial year to complete the remaining footpath replacement in Mentone Parade and Como Parade West from Brindisi St to Balcombe Rd. It was considered that the timing of these capital works provided an opportunity to consider the viability of undergrounding the powerlines thereby improving the visual appearance of the precinct. Consequently the footpath works were deferred pending detailed investigation of the powerline situation.

While Jemena indicated a willingness to consider the undergrounding proposal they made it clear that any costs, in addition to what they would have incurred in their original proposal, would need to be met by Council. Council's costs would also include costs associated with undergrounding Telstra and Optus cables as well as the reconnection of all private properties in the affected area.

At the Ordinary Council meeting of 24th September 2007, Council approved the expenditure of \$26,000 for Jemena to undertake detailed design work to establish the true cost of undergrounding the powerlines.

Prior to the detailed design work, Council was given an indicative estimate of \$823,500 as the total cost of the undergrounding works with Council being liable to pay \$482,500 after allowing for a grant of \$311,000 from the Powerline Relocation Scheme (PRS). This Scheme is a State Government initiative which funds up to 50 per cent of the cost of placing powerlines underground, or otherwise relocating them, where a community benefit will result. However, the PRS does not make any contribution towards the cost of relocating telecommunication infrastructure.

The current cost estimate of the works, following detailed design, is now \$866,688 with Council being required to pay \$524,488 after allowing for the already approved PRS grant. It should be noted that there are still some costs that have not been included in the estimates. These include the installation of decorative light poles and lanterns; the possibility of removing the power pole on the corner of Florence St and Mentone Pde; electrical work related to the two pedestrian crossings and other miscellaneous costs. The PRS may contribute to some of these additional costs, however it would be appropriate to budget for around \$120,000 in additional Council costs bringing the total cost of the project to around \$1 million.

Given that the removal of powerlines has the potential to increase the value of properties in the precinct, a survey was conducted of property owners to gauge their willingness to contribute to the costs via a Special Charge.

Special Charge

Under Section 163 of the *Local Government Act 1989*, a Council may declare a special rate or charge for the purposes of defraying expenses in relation to the performance of a function or the exercise of a power of the Council, if the Council considers that the performance of the function or the exercise of the power is or will be of special benefit to the persons required to pay the special rate or special charge.

In this situation, it could be considered that undergrounding the powerlines in Mentone would improve the amenity of the area and thereby increase the value of properties and hence deliver a special benefit to the property owners.

Should Council decide to proceed with declaring a special charge for this purpose, there is a clearly defined process that must be followed. Anyone liable to pay the charge has a right of appeal to VCAT.

Survey

A letter of explanation and a survey form was sent to all property owners. The proposal put to them was that, over a five year period, they would pay 50% of Council's costs for the undergrounding works (after deducting the grant from the Powerline Relocation Scheme).

Over 72% of owners representing 83% of properties responded. Of these respondents, 62.5% indicated that they would be unwilling to contribute.

3. Issues

The cost of powerline relocation has not been included in Council's five year financial plan. Even with a contribution from the Powerline Relocation Scheme and a Special Charge on properties in the precinct, Council would still need to reallocate at least \$350,000 from other capital projects. If Council did not pursue a Special Charge, the unbudgeted cost to Council would be in the order of \$650,000.

The survey, seeking an indication of support, was only sent to property owners and not to occupiers. However, under the Local Government Act, it is the person liable to pay the Special Charge who has a right of appeal to VCAT. As many lease agreements stipulate that the tenant is responsible for paying all outgoings, including rates, it would be the tenant in these instances who could appeal given that the cost would be significant for many small businesses and it could be questionable that the tenant received any special benefit making Council's defense of the Special Charge at VCAT problematic.

Any appeal to VCAT would significantly delay the project. This has a number of potential implications. Firstly, while Jemena has agreed to defer the upgrade to their infrastructure to allow Council to reach a decision, this situation may change should a high energy user move into the centre. Jemena has an obligation to ensure that all their customers have a reliable supply and may need to proceed with their upgrade before any appeal process was completed.

The quoted price for the undergrounding would also vary. The quote that Council received in August 2008 was only valid for two months. When the job is finally tendered it may vary significantly from this price.

4. Triple Bottom Line Assessment

Financial

Council has budgeted \$450,000 to replace the Mentone footpath but has not budgeted the extra \$650,000 to underground the powerlines. If Council is successful in instituting a Special Charge, there will still be an unbudgeted amount of around \$325,000 - \$350,000. This money would need to be drawn from another capital line item which may have a larger community benefit.

Social

There are no social implications except for the need to fund the project from another area of Council's budget.

Environmental

The Mentone Shopping Precinct would be more attractive without powerlines.

5. Summary and Conclusion

Investigations of the viability of undergrounding the Mentone powerlines have been underway since late 2007. The results of the survey have given Council a clear indication of the level of support that is likely to be forthcoming should Council proceed with the statutory process to declare a Special Charge.

Clearly there is insufficient support from the Mentone shopping centre property owners to fund half of the costs of undergrounding the powerlines. The implication is that Council would have to fund the full cost from its own resources or proceed with declaring a Special Charge recognising that property owners and / or their tenants would have a right of appeal to VCAT. While Council may be able to defend this decision based on the special benefit that would accrue to the property owner, it would be more problematic in proving that a special benefit accrued to a tenant who would most likely be the one liable to pay the Charge because of their lease arrangement.

6. Recommendation

It is recommended that Council:

1. proceed with the Mentone footpath works as per Council's adopted 2008/09 capital budget.
2. write to all owners and tenants explaining that the undergrounding of powerlines cannot proceed due to the significant costs involved and the low level of property owner support for a special charge scheme that would enable council to recover 50% of the costs involved.

Crs Brownlees/Bauer

Motion:

That the recommendation be adopted, subject to the words "pending further design considerations" being added to the beginning of part 1 of the recommendation.

The motion was put and **carried**.

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

Crs Brownlees/Bauer

That Council:

1. pending further design considerations, proceed with the Mentone footpath works as per Council's adopted 2008/09 capital budget.
2. write to all owners and tenants explaining that the undergrounding of powerlines cannot proceed due to the significant costs involved and the low level of property owner support for a special charge scheme that would enable council to recover 50% of the costs involved.

Carried

L 29

Preparation of a Kingston Water Cycle Strategy

Approved by: Tony Rijs, General Manager Environmental Sustainability

Authors: Desiree Lovell, Team Leader Environment and Planning
Tony Barrett, Industry Sustainability Officer

1. Purpose

To seek approval to prepare a Kingston water cycle strategy in partnership with Melbourne Water. This plan will update the out-of-date Stormwater Quality Management Plan and Sustainable Water Use Plan.

2. Background

The City of Kingston has a long history of driving the development and delivery of sustainable water management initiatives in local government. Some of the key areas addressed by Kingston's earlier work include stormwater quality management (e.g. water sensitive urban design for road reconstruction projects and working with local industrial businesses to reduce stormwater pollution from their site) and potable (drinking) water conservation (e.g. waterless urinals at the Town Hall, water efficient filtration system at Waves Leisure Centre and installing water tanks to flush toilets).

While Council continues to find new ways to reduce stormwater pollution and potable water consumption, there is a real need to develop a framework to ensure projects are implemented in a co-ordinated and prioritised fashion. The Kingston Stormwater Quality Management Plan (2000), now eight years old, is due to be reviewed. Similarly, Council's Sustainable Water Use Plan (2006), has rapidly become out-dated with the current drought forcing technology advances and new ways of thinking.

Council's work in the water sector has resulted in successful state and federal funding applications, and winning numerous awards including; several Stormwater Victoria awards for 'Stormwater Excellence' between 2006 and 2008, being named a finalist in the 2006 Savewater! Awards, and winning the South East Water Challenge in 2007.

Council needs to continue its work to reduce its own and the community's impacts on water resources. Existing plans and strategies should be reviewed to develop a framework that ensures projects are implemented in an integrated and strategic manner.

3. Discussion

Council's 'Local Environment Sustainability Priority Statement' adopted by Council in late 2008, identifies the need for the development of a water cycle strategy as a priority project. The Priority Statement recognises Council's commitment to implementing water quality and conservation measures, however it requires a framework to drive these projects.

The Environment and Planning unit have held preliminary discussions with representatives of Melbourne Water's Living Rivers Stormwater program. These discussions represent the beginnings of a strong partnership, and have resulted in Living Rivers confirming in principal support for the development of a Kingston water cycle strategy. Upon further development of a project brief, Melbourne Water has advised support can be made available in the form of

funding and expertise. Melbourne Water will sit on the strategy's steering committee which may also include representatives from Department of Sustainability and Environment, Southern Rural Water, South East Water and the Environment Protection Authority.

A project brief and consultant engagement could be completed by June 2009, with a final draft being presented to Council within 12 months of commencement. Early cost estimates for the completion of the full strategy is in the range of \$80,000. This will be funded in part through Melbourne Water's Living Rivers Stormwater program. Subject to further discussions it is anticipated Melbourne Water will fund approximately 50% of the project with Council funding the remaining costs. Council will need to identify a funding source for its contribution for the 2009/10 year.

It is envisaged the development of the strategy will consist of three distinct stages: the initial preparation of the detailed project brief; a scoping study to review existing documentation, undertake consultation and identify the key issues, and the production of a detailed water cycle strategy.

The aim of the final document will address stormwater management, potable water conservation, ground water conservation and protection and waste water management. It will acknowledge the links and consider the issues within a strategic framework that prioritises actions. The document will:

- Provide a long term strategic framework for 'sustainable water cycle management' within the municipality
- Define achievable and sustainable targets for 'sustainable water cycle management'.
- Integrate water cycle management into capital projects (eg. building design, road works)
- Initiate monitoring, evaluation and reporting on improvements over time
- Identify best practice opportunities for water management projects and prioritise these in terms of water conservation, water quality and payback period. It may also take into consideration aesthetic improvements
- Encourage a cultural adoption of sustainable water cycle management across the organisation

Within Kingston the project will be internally coordinated by Council's Industry Sustainability Officer, Tony Barrett and Desiree Lovell, Team Leader Environment & Planning. In addition to the project steering committee, an internal project group would also be established consisting of key internal stakeholders to provide input, build capacity and understanding across the organisation.

4. Options

1. Invest resources to review and update the existing water strategies

Council's Stormwater Quality Management Plan (2000) and Sustainable Water Use Plan (2006) are now out-dated and require a review. Council can invest resources to update the strategies separately, however this would result in significant gaps (such as considering our impact on ground water and utilising waste water) in achieving sustainable water cycle management within Kingston.

2. Invest resources to prepare a water cycle strategy

Council can work in partnership with Melbourne Water to prepare a water cycle strategy that considers whole of water management, including potable water conservation, stormwater management, waste water management and ground water conservation and protection in a holistic and strategic approach. This approach would provide an excellent framework for water management into the future and place Council as a leader in the field.

5. Triple Bottom Line Checklist

Environmental

A water cycle strategy will assist Council manage water resources in a sustainable manner, providing additional alternative sources of water and improving receiving waters to our creeks and Bay.

Social

A Kingston water cycle strategy will provide a framework for making more water resources available for our community and give direction to improve the quality of our waterways and Bay. This will place Council as a leader amongst local government in this field, and lead the community by example.

Financial

Melbourne Water have provided in principal support in the form of funding and expertise for the development of the water cycle strategy. Subject to further discussions it is anticipated Melbourne Water will fund approximately 50% of the project with Council funding the remaining costs. Council will need to identify a funding source for its contribution for the 2009/10 year.

6. Summary and Conclusion

Council has adopted the 'Local Environment Sustainability Priority Statement' which identifies the need for a water cycle strategy. The development of a strategy would include the review of Councils Stormwater Quality Management Plan and Sustainable Water Use Plan which are now out dated. The development of a water cycle strategy has in principal support from key partner Melbourne Water. Development of the strategy and implementation of key actions will provide better management of water resources in a holistic strategic manner, show leadership to the community and place Council in the forefront of water management at a local government level.

7. Recommendation

That the Council endorse the preparation of a Kingston water cycle strategy in conjunction with Melbourne Water with funding from the Council's 2009/10 budget.

Attachment 1:

Letter of Support from Melbourne Water

Crs Staikos/West

That the recommendation be adopted.

Carried



16 February, 2009

Desiree Lovell
Team Leader Environment and Planning
City of Kingston
PO Box 1000
Mentone VIC 3194

Melbourne Water Corporation
ABN 81 945 386 953
100 Wellington Parade
East Melbourne 3002 Victoria
PO Box 4342
Melbourne 3001 Victoria
Telephone 131 722
Facsimile 03 9235 7200
www.melbournewater.com.au

Dear Desiree,

Re: Partnership Agreement – Kingston Water Cycle Management Strategy

This letter outlines in principal support between Melbourne Water (MW) and City of Kingston (Kingston) to work in partnership to develop a Water Cycle Strategy (the strategy) for the municipality.

It is understood this strategy will address council's four water streams of stormwater, potable water, ground water, and waste water. The aim of the strategy is to improve Kingston's management of each to ensure sustainable management of these into the future. Melbourne Water recognises the level of leadership shown by Kingston and offers the opportunity to partner with Living Rivers Stormwater Program.

Capacity building

Living Rivers Stormwater Program (Living Rivers) aims to build capacity within local government to integrate sustainable stormwater management. Currently the program works with 38 councils throughout the Port Phillip and Westernport region to protect the rivers, creeks, and other receiving water bodies from the damaging effects of urban stormwater. One of the important aspects for local governments working together with MW is to ability to undertake Water Sensitive Urban Design (WSUD) in council planning, development and management.

Partnership

At this early stage Living Rivers is keen to partner with Kingston to refine the brief for the Strategy. Once the brief is resolved, Living Rivers will sit on a steering group, to assist its ongoing development and provide funding to ensure stormwater quality objectives are integrated into the overall Strategy. Support to facilitate key actions of the Strategy could be provided in the form of funding, expertise and assistance. However this will be detailed once these actions have been identified.

Funding Criteria Assessment

To date Kingston and Living Rivers have worked in partnership on a range of structural and strategic projects. In order to gain funding support, these successful projects have met key assessment criteria by demonstrating capacity and knowledge transfer opportunities as well as stormwater quality outcomes for receiving waters. As a strategic project, the Strategy has ability to develop Kingston's organisational commitment to sustainable stormwater quality, which will have benefits for policy, planning, capacity (knowledge and resources), on ground works and development. Living Rivers supports the following outcomes:

- Provide a long term strategic framework for 'sustainable water cycle management' within the municipality
- Define achievable and sustainable targets for 'sustainable water cycle management'
- Integrate water cycle management into capital projects (eg. building design, road works)
- Initiate monitoring, evaluation and reporting on improvements over time
- Identify best practice opportunities for water management projects and prioritise these in terms of water conservation, water quality and payback period. It may also take into consideration aesthetic improvements
- Encourage a cultural adoption of sustainable water cycle management across the organisation

A key point of interest for Living Rivers is for Kingston to act as a leader within its catchment across its municipal boundary. This could be achieved by facilitating other councils to undertake their own Water Cycle Management Strategies, using key outcomes and resources developed with the assistance of Living Rivers.

I look forward to working with you further on this exciting innovative initiative. Please contact me if you require any clarification.

Yours sincerely

A handwritten signature in black ink, appearing to read 'L Harvey', with a stylized flourish at the end.

LEON HARVEY
PROGRAM LEADER, LIVING RIVERS STORMWATER PROGRAM

10. Community Sustainability Reports

L 30 Kingston Community Safety Strategy 2008-2011

Approved by: Mauro Bolin - General Manager Community Sustainability

Authors: Heath Stenton, Team Leader, Community Engagement
Dominic McCann, Coordinator, Community Projects

1. Purpose

The purpose of this report is to seek Council endorsement of the *Community Safety Strategy 2008- 2011* enabling Council to take a lead role in providing a safe and secure environment for the people who live, work and participate in the life of the City.

This strategy relates to the visions set out in the Council Plan 2008 - 2013, in particular;

- Strategy 3.1 Strive to create and maintain an environment where people feel safe and secure.
- Strategy 3.3 Connect and improve the strength and capacity of local communities.
- Strategy 3.4 Community Education.

2. Background

Through its first *Community Safety Strategy*, developed in 2004, Council resolved to assist with providing a safe and secure environment for those that live, work and participate in the life of the City

The development of the second *Community Safety Strategy 2008 - 2011* continues to commit Council to enhancing the safety and security of the Kingston community. Council's role is one of coordination and facilitation, and working in partnership with the community to improve and maintain safety within Kingston.

The Strategy incorporates crime and injury prevention as well as broader quality of life and well-being issues. It promotes people's confidence to participate fully in the life of their community without fear of, or actual, harm or injury.

The Strategy includes data from a range of sources and key stakeholders. This has been collated to assist with the identification of the key community safety issues, both actual and perceived, in Kingston. A wide range of interest groups, key stakeholders and community members were invited to make comment in drafting the Strategy.

In summary consultation included input from:

- Three public community safety forums
- Community safety surveys
- Community Safety Technical Reference Group (CSTRG). Its members include Victoria Police, Metropolitan Fire and Emergency Services Board, Country Fire Authority, Vicroads, Central Bayside Community Health Services, Department of Education.

- Youth Forum & Youth Consultative Committee
- Community Satisfaction Survey
- Council officers
- Individual community members.

The Strategy has also considered material arising from the following sources:

- World Health Organisation Safe Communities Program
- World Health Report on Violence and Health
- The National Research Project into Good Practice in Community Crime Prevention
- A Fairer Victoria State Government social policy document
- Best practice in other local governments in Victoria
- Police reported crime statistics for Kingston.

3. Issues

The *Community Safety Strategy 2008-2011* is an evidence-based, overarching strategy intended to fill any gaps and complement, rather than override or duplicate, other existing Council strategies. Community Safety is an all-embracing concept, incorporating many aspects of community life and Council responsibility. As such, there are a number of strategies in existence, coordinated by a range of Council departments, which consider aspects of community safety. These include:

- Municipal Public Health Plan 2006-2009
- Emergency Management Plan
- Municipal Fire Prevention Plan
- Alcohol & Other Drugs Strategy
- Kingston Youth Strategy 2007-2010
- Disability Action Plan
- Multicultural Action Plan
- Community Plan 2006-2010.

In presenting the *Community Safety Strategy 2008-2011* it is important to recognise that the strategy is not Council's only response to Community Safety but is a complementing strategy to existing Council Actions, Strategies and Plans.

Key Areas for Action in the Strategy

A background report *Community Safety: Emerging Issues in Community Safety* was produced in late July 2008. This report informed the development of the *Community Safety Strategy 2008 - 2011*, and identified six key action areas where Council's efforts and resources should have focused strategic actions. The key areas of focus were identified as:

- Coordination & Leadership of Community Safety
- Safety Related to Young People
- Safety in Public Open Space
- Effects of Alcohol & Other Drugs on Crime, Violence and Injuries
- Safety on and around Public Transport
- Home and Family Safety.

The strategic actions related to these areas of focus are identified in the *Community Safety Strategy 2008-2011*.

4. Triple bottom line

4.1 Environmental:

Activities pertaining to the *Community Safety Strategy* will be undertaken utilising existing environmental resources. In particular the strategy addresses:

- Promoting the use of and natural surveillance of public spaces.
- Conducting safety audits (night and day) of perceived ‘high risk’ locations identified through community consultations.
- Design and implementing strategies using crime prevention principles to address safety concerns in identified perceived ‘high risk’ locations.
- Safety Strategies to improve environment, amenities and facilities for the community.

4.2 Social:

The Strategy seeks to achieve the following social outcomes:

- Increased ownership and participation of individuals, to enable local safety issues to be identified and addressed in partnership with the community.
- Implementation of inclusive programs, acknowledging the diversity of cultures, issues and need throughout the municipality.
- Improved community perceptions of safety through the implementation of a range of strategies that address actual and perceived safety issues.

4.3 Financial:

Activities pertaining to the *Community Safety Strategy* will be undertaken within existing resources.

5. Conclusion

Adoption of the *Community Safety Strategy 2008- 2011* will continue to enable Council to take a lead role in providing a safe and secure environment for the people who live, work and participate in the life of the City.

The *Community Safety Strategy* recognises the role that the community has in creating a safe community and that it is only through partnerships with key stakeholders and the community that this objective can be realised. The *Community Safety Strategy* is an evidence-based, overarching strategy intended to fill any gaps and complement, rather than override or duplicate, other strategies of Council. Community Safety is an all-embracing concept, incorporating many aspects of community life and Council responsibility. As such, there are a number of strategies in existence, coordinated by a range of Council departments, which consider aspects of community safety.

The Community Safety Strategy again highlights that Kingston is a relatively safe place to live, and there are a number of facets to living in the City of Kingston that contribute to safety and feelings of being safe.

6. Recommendation

1. That the *Community Safety Strategy 2008-2011* be adopted by Council.
2. That Council note the Community Safety Reference Group (CSRG) established out of the first Community Safety Strategy will continue to assist Council to deliver the strategic actions contained in the Strategy.

Attachment:

Kingston Community Safety Strategy 2008-2011

Crs Peulich/Staikos

That the matter be deferred to a future Council meeting.

Carried

3.2 Unallocated Ward funds at end of Council Term

At present Council's Expenditure of Ward Fund Policy is silent on the utilisation of unallocated ward funds at the end of a Council term. Options were sought for the management of this process, and ranged from returning funds to general Council budget, division amongst all Councillors or carrying over funds. It is proposed that ward funds unexpended by a Councillor be carried over to that Councillor if re-elected. In a ward where a Councillor has not been re-elected, any left over ward funds to be distributed to the current Ward Councillors.

This will see funds allocated in general to the localities for which they were budgeted.

This and the changes noted above is reflected in an amended policy included as attachment 1 to this report.

4. Triple Bottom Line Checklist

- Environmental – not applicable
- Social - the policy responds to community needs by supporting local projects that arise throughout the year in the various wards.
- Financial – the policy ensures allocation of funds falls within the provisions of the Act.

5. Recommendation

That Council adopt the revised Expenditure of Ward Fund policy.

Crs Brownlees/Shewan

That the recommendation be adopted.

Carried

Attachment:

Draft revised Expenditure of Ward Fund Policy

Policy No	2009/2
Policy Type	Council Approved - Date
Revision and version	Revised March 2009 Amended 28 August 2006 Adopted 25 July 2005
Review Date	February 2012

Expenditure of Ward Funds Policy

PURPOSE & INTENT

Council seeks to support local communities through the distribution of Ward Funds to community groups, individuals and events that support the delivery of the Council Plan and provide benefit to Kingston residents.

SCOPE

Applies to the allocation of ward funds by Councillors.

DEFINITIONS

Ward Fund – annual budget allocation to a Councillor.

RESPONSIBLE EXECUTIVE

CEO

CONTACT OFFICER

Manager Governance and Performance Planning

RELATED DOCUMENTS

Councillor Code of Conduct
Local Government Act 1989 sections 98, 76

DELEGATION AUTHORITY

Nil.

POLICY STATEMENT

The purpose of this policy is to regulate expenditure of ward funds by Councillors.

PROCEDURES

1 Provision of Ward Funds

- 1.1 Funding may be allocated in the Council adopted budget for the purpose of ward based expenditure by a Ward Councillor.

2 Limitations on Expenditure

2.1 Ward funds may be proposed by the Ward Councillor 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.

2.2 Funds may be distributed outside of the specific ward of the Councillor expending the funds, provided that they are expended for the benefit of the Kingston community, and that one or more of the criteria set out in clause 2.1 are met.

2.3 Funds shall not be used for the purpose of promoting ward meetings, or for other costs incurred in connection with ward meetings. Promotion of ward meetings should occur by way of Council's Community Column in local newspapers.

2.4 Funds shall not be used to pay for the attendance at seminars by Village Committee members, as representatives of the Village Committees are not responsible for the implementation of policy and organisational strategy.

3 Unexpended Funds

- 3.1 Ward funds unexpended in a given financial year may be carried over to the following financial year, for allocation in accordance with this policy.
- 3.2 Following a general election, unexpended Ward Funds for a returning Councillor will be retained by that Councillor. Unexpended Ward Funds for non returned Councillors will be reallocated evenly to all Councillors within the ward to which the allocations were made.
- 3.3 Incoming Councillors on the new Council be allocated the pro-rata balance of the annual Ward Funds allocation for the remainder of the financial year.

4 Allocation of Ward Funds During Election Caretaker Period

- 4.1 Whilst ward funds may be expended during the caretaker period prior to an election, they must not be used for election related purposes, nor should unusually disproportionate levels of grants be made during the caretaker period.

5. Administration of Ward Funds

- 5.1 All Ward Fund allocation be subject to Council decision through notice of motion/Council report process. Ward funds shall be processed in accordance with this policy by the Manager Governance and Performance Planning or the Council Business Team Leader acting in accordance with the Council resolution.
- 5.2 A listing of all ward fund allocations, including the names of the recipient and the relevant Councillor, will be included in each Annual Report.

DECISION GUIDELINES

None.

TRANSITION/TRANSLATION ARRANGEMENTS

Nil.

L 32

Village Committee Appointments

Author: Jason Stubbs, Manager Governance and Performance Planning

Approved By: Elaine Sowerby-
General Manager Organisational Development and Governance

1. Background

Council's "Policy for the Operation of Village Committees" provides that membership vacancies be advertised in October each year. Applications were duly invited in Kingston Your City and in local newspapers.

2. Retirements

The terms of 32 Village Committee members expired on 31 December 2008 but at the Ordinary Council meeting of 22 September 2008, terms were extended until the end of March 2009 to allow time for the new Councillors to become acquainted with the Village Committee process and to interview prospective new members.

In addition to the three members of the 2008 Village Committees who have been elected to Council, Ten of the members have elected to retire from the program now that their terms have expired. Each will be invited to the Ordinary Meeting to be held on 27 April 2009 in order that their contribution to the Village Committee program can be publicly recognised, together with other members who have resigned in the course of 2008.

The ten members who have elected not to reapply are:

- George Yianni, Reine Lajoie, Gordon Hopkins, Matthew Hunter, Sally Baker, Afsah Finocchiaro, Chris Durrell, John Atkinson, Clarie Button and Simone Corby.

Additionally, the following members resigned in 2008 or early 2009:

- Helen Cole, Debra Woff, Keith Meador, Bruce Curtis, Jade Mason, Bruce Wheeler and Shirley Straker. Andreas Sneikus's position was forfeited.

3. Applications Received

In addition to nineteen current members who have reapplied seeking additional terms, seventeen applications have been received from persons who were not a member of any Village Committee in 2008.

Each new applicant has been met by a Ward Councillor(s) and the applicable Chairperson to discuss their application. Advisory Officers formally notated the interview proceedings.

Interview Panels have recommended appointment in each case as no Village Committee has more nominations than vacancies, and proposed varying terms to assist in the maintenance of a uniform membership cycle of rotation.

4. Appointments

Council's Village Committee policy provides that each Committee shall have between 7 and 12 members, unless there are insufficient applications to achieve 7 members. Applications received for each Committee are detailed in this report.

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Aspendale/Edithvale/Aspendale Gardens/Waterways

Automatically Continuing: Fabian Fiore, Kevin Griffiths, Ray Burgoyne,
Raymond Smith, Aaron Cox, Darren Walsh

Expiring and Reapplied: Tamsin Bearsley, Kenneth Carney

New: Tracey Ditchburn, Graham Malcolm

Not Continuing: Andreas Sneikus

March 2009 Membership 10

2008 Membership: 9

Chelsea/Chelsea Heights/Bonbeach

Automatically Continuing: Nigel McGillivray, Caroline O' Donnell, Leanne Stray,
Vasiliky Kasidis, Janelle House, Carlos Lopez

Expiring and Reapplied: Vicki Jans, Maria Reiter

New: Peter Crawford, John Bainbridge

Not Continuing: Trevor Shewan (elected to Council), George Yianni, Reine Lajoie

March 2009 Membership 10

2008 Membership: 11

Cheltenham

Automatically Continuing: Louse Birt, Joseph Astbury, John Natoli, Damian Clancy, Vic
Russo

Expiring and Reapplied: James Mullett, Linda Patterson, John Stewart OAM

New: N/A

Not Continuing: Ron Brownlees (elected to Council),
Helen Cole (resigned)

March 2009 Membership 8

2008 Membership: 10

Clarinda /Oakleigh South

Automatically Continuing: David Catchpool, Gael Mizzi, Tony Misajon, Charlie Mizzi, Clyde
Rose

Expiring and Reapplied: Robert Rowlands, Nirmala Santakumar

New: Veeda Oakley, David Oakley, Margaret Howse,
John Antonakis

Not Continuing: N/A

March 2009 Membership 11

2008 Membership: 7

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Clayton South

Automatically Continuing: David Oates, Norm Bury
Expiring and Reapplied: Yassin Hamid
New: N/A
Not Continuing: Gordon Hosking, Debra Woff (resigned) and Keith Mealor (resigned)
March 2009 Membership 3
2008 Membership: 6

Dingley/Heatherton

Automatically Continuing: Tony Schrader, Bruce Reynolds, Carmel Mullen, Allan Harris, Anne Caprackas, Paul Baumgartner
Expiring and Reapplied: Shirley De Wever, Carol Hinschen
New: N/A
Not Continuing: Matthew Hunter, Bruce Curtis (resigned) and Jade Mason (resigned)
March 2009 Membership 8
2008 Membership: 11

Mentone/Parkdale

Automatically Continuing: Penny McGuire White, Reg Marlow, Dorothy Booth, Noelene Quinsey, Jeremy Nash, Veronica Hahn
Expiring and Reapplied: Claire Houston
New: Murray Orr, Barbara Taylor, Pete Dowe, Sheena Frost, Nora Wu
Not Continuing: Sally Baker, Lewis Dundas (elected to Council), Shirley Straker (resigned)
March 2009 Membership 12
2008 Membership: 10

Moorabbin/Highett

Automatically Continuing: Robyn Cochrane, Thelma Mansfield, Les Heimann, Ian Shearer, Sandra Dickson
Expiring and Re-Applied: Clive Lynch
New: Glenn Winstanley
Not Continuing: Afsah Finocchiaro, Chris Durrell, John Atkinson
March 2009 Membership 7
2008 Membership: 9

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Mordialloc

Automatically Continuing: Margaret Hunter, Raghava Dasika, Tom Uren,
Barry Bush, Andrew Gustke, Judy Fields
Expiring and Re-Applied: Mary Rimington OAM, Jennifer O'Halloran,
Allan Locke
New: David Van Pelt, Elizabeth Crespin
Not Continuing: Bruce Wheeler (resigned)
March 2009 Membership 11 *
2008 Membership: 10

* It was noted that applicant Judith Beazley was unavailable for interview until after the Council meeting on 23 March 2009, and her application will be considered at a later date.

Patterson Lakes/Carrum/Bonbeach

Automatically Continuing: Malcolm Dunkinson, Don Reed, Pat King, Judy Wilks, Gwen
Gilbert, Glen Baker, Marie McIntosh,
Gail Ricato
Expiring and Reapplied: Irma Shelton, Elaine McCormack
New: Marie Chapman
Not Continuing: Claire Button, Simone Corby
March 2009 Membership 11
2008 Membership: 12

5. Terms of Appointment

The Village Committee policy permits Village Committee members to be allocated 3 year terms. However, Council may appoint for a lesser term in order to:

- establish a cycle of rotation, or
- fill an extra-ordinary vacancy

A number of the Village Committee interview panel have proposed for Council's consideration a range of terms of appointment to assist in the maintenance of an appropriate membership cycle of rotation.

Accordingly, the following terms of appointment are proposed. Names in italics are being proposed to be appointed to a new or additional term.

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Name	Date of Expiry of Term
Aspendale/Edithvale/Aspendale Gardens/Waterways	
Kevin Griffiths	31 December 2009
Ray Smith	31 December 2009
Aaron Cox	31 December 2010
Darren Walsh	31 December 2010
Fabian Fiore	31 December 2010
Ray Burgoyne	31 December 2010
<i>Tamsin Bearsley</i>	<i>31 December 2011</i>
<i>Ken Carney</i>	<i>31 December 2011</i>
<i>Tracey Ditchburn</i>	<i>31 December 2011</i>
<i>Graham Malcolm</i>	<i>31 December 2011</i>
Chelsea/Chelsea Heights/Bonbeach	
Nigel McGillivray	31 December 2009
Janelle House	31 December 2009
<i>Peter Crawford</i>	<i>31 December 2009</i>
Caroline O'Donnell	31 December 2010
Vasiliky Kasidis	31 December 2010
Carlos Lopez	31 December 2010
Leanne Stray	31 December 2010
<i>Vicki Jans</i>	<i>31 December 2011</i>
<i>Maria Reiter</i>	<i>31 December 2011</i>
<i>John Bainbridge</i>	<i>31 December 2011</i>
Cheltenham	
Joseph Astbury	31 December 2009
John Natoli	31 December 2009
Damian Clancy	31 December 2009
Louise Birt	31 December 2010
Vic Russo	31 December 2010
<i>James Mullett</i>	<i>31 December 2011</i>
<i>Linda Patterson</i>	<i>31 December 2011</i>
<i>John Stewart OAM</i>	<i>31 December 2011</i>

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Clarinda/Oakleigh South	
Tony Misajon	31 December 2009
Clyde Rose	31 December 2009
Gael Mizzi	31 December 2009
David Catchpool	31 December 2010
Charlie Mizzi	31 December 2010
<i>Robert Rowlands</i>	<i>31 December 2010</i>
<i>Nirmala Santakumar</i>	<i>31 December 2010</i>
<i>Veeda Oakley</i>	<i>31 December 2011</i>
<i>David Oakley</i>	<i>31 December 2011</i>
<i>Margaret Howse</i>	<i>31 December 2011</i>
<i>John Antonakis</i>	<i>31 December 2011</i>
Clayton South	
David Oates	31 December 2010
Norm Bury	31 December 2010
<i>Yassin Hamid</i>	<i>31 December 2011</i>
Dingley/Heatherton	
Tony Schrader	31 December 2009
Bruce Reynolds	31 December 2009
Allan Harris	31 December 2009
Anne Caprackas	31 December 2010
Carmel Mullen	31 December 2010
Paul Baumgartner	31 December 2010
<i>Shirley De Wever</i>	<i>31 December 2011</i>
<i>Carol Hinschen</i>	<i>31 December 2011</i>
Mentone/Parkdale	
Dorothy Booth	31 December 2009
Noelene Quinsey	31 December 2009
Veronica Hahn	31 December 2009
<i>Nora Wu</i>	<i>31 December 2009</i>
Reg Marlow	31 December 2010
Penny McGuire White	31 December 2010
Jeremy Nash	31 December 2010
<i>Pete Dowe</i>	<i>31 December 2010</i>
<i>Claire Houston</i>	<i>31 December 2011</i>
<i>Barbara Taylor</i>	<i>31 December 2011</i>
<i>Sheena Frost</i>	<i>31 December 2011</i>
<i>Murray Orr</i>	<i>31 December 2011</i>

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Moorabbin/Highett	
Robyn Cochrane	31 December 2009
Thelma Mansfield	31 December 2009
Ian Shearer	31 December 2009
Sandra Dickson	31 December 2009
Les Heimann	31 December 2010
<i>Clive Lynch</i>	<i>31 December 2011</i>
<i>Glenn Winstanley</i>	<i>31 December 2011</i>
Mordialloc	
Raghava Dasika	31 December 2009
Judy Fields	31 December 2009
<i>Mary Rimington OAM</i>	<i>31 December 2009</i>
Tom Uren	31 December 2010
Barry Bush	31 December 2010
Andrew Gustke	31 December 2010
Margaret Hunter	31 December 2010
<i>Allan Locke</i>	<i>31 December 2011</i>
<i>Jennifer O'Halloran</i>	<i>31 December 2011</i>
<i>David Van Pelt</i>	<i>31 December 2011</i>
<i>Elizabeth Crespin</i>	<i>31 December 2011</i>
Patterson Lakes/Carrum	
Don Reed	31 December 2009
Gwen Gilbert	31 December 2009
Marie McIntosh	31 December 2009
Gail Ricato	31 December 2009
Malcolm Dunkinson	31 December 2010
Pat King	31 December 2010
Judy Wilks	31 December 2010
Glen Baker	31 December 2010
<i>Irma Shelton</i>	<i>31 December 2011</i>
<i>Elaine McCormack</i>	<i>31 December 2011</i>
<i>Marie Chapman</i>	<i>31 December 2011</i>

6. Recommendation

That:

1. Village Committee members be appointed as set out in this report; and
2. Applicants be advised of the outcome of their application.

Crs Staikos/West

That the recommendation be adopted.

Carried

3. Issues

The sale or transfer of land requires a resolution of Council.

It is considered by officers that a reserve for electrical sub-station purposes rightly belongs in the ownership of the utility company. The risk associated with Council owning such an asset is not justified and not within the remit of Local Government. If Council continues to hold title to the land it is open for a party to join Council in litigation. Such litigation could include anything from property damages to wrongful death. Whilst it is open for Council to seek a financial return for the proposed sale, it is not recommended. In the event that UED were to refuse to complete a purchase Council would be left in a position of having no other buyer and the asset would remain in Council's ownership with the full risks that flow from "owning" land on which an electrical supply asset is situated.

It was proposed to undertake a transfer of the land without consideration in accordance with section 191 of the Local Government Act to UED as a Public Body. Following the last report to CLG and CIS United Energy's solicitors have advised that UED does not fall under the definition of a "Public Body" for the purposes of section 191 of the Act.

The transfer of the land will now need to be undertaken in accordance with section 189 of the Act in the same manner as a conventional disposal of Council land to another party. Subject to Council approval, valuation of the land will be carried out and Council's intention to undertake a sale to UED will be advertised.

4. Recommendation

That Council:-

1. Commences proceedings under sections 189 and 223 of the Local Government Act to sell the land contained in Certificate of Title Vol 10244 Fol 067 to United Energy Distribution for the consideration of \$1.
2. Appoint a committee pursuant to section 223 of the Local Government Act comprising Paul Franklin, General Manager Corporate Services, Julian Harvey, Manager Property Services, Cr Rosemary West, Cr Lewis Dundas and Cr Ron Brownlees to hear any submissions received in response to the public notice given under section 189, and that the committee report back to Council.

In the event that no submissions are received, the property be sold to United Energy Distribution for the consideration of \$1.

Crs Brownlees/West

Motion:

That the recommendation be adopted, subject to paragraph 2 of the recommendation being amended to substitute the words "Cr Rosemary West and/or Cr Lewis Dundas and/or Cr Ron Brownlees" for the words "Cr Rosemary West, Cr Lewis Dundas and Cr Ron Brownlees".

The motion was put and **carried**.

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

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Crs Brownlees/Bauer

That Council:

1. Commences proceedings under sections 189 and 223 of the Local Government Act to sell the land contained in Certificate of Title Vol 10244 Fol 067 to United Energy Distribution for the consideration of \$1.
2. Appoint a committee pursuant to section 223 of the Local Government Act comprising Paul Franklin, General Manager Corporate Services, Julian Harvey, Manager Property Services, Cr Rosemary West and/or Cr Lewis Dundas and/or Cr Ron Brownlees to hear any submissions received in response to the public notice given under section 189, and that the committee report back to Council.

In the event that no submissions are received, the property be sold to United Energy Distribution for the consideration of \$1.

Carried

Councillors are asked to note that item (1) above and in the attached report which relates to the required accounting treatment for the net outcome of the sale of land at 640 Nepean Highway, Carrum. This sale has resulted in a “book” profit of \$465k. In assessing the overall variance it is appropriate to remove this “one-off” item from consideration of the overall position.

Doing so would result in an “underlying” forecast operating surplus of \$3.749m which is more comparable to the budget surplus of \$3.451m, or \$298k favourable.

Part 2 – Capital Budget

Variations to the 2008/09 Capital Budget have been progressively reported in Monthly Capital Program updates. A detailed review of Capital Project delivery timeframes by responsible officers, and the inclusion of recommendations coming from separate reports to CIS/Council, have contributed to this consolidated summary of adjustments to the 2008/09 Capital Program.

3. Issues

3.1 Overall Capital Program Budget

The current official (July08) 2008/09 Capital Budget of \$26,534,804 is proposed to become \$26,873,185 - an increase of \$338,381. This revised budget includes Supplementary Carry Overs and adjustments to reflect 2007/08 projects carried over to 2008/09 for completion this financial year which are funded from 2007/08 budget.

3.2 Grants, Incomes and Reserves

Since the adoption of the original Capital Budget there have been a number of new grants received and corrections to capital income assumptions required, providing a minor net increase of \$6,581. A detailed listing of grant income adjustments is attached (refer Attachment 3).

3.3 Carry Over / Bring Forward

Total value is \$2,236,800 – (Carry Over balances with Bring Forward). Carry Over amounts are identified project budgets that can not be delivered within the current financial year. This may be part or all of an allocated project budget. The Carry Over amount is used to ensure the full budget allocation is made available to complete projects that cross financial year reporting periods.

From a cash flow perspective however Carry Overs project funds provide an opportunity to Bring Forward a corresponding value of works from the Capital Works Forward Plan which have short lead times and can be delivered before the end of June 2008.

Set out below are the projected 2008/09 capital projects and associated budget allocations expected to be carried over to the 2009/10 financial year for completion. Attachment 2 provides additional information on project Carry Overs and why.

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<u>Proposed 2008/09 Carry Over Budget to 2009/10</u>	<u>Carry Over</u>
Regional Soccer Strategy	\$370,000
Asset Management System	\$200,000
Mordialloc Structure Plan - Stg2 Bay to Rail Project	\$170,000
Chelsea/Bonbeach Urban Renewal Project	\$48,000
Beach Bike Path – Implementation	\$50,000
Nylex Sign Heritage Restoration	\$20,000
IS - Backup Solution	\$30,300
Southern Road Extension	\$600,000
Shopping Centre Amenity Prog - Mentone	\$393,500
<i>Community Infrastructure Renewal - Fed Grant (\$488K)</i>	
Moorabbin Bowls Club Artificial Green	\$130,000
Doug Denyer Res - Sustainable water project	\$110,000
L.F.Payne Hall - Upgrade Works	\$50,000
Kingston Hall - Foyer & External works	\$65,000
Total Carry Over to 2009/10	\$2,236,800

Set out below are capital projects that can be brought forward to the 2008/09 financial year and completed by the end of June. The benefit of this strategy is that the community obtains the benefits of this capital investment in community assets.

<u>Proposed Projects to be Brought Forward</u>	<u>Bring Fwd</u>
Moorabbin Golf Course Decommissioning Works	\$250,000
Mordialloc Water Tower – Restoration	\$150,000
Asbestos Audits - Assets on council land	\$70,000
Parks Strategy Implementation	\$50,000
Kingston Hall Alterations	\$54,000
Waves AC Upgrades	\$20,000
Heatherton Reserve Masterplan	\$40,000
Bonbeach Nursery Improvements	\$15,000
Mentone Office AC Upgrades	\$100,000
Sealing of Argyle Av Access Track to Sportswomen Centre	\$74,000
Cricket Net Renewal Program	\$120,000
Athletics Tracks Renewal – Dolomore	\$100,000
Water Conservation projects - Tanks	\$15,000
Road & Drainage Program	\$578,800
Total Proposed Bring Forward to 2008/09:	\$1,636,800

As can be seen the Carry Over is the same monetary value as the proposed Bring Forward which contributes to no net change to the overall value of the 2008/09 Capital Works Program.

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3.4 2008/09 Project Budget Increases and Decreases

During the progression of the year some project funding was determined to be no longer required by Council or the project no longer being possible to achieve because of other factors. However, “New Projects” have emerged during the course of 2008/09 with funding requirements.

This provides an opportunity for urgent projects and others with identified overruns to be accommodated within the overall available Capital Budget funding allocation. Set out below are details of 2008/09 capital funding freed up under “Project Budget Decreases” and nominated projects for these funds to be re-allocated to under “Project Budget Increases” as part of Council adjusted 2008/09 Capital Budget program of works. These are also contained in Attachment 2.

<u>Project Budget Decreases</u>	<u>Decrease</u>
Shopping Centre Amenity Prog – Mentone	\$50,000
Total:	\$50,000

<u>Project Budget Increases</u>	<u>Increase</u>
Mordialloc Shops	\$50,000
Oaks Avenue Service Relocation	\$120,000
Cheltenham RSL Carpark Construction	\$45,000
Chelsea Heights Community Garden	\$20,000
Heatherton Reserve Pavilion	\$50,000
CLOC Improvements to Dane Rd Hall	\$20,000
Moorabbin Golf Course Decommissioning Works	\$250,000
Preschool Improvements Farm Rd	\$15,000
Arts & Culture - Guns in Main St Mordialloc (+ \$3k Grant)	\$41,300
Total:	\$611,300

3.5 Capital Summary

As is typical for a mid year budget review there are a number budgetary ups and downs.

Proposed Bring Forwards of \$1,636,800 (6% of total program) allow delivery of optimal capital works program in order to maximise community benefit derived from Council capital investment in community assets.

With Project Decreases more than matching the value with New Projects and Project Overruns (net saving \$38,700), no additional funding is required from Council’s overall financial reserves. There is no negative consequence to the Corporate Financial Plan

4. Conclusion

In summary the forecast Operating Budget is expected to result in a \$763,000 favourable (\$298,000 underlying) to budget variance as at 30 June 2009. This translates to a favourable cash position of the same amount when compared to the adopted budget.

The forecast new or existing projects together with the projects to be brought forward from 2009/10 to 2008/09 in the Capital Budget are fully funded with a minor surplus of \$38,700.

Management will, in the future, also monitor the budget outcomes to the forecast rather than solely against the adopted budget.

5. Recommendation

That Council note that above report and endorse the forecast operating budget position as at 30 June 2009 and detailed amendments to Council's adopted 2009/10 Capital Works Budget.

Crs West/Staikos

Motion:

That the recommendation be adopted, subject to a paragraph 2 being added to the recommendation, as follows:

"2, That Council allocate \$10,000 to support the completion of works to the Soppett Pavilion."

The motion was put and **carried**.

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

Crs West/Staikos

That Council:

1. note that above report and endorse the forecast operating budget position as at 30 June 2009 and detailed amendments to Council's adopted 2009/10 Capital Works Budget.
2. allocate \$10,000 to support the completion of works to the Soppett Pavilion.

Carried

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Attachment 1

Council Operating Financial Forecast to 30th June 2009

Income Statement

	Forecast	Annual Budget	Variance
Income			
1000 - Rates	<u>79,500,000</u>	<u>78,720,420</u>	<u>779,580</u>
1010 - Grants and Subsidies	<u>26,217,720</u>	<u>26,358,968</u>	<u>(141,248)</u>
1020 - Contributions, Reimbursements & Donations	<u>2,620,038</u>	<u>2,592,000</u>	<u>28,038</u>
1030 - User Fees & Charges	<u>21,870,543</u>	<u>22,019,912</u>	<u>(149,369)</u>
1040 - Interest Income	<u>1,702,000</u>	<u>1,702,000</u>	<u>0</u>
1050 - Other Income	<u>820,623</u>	<u>771,122</u>	<u>49,501</u>
Total Income	132,730,923	132,164,422	566,502
Expenditure			
2000 - Employee Costs	<u>49,904,033</u>	<u>50,746,240</u>	<u>842,207</u>
2010 - Materials, Contracts & Other	<u>57,433,107</u>	<u>56,304,544</u>	<u>(1,128,563)</u>
2020 - Bad and Doubtful Debts	<u>20,000</u>	<u>20,000</u>	<u>0</u>
2030 - Depreciation & Amortisation	<u>16,500,000</u>	<u>15,800,000</u>	<u>(700,000)</u>
2040 - Interest/Borrowing Costs	<u>362,000</u>	<u>345,000</u>	<u>(17,000)</u>
Total Expenditure	124,219,140	123,215,784	(1,003,356)
 1060 - Net proceeds from Disposal of Assets	 <u>500,000</u>	 <u>0</u>	 <u>500,000</u>
Net Proceeds from Disposal of Assets	500,000	0	500,000
Net Operating Surplus / (Deficit)	9,011,783	8,948,638	63,145
	4,798,000	5,498,000	700,000
Adjusted Net Operating Surplus / (Deficit)	4,213,783	3,450,638	763,145

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Attachment 2

Capital Items for Mid Year Budget Review – Adjustments to Rates Funded Budgets

		Current Budget	Proposed Budget	Increase	Decrease	Carry Over To 2009/10	Bring Forward From 2009/10	Description
C0123	Mordialloc Shops Undergrounding Power	\$0	\$50,000	\$ 50,000				Estimates and scoping of U/G power in Mordialloc Shopping centre (funding offset from C0080)
N0210	Oaks Avenue Service Relocation	\$0	\$ 120,000	\$120,000				Relocation of Council Services from Oaks Av to Westall - \$105k for move to Westall + \$15k IT. As per Council
C0090	Cheltenham RSL Carpark Construction	\$0	\$45,000	\$ 45,000				Contractual commitment to construct carpark linked to sale of land to RSL
N0244	Chelsea Heights Community Garden	\$0	\$20,000	\$ 20,000				Contribution to establishing Community Garden. As per Council
C0085	Heatherton Reserve Pavilion	\$50,000	\$100,000	\$ 50,000				Additional funding to address DDA compliance issues at existing Pavilion
N0029	CLOC Improvements to Dane Rd Hall	\$0	\$20,000	\$ 20,000				Council Contribution to enovations of Dane Rd Hall (CLOC is investing \$80k towards works . As per Council.
N0183	Moorabbin Golf Course Decommissioning Works	\$250,000	\$750,000	\$250,000			\$250,000	Contractual settlement with MAC for Golf Course Decommissioning \$250k 2008/09 Alloc + \$250k Bring Forward + \$250,000 New Funding. As per Council
C0054	Preschool Improvements Farm Rd	\$17,000	\$32,000	\$ 15,000				Additional Works at Farm Road Preschool. As per Council

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		Current Budget	Proposed Budget	Increase	Decrease	Carry Over To 2009/10	Bring Forward From 2009/10	Description
N0141	Arts & Culture - Guns in Main St Mordialloc (+ \$3k Grant)	\$5,000	\$46,300	\$ 41,300				Additional costs of restoration - Project Complete
C0003	Southern Road Extension	\$600,000	\$0			\$600,000		Project has been cancelled - As per Council
C0080	Shopping Centre Amenity Prog - Mentone	\$450,000	\$6,500		\$ 50,000	\$393,500		Delay to decision may make Footpath works undeliverable in 08/09 \$450k less \$50k for Mordialloc U/G Power design
C0043	Regional Soccer Strategy	\$620,700	\$250,700			\$370,000		Project delayed due to consultation and approval of Strategy by Council. Program budget to be partially deferred until 09/10
C0068	Asset Management System (AMS)	\$267,450	\$67,450			\$200,000		With AMS not expected to be selected before Apr 09 Part budget to be carried over to 2009/10 to support rollout and implementation
C0074	Mordialloc Structure Plan - Stg2 Bay to Rail Project	\$205,000	\$35,000			\$170,000		Project will be tendered in March but not likely to proceed until Aug/Sept \$25k Expend + \$10k further commitment - leaves \$170k for Carry Over
N0152	Chelsea/Bonbeach Urban Renewal Project	\$96,000	\$48,000			\$48,000		lead time for consultation/design will required part delivery in 2009/10
N0021	Beach Bike Path - Implementation	\$90,700	\$40,700			\$50,000		lead time for consultation/design will required part delivery in 2009/10
N0004	Nylex Sign Heritage Restoration	\$20,000	\$0			\$20,000		Commencement timing dependent on Developer - Likely 2009/10
C0070	IS - Backup Solution	\$30,000	\$0			\$30,300		Project undeliverable in 2008/09 - Carry Over to 09/10

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		Current Budget	Proposed Budget	Increase	Decrease	Carry Over To 2009/10	Bring Forward From 2009/10	Description
	<u>Community Infrastructure Renewal - Fed Grant (\$488K)</u>							New Incomes from Fed Govt Community Infrastructure Grants - To be delivered by Sept 09
N0245	Moorabbin Bowls Club Artificial Green	\$150,000	\$20,000	See Grants below		\$130,000		New Incomes from Fed Govt Community Infrastructure Grants - To be delivered by Sept 09
N0246	Doug Denyer Res - Sustainable water project	\$120,000	\$10,000	See Grants below		\$110,000		New Incomes from Fed Govt Community Infrastructure Grants - To be delivered by Sept 09
N0247	LF Payne Hall - Upgrade Works	\$78,000	\$28,000	See Grants below		\$50,000		New Incomes from Fed Govt Community Infrastructure Grants - To be delivered by Sept 09
N0248	Kingston Hall - Foyer & External works	\$100,000	\$35,000	See Grants below		\$65,000		New Incomes from Fed Govt Community Infrastructure Grants - To be delivered by Sept 09
N0178	Mordialloc Water Tower - Restoration	\$10,000	\$160,000				\$150,000	Bring Fwd - Recommendation from engineering consultant to bring forward repair works \$110k allocation in 09/10 + \$40k from Notional Alloc
N0030	Asbestos Audits - Assets on council land	\$-	\$70,000				\$70,000	Bring Fwd - 130 assets on council managed lands have been identified with no record of asbestos inspection (scouts halls, etc) As land manager there is a legal implication to be aware of risks. \$70k will allow 60-70 buildings to be audited. With the remainder to be undertaken in 2009/10
C0018	Parks Strategy Implementation	\$50,000	\$100,000				\$50,000	Bring Fwd - \$50k available in current budget - Total Project \$100k

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		Current Budget	Proposed Budget	Increase	Decrease	Carry Over To 2009/10	Bring Forward From 2009/10	Description
N0144	Kingston Hall Alterations	\$86,000	\$140,000				\$54,000	Bring Fwd - Will enable the Banquet Hall operable walls to be installed in Mar 09
N0187	Waves AC Upgrades	\$110,000	\$130,000				\$20,000	Bring Fwd - Additional \$20k will enable current works to be completed in 2008/09
N0131	Heatherton Reserve Masterplan	\$65,969	\$105,969				\$40,000	Bring Fwd - Opportunity to bring forward installation of new scoreboard, plus \$30k for stage one Landscaping and planting.
N0009	Bonbeach Nursery Improvements	\$15,000	\$30,000				\$15,000	Bring Fwd - To allow replacement and upgrade of Hoppers and other Nursery Equip
N0180	Mentone Office AC Upgrades	\$20,000	\$120,000				\$100,000	Bring Fwd - Air Conditioning improvements and installation of false ceiling in atrium to provide improved working conditions
C0111	Sealing of Argyle Av Access Track to Sportswomen Centre	\$0	\$74,000				\$74,000	Bring Fwd - Sealing of access track for dust suppression
C0015	Cricket Net Renewal Program	\$0	\$120,000				\$120,000	Bring Fwd - Yr's 1,2 & 3 of cricket net renewal allocations for urgent risk management works
C0097	Athletics Tracks Renewal - Dolomore	\$0	\$100,000				\$100,000	Bring Fwd - Urgent works to Dolomore Res Athletics Track
C0018	Water Conservation Strategy - Water Tanks	\$100,000	\$115,000				\$15,000	Bring Fwd - Water Collection Tanks for Mentone Office
N0040	Road & Drainage Program		\$578,800				\$578,800	Bring Fwd - Roads & Drainage Contract Works fro 2009/10 program
				\$611,300	\$50,000	\$2,236,800	\$1,636,800	

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Attachment 3

Capital Budget Variations to Grants, Incomes & Reserves

				Increase	Decrease	Carry Over	Bring Forward	
	Community Infrastructure - Fed Grant \$488k Refer 22 Dec Council Meeting	\$0	\$488,000					INCOME - \$488k Fed Grant to be received in 2008/09
N0245	Moorabbin Bowls Club - Artificial Green			\$150,000				INCOME - \$488k Fed Grant to be received in 2008/09
N0246	Doug Denyer Res - sustainable water project			\$120,000				INCOME - \$488k Fed Grant to be received in 2008/09
N0247	L.F.Payne Hall - Upgrade Works			\$ 78,000				INCOME - \$488k Fed Grant to be received in 2008/09
N0248	Kingston Hall - Foyer & External Works			\$100,000				INCOME - \$488k Fed Grant to be received in 2008/09
N0249	Waves Leisure Centre - Outdoor Exercise Equip			\$ 40,000				INCOME - \$488k Fed Grant to be received in 2008/09
C0040	Patterson Lakes Community Centre	\$3,231,000	\$ 3,031,000		\$200,000			CORRECTION - \$200K CSF initial grant receipt taken up in 2007/08 accounts
C0041	Moorabbin Res Redevelopment Gov Grant				\$350,000			CORRECTION - Grant allowance was paid directly to St Kilda FC by State Government
N0225	DR- FAIRWAY/MASCOT Pathway		\$45,000	\$ 45,000				INCOME - Dev Contrib. La Perouse
N0066	JOHNSON AV, Carrum (Nepean to foreshore)		\$13,636	\$ 13,636				INCOME - Dev Contrib.- Johnson Av, Carrum
C0038	Yet Keiu Sea Scout Hall		\$22,727	\$ 22,727				INCOME - Club Contribution to Yet Kieu Sea Scout Hall
C0075	Aspendale Gardens Comm Centre Water Tanks		\$909	\$ 909				INCOME - Contribution from Asp Comm Centre toward Water Tank Installation
C0024	North Aspendale Beach Erosion Control		\$11,360	\$ 11,360				INCOME - Grant form Catchment Management Authority
N0206	Edithvale Wetlands to Mord		\$ 20,000	\$ 20,000				INCOME - Grant form Catchment

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				Increase	Decrease	Carry Over	Bring Forward	
	Crk Habitat Link							Management Authority
N0020	Foreshore Infrastructure Renewal		\$ 2,000	\$ 2,000				INCOME - Grant from Sustainability Victoria - - Recycling on Foreshore
N0017	Doug Denyer Sports Ground		\$ 2,856	\$ 2,856				INCOME - Club Contribution - Mordialloc Sports Club
C0082	Clarinda Tennis Club Upgrade (SRV Grant)		\$ 1,621	\$ 1,621				INCOME - Additional Grant Payment Received
N0157	Chelsea Skate Ramp Repairs = Bicentennial Park		\$ 174	\$ 174				INCOME - Additional Grant Payment Received
C0057	Hostel Regulatory Items (Accreditation)		\$ 48,298	\$ 48,298				PRUDENTIAL increase to offset actual expense
C0087	Yammerbook	\$ 100,000	\$0			\$100,000		RESERVE - Funding from Open Space Reserve
				\$656,581	\$550,000	\$100,000	\$0	

13. Notices of Motion

L 35

**Notice of Motion
Cr West OAM: Chicquita Park**

That in light of:

- Council's February resolution to require compliance with all planning provisions (including Planning Permit conditions and terms of the Section 173 Agreement) for Chicquita Park that are currently or in future breached by the developer:
- But not to require compliance with Clause 29 of the Planning Permit which requires that all future public open space be fully landscaped before any (more) of the houses are occupied provided agreement is reached with the developer to hand over the future public open space to Council to be landscaped, together with funding necessary to cover the cost of the work; and that
- Six weeks later no such agreement has been reached nor funds transferred,

I move that:

1. Council immediately require compliance with Clause 29 by preventing the developer from moving any more residents into dwellings on the former Chicquita Park until either:
 - the public open space is fully landscaped or
 - the developer agrees to hand over the public open space to Council to be landscaped with a suitable funding package.
2. All other provisions of Council's February resolution which have not already been complied with be fully implemented.

(Signed)

Cr Rosemary West OAM

Cr Lewis Dundas declared an interest in relation to this agenda item and left the room at 9.07pm, prior to discussion commencing.

Crs West/Staikos

That the motion be adopted.

Carried

Cr Lewis Dundas returned to the meeting at 9.15pm after the vote had been taken.

L 36

**Notice of Motion
Cr Peulich: State Parliamentary Upper House Inquiry on
Public Transport**

I move that:

That the Kingston Council make a submission to the State Parliamentary Upper House inquiry announced on 11 March 2009 on public transport and that the submission make comment on:

1. Train services, their reliability and capacity, especially at peak hour.
2. Travel available to our youth outside public transport service times, especially those travelling from the CBD.
3. Adequacy of bus services, bus shelters, lighting and safety.
4. Adequacy of park and ride facilities at railway stations for commuters.
5. Public transport “black holes” in the municipality.
6. Status of new infrastructure and services including the touted Southland railway station.

(Signed)

Cr Paul Peulich

Motion:

Crs Peulich/Bauer

That the motion be adopted.

Amendment:

Crs West/Shewan

That the motion be amended to read as follow:

“To refer the following proposal for an officer report followed by consideration of Councillors, with a view to Council developing a submission to the State Parliamentary Upper House inquiry:

1. Train services, their reliability and capacity, especially at peak hour.
2. Travel available to our youth outside public transport service times, especially those travelling from the CBD.
3. Adequacy of bus services, bus shelters, lighting and safety.
4. Adequacy of park and ride facilities at railway stations for commuters.
5. Public transport “black holes” in the municipality.

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6. Status of new infrastructure and services including the touted Southland railway station. and
7. The need to establish a public body to be responsible for public transport, with regard to the City of Kingston.”

The amendment was **put and carried.**

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

A division was called

For

Mayor Cr Athanasopoulos
Cr Bauer
Cr Brownlees
Cr Shewan
Cr Staikos
Cr West

Against

Cr Dundas
Cr Peulich

The Motion was **carried.**

12. Urgent Business

Motion of recognition

Crs Brownlees/West

That a motion to recognise and thank the Mentone and District Historical Society and the Friends of Mentone Station and Gardens for their efforts organising the 75th Anniversary Memorial Service for Garryowen and Violet Murrells last Saturday, be accepted as an item of Urgent Business.

The motion was **put and carried**.

Motion of recognition:

Crs Brownlees/West

That the Council recognise and thank the Mentone and District Historical Society and the Friends of Mentone Station and Gardens for their efforts organising the 75th Anniversary Memorial Service for Garryowen and Violet Murrells last Saturday.

Carried

13. Items in Camera

Nil.

There being no further business, the meeting closed at 9.52pm.

Confirmed His Worship, The Mayor 27 April 2009