

**City of Kingston
Special Council Meeting**

Minutes

30 November 2009

A Special Meeting of the Kingston City Council was held 6.00pm at 1230 Nepean Highway Cheltenham on Monday 30 November 2009.

Business was as follows:

- 1. Apologies**
- 2. Disclosures of conflicts of interest**
- 3. Reports by Officers**
L201 Amendment to Planning Permit KP 245/09 for 999 Nepean Highway
- 4. Urgent Business**
- 5. Confidential Items in Camera**

**City of Kingston
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Minutes

30 November 2009

Minutes of the Special Meeting of the Kingston City Council held at 1230 Nepean Highway Cheltenham, on Monday 30 November 2009 at 6.08pm.

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
Mauro Bolin – General Manager Community Sustainability
Tony Rijs – General Manager Environmental Sustainability
Paul Franklin – General Manager Corporate Services
Elaine Sowerby – General Manager Organisational Development & Governance
Ian Nice – Manager Planning
Jenifer Pippo – Team Leader Residential Development & Subdivision
Michael Fry – Team Leader Council Business

Business was as follows:

1. Apologies

An apology was received from Cr John Ronke.

Crs Brownlees/Bauer

That the apology be accepted.

Carried

2. Declaration by Councillors or Officers of any conflict of interest.

Nil.

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3. Reports by Officers

L 201 Amendment to Planning Permit KP 245/09 for 999 Nepean Highway

APPLICANT:	MAB Corporation Pty Ltd
ADDRESS OF LAND:	No. 358a (PC 371611L) & No. 358 (part Lot 3 on PS 531995K) South Road, Moorabbin Formally referred to as: Part No. 999 (Lot 2 on PS 531995K) Nepean Highway, Moorabbin
Melway Ref:	77D5
PROPOSAL	Seven (7) storey building comprising 75 dwellings
CONTACT OFFICER:	Jennifer Pippo
FILE NO:	KP245/09-A
ZONING:	Clause 34.02 – Business 2 Zone Clause 36.04 – Road Zone Category 1
OVERLAY(S):	Clause 43.01 – Heritage Overlay (79, 80 & 126)
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 15: Environment Clause 16: Housing Clause 17.01: Activity Centres Clause 18: Infrastructure <u>Local Planning Policy Framework</u> Clause 21.03 Land Use Challenges for The New Millennium Clause 21.04: Vision Clause 21.05: Residential Land Use Clause 21.06: Retail and Commercial Land Use Clause 21.12: Transport, Movement and Access Clause 21.13: Heritage <u>Particular Provisions</u> Clause 52.06: Car Parking Clause 52.29: Land Adjacent to a Road Zone Clause 52.34: Bicycle Facilities Clause 52.35: Urban Context Report & Design Response for Residential Development of Four or more storeys Clause 52.36: Integrated Public Transport Planning <u>General Provisions</u> Clause 65: Decision Guidelines

For the purpose of this Council Report, any reference made to the 'Subject Site' or 'Subject Land' relates specifically to No. 358a (PC 371611L) and No. 358 (Part Lot 3 on PS 531995K) South Road, Moorabbin, unless specified otherwise.

1.0 INTRODUCTION

An application to amend planning permit KP245/09 under Section 72 of the *Planning and Environment Act 1987* was received by Council on 2 November 2009 and formally amended on 23 November 2009. This Report responds to the amended application.

Further, this Report provides a detailed planning assessment of the proposed changes sought by the Permit Holder, which include both changes to the planning permit and plans required to be endorsed to the Permit. This Report does not touch on any other aspects of the approved development, other than those proposed to be amended. For this reason, the previous report to Council is included within Appendix A of this Report as is a copy of the Planning Permit KP245/09, which can be found at Appendix B.

On Monday, 29 June 2009 Council resolved to approve and issue a planning permit (KP245/09) for a seven (7) storey building comprising seventy-five (75) dwellings with a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme and to use the site for Accommodation along with the creation of access to a road in a Road Zone Category 1.

Planning Permit KP245/09 includes an extensive range of conditions that, amongst other things, require the following:

- a number of revisions to the considered plans (listed under Condition 1 requirements of the Permit);
- the provision of a Construction Management Plan;
- the provision of a Site Management Plan;
- the provision of an Ecologically Sustainable Development Report;
- the provision of a Waste Management Plan;
- the provision of an Acoustic Report;
- a requirement for the Permit Applicant to enter into a Section 173 Agreement; and
- requirements of external referral authorities (i.e. VicRoads and the Department of Transport).

Based on the above information and as it stands to date, the following information is brought to the attention of Council:

- Following Council's resolution to issue a permit no third party appeals were lodged with the Victorian Civil and Administrative Tribunal. Accordingly a live Planning Permit exists with the Subject Land.
- Council has received correspondence on the 21 October, 2009, indicating that Port Phillip Housing Association has received Director of Housing approval of Nation Building Stimulus Funding for the construction of the housing development. A requirement of funding understood to be that the project must be completed by April 2011.

- The Minister for Planning has advised Council that the proposal has recently become eligible to be considered by the Minister under the new streamlined planning provision of Clause 52.41 – Government Funded Social Housing.
- Notwithstanding the above dot point, it is understood that given the Planning Permit was issued by the City of Kingston, the State Department of Planning and Community Development is presently of the view that the amendments sought can be considered by the City of Kingston.

Prior to delving into the body of this Report, the planning consideration before the Council is to determine whether the proposed amendments sought are “reasonable” and “acceptable”, having regard to the planning consideration sections provided within this Report, applicable policies, decision guidelines and all relevant provisions of the Kingston Planning Scheme.

Applicable to the deliberation of this amended permit application, the following must be noted:

- consideration must solely relate to the proposed changes before Council and, therefore, not relate to any other component of the previously approved development; and
- given that the scope of changes sought will not result or cause material detriment to any third party, the matter has not been formally advertised.

2.0 PROPOSAL & PLANNING DISCUSSION

- 2.1 As outlined above, Council has received an application to consider amendments to Planning Permit KP245/09 under Section 72 of the *Planning and Environment Act 1987*.
- 2.2 The Permit Applicant (as amended) has sought a number of changes to the Permit as well as to the considered plans. The table on the following pages provides a comprehensive list, in sequential order to the Permit, of what changes are sought to the Permit, the Permit Applicant’s reason for requesting these changes including their written justification along with Council’s Planning Officer’s assessment and recommendation of each of these items.
- 2.3 Similar to above and with regard to the proposed changes sought to the plans and supporting documentation, the second table provides a comprehensive list, in sequential order to the drawing number of each plan, of what changes are sought to the Plans, the Permit Applicant’s reason for requesting these changes including their written justification along with Council’s Planning Officer’s assessment and recommendation of each of these items.

AMENDMENTS SOUGHT TO THE PERMIT CONDITIONS:

Permit Condition	Proposed amendment	Permit Applicant's reasoning and justification provided	Council's Planning Officer's consideration
<p>Address of Land</p>	<p>Amend wording: To include: 'Part Lot 3 on PS 531995K'.</p>	<p>The Permit Applicant proposes to relocate the seven (7) car parking spaces, which form part of the forty-three (43) nominated car spaces for the use of patrons to the Kingston City Hall and Kingston Arts Centre, from the first floor car park area to part of Lot 3 on PS 531996K, which adjoins Lot 2 on PS 531995K (Subject Site) to the south.</p>	<p>It has come to Council's attention that the Subject Land has recently been consolidated and via Council's Rates Department the Subject Land has recently received a new property address. Accordingly, the Subject Land is now referred to as:</p> <p><u>No. 358a (PC 371611L) South Road, Moorabbin.</u></p> <p>As a component of this amended permit application, part of the adjoining parcel of land (to the south) is proposed to form part of the Subject Land and is to include seven (7) car parking spaces. This matter is elaborated on later within this report.</p> <p>However, for the purpose of reflecting the true and accurate address details on any amended permit issued, should the revised car parking layout be supported by Council, it is advised that the following address be included in the address section of any amended permit issued:</p> <p><u>No. 358 (Part Lot 3 on PS 531995K) South Road, Moorabbin</u></p>

<p>1</p>	<p>Amend wording:</p> <p>“Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 6 May 2009, prepared by Michael Smith and associates and dated Rev A-19/8/09, but modified to show:...”:</p>	<p>Replacement of the landscape plan with a revised plan that reduces the extent of landscaping works to the south of the site on VicTrack land.</p> <p>A landscape concept plan was requested by Council for works outside the site as an addendum to the application. It was understood that the applicant would contribute to these works, however the condition places the full cost of these works on the applicant.</p> <p>The applicant believes that a reduced scope is justified considering:</p> <ul style="list-style-type: none"> • Federal funding to this project does not allow for beautification of areas outside the site; • Tenants of the affordable housing development only represent a small proportion of the total users of this area; and • The proposal achieves the intent of the approved design, to create a safe, continuous and attractive connection from South Road to the train station. 	<p>Understanding that the proposed amended landscape plan, prepared by Michael Smith and Associates, reduces the extent of landscaping works proposed, it is considered that the revised plan is appropriate for the following reasons:</p> <ul style="list-style-type: none"> • The revised works proposed by the Applicant are still extensive and will contribute to improving the aesthetics along the south corridor of the site to the Moorabbin Railway Station; and • Given that the land in question falls outside of the Subject Site, is quite significant in size and will be of benefit to the surrounding community and not solely to the residents of the subject development, it is not considered unreasonable for Council to contribute to the cost of the landscape upgrades and broader benefit. <p>For the above reasons and given that Condition 1 of the permit does not solely relate to the landscape plan (i.e. it relates to the full set of plans, including site and elevation plans) it is recommended that the wording to Condition 1 be amended as follows:</p> <p>“Before the development starts amended plans to</p>
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			<p>the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 6 May 2009 2 November 2009, including the landscape plan prepared by Michael Smith and Associates (Rev A-19-08-09), but modified to show:...”:</p> <p>In addition to the above recommendation, it is acknowledged that during the course of consideration of the original proposal there was an understanding that barbeque facilities and seating facilities would be provided directly to the south side of the development site, near the existing <i>Eucalyptus melliodora</i> tree.</p> <p>It is evident that this detail has been omitted from the revised plan. The Permit Applicant has indicated to Council’s Planning Officer that they would be agreeable to providing such facilities.</p> <p>Therefore, in addition to the recommendation made above, it is also suggested that, should Council deem it to be necessary, an additional Condition 1 requirement (Condition 1.w) be included on any amended planning permit issued,</p>
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			requiring barbeque and seating facilities to be provided to the open space area located to the south side of the development site.
1. a. xii)	<p>Delete Condition:</p> <p>“improved detail to the southern end of the pedestrian walkway near the Moorabbin Railway Station entrance with this space designed in conjunction with the existing Railway Station entrance and designed in consultation with Council’s Urban Designer and VicTrack”</p>	Redundant condition subject to the proposed amendment of condition 1).	In the event that Council resolve to adopt the abovementioned recommendation concerning the revised landscape plan, it is further recommended that this condition be deleted from any amended permit issued, as it would no longer apply.
1. e. iii)	<p>Amend wording:</p> <p>“in accordance with Condition 1.d. of this permit, a total of thirty-five (35) thirty-six (36) car parking spaces located on the ground floor and eight (8) seven (7) car parking spaces on the first floor part of Lot 3 (Vol 10936, Fol 295) (i.e. a total of forty-three (43) car parking spaces) nominated for the use of patrons to the Kingston City Hall and Kingston Arts Centre, as required by Section 173 Agreement (AE423794S)”;</p>	<p>An amendment is sought to the distribution of the 43 car parking spaces for the Kingston Hall & Arts Centre.</p> <ul style="list-style-type: none"> The proposed changes will result in the entire first floor level being tenant car parking (an increase from 21 allocated resident car spaces to 28 resident spaces plus a further 3 visitor spaces). As a result of this change, a “real time information display” would not be required at level 1. 	<ul style="list-style-type: none"> The distribution of forty-three (43) car parking spaces as approved under the original application is: <ul style="list-style-type: none"> 35 car spaces located on the ground floor 8 car spaces located at the first floor The proposed distribution of the 43 car parking spaces under this amended application is as follows: <ul style="list-style-type: none"> 36 car spaces located on the ground floor (substation relocated) 7 car spaces located on adjoining land (part of Lot 3 Volume 10936 Fol 295)

		<ul style="list-style-type: none"> • PPHA has expressed concerns with the approved car parking arrangements due to difficulties managing shared parking between PPHA and Kingston Hall & Arts Centre patrons at the first floor level. • The seven (7) car spaces on Lot 3 are better located for use by patrons of the Kingston Hall & Arts Centre and provide an improved outcome for both Council and PPHA. • These seven (7) spaces are not currently leased and are currently unallocated. • The applicant confirms that this parcel of land can/will be handed to Council at no cost. • The reduction from 43 to 36 car spaces Lot B provided for the Kingston Hall & Arts Centre patrons will need to be reflected in an amendment to the 173 Agreement on Lot 2. 	<ul style="list-style-type: none"> • As approved, a total of twenty-five (25) tenant car parking spaces are provided on the first floor level. • As proposed via this amended application, a total of twenty-eight (28) tenant car parking spaces are provided on the first floor level with an additional three (3) visitor car parking spaces (i.e. total of 31 spaces) <p>Council's Traffic Engineer has reviewed the revised car parking layout and have advised that they do not object to the proposed changes providing the following condition is included on any amended permit issued:</p> <ul style="list-style-type: none"> • the two (2) 'small' car parking spaces, located on the ground floor level, are provided with signs that clearly advise drivers that these spaces are to be used by small cars only and that the two (2) spaces are properly delineated (refer to Condition 27 on the revised permit). <p>The proposed changes, subject to the adoption of the above condition, are deemed satisfactory as:</p> <ul style="list-style-type: none"> • The design would result in a more convenient and practical car parking layout providing a floor level separation between the public
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			<p>patron's car parking area at grade level and the private tenant's car parking area at first floor level;</p> <ul style="list-style-type: none"> • The proposed changes continue to ensure that a total of forty-three (43) spaces are provided for Moorabbin Town Hall and Moorabbin Arts Centre patrons. Accordingly, the proposed revisions continue to adhere to the existing S.173 Agreement requirements that affect the Subject Land concerning the amount of spaces required; • The proposed revisions result in an increase of six (6) car parking spaces provided to the residential development; • Adequate bicycle parking continues to be provided to the site; and • This amended application does not involve any changes to the access arrangements to the Subject Land. <p>For the reasons outlined above, it is considered that the proposed changes to the car-parking layout are satisfactory and allow for appropriate vehicular manoeuvrability on site.</p> <p>As such, the changes sought to the layout and</p>
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			<p>distribution of the car parking spaces is a desired change and one of a practical nature. Therefore, it is recommended that this revision be supported by Council providing:</p> <ul style="list-style-type: none"> • MAB provide title to the Lot 3 car park land (i.e. part of Lot 3 on PS 531996K) to Council at no cost; • The existing Section 173 Agreement be amended to reflect the forty-three (43) car parking spaces be provided on both associated allotments; and • an additional condition be included on any permit issued requiring the two (2) small car parking spaces on the ground floor level to include a sign that clearly advises drivers that these spaces are to be used by small cars only and that the two (2) spaces are properly delineated.
<p>1. e. ix)</p>	<p>Delete Condition: "a device which provides real time information to vehicles on the ground floor as to whether any Kingston City Hall or Kingston Arts Centre car parking spaces are available on Level 1";</p>	<p>Redundant condition subject to the proposed amendment of condition 1.e. iii).</p>	<p>Should Council support the proposed modifications to the car parking layout as outlined above, it is recommended that Council approve the deletion of this condition as it is made redundant by the aforementioned changes.</p>

<p>1. e. xi)</p>	<p>Delete Condition:</p> <p>“full details of pedestrian access to and from the eight (8) car parking spaces located on the first floor level, nominated for the use of the Kingston City Hall and Kingston Arts Centre”.</p>	<p>Redundant condition subject to the proposed amendment of condition 1. e. iii).</p>	<p>Similar to above, should Council support the proposed modifications to the car parking layout as outlined above, it is recommended that Council approve the deletion of this condition as it is made redundant by the aforementioned changes to the car parking layout.</p>
<p>1. g.</p>	<p>Amend wording:</p> <p>From: “the provision of artwork graphics along the development’s northern (front) façade, essentially at ground level, to enliven the development’s presentation to South Road and provide an improved connection between the development and the Arts Centre”;</p> <p>To: “the location of artwork graphics along the development’s northern (front) façade, essentially at ground level, to enliven the development’s presentation to South Road and provide an improved connection between the development and the Arts Centre. Artwork graphics are to be designed, and installed prior</p>	<p>The details of artwork graphics to be agreed with Council and designed during the course of construction not prior to commencement.</p>	<p>This is a negligible change and one, which will not compromise the development in anyway, nor Council’s original intent for including this condition.</p> <p>It is deemed appropriate and reasonable to include the words “prior to occupation” in the structure of this condition.</p> <p>Accordingly, it is recommended that Council support this amended condition request.</p>

	to the occupation of the building to the satisfaction of the Responsible Authority”.		
1. j.	<p>Delete condition:</p> <p>“the provision of fixed / retractable clothes drying facilities to each dwelling to be nominated on all balconies to be positioned so that clothes would not be visible from outside the building”</p>	<p>Installation of fixed clothes lines below balustrade height is unsuitable due to the height and inadequate solid wall areas to fix the device.</p> <p>Portable free-standing clothes horses are recommended.</p>	<p>It is noted that the fixed clothesline would be required to be installed on an external balcony wall, preferably below the respective balustrade so that it is not highly visible to the public domain.</p> <p>Given the location of the air-conditioning units on each balcony and the external design of each balcony whereby the spare corner is essentially constructed of glass panels on both sides, it is understood that the installation of a ‘fixed’ clothesline may prove difficult.</p> <p>From a planning perspective and in this instance, it is considered appropriate that this condition be deleted as it is envisaged that occupants are likely to use a portable clotheshorse as a means to dry their washing and it is most unusual to see such a structured form of clothes drying facility in a contemporary apartment development.</p> <p>Should Council wish to maintain a condition, on any amended permit issued, requiring an outdoor clothes-drying facility to be provided to each apartment, it is suggested that this condition be reworded so that each apartment is provided with a portable clotheshorse.</p>

<p>1. p.</p>	<p>Amend wording:</p> <p>“the provision of metal hoods or shading elements (balcony projections, retractable screening or shading devices) included and clearly nominated on at least 80 percent of the east and west facing windows to add articulation, interest and provide sun protection”.</p>	<p>The applicant wishes to clarify that balcony projections are considered a shading element and contribute to the 80% of shaded windows.</p> <p>Balcony projections provide the majority of screening on the west and south courtyard elevations without the need for secondary shading elements to these openings.</p>	<p>Council has received advice from Council’s Urban Designer regarding the Permit Applicant’s request to amend this condition. Accordingly, the following advice has been provided by Council’s Urban Designer:</p> <p><i>‘The purpose of metal hoods or elements like retractable screens, vertical louvers, etc is to protect from the low eastern and western sun. The balcony projections would not help in providing any sun protection from a rising or setting sun’.</i></p> <p><i>‘It is my position that this condition should not be modified if it was to serve its intent’.</i></p> <p>For the reasons outlined above, this amendment request should not be supported.</p>
<p>3.</p>	<p>Amend wording:</p> <p>From: “Prior to the occupation of the development hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then</p>	<p>Modification of the condition is proposed to enable completion and occupation of the building in the event that access to Victrack land is delayed or is withheld.</p> <p>Clarification that landscape maintenance is limited to the establishment phase (up to 12 months).</p>	<p>The Permit Applicant’s justification to revise the wording of Condition 3 is deemed appropriate.</p> <p>The proposed reworded condition continues to ensure that the landscape work is undertaken by the Permit Applicant and must be completed to the Responsible Authority’s satisfaction (i.e. Council).</p> <p>In the event that Council is unable to arrange</p>

	<p>be maintained to the satisfaction of the Responsible Authority”.</p> <p>To: “Prior to the occupation of the development hereby permitted and subject to Council arranging and providing sufficient access to Victrack land the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. This requirement may be varied by the Responsible Authority if access to the VicTrack land is not available. The landscaping must then be maintained to the satisfaction of the Responsible Authority during its early establishment (up to 12 months if necessary)”.</p>		<p>access to VicTrack land, the reworded condition allows for the Permit Applicant and Council to revisit this condition and resolve an alternative arrangement.</p> <p>For the reasons outlined above, it is recommended that Council approve the amended version of Condition 3.</p>
<p>12. a-c (to remain as is)</p>	<p>Originally the Permit Applicant requested to delete any requirement to enter into a new Section 173 Agreement with some of the respective conditions to be translated and reworded into permit conditions.</p> <p>The Permit Applicant submitted on 23</p>	<p>It is proposed that the existing S.173 Agreement be amended to indicate 36 Council car parking spaces on the site (7 off-site on the adjoining parcel) and new arrangements for car parking during construction.</p>	<p>Firstly it should be noted that it is possible to remove and/or amend the existing S.173 Agreement (or create a new agreement) to ensure that the required 43 car parking spaces are provided only to patrons of the Moorabbin Town Hall and Arts Centre on the Subject Land (i.e. revising the agreement to include the two parcels of land).</p>

	<p>November 2009 a request to vary their application to amend the Permit, which essentially included new proposed wording for several of the conditions that the Applicant had primarily applied to amend.</p> <p>The addendum application requests that the requirement for a Section 173 Agreement remain on the Permit, however the specific requirements to this Agreement are proposed to be varied as follows:</p>		<p>Further to the above, it is proposed to remove the existing S.173 Agreement so that the new Agreement (as required by the amended permit) will provide for new arrangements for car parking during the construction of the development, to Council's satisfaction.</p> <p>Notwithstanding the above information and the ability to remove or revise the existing S.173 Agreement, Condition 12 of the Permit, which requires the Permit Applicant to enter into a new S.173 Agreement, lists a number of additional requirements that pertain specifically to the proposal should the Owner seek consent to sell any of the dwellings as well as general provisions that relate to the operational aspects of the development. These two (2) aspects will be further discussed shortly in this report.</p> <p>It is noted that the Permit Applicant has revisited their original amended permit application and, in doing so, have now requested that the requirement for a Section 173 Agreement remain on the Permit with the request for Council to consider revisions to all requirements listed within Condition 12 of the Permit.</p> <p>Based on the discussion had above, the following sections in this table provide advice regarding the</p>
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			recommended position Council should take on each requested change to the S.173 requirements of the Permit.
General Layout of Condition 12			<p>As touched upon above, Condition 12 of the Permit lists a number of additional requirements that pertain specifically to:</p> <p>1) the proposal should the owner seek consent to sell any of the dwellings; and</p> <p>2) general provisions that relate to the operational aspects of the development.</p> <p>For clarity reasons, it is considered appropriate by both the Permit Applicant and Council's Planning Officer that the general layout of this Condition be amended so that the relevant requirements of the Section 173 Agreement are listed under one of the main categories listed above.</p>
12. a) a)	<p>Replace condition:</p> <p>From: "Port Phillip Housing Association (PPHA) or, in the event that PPHA ceases to become or to continue to be</p>	<p>It is a requirement of government in funding this project that the Director of Housing will register an interest on the land requiring his/her consent to any future change of</p>	<p>Council Officers recommended the inclusion of the said condition at the time of assessment given Council was unaware of the details regarding the manner in which the State's interests in providing</p>

	<p>the registered proprietor of the Land, another experienced provider and manager of community housing with the written consent of Council, to be the owner of the Land and to manage the building and tenancy arrangements”</p> <p>To: “A registered Housing Association must not sell any dwellings to a Private Party without the further written consent of the Responsible Authority. The Responsible Authority must not unreasonably withhold its consent”.</p>	<p>ownership or use.</p> <p>It is proposed that the Director’s interest should replace the requirement for any future change of ownership to be approved by Council.</p> <p>PPHA have indicated difficulty proceeding with the project under circumstances whereby Council can block any future sale of the asset or prohibit future use.</p>	<p>for community housing projects are protected.</p> <p>Since the approval of this application, Council has received written correspondence from the Director of Housing whereby they have indicated that funding is contingent upon the Director having an interest on the land (by way of title), requiring his/her consent to any future change of ownership and/or use of the development.</p> <p>Based on now appreciating the manner in which the State Government funding is made available it is recommended that this condition be removed and replaced with the condition presented in the left-hand column.</p> <p>Please note that this condition has been re-numbered and is now referred to as Condition 13. d) on the amended planning permit.</p>
<p>12. b) b).</p>	<p>Delete Condition:</p> <p>“Without the further written consent of the Responsible Authority, all persons who occupy the 75 affordable housing dwellings are to be households on low incomes who meet the criteria for affordable housing as determined by the Victorian Office for Housing or similar approved scheme”</p>	<p>It is proposed that the Director’s interest to replace the requirement for any future change of tenant to be approved by Council.</p>	<p>Further to the above and in accordance with the Applicant’s amended request, it is recommended that a new requirement be included within the Section 173 Agreement condition, on any amended permit issued, which states the following:</p> <p>j) “That the Director of Housing be required to register his/her interest in the Land”.</p>

			Based on the discussion had above, it is considered appropriate to amend this condition so that the responsibility sits with the appropriate authority. In this instance, that being: the Director of Housing.
12. c) c).	<p>Remove from Section 173 Agreement requirement and include as a condition of Permit:</p> <p>“No more than twenty-one (21) twenty-eight (28) of the seventy-five (75) dwellings are to be allocated a single car parking space”</p>	Subject to the amendment to condition 1. e. iii), the number of resident cars spaces increase from 21 to 28	<p>As discussed earlier, the revised car parking layout results in an increase of car parking spaces provided to the development. As such, a total of twenty-eight (28) car parking spaces are provided on the first floor level with an additional three (3) visitor car parking (i.e. 31 spaces in total).</p> <p>Given that it has been recommended earlier that the revised changes to the car parking layout are appropriate and to ensure that all conditions of the permit remain consistent with the revised car parking layout shown on the amended plans, it is recommended that Council approve the revised condition.</p> <p>Inline with the discussion provided earlier with regard to the validity of permit conditions in comparison to a Section 173 Agreement, it is recommended that this condition be removed from any Section 173 requirement and incorporated as a condition on any amended permit issued (i.e.</p>

			condition 12) as it relates specifically to the planning merits of the application.
12. d).	No requested change to wording		<p>It is recommended that this condition read as follows:</p> <p>'The lessor must advise a prospective tenant in writing to make it clear at the time of negotiating a lease whether or not a particular tenant is entitled to a car parking space and that the designated forty-three (43) car parking spaces identified on the endorsed plans are for use by Kingston Arts Centre and Kingston City Hall Patrons only'.</p> <p>Please note that this condition is referred to as Condition 13. k) on the amended planning permit.</p>
12. e).	<p>Delete Condition:</p> <p>"If at any time the Land is intended to be made available to be occupied by people other than people who require financial support to meet their housing needs, PPHA (or PPHA's successor with the written consent of the Responsible Authority) must prior to selling or leasing the dwelling(s) determine whether or not any of the dwellings will be allocated with a car parking space recognising that the</p>		<p>It is considered appropriate to introduce a new condition to ensure that a suitable level of parking spaces are provided to the affordable housing component of the development should any of the dwellings be sold to a private party.</p> <p>As such, it is recommended that the following condition replace Condition 12. e) on any amended permit issued:</p> <p>"If it is determined that dwellings are able to be sold the remaining supply of car parking for the affordable housing tenants must not be reduced</p>

	<p>maximum number of allocated spaces for the entire seventy-five (75) dwellings must not exceed twenty-one (21) car parking spaces”</p>		<p>below an average rate of 0.23 car spaces per unsold apartment, prior to a date 15 years from the date of this permit, without the further written consent of the Responsible Authority”.</p> <p>Typically, “affordable housing” type development have a lower parking demand as tenants are essentially on lower incomes and the expenses associated with car ownership are prohibitive to many low income tenants.</p> <p>As such, please note that the rate of 0.23 was derived from the original Traffic Assessment for the application, whereby the Permit Applicant provided an empirical assessment based on existing housing parking provisions and ownership of similar type housing developments (managed by Port Phillip Housing Association and Yarra Community Housing) throughout Melbourne. An average rate of 0.23 vehicles per unit was calculated based on the resident car ownership rate for all 25 site examples. Therefore, with respect to the proposed seventy-five (75) apartments proposed, the resident parking demand would amount to approximately 18 spaces.</p> <p>Having reviewed the request by the Applicant, Council Officers consider a ‘15’ year term to be</p>
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			<p>more appropriate as alternate options for transportation may be more readily apparent at that time.</p> <p>Further, as mentioned previously in this table, this condition is essentially a 'safeguard' to protect a minimum car parking allowance for the community housing, recognising the subdivision process provides Council with an opportunity to review this matter, should the Housing Association ever seek to seel any dwellings (apartments).</p> <p>This condition is referred to as Condition 13. f) on the amended planning permit.</p>
12. f)	<p>Delete condition:</p> <p>"On the basis (subject to the written consent of the Responsible Authority) that any dwelling is sold or leased a separate agreement must be created which clearly indicates on the title or lease whether or not the dwelling is entitled to a car parking space"</p>	<p>A separate agreement is not required for the purpose of informing tenants/buyers whether they are entitled to car parking. The lease (as per condition 12d)) or contract of sale will clearly indicate whether a car space is allocated to the apartment.</p>	<p>In the event that any of the units are to be sold, prior to this occurring, an application to subdivide the development will be required to be submitted to Council for approval. Any subdivision plan for the subject development should indicate whether or not an apartment is entitled/allocated a car parking space.</p> <p>Further to this and as highlighted by the Permit Applicant and via Condition 12.d) of the existing Permit, the leaser must make it clear at the time of negotiating a lease whether or not a tenant is entitled to a car parking space.</p>

			Based on the above, it is recommended that it is suitable for this condition to be deleted as the allocation of car parking spaces can be ascertained and reviewed via any future subdivision application lodged with Council.
12. g)	<p>Delete condition:</p> <p>“The developer/owner/applicant must enter into an agreement with Council and VicTrack to implement the beautification and landscape works shown on the Landscape Concept Plan(s) – South Road to Moorabbin Railway Station Corridor (received by Council on 6 May 2009 and as amended by Condition 1a. of this permit) prepared by Michael Smith and Associates Landscape Architects and Urban Design at the full cost of the developer/owner/applicant”</p>	The obligation on the applicant to complete the landscaping works is addressed in condition 3).	This condition essentially “doubles-up” with Conditions 1 and 3 of the Planning Permit. As such, it is not considered necessary to include this condition and, therefore, it is recommended that Council approve of its removal.
12. h)	<p>Amend wording:</p> <p>“The implementation of management and maintenance responsibilities of all required works to be provided for in the car parking, traffic management and</p>		<p>This is a negligible change that warrants support.</p> <p>Please note that this condition is referred to as Condition 13. I) on the amended planning permit.</p>

	signage plan required as part of Condition 1.e) of this permit”		
12. i)	<p>Amend wording:</p> <p>“A mechanism to enter into a service agreement with the Responsible Authority requiring a detailed management and maintenance schedule outlining the responsibilities of the parties (i.e. ‘who is going to maintain what’) in relation to the ongoing maintenance of the ground floor car parking area”</p>	<p>It is proposed that the Council car parking and the obligations for operation, management and maintenance be the subject of a service agreement between Council and PPHA (the Owner).</p>	<p>Based on the subsequent advice from Council's Property Services Department, it is considered reasonable for this condition to be addressed via Council entering into a service agreement with the Permit Holder, rather than Council and the permit holder entering into a S.173 Agreement. Therefore, a service agreement is the most appropriate and efficient way to satisfy this requirement.</p> <p>Further, it is recommended that the requirement for a detailed management schedule be included as a requirement under (new) condition 1(x) of any amended permit issued.</p> <p>Please note that this condition is referred to as Condition 13. m) on the amended planning permit.</p>
12. j)	<p>Delete condition:</p> <p>“The method in which Council’s access to the first floor car park spaces will be protected”</p>	<p>Redundant condition subject to the proposed amendment of condition 1. e. iii).</p>	<p>For reasons discussed earlier within this table and should Council resolve to approve the revised car parking layout, it is agreed that this condition is no longer necessary and, therefore, should be removed from any amended permit issued.</p>
12. k)	<p>Amend wording:</p>	<p>The applicant requests that the operation and use of the Kingston Arts Centre and</p>	<p>The proposed changes to the wording of this condition are negligible and do not change the</p>

	<p>“A notation on must be included any future leases granted to residents which clearly recognises the City of Kingston’s unfettered right to use the Kingston City Hall and Kingston Arts Centre for whatever activities it may wish irrespective of the operational elements (noise, number of people etc) associated with such activities, subject to their normal responsibilities under law”</p>	<p>City Hall be subject to normal responsibilities under law.</p>	<p>intent of the condition. For these reasons, it is recommended that the Council approve to reword this condition so that it reads:</p> <p>“A notation on must be included on any future leases granted to residents which clearly recognises the City of Kingston’s Kingston City Council’s unfettered right to use the Kingston City Hall and Kingston Arts Centre for whatever activities it may wish, irrespective of the operational elements (noise, number of people etc) associated with such activities, subject to their normal responsibilities under law”</p> <p>Please note that this condition is referred to as Condition 13. n) on the amended planning permit.</p>
<p>New Condition 13. g)</p>	<p>New condition:</p> <p>“The transfer of land at No. 358 (Part of Lot 3 on PS 531995K) South Road, Moorabbin to Kingston City Council to provide seven (7) car parking spaces for use by patrons of the Kingston Arts Centre and Kingston City Hall, at all times, in accordance with the service agreement mentioned in Condition 13. m) of this permit”</p>	<p>This condition provides the mechanism for ownership of Lot 3 car spaces to be transferred to council at no cost and a reduction from 43 to 36 car spaces Lot B provided for the Kingston Hall & Arts Centre patrons</p>	<p>It is considered appropriate that a new requirement be incorporated into the Section 173 Agreement condition of the Permit to require:</p> <ul style="list-style-type: none"> • The Permit Holder to transfer the part of Lot 3 on PS 531995K at No. 358 South Road that contains the seven (7) of the forty-three (43) car parking spaces to the Kingston City Council, at no cost, prior to the commencement of the use of the building; and

			<ul style="list-style-type: none"> • A service agreement be made between the owner of the land and Kingston City Council that specifies the maintenance and party's responsibilities as explained earlier at Condition 12. i). <p>Accordingly, it is recommended that this new condition be included on any amended permit issued.</p>
13. g)	<p>13. "Prior to commencement of the development hereby permitted, a Site Management Plan (SMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The SMP must establish a set of 'house rules' for the building, to be followed thereafter to the satisfaction of the Responsible Authority. The SMP must ensure that a suitably qualified full time manager / supervisor with responsibility to oversee tenant behaviour is available and must detail arrangements, including</p>	<p>Redundant condition subject to the proposed amendment of condition 1. e. iii).</p>	<p>Similar to the discussion and reasons outlined above regarding the revisions to the car parking layout, it is considered appropriate to delete Condition 13.g).</p>

	<p>but not limited to:</p> <p>Delete condition:</p> <p>g) allocation and ongoing arrangement of the eight (8) car parking spaces on the first floor level for the fulltime use of Kingston City Hall and the Arts Centre only”</p>		
New Condition	<p>New condition:</p> <p>“Prior to development commencing a minimum of forty-three (43) temporary off-site car parking spaces must be obtained through a commercial agreement by the Permit Applicant, at their entire cost, and provided for patrons of the Kingston City Hall and Kingston Arts Centre. Temporary off-site car parking spaces must be maintained for the duration that car parking cannot be provided on the Site, due to construction activities”</p>	<p>The existing 173 agreement requires the owner to provide car parking on the site during construction. This is impractical given that construction will involve the full area of the site.</p> <p>In lieu of on-site parking during construction, the applicant has sourced car spaces in the CarePark car park opposite the Site and will agree with Council satisfactory access to car parking for patrons of the City Hall and Arts Centre.</p> <p>The arrangements for off-site parking during construction for the Kingston Hall & Arts Centre patrons will need to be reflected in an amendment to the 173 Agreement on Lot 2.</p>	<p>As highlighted by the Permit Applicant, the existing S.173 Agreement requires the owner to provide, at all times, during the construction of the proposed development, to the reasonable satisfaction of Council, no less than forty-three (43) car parking spaces on the Subject Land or on the Land in lots 1 or 3 on PS 537995K.</p> <p>Given that the approved development is to be constructed over the entire Subject Land, it is recognised that the Owner of the Land is unable to meet Clause 7.4 of the existing S.173 Agreement.</p> <p>The Permit Applicant has informed Council that they are able to source car parking spaces in the ‘CarePark’ that is located opposite the Subject Site and the required number of car parking spaces can be sourced.</p>

			<p>However, based on the above information and circumstances, it is considered reasonable in this instance to:</p> <ul style="list-style-type: none">• include the new condition on any amended permit issued; and• in including the new condition, it will supersede the respective requirement specified in the existing S.173 Agreement.
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AMENDMENTS SOUGHT TO THE PLANS & SUPPORTING DOCUMENTATION:

Drawing Number	Plan type / location	Permit Applicant's reasoning and justification provided	Council's Planning Officer's consideration
SK.000	Site plan	Location of 7 car spaces on Lot 3 PS 531995K Included.	Based on discussion had in the previous table essentially concerning Condition 1.e.iii), the revised car parking layout is considered a desired change and one that should be supported by Council.
SK.002	Ground floor car park	<p>Substation relocated from location adjacent to the ramp into the north west building corner facing South Road.</p> <p>Two additional compliant car spaces are provided adjacent to the ramp increasing the supply of car parking at the ground floor from 35 to 36 spaces as necessary to achieve 43 Council spaces.</p> <p>The electrical authority, Jemena, requires easements to be created over common property providing access to their substations which is not possible at 999 Nepean Highway. Relocation to South Rd removes the requirement for new driveway easements to be created.</p>	Based on discussion had in the previous table regarding the revised car parking layout and in accordance with the advice received from Council's Traffic Department, it is recommended that the revised car park layout, which includes the relocation of the substation, be supported by Council.

SK.002	Ground floor car park	Two-way thoroughfare provided as per condition 1) d).	Support this change as it has been made in accordance with Condition 1. d) of the Permit.																												
SK.003	First floor car park	Switch room relocated from ground floor (adjacent to car park ramp) up to first floor adjacent to the core.	It is recommended that Council support this minor change.																												
SK.004 – SK.008	Apartment x.01 and x.02	<p>On each residential level, apartments x.01 and x.02 have been redesigned as follows:</p> <table data-bbox="907 646 1411 925"> <thead> <tr> <th></th> <th></th> <th>Area</th> <th>Balcony Levels 2-7</th> </tr> </thead> <tbody> <tr> <td colspan="4">2.01-7.01 5 in total</td> </tr> <tr> <td>Approved</td> <td>1 bed</td> <td>48.28</td> <td>6.43</td> </tr> <tr> <td>Proposed</td> <td>2 bed</td> <td>55.35</td> <td>6.43</td> </tr> <tr> <td colspan="4">2.02-7.02 5 in total</td> </tr> <tr> <td>Approved</td> <td>1 bed</td> <td>51.61</td> <td>6.43</td> </tr> <tr> <td>Proposed</td> <td>1 bed</td> <td>46.19</td> <td>6.43</td> </tr> </tbody> </table> <p>The impact on the exterior of the building from this change is:</p> <ul data-bbox="896 1053 1422 1284" style="list-style-type: none"> • South courtyard façade line moved 1.8m south extending the wall to the east elevation by same amount. • Communal courtyard shape changes but total area is increased from 91sqm to 98sqm. 			Area	Balcony Levels 2-7	2.01-7.01 5 in total				Approved	1 bed	48.28	6.43	Proposed	2 bed	55.35	6.43	2.02-7.02 5 in total				Approved	1 bed	51.61	6.43	Proposed	1 bed	46.19	6.43	<p>The proposed changes to the apartments listed in the table to the left of this column are negligible and result in minor revisions to the external façade design (e.g. placement of windows). These minor changes result in no detriment to the adjoining properties nor raise any concern with regard to the internal layout.</p> <p>Accordingly, it is recommended that Council support these revisions.</p>
		Area	Balcony Levels 2-7																												
2.01-7.01 5 in total																															
Approved	1 bed	48.28	6.43																												
Proposed	2 bed	55.35	6.43																												
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Proposed	1 bed	46.19	6.43																												

SK.012	North elevation Apartment 4.06	Additional window added to living area.	Negligible revision that warrants Council support.
SK.012	North elevation Apartment 3.05	Additional window added to living area.	Negligible revision that warrants Council support.
SK.013	South elevation	Windows modified to reflect new apartment layouts for apartments x.01 and x.02 (every level).	Negligible revision that warrants Council support.
SK.013	South elevation Apartment 2.13	Additional window to corner bedroom.	Negligible revision that warrants Council support.
SK.013	South elevation Apartment 4.13	Additional window to corner bedroom.	Negligible revision that warrants Council support.
SK.013	South elevation Apartment 5.12	Window to corner bedroom deleted.	Negligible revision that warrants Council support.
SK.015	East elevation Apartments 2.02, 2.03, 2.04, 2.05, 2.06, 2.07	Window added to bedroom at each level.	Negligible revision that warrants Council support.

SK.015	East elevation Apartment 2.13	Additional window to corner bedroom as noted above.	Negligible revision that warrants Council support.
SK.015	East elevation Apartment 4.13	Additional window to corner bedroom as noted above.	Negligible revision that warrants Council support.
Landscape concept plan	Pedestrian paths	Existing asphalt footpath to be retained for the portion of path connecting from the south east corner of the Site to the Train station entry.	Negligible revision that warrants Council support.
Landscape concept plan	Seated area	Paving and seated area below the Acacia tree deleted. The existing asphalt footpath must retained in this area (TPZ) as a requirement of condition 9 of the Planning Permit.	The Permit Applicant has agreed to provide seating and barbeque facilities, in a suitable location to Council's satisfaction, to the south side of the development site, should Council believe this to be necessary. This matter can be addressed via the inclusion of a suitable condition on any amended permit issued.
Landscape concept plan	Public lighting	New freestanding lamp post along the pathway to the south of the site deleted. Instead, new building mounted public lighting to be installed on the affordable housing building to Council specifications.	Negligible revision that warrants Council support.

		Existing building mounted public lighting is to be retained for pathways to the south of the Site.																	
Landscape concept plan	Works around the train station	New landscaping works at the entry to the Citybound train platform deleted. No works are proposed for this area.	This matter has been discussed in the second row on the previous table. Based on the consideration and information provided in this section of the report, it is recommended that Council support this change.																
Traffic & Parking Assessment		<p>The report has been updated to incorporate the new mix of apartments arising from changes to apartments 2.02 to 7.02 i.e.:</p> <table border="0"> <thead> <tr> <th></th> <th>Studio</th> <th>1 Bed</th> <th>2 bed</th> </tr> </thead> <tbody> <tr> <td>Approved</td> <td>10</td> <td>45</td> <td>20</td> </tr> <tr> <td>Proposed</td> <td>10</td> <td>40</td> <td>25</td> </tr> <tr> <td></td> <td></td> <td></td> <td>75</td> </tr> </tbody> </table>		Studio	1 Bed	2 bed	Approved	10	45	20	Proposed	10	40	25				75	Recommendation to Council is to support this change. As all apartments include either 1 or 2 bedrooms, there is no variation to the car parking requirements.
	Studio	1 Bed	2 bed																
Approved	10	45	20																
Proposed	10	40	25																
			75																

3.0 CONCLUSION:

- 3.1 As identified initially in this report, it seeks a resolution of Council regarding an application made pursuant to Section 72 of the *Planning and Environment Act 1987* for modifications to Planning Permit KP245/09, including the plans relevant to the Permit. Therefore, the consideration before Council is limited to the matters where the Planning Permit Holder has sought amendments.
- 3.2 For reasons discussed within this report, it is submitted that the proposed amendments to the permit and plans be supported by Council, subject to the adoption of Council's Planning Officer's recommendations.
- 3.3 Council determine a position with respect to varying the respective Section 173 Agreement.

4.0 RECOMMENDATION:

OPTION 1 (SUPPORT)

- I. That Council resolve to issue an Amended Planning Permit for the development of the site at No. 358a (PC 371611L) & No. 358 (part Lot 3 on PS 531995K) South Road, Moorabbin for a seven (7) storey building comprising seventy-five (75) dwellings with a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme and to create access to a Road Zone Category 1, subject to the recommendations specified in the Offices report and the conditions outlined in the attached amended planning permit; and
- II. Council resolve to seek to remove the existing Section 173 Agreement (AE4237945) upon creation and registration of a new Section 173 Agreement required by way of Condition 13 of Amended Planning Permit KP245/09-A.

In the event that Council wish to not support all or part of the amended application, the following are suggested grounds for refusal.

GROUND'S of REFUSAL for SECTION 72 APPLICATION at 358a & 358 SOUTH ROAD, MOORABBIN:

OPTION 2 (REFUSE THE AMENDMENTS TO THE SECTION 173 AGREEMENT ONLY)

1. The proposed amendments sought to the requirement for a Section 173 Agreement are considered inappropriate as they change the original intention of the permit.

OPTION 3 (REFUSE PROPOSAL IN ITS ENTIRITY)

1. The proposed amendments sought to the requirement for a Section 173 Agreement are considered inappropriate as they change the original intention of the permit.
2. The proposed amendments sought to the plans reduce the amenity and quality of the development.

**AMENDED
PLANNING
PERMIT**

Permit Number: **KP245/09-A**
Planning Scheme: **KINGSTON**
Responsible Authority: **CITY OF KINGSTON**

ADDRESS OF THE LAND:

**No. 358a (PC 371611L) and No. 358 (Part Lot 3 on PS 531995K) South Road,
Moorabbin**

THE PERMIT ALLOWS:

The development of this site for a seven (7) storey building comprising seventy-five (75) dwellings with a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme and to use for Accommodation, and to create access to a road in a Road Zone-Category 1, in accordance with plans to be submitted pursuant to Condition 1 herewith:

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

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 2 November 2009, including the landscape plan prepared by Michael Smith and Associates (Rev A- 19-08-09), but modified to show:
 - a. the provision of an improved landscape plan and associated planting schedule for the site and surrounds showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;

Date Issued: 29th July, 2009

Signature for the Responsible Authority

Date Amended: 30th November, 2009

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

PLANNING PERMIT NO. KP245/09
ADDRESS: Part No. 999 (Lot 2 on PS 531995K) Nepean Highway, Moorabbin

- 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. sustainable lawn areas and plant species taking current water restrictions into consideration;
 - vii. all trees provided at a minimum of two (2) metres in height at time of planting;
 - viii. medium to large shrubs to be provided at a minimum pot size of 200mm;
 - ix. 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;
 - x. all specie types for trees nominated, including the two (2) trees located to the western side of the building and the four (4) street trees located to the northern side of the building and shown to accommodate VicRoads siting requirements, in accordance with Condition 11 of this permit;
 - xi. clear delineation of all pedestrian paths, including to the south (rear) and west (side) of the building, in association with Condition 1.h. of this permit;
 - xii. the provision of an alternative quality finish for the pedestrian walkway/s (e.g. stained concrete or similar);
 - xiii. the provision of landscape, communal furniture and facility (eg. barbeque/s) details for the second floor terrace area;
 - xiv. the provision of suitable landscape treatment to the west side of the ground floor car park, adjacent to car parking spaces 4 and 5 and in accordance with Condition 1d. of this permit; and
 - xv. the provision of notes in accordance with Conditions 5, 6, 7, 8 and 9 of this planning permit.
- b. all requirements of the Department of Transport, in accordance with Condition 10 of this permit;
 - c. all requirements of the VicRoads, in accordance with Condition 11 of this permit;
 - d. the provision of a two-way thoroughfare / access created of no less than 5.5 metres in width between the ground floor car park to the carriageway easement (common property E-11) adjacent to car parking spaces 14 and 15, with the creation of this accessway to result in a loss of no more than two (2) car parking spaces from the site;

Date Issued: 29th July, 2009

Signature for the
Responsible Authority

Date Amended: 30th November, 2009

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

- e. the provision of detailed car parking, traffic management and signage, which includes:
 - I. fully dimensioned plans which show the crossover widths, all car parking spaces, all access way widths and a full design for the integration of the proposed car park with the existing car parking under the Kingston City Hall;
 - II. in accordance with Condition 1.d. of this permit, a total of thirty-six (36) car parking spaces located on the ground floor and seven (7) car parking spaces on part of Lot 3 (PS 531996K, Vol 10936, Fol 295) (i.e. a total of forty-three (43) car parking spaces) nominated for the use of patrons to the Kingston City Hall and Kingston Arts Centre, as required by Section 173 Agreement (AE423794S);
 - III. a total of no less than twenty-eight (28) allocated car parking spaces nominated for the development and three (3) visitor car parking spaces clearly nominated;
 - IV. the location, content and size of signage both internal and external to the subject land which provides visitors with details of entry and exit points to the subject land;
 - V. full details of signage proposed to demarcate each car space to be allocated to the Kingston City Hall and Kingston Arts Centre;
 - VI. the signage required to indicate height clearances between the different car park levels;
 - VII. the location and details of any statutory signage deemed necessary by Council to be replaced to reinforce parking restrictions for the Kingston City Hall and Kingston Arts Centre car parking spaces and;
 - VIII. any proposed mechanisms, if deemed necessary, to secure the car parking spaces allocated to the development including how visitor access would be achieved.
- f. in accordance with Condition 1.d. and 1.e. of this permit, the provision of an improved walkway between the ground floor car park and the carriageway easement (common property E-11);
- g. the provision location of artwork graphics along the development's northern (front) façade, essentially at ground level, to enliven the development's presentation to South Road and provide an improved connection between the development and the Arts Centre. Artwork graphics must be designed, and installed prior to the occupation of the building, to the satisfaction of the responsible authority;

Date Issued: 29th July, 2009

Signature for the
Responsible Authority

Date Amended: 30th November, 2009

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

PLANNING PERMIT NO. KP245/09
ADDRESS: Part No. 999 (Lot 2 on PS 531995K) Nepean Highway, Moorabbin

- h. the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development with light colour tones to be predominately selected for the external facades of the building to increase heat reflection from those surfaces most exposed to heat loads and, where possible, the selection of applied finishes to the building's façade to be of superior heat resistant properties;
- i. all traffic directional arrows shown along carriageway easement E-11 to be deleted from the site plan(s) and as appropriate addressed in Condition 1e of this permit;
- j. the location of all externally located heating and cooling units, exhaust fans and the like, clearly shown;
- k. a notation on the floor plan(s) stating: "The redundant vehicle crossing must be removed, kerb & channel must be reinstated and the extension to the existing footpath up to the wing of the vehicle crossing must be constructed to the satisfaction of the Responsible Authority";
- l. a notation on the floor plan(s) stating: 'any new crossover to be designed and built to Council's standard requirements' and in accordance with the plans submitted as part of Condition 1e of this permit';
- m. the dark grey blade screen, directly to the east side of the access point to the ground floor car park and the grey/green perforated lining with graphic treatment, directly to the west side of this access point, to be transparent for at least its first 1.5 metres to a minimum height of 1.5 metres from natural ground level or provided with a splay, or similar, to provide sightlines for vehicles exiting the site;
- n. the respective elevation plan (i.e. north elevation plan), amended in accordance with Condition 1n. of this permit;
- o. the provision of metal hoods or shading elements (retractable screening or shading devices) included and clearly nominated on at least 80 percent of the east and west facing windows to add articulation, interest and provide sun protection;
- p. the notation of dark grey sunshade hoods to be clearly nominated on all elevations plans to correspond with the external finishes schedule;
- q. the provision of noise attenuation measures incorporated into the design, in accordance with the recommendations and findings of the Acoustic Report required by Condition 17 of this permit;
- r. the ground floor plan to correspond with the east elevation plan with the dark grey blade screening to extend, in its entirety, right along the east side of the car park and pedestrian path to provide a visual barrier;
- s. the north to south aligned corridor, on each residential level, provided with a window at its most southern end (i.e. along the south (rear) elevation) to provide natural light and assist with cross-ventilation to these corridor spaces;

Date Issued: 29th July, 2009

Signature for the
Responsible Authority

Date Amended: 30th November, 2009

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

- t. the access path to the bicycle storage on the first floor level car park clear of any obstructions;
 - u. the surface material of all driveways / accessways and car parking spaces nominated;
 - v. the finished floor levels, finished ceiling levels and overall height of the building from natural ground level, clearly nominated;
 - w. the provision of barbeque and seating facilities located on VicTrack land to south side of the development site; and
 - x. the provision of a detailed management and maintenance schedule outlining the responsibilities of the parties, in accordance with Condition 13.m) of this permit.
2. The development and use 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 development hereby permitted and subject to Council arranging and providing sufficient access to VicTrack land, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. This requirement may be varied by the Responsible Authority if access to VicTrack land is not available. The landscaping must then be maintained to the satisfaction of the Responsible Authority during its early establishment (up to 12 months if necessary).
 4. Prior to the occupation of the development hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
 5. A Tree Protection Zone (TPZ) must be observed at a distance of five (5) metres in a radius surrounding the *Eucalyptus melliodora* (Yellow Box) at the rear of the site.
 6. Prior to the commencement of the development hereby permitted, a Tree Protection Fence defined by a 1.2 metre (or larger) high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting, must be erected around the *Eucalyptus melliodora* (Yellow Box) at the distances specified for the TPZ.
 7. The following must be observed within the TPZ area (without the further consent in writing of Council's Vegetation Management Officer):
 - a. the existing soil level must not be altered either by fill excavation;
 - b. the soil must not be compacted or the soil's drainage changed;
 - c. no fuels, oils, chemicals, poisons, rubbish and other materials harmful to trees are to be stored or dispersed;
 - d. no storage of equipment, machinery or material is to occur;

Date Issued: 29th July, 2009

Signature for the Responsible Authority

Date Amended: 30th November, 2009

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- e. open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used;
 - f. tree roots must not be severed or injured; and
 - g. machinery must not be used to remove any existing concrete, bricks or other materials.
8. All tree pruning work must be in accordance with the Australian Standards AS4373 (2007) "Pruning of Amenity Trees" and be undertaken by a qualified and experienced Arborist.
9. The existing asphalt path (within an 8 metre radius of the *Eucalyptus melliodora* (Yellow Box) tree) must be retained in the existing condition unless approved in writing by Council's Senior Vegetation Management Officer.
10. **Conditions required by the Department of Transport**
- a) The permit holder must take all reasonable steps to ensure that disruption to train operation within the railway corridor is kept to a minimum during the construction of the development. Foreseen disruption to rail operation during construction and mitigation measures must be communicated to Connex and the Director of Public Transport fourteen days (14) prior.
 - b) The permit holder must ensure that all track, overhead power and supporting infrastructure is not damaged or that works do not cause unplanned disruption to rail operations. Any damage to public transport infrastructure must be rectified to the satisfaction of the Director of Public Transport at the full cost to the permit holder.
11. **Conditions required by VicRoads**
- a) Prior to the commencement of the permitted development amended plans generally in accordance with the submitted plan prepared by Hayball Pty Ltd Ref: SK002 titled -Ground Floor Plan dated 5/5/2009 but modified to the show the following must be submitted to and approved by the Responsible Authority:
 - i. The proposed vehicle crossover widened to at least 6.4m wide as measured at the property boundary and the edges of the vehicle crossover angled at 60 degrees to the road reserve boundary, to improve the entry and exit conditions.
 - ii. The street trees proposed along South Road planted at least 3m away from the edge of the road pavement.

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- b. Prior to the commencement of the use of the permitted development the crossover in accordance with VicRoads condition must be constructed and sealed to the satisfaction of the Responsible Authority.
 - c. Prior to the commencement of the use of the permitted development the existing cross-over which would be redundant must be removed and footpath, nature strip and kerbing reinstated to the satisfaction of the Responsible Authority.
 - d. All the vehicles associated with the development and use must drive forward when both entering and leaving the declared road reserve.
12. No more than twenty-eight (28) of the seventy-five (75) dwellings are to be allocated a single car parking space.
13. Prior to the commencement of the use and development hereby permitted, the owner of the land must enter into an executive agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority in which it shall be covenanted as follows:
- a) Pursuant to the provisions of Section 181 of the *Planning and Environment Act 1987* this agreement shall be registered with the Registrar of Titles and shall run with the land;
 - b) That the requirements contained in the agreement shall form part of any lease of the premises which the owner of the land under this permit may enter into with another party; and
 - c) The owner of the land under the permit shall pay the legal costs and be responsible for the preparation and registration of the said agreement

The Section 173 agreement must specifically provide for the following:

Provisions should the owner seek consent to sell dwellings

- d) A registered Housing Association must not sell any dwellings to a Private Party without the further written consent of the Responsible Authority. The Responsible Authority must not unreasonably withhold its consent;
- e) Should the written consent of the Responsible Authority not be provided in relation to the principle of Condition 13.d) (of this permit) the Section 173 Agreement must make provision for an independent appeal mechanism to be provided for the registered housing association;
- f) If it is determined that dwellings are able to be sold the remaining supply of car parking for the affordable housing tenants must not be reduced below an average rate of 0.23 car spaces per unsold apartment, prior to a date 15 years from the date of this permit, without the further written consent of the Responsible Authority;

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General provisions regarding the operation of the development

- g) The transfer of land at No 358 (Part of Lot 3 on PS 531995K) South Road, Moorabbin to Kingston City Council to provide for seven (7) car parking spaces for use by patrons of the Kingston Arts Centre and Kingston City Hall at all times in accordance with the service agreement mentioned in Condition 12.m) of this permit;
- h) The provision of thirty six (36) car parking spaces that must be provided on land at No. 358a (PC371161L) for use by patrons of the Kingston Arts Centre and Kingston City Hall at all times in accordance with the service agreement mentioned in Condition 13.m) of this permit;
- i) Prior to development commencing a minimum of forty three (43) temporary off-site car parking spaces must be obtained through a commercial agreement by the Permit Applicant, at their entire cost, and provided for patrons of the Kingston City Hall and Kingston Arts Centre. Temporary off-site car parking spaces must be maintained for the duration that car parking cannot be provided on the Site, due to construction activities;
- j) That the Director of Housing be required to register his/her interest in the Land;
- k) The lessor must advise the prospective tenant in writing whether or not a particular tenant is entitled to a car parking space and that the designated forty-three (43) car parking spaces identified on the endorsed plans are for use by Kingston Arts Centre and Kingston City Hall Patrons only;
- l) The implementation of management and maintenance responsibilities of all required works to be provided for in the car parking, traffic management and signage plan required as part of Condition 1e. of this permit;
- m) A mechanism to enter into a service agreement with the Responsible Authority requiring a detailed management and maintenance schedule outlining the responsibilities of the parties (i.e. 'who is going to maintain what') in relation to the ongoing maintenance of the ground floor car parking area; and
- n) A notation must be included on any future leases granted to residents which clearly recognises Kingston City Council's unfettered right to use the Kingston City Hall and Kingston Arts Centre for whatever activities it may wish irrespective of the operational elements (noise, number of people etc) associated with such activities, subject to their normal responsibilities under law.

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14. Prior to commencement of the development hereby permitted, a Site Management Plan (SMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The SMP must establish a set of 'house rules' for the building, to be followed thereafter to the satisfaction of the Responsible Authority. The SMP must ensure that a suitably qualified full time manager / supervisor with responsibility to oversee tenant behaviour is available and must detail arrangements, including but not limited to:
- a) the maintenance of the building;
 - b) cleaning;
 - c) supervision;
 - d) management of common areas including noise control measures after hours;
 - e) allocation of car parking and bicycle facilities consistent with the conditions of this planning permit;
 - f) security of the building/site including the first floor parking area; and
 - g) contact details (i.e. direct telephone number) of the full-time manager provided to Council.
15. Before the commencement of any buildings and works on the Land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not limited to, the following:
- a) a detailed schedule of works which includes full project timing including when the car parking areas for the Kingston City Hall and Kingston Arts Centre would be released;
 - b) traffic management for the Kingston City Hall, Kingston Arts Centre and other commercial activities carried out on the subject land including when or whether any access points would be required to be blocked;
 - c) the location for the parking of all construction vehicles and construction worker vehicles during construction;
 - d) delivery of materials including details of where materials will be stored and how concrete pours would be managed;

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- e) proposed traffic management signage for South Road and Nepean Highway (if required) indicating any inconvenience generated by construction;
- f) fully detailed plan indicating where construction hoardings would be located and as relevant the associated approvals required;
- g) times for loading/unloading of materials;
- h) containment of waste on site;
- i) suppression of dust management;

- j) business operations on the site during construction;
- k) site security;
- l) public safety measures; and
- m) construction times, noise and vibration controls.

16. Before the commencement of any buildings and works on the Land, a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and thereafter be complied with. The WMP must include but is not limited to:

- a) The supply of bins for both 'general waste' and 'recyclable waste' and demonstrating how the garbage and recycling aspects of the development will operate;
- b) The manner in which waste will be stored and collected including: type, size, number of containers and procedure(s) put in place as to how tenants are required to dispose of waste;
- c) Spatial provision for on-site storage;
- d) Private contractor details; and
- e) The size of the collection vehicle and the frequency, time and point of collection.

The WMP must be implemented to the satisfaction of the Responsible Authority. The WMP must not be modified unless without the written consent of the Responsible Authority.

17. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of an ESD report to be prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The ESD report must include, but is not limited to, detailing initiatives for insulation, daylighting, stormwater harvesting, energy efficient internal illumination, energy efficient concepts, glazing and internal ventilation.

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18. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of an Acoustic report to be prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. The appointed acoustic consultant must undertake testing on a time indicated by the Responsible Authority to measure the level of noise generated by the Kingston City Hall, Kingston Arts Centre, South Road, and Frankston Railway Line. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The Acoustic report must detail any additional reasonable acoustic measures that can be undertaken to improve the acoustic performance of the development with respect to its immediate surrounds, to ensure and protect the amenity of future residents.
19. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration or bio retention system, rainwater tanks connected for reuse and a detention system.
20. 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.).
21. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
22. Prior to the occupation of any part of the development approved under this Planning Permit, the applicant / owner of the land must complete all works identified on the approved landscape plan and car parking, traffic management and signage plan.
23. The developer/owner must contact the Responsible Authority and VicRoads and arrange traffic management plans and **WORKS ZONE** for any works that may affect traffic (both vehicular and pedestrian) or parking on South Road or any of the surrounding streets. Works vehicles may not be able to stop in the street fronting the property. The developer will be responsible for the costs of arranging a **WORKS ZONE** and reinstatement of parking restriction signs, to the satisfaction of the Responsible Authority.

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Date Amended: 30th November, 2009

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PLANNING PERMIT NO. KP245/09
ADDRESS: Part No. 999 (Lot 2 on PS 531995K) Nepean Highway, Moorabbin

- 24. Prior to the occupation of the development hereby permitted, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must be reinstated to the satisfaction of the Responsible Authority.

- 25. 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.

- 26. Prior to the occupation of development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.
 - c. Surfaced in accordance with the endorsed plans under this permit or in an all weather coloured concrete seal-coat, to the satisfaction of the Responsible Authority.
 - d. Drained and maintained to the satisfaction of the Responsible Authority.

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

- 27. The two (2) small car parking spaces on the ground floor level properly delineated with the provision of a sign located above each space that clearly advises drivers that these spaces are to be used by 'small cars' only, to the satisfaction of the Responsible Authority.

- 28. No garbage bins or waste materials generated by the permitted use shall be deposited or stored outside the site.

- 29. The waste storage and collection arrangements must be to the satisfaction of the Responsible Authority.

- 30. Any external lighting must be provided with baffles to the satisfaction of the Responsible Authority so that no direct light is emitted outside the site.

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

- 32. No advertising signs shall be erected, painted or displayed on the land without the permission of the Responsible Authority unless in accordance with the exemption provisions of the Kingston Planning Scheme.

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

Date Issued: 29th July, 2009

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34. 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 within two (2) years from the date of permit.
 - The development is not completed within four (4) years from the date of 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: 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.

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of Amendment	Brief Description
30 November 2009	<p>1. Address of Land has been amended to reflect the address assigned to the Subject Land by Council's Property Services Department following the recent subdivision (land consolidation).</p> <p>2. Condition 1 has been amended to:</p> <ul style="list-style-type: none"> • include the revised landscape plan prepared by Michael Smith and Associates; • modified 1.e. iii) and 1.iv) to reflect the revised car parking layout and revised number of car parking spaces; • delete 1.e. ix) and 1.e. xi) as they are no longer applicable due to the revised car parking layout; • slightly modify the wording of 1.g.; • delete 1.j. as the condition is onerous; • insert a new condition at 1.w. to provide BBQ facility details, which were omitted from the revised landscape plan(s); and

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	<ul style="list-style-type: none">• insert a new condition at 1.x. for the provision of a management and maintenance schedule. <p>3. Condition 12c)c) transferred to a standalone Condition 12, with all subsequent conditions renumbered accordingly.</p> <p>4. Condition 12 (now referred to as Condition 13 in this amended permit) substantially modified with the requirements of the Section 173 Agreement reformatted, reworded, deleted or new requirements introduced.</p> <p>5. A new Condition inserted at Condition 27, with all subsequent conditions renumbered accordingly.</p>
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Date Issued: 29th July, 2009

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APPENDIX A – ORIGINAL COUNCIL REPORT

APPLICANT:	Kingsgate Moorabbin 2 Pty Ltd
CONTACT:	Contour Consultants Australia Pty Ltd
ADDRESS OF LAND:	Part No. 999 (Lot 2 on PS 531995K) Nepean Highway, Moorabbin
Melway Ref:	77D5
PROPOSAL	Seven (7) storey building comprising 75 dwellings
CONTACT OFFICER:	Jennifer Pippo
FILE NO:	KP245/09
ZONING:	Clause 34.02 – Business 2 Zone Clause - Road Zone Category 1
OVERLAY(S):	Clause 43.01 – Heritage Overlay (79, 80 & 126)
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<p><u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 15: Environment Clause 16: Housing Clause 17.01: Activity Centres Clause 18: Infrastructure</p> <p><u>Local Planning Policy Framework</u> Clause 21.03 Land Use Challenges for The New Millennium Clause 21.04: Vision Clause 21.05: Residential Land Use Clause 21.06: Retail and Commercial Land Use Clause 21.12: Transport, Movement and Access Clause 21.13: Heritage</p> <p><u>Particular Provisions</u> Clause 52.06: Car Parking Clause 52.29: Land Adjacent to a Road Zone Clause 52.34: Bicycle Facilities Clause 52.35: Urban Context Report & Design Response for Residential Development of Four or more storeys Clause 52.36: Integrated Public Transport Planning</p> <p><u>General Provisions</u> Clause 65: Decision Guidelines</p>
DECISION BY:	24 July 2009
STATUTORY DAYS:	35 days @ 29 June 2009

1.0 KEY ISSUES RELATING TO THIS APPLICATION

- Traffic considerations (access and parking)
- Amenity impact (internal and external)
- Urban design (scale and built form)
- Proposed use of the land – ‘Affordable Housing’

- Vegetation/landscaping considerations

For the purpose of this Council Report, any reference made to 'the subject site' or 'subject Land' relates specifically to Lot 2 on PS 531995K at No. 999 Nepean Highway, Moorabbin, unless specified otherwise.

2.0 PROPOSAL

- 2.1 It is proposed to construct a **seven (7) storey** building on this site to be used for **accommodation (75 dwellings)** comprising:

§ Ground Floor: 37 public car parking spaces
§ 1st Floor: 6 public car parking spaces and 26 resident car parking spaces
§ 2nd – 6th Floor (inclusive): 75 units (ranging from 1 and 2 bedrooms)

- 2.2 The proposed development is intended to be used for the purpose of 'affordable housing' with the accompanying support and management of Port Phillip Housing Association (PPHA).
- 2.3 As stipulated by the Permit Applicant, all persons who occupy the proposed dwellings are sole persons or families on low incomes who would be required to meet eligibility criteria for community rental housing as determined by the Housing Registrar (DHS).
- 2.4 Accordingly, potential tenants need to apply to the Operator (i.e. PPHA) and prior to determining their eligibility they must satisfy "Asset" and "Income" criteria. Thus, tenants are required to sign lease agreements that specify strict occupancy criteria. It is understood that any breaches of this can result in cancellation of their lease agreement.
- 2.5 As outlined above, the ground (grade level) and first floor level of the building is to be used for car parking. A total of 69 car parking spaces are to be provided on the site of which 37 spaces are to be located on the ground level and 32 spaces on the first floor level. The allocation of these car parking spaces is explained further in the body of the report but essentially the forty three (43) spaces need to be retained for use by the Kingston City Hall and Kingston Arts Centre.
- 2.6 The remaining five (5) levels will be used for accommodation, each level containing 15 units. Each of five (5) residential levels will comprise of eleven (11), one (1) bedroom units, with the remaining four (4) units on each level containing two (2) bedrooms. This equates to fifty five (55), one (1) bedroom units and twenty (20), two (2) bedroom units. In addition it is understood that on each level particular dwellings have been designed to accommodate resident's physical disabilities.
- 2.7 In addition to the ground floor car parking spaces, the ground floor component of the development will also include:

- § A waiting room and lobby area, which is located centrally along the site's frontage;
 - § Lift facilities;
 - § Rubbish room; and
 - § Substation and switch-room.
- 2.8 In addition to the thirty two (32) car parking spaces located on the first floor level, bicycle and general storage areas are also proposed, which includes 60 bicycle spaces.
- 2.9 A new 6.145 metre wide accessway (crossover) is proposed along the site's South Road frontage, to the eastern side of the Land's front boundary, which provides access to the ground floor level car parking spaces only.
- 2.10 Access to the first floor level car parking area is proposed via a ramp, which is located to the rear (south) side of the site, accessed via the carriageway easement that straddles the site's west property boundary.
- 2.11 A 91.60m² communal courtyard is proposed on the second floor level, to the south-west side of the site.
- 2.12 Each unit includes a private terrace area that generally ranges between 3.15m² to 6.43m² (excluding the five (5) larger terrace areas that directly face onto the communal courtyard).
- 2.13 The development has an overall height of approximately 24 metres.
- 2.14 The Permit Applicant has advised Council of the following:
- § Once the development is completed, it is intended that PPHA will buy the project from the Land owner at an agreed price based on valuation.
 - § PPHA as the owner of the completed development will then assign a representative to manage the building and its tenancy arrangements
 - § In order for the development proposal to be viable, government funding will need to be obtained. As such, PPHA has made an application for 'Nation Building' government funding; and
 - § A development agreement will be executed between the Land owner and PPHA upon confirmation of the project funding.
- The assessment of this application has been determined based upon the above matters and as such conditions are imposed on the Planning Permit to ensure that should the development proceed it occurs based on it providing affordable housing through a recognised Housing Association.
- 2.15 The proposed external building materials, colours and finishes are summarised below:

- § Dark grey cladding
- § Integral colour texture finish
- § Increased texture and darker colour to lower levels of texture finish
- § Warm grey perforated balustrades
- § Dark grey sunshading hoods
- § Dark grey blade screens
- § Featured colour to recessed balcony returns and soffits
- § Aluminium framed glazing
- § Grey / green perforated lining with graphic treatment to South Road (ground level)
- § Grey metal canopy

3.0 SITE & SURROUNDS

- 3.1 The subject site is located on the south side of South Road, Moorabbin. The Land is described as Lot 2 on PS 531995K and forms part of a larger land holding identified at No. 999 Nepean Highway, Moorabbin. Importantly, the site is located within the **Moorabbin Major Activity Centre [MAC]** as defined by Melbourne 2030.
- 3.2 The subject site is irregular in shape with a 38.3 metre wide frontage to South Road and an overall area of approximately 1.189m² with an additional 139m² of land encumbered by easements. A carriageway easement, identified as E-9, runs along the west side of the subject site (in its entirety), which is in favour of lots specified on PS 531995K. Further to this, another carriageway easement runs along the west side of E-9, providing common property and vehicular access in favour of lots specified also on PS 531995K.
- 3.3 The parent allotment recognised at No. 999 Nepean Highway, Moorabbin is located on the south-east corner of the intersection of Nepean Highway and South Road. The Kingston City Hall, Arts Centre and former City of Kingston Moorabbin Offices, which has now been refurbished into a three (3) storey commercial / office development, and associated car parking all forms part of No. 999 Nepean Highway, Moorabbin.
- 3.4 Currently, the subject Land comprises a car park area to the east side of the Kingston City Hall and Arts Centre. This car park area currently comprises 43 spaces, which is used by both employees and patrons to the Kingston City Hall and Arts Centre.
- 3.5 The surrounding area typically comprises of business and commercial type uses. To the north side of the subject site, on the opposite side of South Road, are several single and double storey shops and offices. A large five (5) storey office building is located on the north-east corner of Nepean Highway and South Road.
- 3.6 The Frankston railway line is located directly to the east side of the subject site; with the Moorabbin railway station located approximately 100 metres to the south-east side of the subject site. The Station Street retail precinct is situated to the eastern side of the Frankston railway line along with associated public car parking.

3.7 Land to the south side of the site includes the former Moorabbin Council Municipal Offices, which have now been refurbished into a three (3) storey office/commercial building.

3.8 Land to the west side of the site comprises of civic buildings as mentioned earlier, includes the Kingston City Hall and Arts Centre.

4.0 TITLE DETAILS

4.1 The Permit Applicant has completed the planning application form declaring that the proposed development **does not breach** any restrictive covenants, section 173 agreements or other obligations listed on the Certificate of Title.

4.2 It must be mentioned that a S.173 Agreement (AE423794S) applies to the Land which, amongst other things, requires the Owner to replace 43 public car parking spaces (**replacement car parking**) for the City Hall and Kingston Arts Centre. In accordance with this agreement, the proposal includes 43 car parking spaces to be allocated to the Kingston Town Hall / Arts Centre.

5.0 PLANNING CONTROLS

5.1 The subject site is located within a Business 2 Zone. Land at No. 999 Nepean Highway, Moorabbin is also subject to a Heritage Overlay.

5.2 South Road and Nepean Highway are both identified in a Road Zone Category 1.

6.0 PLANNING PERMIT REQUIREMENTS

6.1 Pursuant to Clause 34.02 (Business 2 Zone), a planning permit is required to construct a building or construct and carry out works.

6.2 A dwelling falls within the hierarchy of Accommodation, which is a Section 2 Use within the Business 2 Zone and, therefore, requires a permit.

6.3 Pursuant to Clause 43.01 (Heritage Overlay), a planning permit is required to construct a building or construct and carry out works. Although it is somewhat unclear as to whether or not the property is located within or outside the Heritage Overlay the application has been assessed on the basis that such an overlay applies.

6.4 Pursuant to Clause 52.29, a planning permit is required to construct or alter an access to a Road Zone Category 1.

7.0 RELEVANT HISTORY

7.1 With regard to Council's consideration of this application, there is no relevant planning history relating to this site.

8.0 ADVERTISING

8.1 The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers, maintaining a notice on-site for fourteen (14) days and by displaying a copy of the on-site public notice in The Mordialloc Chelsea Leader / The Moorabbin Leader / The Oakleigh Monash Leader / The Independent for two consecutive editions.

8.2 Thirty two (32) objections to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Traffic concerns (access and parking)
- Loss of privacy / amenity concerns
- Overshadowing
- Overdevelopment
- Neighbourhood character
- Urban Design concerns
- Noise concerns
- Rubbish collection
- Non compliance with the intent of the Business 2 Zone and inappropriate location for housing
- Security concerns

8.3 The following objections raised are not valid planning considerations:

- Construction phase
- Introduce socially disadvantaged residents into the area

9.0 PRELIMINARY CONFERENCE

9.1 A preliminary conference was held on Thursday, 4 June 2009 with the relevant Planning Officer, Ward Councillor(s), the Permit Applicant and approximately ten (10) objectors in attendance. The above-mentioned issues were discussed at length.

9.2 The above concerns were unable to be resolved at the preliminary conference, and the objections still stand.

10.0 REFERRALS

10.1 The following referral departments were notified:

Internal:

- Council's Urban Design
- Council's Traffic Department
- Council's Development Engineer

- Council's Vegetation Management Officer
- Council's Environmental Planning Department
- Council's Roads & Drains Department
- Council's Waste Management Department
- Council's Heritage Advisor
- Independent Expert Architect

External:

- VicRoads
- VicTrack
- Department of Transport

10.2 The above-mentioned referral authorities had no objection to the proposal, subject to conditions being included on any permit issued. The 'Planning Consideration' section of this report will further elaborate on comments received from both internal and external referral authorities.

11.0 SUMMARY OF RELEVANT POLICIES

11.1 State Planning Policy Framework (SPPF)

- Clause 12: Metropolitan Development
- Clause 14: Settlement
- Clause 15: Environment
- Clause 16: Housing
- Clause 17.01: Activity Centres
- Clause 18: Infrastructure

11.2 Local Planning Policy Framework (LPPF)

- Clause 21.03: Land Use Challenges for The New Millennium
- Clause 21.04: Vision
- Clause 21.05: Residential Land Use
- Clause 21.06: Retail and Commercial Land Use
- Clause 21.12: Transport, Movement and Access
- Clause 21.13: Heritage

11.3 Particular Provisions

- Clause 52.06: Car Parking
- Clause 52.29: Land Adjacent to a Road Zone
- Clause 52.34: Bicycle Facilities
- Clause 52.35: Urban Context Report & Design Response for Residential Development of Four or more storeys
- Clause 52.36: Integrated Public Transport Planning

11.4 General Provisions

Clause 65 (Decision Guidelines)

11.5 Neighbourhood Character Area Guidelines (Incorporated Document within Clause 21.05: Residential Land Use)

The subject site is located just outside (to the west) of Character Area 1, which relates to development of residential allotments. Therefore, the Neighbourhood Character Area Guidelines are not considered relevant to the consideration of this application.

12.0 RELEVANT POLICIES IN DETAIL:

12.1 State Planning Policy Framework

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

The provisions of Clause 12 override other strategies in the SPPF where there are strategy differences. Clause 12 essentially reproduces the policy directions of Melbourne 2030 and it outlines objectives and strategies under each policy to achieve the goals of Melbourne 2030. Of specific relevance to the consideration of this application, **it encourages urban consolidation in appropriate locations, including major retail, commercial, administrative, entertainment and residential developments into activity centres.**

Beyond these key policy components broadly outlined through Clause 12.01 it is necessary to recognise that this proposal (through the advancement of Affordable Housing) actively addresses another key plank of Melbourne 2030 which is to create 'A Fairer City'. In particular at 12.06-2 a clear strategy is to:

Increase the supply of well-located affordable housing by:

- ***Encouraging a significant proportion of new development, including development at activity centres and strategic redevelopment sites, to be affordable for households on low to moderate incomes.***
- ***Facilitating a mix of private, affordable and social housing in activity centres, strategic redevelopment sites and Transit Cities projects.***

Most importantly, the proposal presently before Council, presents the first opportunity whereby Council has before it a Planning Permit Application which is able to address this critically important State Planning Policy.

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

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

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

It is submitted that the proposed development satisfies the aforementioned State strategies and policy direction. Specifically, the subject site is nestled within the Moorabbin Activity Centre, which is identified as a 'Major Activity Centre' by Melbourne 2030. The site enjoys convenient and direct linkages to both public transport modes, community facilities and the like.

Over the past few weeks the Minister of Planning has sought to reinforce the State Governments commitment to projects such as that advanced through this application on the basis of both its consistency with State Policy but also its ability to, through Federal Government funding, assist to stimulate the construction related economy through the economic downturn. Officers believe that this project not only addresses the 'economic stimulus' related considerations but presents a proposal (in a location) which is completely aligned with State Planning Policy as established through Melbourne 2030.

12.2 Local Planning Policy Framework

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

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

- § Clause 21.03 Land Use Challenges for The New Millennium
- § Clause 21.04: Vision
- § Clause 21.05: Residential Land Use
- § Clause 21.06: Retail and Commercial Land Use
- § Clause 21.12: Transport, Movement and Access
- § Clause 21.13: Heritage

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

- § **Clause 21.03: Land Use Challenges for The New Millennium** identifies the need for the Municipality to provide suitable housing stock that meets future housing demands and to sustain an appropriate mix of supporting urban infrastructure. It is further stated that recent pressures for new development, consolidation and medium density housing has resulted in change to the amenity and character of local areas. It is acknowledged that careful management will be required in order to integrate urban consolidation objectives with an understanding of specific character issues applicable to certain neighbourhoods.
- § Within **Clause 21.04-3: Strategic framework plan** (Clause 21.04 Vision), the subject site is located within a 'Major Activity Centre'. Council identifies locations for promotion of medium to higher density housing opportunities (Clause 21.04-3), which specifically includes areas designated within Activity Centres.
- § Relevant objectives and strategies in **Clause 21.05-3: Residential Land Use** include:
- To provide a range of housing types across the municipality to **increase housing diversity** and **cater for the changing housing needs** of current and future populations, taking account of the capacity of local areas in Kingston to accommodate different types and rates of housing change. This is to be achieved through **encouraging residential development within activity centres** via mixed-use development, and on transitional sites at the periphery of activity centres.
 - To ensure new residential development respects neighbourhood character and is **site responsive**, and that medium density dwellings are of the highest design quality. This is to be achieved through promoting new residential development, which is of a high standard, responds to the local context and positively contributes to the character and identity of the local neighbourhood.
 - To promote more environmentally sustainable forms of residential development. To be achieved through promoting medium density **housing development in close proximity to public transport facilities, particularly train stations**.
 - To manage the interface between residential development and adjoining or nearby sensitive/strategic land uses.
 - To ensure residential development does not exceed known physical infrastructure capacities.
- § Once again in much the same vein as Clause 12.06 in the State Planning Policy which reinforced the need to consider housing for those unable to pursue it through the private housing market, Council's Local Planning Policy at Clause 21.05-3 (Objective 8) seeks to do likewise. The objective reads:

'To recognise and respond to special housing needs within the community'

A relevant strategy then seeks that Council:

Support opportunities for the innovative provision of housing specific to housing needs not well catered for in the mainstream housing market such as aged accommodation and housing **for low income groups**.

§ A relevant objective and strategy in **Clause 21.06-3: Retail and Commercial Land Use** includes:

To protect and strengthen the hierarchy of activity centres within Kingston.

This is to be achieved through *promoting mixed-use precincts around key activity centres which encourage a broader range of cultural, social, commercial and higher density housing opportunities to complement retail functions of activity centres and enhance their economic vitality.*

The key objectives for the **Moorabbin Activity Centre** found within Kingston's Activity Centre Hierarchy table at Clause 21.06-3 are as follows:

- *Consolidate its food related retailing around the existing supermarket by providing for mixed use reinvestment.*
- **Encourage a substantial new residential population within the centre.**

It is noted that of the five (5) Major and one (1) Principal Activity Centre in Kingston it is only the Moorabbin Major Activity Centre whereby the recently revised Clause 21.06-3 seeks to specifically nominate this centre as a place to 'encourage a substantial new residential population'. This does not discount the importance of residential growth in all of Kingston's higher order centres, but certainly reinforces that in relation to Moorabbin this is a key outcome sought to further assist the vibrancy of the Activity Centre.

§ **Clause 21.12 relates to Transport, Movement & Access.** A relevant objective of this Clause includes:

To create a safe, convenient and efficient road network based on a functional hierarchy of local and regional road linkages, which meets the transport and freight needs of Kingston's residents, businesses, and through traffic. Further, an important strategy in achieving the abovementioned objective is to ensure that the new development adjacent to major arterial roads seeks to minimise the impact on traffic movements on the adjoining road network and provides:

- *Safe and efficient access.*
- *Adequate and well-located car parking areas.*

- *A detailed traffic assessment where the development is likely to significantly increase traffic volumes/movement on the adjoining road network.*
- *Details of required intersection treatments where appropriate.*

Please note that an assessment with regard to traffic related matters is provided within the Planning Consideration section of this report.

- § **Clause 21.13 Heritage** seeks to ensure new development adjacent to heritage buildings considers the surrounding heritage context.

Please note that **Clause 22.16 Heritage Policy** relates to lands covered by **Heritage Overlay's** and properties adjoining a heritage place affected by a **Heritage Overlay**. The Kingston City Hall and Arts Centre are both affected by a Heritage Overlay.

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

In summary the proposal is seen to be strongly consistent with Council's Local Planning Policy Framework and, importantly, it delivers on some very specific objectives for Moorabbin in relation to housing and of a form strongly encouraged but difficult till now to achieve proximate to an Activity Centre.

12.3 Particular Provisions

A number of particular provisions are considered relevant to the consideration of this application. They are identified as follows:

- § **Clause 52.06 Car Parking** of the Kingston Planning Scheme outlines the parking requirements for a variety of uses. Application of the applicable rate to the proposed development is summarised as follows:

Use	Quantity	Rate	Requirement
Residential	75 units proposed	2 spaces per dwelling (unit)	150 spaces

Notwithstanding the above, Clause 52.06 does allow for a reduction in the standard parking requirements, subject to the Permit Applicant justifying the reduction with reference to decision guidelines, to the satisfaction of the responsible authority.

In the case of the proposed development, a total of twenty-six (26) on-site car parking spaces are proposed, thus the development is seeking a reduction of on-site parking spaces against the provisions of the Kingston Planning Scheme.

Critically, the Permit Applicant has submitted a Traffic Report, prepared by TTM Consultants (Vic) Pty Ltd, which accompanied their planning application. This report outlines justification for the reduction sought. Specifically, the report outlines the following:

- Whilst acknowledging that Clause 55 of the Kingston Planning Scheme does not technically apply as the site is located within a Business 2 Zone, the parking provisions of Clause 55 are deemed more appropriate than those specified at Clause 52.06. Clause 55 requires the following car parking rates:
 - One (1) space for each one (1) or two (2) bedrooms dwelling;
 - Two (2) spaces for each three (3) or more bedroom dwelling, with once space undercover;
 - Visitor car parking at a rate of one (1) space for every five (5) dwellings;
 - Studios or studios that are separate rooms must be considered as bedrooms.

Applying the car-parking rate of Clause 55, the following would apply in the case of the proposed development:

Type	No.	Rate	Requirement
Studio	10	1.0 space per dwelling	10
1 Bedroom	45	1.0 space per dwelling	45
2 Bedroom	20	1.0 space per dwelling	20
Visitor		1.0 space per 5 dwellings	15
Total	75		90

The Decision Guidelines provided at Clause 55.03-11 of the Kingston Planning Scheme state the following:

- **The reduction in the demand for on-site parking in rental housing, managed by not for profit organisations, intended for residents likely to have a low level of car ownership.**
- The number, type and size of dwellings.
- **The availability of public transport and on-street parking.**
- The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
- The reduction of on-street car parking spaces associated with the provision of car parking on the site, particularly for lots of less than 300 square metres.
- Local traffic and parking management plans and safety considerations.

- Any relevant local planning policy or parking precinct plan.

The Traffic Report, prepared by TTM Consulting, goes on to say that in the case of the proposed use, that is “Affordable Housing”, a lower parking demand rate is typical as *tenants are generally low income and the expenses associated with car ownership are prohibitive to many low income tenants. Thus, a resident parking demand rate based more on an empirical assessment is appropriate.*

To further elaborate on the above point, the Traffic Report includes a table of on-site car parking provisions and car ownership for existing similar sites around Melbourne. Essentially, this empirical study includes 20 examples taken from Yarra Community Housing and 25 examples taken from Port Phillip Housing Association. In summarising all of these examples taken from both housing associations, the following is found:

Total Units	On-site car parks	Car Ownership	On-site Parking Provision Rate	Parking Ownership Rate
782	238	177	0.30	0.23

When applying the findings of the car parking empirical assessment table to that of the proposed development and, more specifically, a car parking ownership **rate of 0.23**, the resident parking demand would equate to **18 car parking spaces for the 75 dwellings (units) proposed.**

The Traffic Report follows on to state (pg.6-7):

From the Yarra Community Housing table, those sites within 500 metres of a train station generate a parking demand of 0.15 vehicles per unit.

The development proposes 26 on-site parking spaces and is therefore providing an on-site parking rate of 0.35 spaces per apartment.

§ Permit Applicant’s justification for reduction of on-site car parking

As outlined earlier, Council can exercise its discretion to allow a reduction of on-site car parking, subject to the Permit Applicant justifying the reduction with reference to decision guidelines specified in Clause 52.06 of the Kingston Planning Scheme.

In response to these decision guidelines, the Permit Applicant (prepared by TTM Consulting – pg. 7) has provided the following justification:

1. *The availability of public transport in the locality*

The site is well serviced by public transport with a Premium Train Station located to the east of the site.

2. Local amenity including pedestrian amenity

A typical household will generate vehicle trips on a weekly basis to work, shopping facilities, recreation facilities and other destinations. All of these demand generators are either within walking distance of the subject site or public transport can be used to access these services.

3. An empirical assessment of car parking demand

Previous parking demand studies confirm that the proposed use will generate a resident parking demand in the order of 0.23 vehicles per apartment which is significantly less than the rates provided in Clause 55.03-11 of the Planning Scheme.

4. Any other relevant consideration

The decision guidelines of Clause 55.03-11 state that before deciding on an application, the Responsible Authority must consider:-

The reduction in the demand for on-site parking in rental housing, managed by not for profit, organisations, intended for residents likely to have a low level of car ownership.

Further, consideration of the car parking reduction sought is discussed in Section 13 of this report.

§ Clause 52.29: Land Adjacent to a Road Zone

The primary purpose of this Clause is *to ensure appropriate access to identified roads*. As South Road is identified as a Road Zone Category 1 Road and a new crossover/access is proposed to the east side of the site's frontage to South Road, a planning permit is required and the views of VicRoads (the relevant road authority) are required, in this instance.

Accordingly, Council has referred the application to VicRoads, who have advised that they **do not object** to the proposal, subject to conditions to be included on any permit issued. It is important to recognise that the consideration regarding the placement of proposed crossovers to South Road has been given significant consideration by VicRoads, whereby it has determined that the proposed arrangement as advanced by the latest plan to be the optimal arrangement.

§ Clause 52.34: Bicycle Facilities

The purpose of this Clause is *to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.*

Essentially, Clause 52.34 outlines the bicycle requirements for a variety of uses. Application of the applicable rate to the proposed development is summarised as follows:

Use	Quantity	Dwelling Rate	Visitor Rate	Requirement
Residential – 4 or more storeys	75 units proposed	1 space per 5 dwellings (units)	1 space per 10 dwellings (units)	23 spaces

The proposed development complies with Clause 52.34, providing 60 bicycle spaces which well exceeds the required 23 spaces.

§ Clause 52.35: Urban Context Report & Design Response for Residential Development of Four or more storeys

Pursuant to this Clause, an application for a residential development of four or more storeys must be accompanied by an urban context report and a design response. The Permit Applicant has submitted both of these documents, to satisfy the requirements of this Clause.

§ Clause 52.36: Integrated Public Transport Planning

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

Pursuant to this Clause, an application of 60 or more dwellings must be referred to the Director of Public Transport. Accordingly, the application was referred to the Department of Transport whereby they advised Council that they **do not object** to the proposal, subject to conditions to be included on any permit issued.

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

It is acknowledged that the provisions of Clause 55 (ResCode) of the Kingston Planning Scheme **do not technically apply** to an application to construct a four (4) or more storey development. However, mention of certain objectives and standards found within Clause 55 may be raised within this report, where considered appropriate.

13.0 PLANNING CONSIDERATION & ASSESSMENT OF KEY ISSUES

Prior to delving into the planning consideration and focal topics presented below, it should be recognised and germane to note that the subject Land is suitable for development and has intended to be developed for quite a period of time. This can be substantiated during the time of subdivision of No. 999 Nepean Highway, Moorabbin, whereby a Section 173 Agreement was entered into for the subject Land (Lot 2 on PS531995K), which amongst other things, required the Land Owner to replace the 43 public car parking spaces for the City Hall and Arts Centre. Thus, Council and other interested parties were aware of the development potential of this site and believe its development to be most beneficial in order to further both State and Local Planning Policy objectives which are explicit for the Moorabbin Major Activity Centre.

It is Council's position to determine whether the proposal would achieve an "acceptable" outcome having regard to the applicable policies, decision guidelines and the provisions of the Kingston Planning Scheme.

The following is a detailed response to the imperative matters associated with this planning application. It has been decided to address each of these matters in turn, in no particular order, however grouping them under their corresponding theme.

13.1 Proposed Use: 'Affordable Housing' Initiative

Council Officers support the use of the site for a residential building, and more specifically as an 'affordable housing' initiative. It is considered that targeting the proposal towards community housing is strongly consistent with the strategic planning outcomes sought under the State Planning Policy and Local Planning Policy Framework. This report has specifically highlighted in earlier sections elements of this framework which unequivocally make clear the need to provide housing for all income groups in and around designated Major Activity Centres.

It is self evident that property prices have increased substantively in Kingston creating an even greater demand for community housing to remove growing inequities that exist between those who can and cannot afford to live in the inner and middle parts of Melbourne. The experience of Council Officers has been that apartment proposals advanced in Kingston's Activity Centres over recent years have either been approved and not advanced or advanced though at a price point and dwelling size that clearly makes such proposals not affordable for lower to medium income earners.

This application is the first of its kind within the City of Kingston, though it is clear that many municipalities have understood the importance in pursuing housing projects which provide a true diversity in housing forms. Beyond this consideration, the Port Phillip Housing Association have in discussions with Council Officers indicated that many of the proposed dwellings would be specifically leased to 'key workers' who

although vital to Kingston's strong manufacturing, service and retail economy are increasingly priced out of living in the municipality due to increasing rental costs. A distinct opportunity this project brings is to provide housing for this group in a service and transport rich location close to a myriad of employment and through Holmesglen TAFE significant education opportunities.

A further important component of this project is beyond its ability to provide housing which is affordable it also provides housing which is of a size that is able to be clearly differentiated from the dominance of 2, 3 and 4+ bedroom dwellings that dominate Kingston's housing mix. Creating smaller dwellings not only assists to address affordability but also provides greater choice to an increasingly disparate range of 'households' within Kingston and neighbouring municipalities.

As the proposed use is deemed to be fitting for the site, given its prime locality, and will assist in achieving the urban consolidation aims of both the State and Local Planning Policy Framework, this then moves the discussion to the fundamental merits of this proposal, these being: the provision of car parking, access and traffic, any unreasonable built form impacts and urban design concerns, external or internal amenity effects and landscaping and pedestrian treatments. Each of these matters shall be addressed in turn.

13.2 Traffic, Access, Parking & S.173 Agreements

CAR PARKING

The Permit Applicant has sought a reduction in the car parking provisions. Apart from the location of this site in relation to public transport networks, which are exceptionally good, the main thrust of the Permit Applicant's argument for the reduction in parking sought is that the site is to be used for an 'affordable housing' project with active, on-site management. Accordingly, residential tenancies are to be managed so as to reduce the demand for car parking to the number being provided for.

The Permit Applicant relies on empirical studies of community housing and residential tenancies to demonstrate that the rate of car ownership, and hence demand for car parking is somewhat below that of more conventional development rates. The empirical study submitted within the Traffic Report prepared by TTM Consulting (Vic) Pty Ltd identifies an average car parking ownership rate of 0.23. This rate is considerably less than the requirements stipulated in the Kingston Planning Scheme under Clause 52.06 – Car Parking. Taking the empirical calculation into consideration, a demand of 18 car parking spaces would result as opposed to 150 spaces required under Clause 52.06 or 90 spaces as per Clause 55 (ResCode) of the Scheme.

The site provides a total of 26 car parking spaces for the use and allocation of future residents.

As mentioned earlier within this report, the Permit Applicant relies on the ongoing management of the site via PPHA, to 'proactively' manage the parking demands by

limiting only a small percent of residents to be able to own a car. Therefore, and as presented by the Permit Applicant at the Preliminary Conference Meeting held at Council, it is expected that no more than 22 persons (approx.) residing in the development will own a vehicle, with the remaining 4 spaces (approx.) to be unassigned in the event that a resident may acquire a vehicle at a later stage.

In light of the above information and other case examples of similar circumstances that have gone before the Victorian Civil and Administrative Tribunal with favourable outcomes for the Permit Applicant, it is considered appropriate that a lower rate for parking demand be applied to an affordable housing project, whereby this type of use will be overseen, managed and criteria tested with regard to future occupants.

Furthermore, the application has been referred to Council's Traffic Department for review, assessment and comments. Council's Traffic Engineer has supported the analysis undertaken by the external Traffic Engineer in relation to its assessment of parking demand generated for like proposals.

It is agreed that the proposed development, earmarked for 'affordable housing', is likely to generate a lower rate for parking demand than that of the more conventional rates specified in the Scheme.

Given the above traffic analysis is predicated on a particular form of housing it is most important to ensure that in the event that a permit is to issue, Council is protected by a fallback requirement whereby if the use is to ever change, the principles applied to levels of car ownership on the subject land are maintained to Council's satisfaction. As such the conditions outlined in this report relating to the inclusion of a Section 173 Agreement relating to the allocation and management of the car parking are a primary determinant in Council Officers (Traffic and Planning Departments) supporting the proposal.

Council appreciates that the use of a Section 173 Agreement necessarily seeks to regulate the use in a manner which is more restrictive than that normally imposed, however the basis for this is established through the existing Section 173 Agreement which establishes a clear principal around protecting forty three (43) car parking spaces for use of the Kingston City Hall and Kingston Arts Centre. Thus, the following aspects are recommended for inclusion into any Section 173 Agreement relating to the subject land:

- § **A covenant which requires PPHA (or, in the event that PPHA ceases to become or to continue to be the registered proprietor of the Land, another experienced provider and manager of community housing with the written consent of Council) to be the owner of the Land and to manage the building and tenancy arrangements;**
- § **A covenant which states that without the further written consent of the Responsible Authority all persons who occupy the 75 affordable housing dwellings are to be households on low incomes who meet the criteria for affordable housing as determined by the Victorian Office for Housing or similar approved scheme;**
- § **A covenant which requires at any time no more than 21 of the 75 dwellings may be allocated a single car parking space;**

- § A covenant which requires the lessor to make clear at the time of negotiating a lease whether or not a particular tenant is entitled to a car parking space and that the designated forty-three (43) car parking spaces identified on the endorsed plans to the relevant Planning Permit are for use by patrons to the Kingston Arts Centre and Kingston City Hall only;
- § A covenant which states that, if at any time the Land is intended to be made available to be occupied by people other than people who require financial support to meet their housing needs, PPHA (or PPHA's successor, with Council's consent) must prior to selling or leasing the dwelling(s) determine whether or not any of the dwellings will be allocated with a car parking space recognising that the maximum number of allocated spaces for the entire seventy-five (75) dwellings must not exceed twenty one (21) car parking spaces;
- § On the basis that any dwelling is sold or leased a separate agreement must be created which clearly indicates on the title or lease whether or not the dwelling is entitled to a car parking space.

The above matters are reflected through the drafting of the permit condition and will be further refined as part of the development of a Section 173 Agreement to be applied to the subject land.

Additionally, the proposed layout of the ground floor car park area shows a total of 37 car parking spaces, which are accessed from South Road with no thoroughfare between this car park area and other public parking at No. 999 Nepean Highway (under Kingston City Hall). Ongoing discussions between the Permit Applicant, Council's Planning Officer, Council's Traffic Engineer and officers involved in the management of Kingston City Hall have taken place with regards to the possibility of creating access between the ground floor car park and the carriageway easement E-11 (common property).

Although the Permit Applicant has raised some concern with this concept and believes that it may cause a "rat run" within the site, it is considered that linking the ground floor car park with the carriageway easement E-11 would provide a safe, practical and allow for fluid traffic movements between car parking areas. Creating this thoroughfare will avoid vehicles having to exit the proposed ground floor car park onto South Road, to then use the Nepean Highway Service land to access the car parking under the Kingston City Hall.

It is noted that in creating this access, a total of two (2) car parking spaces would be required to be lost. Given the car parking assessment discussed earlier within this report and when weighing up the loss of two (2) spaces in comparison to providing access between the Subject Land and the carriageway easement E-11, it is strongly recommended that creating a continuous two-way access is the more desirable outcome and should, therefore, be required by way of condition(s) on any permit issued.

Further to the above and given the legal obligations of the S.173 Agreement that affects the Subject Land, it is submitted that the loss of two (2) car parking spaces be incurred by the development and not deducted from the forty-three (43) spaces required to be provided for patrons of the Kingston City Hall and Kingston Arts

Centre. It is recommended that this be reflected in the applicable conditions on any permit issued. The consequence of this would result in thirty-five (35) spaces provided at the ground level of the subject land for use by the Kingston City Hall and Kingston Arts Centre and eight (8) spaces provided on level one for this purpose.

In addition it is recommended that a planning permit condition require a revised plan to detail car parking, traffic management and signage, including:

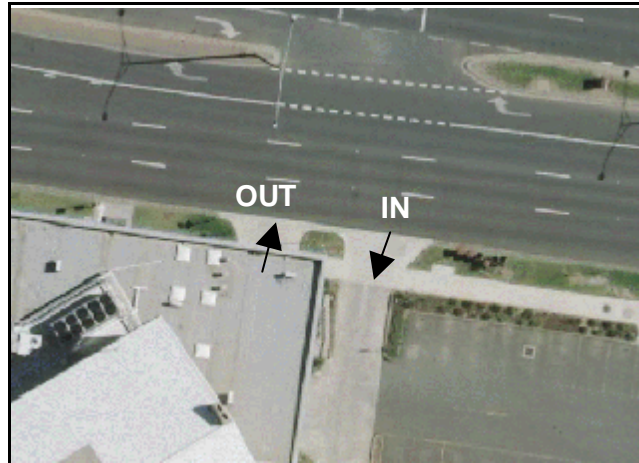
- the locations and content of clear signage indicating for visitors to the precinct access points to and from the subject land to arterial roads;
- any particular signage required to demarcate those spaces to be allocated to the Kingston Arts Centre and Kingston City Hall and any required traffic parking management signage;
- the signage required to indicate the different height clearance levels between the car parking areas; and
- a device which provides real time information on how many car spaces are available on level 1 from the ground level to prevent vehicles from seeking to access level 1 if the Kingston Arts Centre and City Hall dedicated spaces are occupied.

Based on the recommendations presented above, it is considered that the reduction in parking sought is acceptable.

ACCESS & TRAFFIC

Prior to discussing the planning consideration regarding the proposed access arrangements to the subject site, the following information is raised as context to the conditions which presently apply to the subject land.

1. The Section 173 Agreement that applies to the Land (i.e. Lot 2 on PS 531995K) requires the Land owner to provide 43 'replacement' car parking spaces 'free of charge' to patrons of the Kingston City Hall and Kingston Arts Centre.
2. In reference to point 1, it would appear that the commercial property owners and tenants in the surrounding buildings have no implied rights to view these areas as car parking made available for the commercial purpose of conducting the businesses they undertake.
3. Access to No. 999 Nepean Highway, Moorabbin is currently via separate 'ingress' ('in') and 'egress' ('out') arrangements from South Road (excluding access from Nepean Highway). This is better depicted in the aerial photograph provided below:



4. The western most vehicle access to No. 999 Nepean Highway, used for egress ('out') only, is nominated on the respective plan of subdivision as common property (carriageway easement: E-11), which is understood to be in favour of civic users as well as the commercial owners and tenants of the site.
5. The eastern most vehicle access to No. 999 Nepean Highway, used currently for ingress ('in') only forms part of the subject site (i.e. Lot 2 on PS 531995K) and, therefore, appears to have no rights as a carriageway to the civic buildings, nor the commercial property owners and tenants of No. 999 Nepean Highway, Moorabbin.
6. The right of carriageway to the car park of No. 999 Nepean Highway, Moorabbin is shown on the Title Compilation Plan Overlay Feature and Level as E-11 and noted as Common Property No1 (see picture below).



As outlined earlier within this report, the existing access arrangement is proposed to be altered by providing a new crossover to the east side of the site's frontage, along South Road providing both ingress and egress.

Initially, a two-way access arrangement to the ground floor car park was proposed near the western side of the site's frontage to South Road. The Permit Applicant organised a site meeting with VicRoads to discuss the proposal and gain an insight as to their thoughts on the access arrangement to the site. At this on-site consultation meeting VicRoads raised concerns that east bound vehicles along South Road will likely attempt to enter the site via a right-hand turn through the break/clearance in the centre of the median along South Road, which was considered highly undesirable.

Consequently, the Permit Applicant revised the plans and access arrangements to the development in response to these verbal comments and recommendations received by VicRoads. Accordingly, the development proposes to modify the existing vehicle crossovers, in accordance with consultation with VicRoads, as follows:

- § The western crossover will provide egress ("out") only from the carriageway easement onto South Road.

- § The eastern ingress ("in") crossover is to be closed / reinstated and relocated to the eastern side of the site's South Road frontage to provide ingress and egress to the subject site at ground level only. This arrangement will provide access to thirty-five (35) parking spaces, which are for the use of the Kingston City Hall and Kingston Arts Centre only. These spaces will also be linked across the carriageway easement to the car parking area under the Kingston City Hall. The remaining eight (8) spaces (to make-up the 43 spaces required under the S.173 Agreement) are located on the first floor level car park.

The application was formally referred to VicRoads for comments, who have advised that they **do not object** to the proposed development, including the revised access arrangements to the site from South Road.

Neither VicRoads nor Council's Traffic Engineers have raised concern with regard to the expected increase of vehicle movements to and from the site. The traffic report prepared by TTM Consulting suggests that *'it would be reasonable to assume that the proposal will generate in the order of 4 vehicle movements per day for each on-site car parking space, that is 26 spaces at 4 vehicle movements per day is 104 vehicle movements per day'*.

When considering the number of additional vehicle movements proposed from the subject land as a consequence of the development this number is very low when compared with a commercial, retail or conventional residential development for the subject land.

It should be noted that the tenants and owners of the surrounding commercial properties have all benefited from the Subject Land by gaining access from South Road to which, it would appear, they have no legal right, as it forms part of the Subject Land and, therefore, is understood to be in private ownership.

Whilst it is acknowledged that the access arrangements to the carriageway easement at No. 999 Nepean Highway is somewhat a separate matter to the consideration and merits of this application, it is apparent that as a result of the development the current access arrangements to No. 999 Nepean Highway will require modifications. After giving careful consideration to all facets surrounding this issue, the following recommendations are made:

- § Carriageway easement E-11 (common property) should be used as it is currently as an **exit only** from South Road and appropriately signalled by Council to notify all motorists.

In conclusion on the matters of traffic, access and car parking it is submitted that:

- § The development is expected to generate around 104 vehicle additional movements per day which can easily be absorbed by the surrounding road network through the access points provided from the subject land (note: traffic volume along South Road is between 31,000 – 41,000 vehicles a day). As identified, should the subject land have been developed for commercial, retail or conventional residential the trip generation from the activities associated with the subject land would have likely been substantially higher. In fact this project by its very design actively seeks to encourage residents (irrespective of whether they own cars or not) to utilise the readily available public transport services immediately adjacent to the land.
- § A new two-way access point be created between the ground floor car parking area and the carriageway easement E-11 to allow vehicles to flow from the proposed ground floor car park area to other parking underneath the Kingston City Hall.
- § As a result of creating the new two-way access point, a total of eight (8) car parking spaces be nominated on the first floor car parking area in favour of the Kingston City Hall and Arts Centre and to ensure that a total of forty-three (43) car parking spaces are provided on the development site, in accordance with the applicable S.173 Agreement.
- § In accordance with the two (2) points mentioned above, a total of twenty-four (24) car parking spaces be provided to the proposed development, in lieu of the twenty-six (26) spaces originally proposed.
- § The twenty-four (24) car parking spaces provided to the residential development is considered appropriate based on the discussion above regarding the importance of a S.173 Agreement being created to ensure the ongoing management of this issue.

- § The provision of bicycle parking is deemed satisfactory.
- § Subject to the discussion had within this section of the report and any recommended permit conditions (including the introduction of a Car Parking, Traffic Management and Signage Plan), the car parking layout is considered appropriate.
- § The site would provide access to all uses associated with the precinct from the proposed eastern crossover on South Road or the Nepean Highway Service Lane and provide egress (“out”) through either the new eastern crossover on South Road, the existing exit point onto South Road or via the Nepean Highway Service lane. This range of ingress and egress opportunities is considered sufficient to provide all parties entering or exiting the site with choice as to how this occurs.

13.3 Urban Design

One of the questions of concern relates to whether a seven (7) storey building is appropriate for the site, especially in the context of its surrounding environs.

Moorabbin Activity Centre is defined as a Major Activity Centre within the Kingston Planning Scheme. As such, it is expected that this area of Moorabbin is likely to experience further development / intensification given the policy thrust at both the State and Local Planning Policy Framework, including Melbourne 2030, which strive to see activity centres as the primary focal points for urban consolidation.

Council Officers and the nearby residents should recognise the development potential of the site. Further to this point, the zoning of the land, its location, size, lack of restrictive built form overlays and enabling planning policy all substantiate the potential for a larger structure or a taller building to be accommodated on this site.

With the site being earmarked for higher density development, the question then turns to nature of the building and its height.

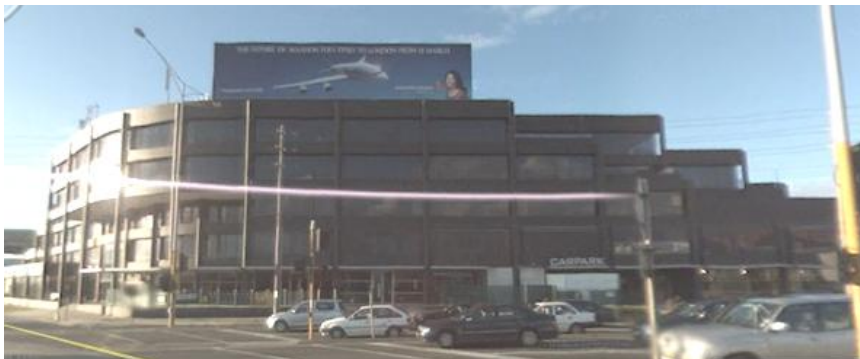
First and foremost, there are no height requirements that affect the subject site or its immediate area. Unlike other activity centres within the Municipality, (i.e. Chelsea, Mordialloc, etc) the area is characterised by an expansive variety of commercial buildings, with limited, if any, intrusion of residential housing stock. This building stock extends from conventional single storey strip shops through to much larger buildings, such the Kingston City Hall which while encompassing 3 levels, is equivalent to a present day 6 storey (approx.) contemporary style building. This is better demonstrated in the photos provided below. Other buildings that define this activity centre include the commercial building on the North East corner of the Nepean Highway and South Road, along with the large building at No. 1001 Nepean Highway (former Tandy building) which is located on the South East corner of Nepean Highway and Station Street. These buildings are illustrated below. These buildings contribute to defining the character of the activity centre.



Kingston City Hall



Refurnished Commercial Building at No. 999 Nepean Highway, Moorabbin



Development on the north-east corner of Nepean Highway and South Road



As demonstrated in the streetscape elevation plan provided by the Permit Applicant, the proposal results in a building envelope that is relative to the buildings that define
Development on the south-east corner of Nepean Highway and Station Street – No. 1001 Nepean Highway

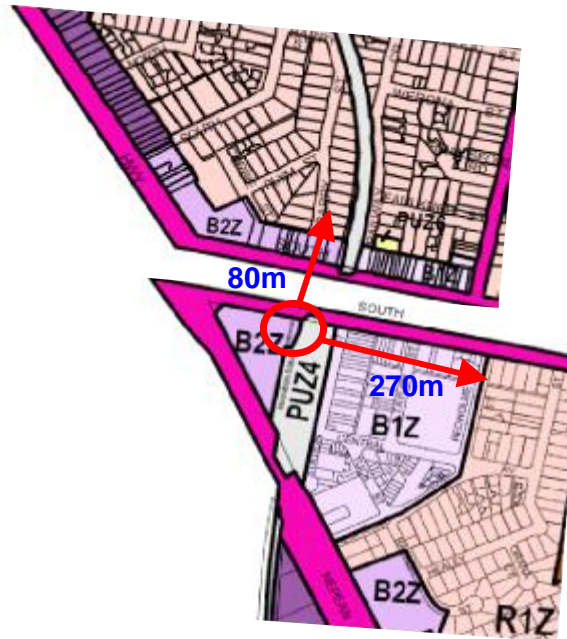
this activity centre. The building, positioned in the core of the activity centre, will not be isolated in nature; rather it will be positioned near buildings of comparable heights and similar scales. It is submitted that this height (approximately 24 metres) is envisaged for this activity centre and is generally consistent with the heights envisaged as part of Council's Structure Planning Work for this precinct of Moorabbin, which envisaged heights of 23 metres noting this was not one of the precincts where, subject to good design, an absolute maximum height was deemed necessary.

Granted this application for a seven (7) storey residential building for affordable housing is the first of its kind within the City of Kingston, it is evident that larger scale developments are currently present within the Moorabbin Activity Centre (i.e. commercial building on the north-eastern corner of Nepean Highway and South Road).

Based on the surrounding built form and above discussion, it is submitted that the proposed seven (7) storey structure is an appropriate design response for the site and compliments its non-sensitive abutments. In fact the subject land is one of the most significant opportunity sites identified in the Moorabbin Activity Centre.

Given the information contained above, it is considered that the scale / height of the proposed building will sit comfortably within the context of the existing building fabric within the Moorabbin Activity Centre. Further the building will also provide much needed passive visual surveillance over the Moorabbin Station, which is a key principal of good urban design.

This then brings the discussion to the site's locality, where it is nestled within a Business 2 Zone of the Moorabbin Activity Centre and does not share an interface with any residential use (refer to zoning map below). The closest residential properties to the subject site are more than 80 metres away to the north (opposite side of South Road), behind the business shopping strip. As such, these properties do not have a clear, unobstructed, view of the subject site. To the east side of the site, the closest residential area is more than 270 metres away.



Proximity of subject site to residential areas/zones.

This matter is vital in consideration of this application. Other activity centres within the City of Kingston are far more compact and often share a closer relationship between the residential / commercial divide. This in turn impacts on the development potential of land within the business zones. This site and activity centre is the opposite, and therefore allows for a building relative to others within the Centre without having an impact on the residential lands that surround the activity centre.

There are, however, a number of external design and cosmetic concerns that were presented to the Permit Applicant at the initial stages following lodgement of the application. Some of the issues have been addressed via the substituted plans received by Council on 6 May 2009. However, there are still considered to be a number of design deficiencies concerning the presentation of the building and urban design elements that have yet to be resolved. Specifically, these being:

NORTHERN ELEVATION (SOUTH ROAD)

1. A strong connection (particularly at ground level) should be provided between the proposed development and its surrounding built form, particularly the Arts Centre. It was suggested that this could be achieved by the installation of artwork to the building's façade. Although the Permit Applicant has expressed their willingness to investigate and incorporate some form of artwork to the development, at this stage, the plans make no reference to this matter.

Therefore, there appears to be a lost opportunity for the development to provide a strong connection by way of artistic expression. Further to this point, Council's Planning Officer has liaised with Council employees of the Arts Centre on this subject and the consensus was that they too were enthusiastic about the

concept and the possibility of improving the relationship between the development and the Arts Centre.

Accordingly, as it is recognised by both Council and the Permit Applicant that there is a strong opportunity to show a connection between these two synergies, it is submitted that a condition be included on any permit issued requiring the incorporation of artwork graphics to enliven the building's northern façade and provide for an improved connection between the development and the Arts Centre.

EASTERN ELEVATION

1. The provision of coloured metal hoods or shading elements (retractable screening / shading devices) should be included on at least 80 percent of the east facing windows to add articulation, interest and provide sun protection.
2. It appears on the ground floor plan that the blade screen continues right along the east side of the car park. However, the east elevation plan does not appear to marry-up with the detail shown on the site plan, as the blade screen does not appear to extend right along the east side of the car park, in its entirety. It is suggested that the elevation plan correspond with the details shown on the site plan and that the blade screen extend right along the east side of the car park area and the pedestrian path to provide for a visual barrier between the car park and the pedestrian area though still being sufficiently permeable to provide for passive visual surveillance from the ground level.

WEST ELEVATION

1. Similarly, the provision of coloured metal hoods or shading elements (retractable screening / shading devices) should be included on at least 80 percent of the west facing windows to add articulation, interest and provide sun protection.

It is recommended that the above concerns be addressed via suitable conditions on any permit issued.

13.4 Residential Amenity & Layout

Given the location of the site being highly exposed to noise from the Railway Line, South Road and the Kingston City Hall and to a lesser extent Nepean Highway, matters regarding noise attenuation measures were raised with the Permit Applicant at the initial stages of assessment of this application. The Kingston City Hall has advised that it is keen to ensure that noise testing is undertaken during a significant event at the hall to determine the degree to which the proposed dwellings would need to be suitably attenuated. Council Officers have made it clear to the Permit Applicant that it will be necessary to ensure the building is designed to address all noise related considerations associated with the Kingston City Hall. The Permit Applicant noted these concerns and it was agreed that this matter could be addressed via a suitable condition on any permit issued.

Accordingly, it is recommended that the Permit Applicant submit an acoustic report as per a condition in any permit issued, to ensure appropriate noise attenuation measures are incorporated into the design to protect the amenity of future residents.

On each residential level it is strongly recommended that the north to south corridor be provided with a window at its most southern end. This is suggested for two (2) reasons. Firstly, to provide sufficient natural light and secondly, to allow for improved cross ventilation on each level.

This matter was raised to the Permit Applicant following lodgement of the application, however the Permit Applicant believed adequate ventilation would be provided via the stairwell and a raised duct system over the bathroom and bedroom of the most south-eastern unit, on each level.

Council's Urban Designer, the advice sought from an independent expert Architect and Council's Planning Officer are all of the opinion that the current design will not adequately address this issue and will result in poor internal amenity for future occupants. It is therefore advised that in the event that a permit issues a condition requiring the north to south facing corridor, on each residential level, should be provided with a window at its most southern end to provide natural light and assist with cross-ventilation should be included.

13.5 Communal Space

Initially, Council's Planning Officer raised concern to the Permit Applicant with regard to the usability of the common space area, which is located on the south-western side of the building on the second floor level. Importantly, the size, orientation, solar access and design (including: furniture, landscaping and facilities proposed) all play a fundamental role to the usability of a common space area.

It is noted that the proposed common terrace area would be more desirable if it was located on the north side of the building, to improve solar access and avoid southerly winds. It is further noted that the north side of the building is exposed to enhanced noise levels from South Road, the railway line and to a less extent Nepean Highway. However, it cannot go without being recognised that the subject site is irregular in shape and, therefore, is constrained, essentially in terms of design layout and design options.

After Council presented its initial concerns with the design of the common terrace area, the Permit Applicant submitted revised plans, which included a more practical and usable common space area. It is acknowledged that an improved layout has occurred and the following justification has been provided by the Permit Applicant for the suitability of this area:

- The open space provides an improved outlook for those dwellings within the development which have their principal outlook towards the rear of the Kingston City Hall building;

- If the open space was relocated to the north side of the development at an upper level, it may provide an outlook for a lesser number of dwellings by virtue of the site orientation and dimensions;
- The size of the open space (91sqm) allows for good planning opportunities and for a range of landscaping options to be considered;
- The open space is easily accessible from all levels of the building, including for people with limited mobility; and
- The open space is protected from noise impacts associated with South Road and the railway line.

The siting of the common terrace area, for reasons outlined above, is deemed appropriate and should be supported. However, it is advised that in the event that a permit issues a condition requiring further design details to be provided, which include landscaping (planter-box or similar), communal furniture designs and facilities (eg. barbeque area) should be included.

Given the location of the communal area, Council believes another fundamental part of the project is to ensure that an area at ground level is provided for passive recreational opportunities. For that reason a landscape plan has been prepared for the land immediately adjacent to the subject land (to the east), which provides some opportunities for residents to utilise this area. A lease arrangement will be required between VicTrack, the Permit Applicant and potentially Council in order to provide for this area to be landscaped in accordance with the plan required as conditions of any permit issued.

13.6 Environmental Matters

The Permit Applicant has submitted that *a key objective with the proposed development is to incorporate robust and proven ESD features that serve the objectives of conserving our natural resources, improving resident amenity and sustainability reducing building operation and lifecycle costs.* Features to be included area:

- *No incandescent or halogen down-lighting (typically low energy compact fluorescent light fittings);*
- *Preinstalled kitchen/laundry appliance to the highest rating under Appliance Energy Rating and Gas Energy Rating schemes;*
- *Minimum 5-star energy rating. MAB will seek to exceed this star rating during detailed design.*
- *Passive HVAC principles incorporated, including:*
 - *Natural ventilation to corridors through stairwell 'stack effect' design.*
 - *Openable windows to all living areas and bedrooms.*
 - *Flyscreens on openable windows to encourage natural ventilation.*
 - *Window shading to reduce summer heat and maximise winter sun.*
 - *Rainwater collection for irrigation and/or toilet flushing.*
 - *Centralised bulk gas fired solar boosted hot water.*
 - *AAA Water conserving fittings and fixtures.*
 - *High performance glass acoustic and energy performance.*

- *Daylight to all habitable rooms.*

Energy cogeneration and geothermal systems are not included in the proposal. The Permit Applicant states that *these systems are currently cost prohibitive for an affordable housing project of this scale.*

A solar boosted hot water system is included in the proposal.

Additionally, with regard to clothes drying facilities, the Permit Applicant has advised Council Officers that each unit has been designed to accommodate a stacked washer / dryer arrangement, should the resident wish to install a drying facility.

WATER CONSERVATION

The Permit Applicant has mentioned that the building will aim to reuse all collected roof water either in irrigation and/or toilet flushing. AAA Water conserving fittings and fixtures are proposed.

As the building occupies the entire site, the Permit Applicant has stated that no water runoff will occur.

LOCAL ENVIRONMENT

The Permit Applicant notes the following:

The selected materials will be predominately light in colour to increase heat reflection from the surfaces most exposed to heat loads.

MAB is investigating applied finishes that have superior heat resistant properties to achieve further improvements.

RECOMMENDATIONS

It is recommended that a condition be included on any permit issued requiring an ESD report to be prepared by a suitably qualified professional and submitted to Council for assessment and approval.

It is recommended that a condition be included on any permit issued requiring a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet/s), which include colours of a light shade with superior heat resistant properties, to increase heat reflection of surfaces most exposed to heat loads finishes, for all external elevations of the development.

13.7 Landscaping & Pedestrian Access (public & private realm)

Initially, concerns were expressed to the Permit Applicant with regards to limited detail provided in association with the public realm and a relationship between that of the development and the Moorabbin Railway Station and civic buildings.

In response to these areas of concern, the Permit Applicant submitted revised plans, including a landscape plan, on 6 May 2009, which largely addressed the inadequacies. The proposed pedestrian access in and around the subject Land demonstrates and clearly defines a safe, convenient and desirable design. It is considered that the landscape plan provides a much-needed connection between the subject development and its surrounding built form, whilst also providing a clear link between the site and the Moorabbin Railway Station as well as the development with the civic buildings.

The landscape plans and associated material was referred internally to Council's Vegetation Management Officer and Council's Co-ordinator Park Projects & Design Environment Department for assessment. The following comments and recommendations were received:

GENERAL COMMENTS:

The new landscape plan is acceptable. It provides a safe pedestrian precinct connecting the proposed development to Moorabbin Station. The various landscape elements, including the proposed tree species, furniture, public lighting, garden beds and footpath, are standard Council-specified items.

COURTYARD TREES:

There are two trees specified on the western side of the proposed building courtyard. Species have not been proposed for these trees. It is recommended that this be required by way of a condition on any permit issued.

STREET TREES:

It appears that four (4) street trees are specified. However, no species selection has been made. Similarly, it is recommended that this be required by way of a condition on any permit issued noting comments by VicRoads in relation to the required setbacks of street trees from crossover to South Road. Consideration will also need to be given to ensuring sufficient space is provided for 'bin storage' for the tenants of the building at 999 Nepean Highway some of who raised the storage of bins in this area at the preliminary conference.

PATH CONNECTIONS:

Based on the colour landscape drawing, the proposed pedestrian path is designed to continue down the rear of the proposed development. It is unclear as to the destination point. This raises the following questions:

1. Will this path terminate at a rear access point to the building?

2. Will the proposed path continue through to South Road – along the Arts Centre side of the building? and
3. Does the path connect to an existing arts centre access path?

It is recommended that these queries be addressed by way of a condition on any permit issued.

The application was also referred to Council's Vegetation Management Officer for comment and assessment. Subject to conditions being included on any permit issued, which include the protection of the *Eucalyptus melliodora* (Yellow Box) tree, which is located to the rear of the site during construction, Council's Vegetation Management Officer does not object to the proposal.

13.8 Heritage Comments

The application was referred to Council's Heritage Advisor to obtain formal comments with regard to the proposed development and its impact, if any, on the existing heritage significant sites i.e. the Arts Centre and Kingston City Hall. Council's Heritage Advisor made the following comments:

The proposed building appears to be situated some distance from the key heritage buildings on the site and would be separated from them by existing modern fabric.

Accordingly, the advice received is that the proposed works appear to raise no heritage issues.

14.0 RESPONSE AGAINST GROUNDS OF OBJECTIONS

14.1 Traffic Concerns (access and parking)

It is submitted that extensive discussion and justification has been provided in sections 12.3 - Particular Provisions (Clause 52.06: Car Parking) and 13.2 – Traffic, Access, Parking & S.173 Agreements of this report, which demonstrate support for the proposed development, subject to a number of recommended permit conditions and modifications to the design.

Within the objections received and the views presented at the preliminary conference meeting, concern has been raised with regard to a number of traffic related matters. Specifically, these relate to the following:

ACCESS ARRANGEMENTS TO NO. 999 NEPEAN HIGHWAY FROM SOUTH ROAD

As discussed earlier, access to No. 999 Nepean Highway, Moorabbin is currently via separate 'ingress' ('in') and 'egress' ('out') arrangement from South Road (excluding access from Nepean Highway).

The vehicle access currently used to access the site from South Road (i.e. the eastern 'in' access from South Road) forms part of the Subject Site and is, therefore understood to be privately owned.

It should be noted that the tenants and owners of the surrounding commercial properties have all benefited from the Subject Land by gaining access from South Road to which, it would appear, that they have no formal right, as it forms part of the Subject Land.

Therefore, it must be acknowledged that the access arrangements to the carriageway easement at No. 999 Nepean Highway are somewhat a separate matter to the consideration and merits of this application. However, it is apparent that as a result of the development the current access arrangements to No. 999 Nepean Highway will require modifications as one (1) of the crossovers to the site will be removed and reinstated as an extension to the naturestrip. Notably, it would appear that irrespective of the application this access could be presently removed.

The position and recommendations with regards to alternative access and traffic movement patterns for all vehicle uses at No. 999 Nepean Highway are outlined in Section 13.2 of this report. Readers are encouraged to revisit Section 13.2 of this report, however in summary; it is recommended that the remaining sole access point from South Road be used as egress "out" only from the site, which retains the existing condition. As identified if a permit is to issue further details regarding car parking, traffic management and signage need to be established, to the satisfaction of Council, to clarify, reinforce and inform motorists of the altered arrangements.

Officers believe that issues between the objectors who occupy land in the No. 999 Nepean Highway commercial building and the Permit Applicant regarding access arrangements and what was or was not understood at the time of purchase is not a matter for the Planning process. That being said, the proposal when completed would retain access both in and out from South Road (via a new crossover) and maintain the existing ability to access the site from the Nepean Highway service road.

REDUCTION IN CAR PARKING SOUGHT BY THE PERMIT APPLICANT

Whilst the comments and concerns of objectors with regard to the number of car parking spaces proposed by the development are appreciated and acknowledged, it is considered that there are a number of mechanisms available to Council to ensure that the majority of tenants of the proposed development are not car dependent and that an appropriate amount of parking is provided to the development.

As outlined earlier in section 13.2 of this report, it is recommended that should a permit issue a condition be included to require the Land Owner to enter into a S.173 Agreement with Council that imposes a number of covenants that relate to the ongoing use of the land as an affordable housing initiative, the amount of car parking provided to the site as well as the allocation of these spaces to tenants and the maintenance of the car parking areas etc.

With the inclusion of the advised permit conditions specified within this report and with the knowledge that the residential 'affordable housing' development is to be occupied by households on lower incomes who meet the criteria for affordable rental housing as determined by the Victorian Office for Housing or a similar approved housing scheme, the reduction in car parking is justified and believed to be appropriate, under these circumstances.

GENERAL TRAFFIC CONCERNS AS A RESULT OF INCREASED MOVEMENTS

The development is expected to generate around 104 vehicle movements per day, which can be absorbed by the surrounding road network (traffic volume for South Road varies between 31,000 – 41,000 vehicle movements per day). This increased amount of traffic movements to and from the site is considered negligible in comparison to the large volumes of traffic that South Road currently experiences.

Concerns regarding driveway congestion given the increase of vehicle users proposed by the application are ill-founded and are not supported by substantiated traffic evidence. It is understood that there are many cases evident in Melbourne where commercial buildings experience more substantial vehicle usage than that proposed by way of this Permit Application and often fewer entry and exits points. .

It should be noted that the location of the new crossover to the ground floor car park was subject to VicRoads approval. Further, VicRoads requested that the access point be relocated to the eastern side of the Site's frontage along South Road, to ensure that no vehicles attempt to enter this area by making a right-hand turn from South Road.

Given the position of the new access and crossover from South Road, it is suggested, by way of a condition included on any permit issued, that appropriate sightlines be demonstrated for vehicles entering and exiting the ground floor car park, to ensure pedestrian safety. It is suggested that this could be achieved by nominating part of the dark grey blade screening to the east side of the access point along with part of the grey/green perforated lining with graphic treatment directly to the west side of the access point, on the ground floor car park plan, to be transparent for 1.5 metres to a minimum height of 1.5 metres from natural ground level or provided with a splay, or similar. These recommended changes are to be noted on the ground floor plan and the northern (front) elevation plan.

Although the objectors have raised concern with regard to the safety of vehicles entering and exiting the proposed access to the ground floor car park from South Road, given its proximity to Station Street and the bridge over the railway line,

VicRoads are of the opinion that the location of the access point is appropriate. It is reinforced that this is not the only point of access to the subject land and the Nepean Highway access will be maintained.

14.2 Overlooking / Loss of Privacy & Overshadowing / Amenity Concerns

It must be noted that as the site is located in a Business 2 Zone the requirements of Clause 55 do not technically apply. However, it is acknowledged that these provisions do provide some guidelines as to what is a reasonable degree of separation to reduce amenity impact from overlooking as well as overshadowing to an acceptable level.

Firstly, it must be recognised that the site does not directly abut any sensitive interfaces – residential properties.

Accordingly, as the site is located in a Business 2 Zone and is directly surrounded by commercial type uses, it is submitted that the proposed development does not unreasonably overlook any sensitive interfaces i.e. residential properties including habitable room windows, secluded private open space areas or the like. Similarly, the proposed development does not directly or unreasonably overshadow any sensitive interfaces.

At the preliminary conference meeting, concern was raised with regard to the potential for laundry to be blown off the proposed residential balconies onto the adjoining commercial properties and also concern relating to the visibility of clotheslines from balcony areas.

Concern relating to clothes blowing off balconies is not a valid planning ground. This issue does not arise where there is a residential to residential interface let alone a commercial / residential interface.

In regard to the visibility of clothes on balconies, it is recommended that should a permit issue, a condition requiring the provision of fixed / retractable clothes lines to each dwelling to be nominated on all balconies and to be positioned so that they are not visible from outside the building.

14.3 Overdevelopment

As already confirmed the site is subject to a Business 2 Zone, has no sensitive interfaces, is located within the Moorabbin Activity Centre and abuts commercial development. As the plethora of policy within the Kingston Planning Scheme seeks to channelise more intense development within activity centres, thereby maintaining neighbourhood character within residential areas, boundary-to-boundary development is common and, therefore, expected within land zoned for business purposes. The form of development is an acceptable response in this business zone.

For reasons that have been thoroughly outlined and assessed in earlier sections of this report, and subject to condition recommendations, the following is noted:

- § the reduction in car parking is warranted in this instance;
- § the proposal complies with the applicable legal obligations of the S.173 Agreement that affects the Land;
- § an appropriate level of amenity is provided to each dwelling proposed;
- § the proposal does not result in an unreasonable loss of amenity for abutting properties; and
- § the cosmetic treatment and urban design elements of the building are considered appropriate.

Based on the above dot points, it is submitted that the proposal does not result in an overdevelopment of the site.

14.4 Neighbourhood Character

As referenced throughout this report, Moorabbin is identified as a Major Activity Area and the site is unequivocally located in the centre of the Business 2 Zone. Given the site's business zoning, the requirements of Clause 55 (ResCode) do not apply. Hence, the provisions and starting point of ResCode, i.e. Neighbourhood Character, is not applicable to this application. Although this assessment criterion is not technically applicable, the following comments are made:

The character of the area is typified by a variety of commercial buildings (no residential) ranging from typical single storey strip shops through to buildings that are comparable to an approximate 6 storey contemporary style building. Furthermore, there are other larger developments of four (4) or more levels located within close proximity to the subject site (refer to photographs in Section 13.3 of this report). It is for these reasons that the proposal will sit comfortably in its setting and is considered appropriate.

14.5 Urban Design Concerns

It is considered that concerns regarding urban design have been responded to in Section 13.3 of this report.

14.6 Noise Concerns

As the site is located in a Business 2 Zone, the use of the land for residential purposes is a Section 2 Use and, therefore, is a discretionary use subject to planning approval.

The development proposed is explicitly for residential use, and, therefore, any noise generated on the site would be that of a residential nature. The type of use proposed is a lot more sensitive in comparison to its surrounding commercial uses. For this reason, it is considered that the proposal will not cause undue noise pollution to the detriment of nearby properties.

14.7 Rubbish Collection

The Permit Applicant has sourced advice from JJ Richards & Sons Pty Ltd with respect to rubbish collection from the subject development.

JJ Richards & Sons Pty Ltd has provided the following recommendations / comments for waste removal:

ALL UN-COMPACTED WASTE

§ Total number of bins:

- 9 x 1000 litre bins per week for general waste; and
- 4 ½ x 1000 litre bins per week for commingled.

SUGGEST 2 PICKUPS PER WEEK

§ Total number of bins per pickup:

- 5 x 1000 litre bins per week for general waste; and
- 3 x 1000 litre bins for commingled.

NUMBER OF BINS REQUIRED FOR WASTE AREA

§ 8 x 1000 litre bins (No extra bins required).

§ Bin dimensions: 1.300 mm height
 1.340mm width
 860mm depth

§ Approximate waste area needed to store these bins is 20 square metres. This could be reduced with extra pickups per week.

It is understood that the Permit Applicant proposes waste collection to be undertaken by a private waste contractor. Waste collection from the site is proposed from South Road.

Private waste collection from the site is fully supported. If a permit is to issue, a condition should be included to require a waste management plan to be submitted to the satisfaction and approval of the Responsible Authority.

14.8 Non compliance with the Intent of the Business 2 Zone and Inappropriate Location for Housing

The purpose of the Business 2 Zone is *'to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies and to encourage the development of offices and associated commercial uses'*.

As presented earlier within this report, it is a key direction of both the State and Local Policy to encourage new residential populations and promote higher density developments in and around key activity centres, to compliment their retail function and long-term economic vitality.

The residential nature of this Application is deemed strongly consistent with both the strategic and policy direction of the State and Local Framework and, therefore, the proposal is considered to meet the purpose of the Business 2 Zone.

Objectors at the preliminary conference meeting raised concern that the development is not located within close proximity to recreational areas (eg. parks). Moorabbin Reserve is located approximately 750 metres south-east of the subject site, on Linton Street, Moorabbin. Additionally, Halley Park is located approximately 800 metres north of the subject site, on Jasper Road. It should also be noted that a communal terrace is located on the second floor level that provides 91 square metres of recreational space to all future occupants. It is also necessary to consider that given that fifty-five (55) of the dwellings will be one bedroom and twenty (20) will be two bedroom the need for conventional 'large scale' public open spaces will be significantly different than new residential development designed to provide larger dwellings for families.

These parks are accepted to be in reasonable proximity to the subject site and will be available for the recreational needs of future occupants to the subject development. As in similar cases that have gone before the Victorian Civil and Administrative Tribunal, it is considered that the nature of the type of dwellings proposed negates the need to provide large recreational spaces to each dwelling. Small balconies, as those proposed, are an acceptable response for providing private space to meet the amenity needs of residents.

With this said, it should be noted that it is not considered a valid reason that as the development is geared towards affordable housing that these dwellings accept a lesser degree of amenity than that expected for other medium or higher density development and, hence, particular emphasis has been placed on drafting planning permit conditions designed to improve the presentation of the building and the amenity received from it by future residents.

14.9 Security Concerns & Introduce Socially Disadvantaged Residents into the Area

Some objectors have raised concerns with regard to vandalism and general safety in relation to the proposed affordable housing development and the expected demographic associated with such a use.

These grounds of objection are irrelevant to the planning merits of this application. Objections of a discriminative nature are not valid and in fact run completely at odds with the many inclusionary principles to be found in State and Local Planning Policy. Further Port

Phillip Housing Association is a very well established and highly credentialed housing provider that provides significant support services to ensure the concerns raised by a few objectors do not occur.

14.10 Construction Phase

A number of objectors raised concerns in relation to the inconvenience the proposal would cause during its construction phase, particularly with regard to on-site car parking. Subject to approval, the Permit Applicant would be required to submit a Construction Management Plan that details, amongst other things, the construction hours, delivery schedule and routes, site management details, pedestrian and vehicle management, parking provisions and general site management details to Council's satisfaction.

Although the concerns surrounding this issue are appreciated, both Council and the Permit Applicant would endeavour, as best as possible, to minimise any disturbance and/or inconvenience caused to the surrounding community.

15.0 CONCLUSION:

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

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

- The design and siting of the proposed development to be compatible with the surrounding area;
- Suitability of the site for high density residential development having regard to the policy context and planning provisions;
- Acceptability of the built form of the proposed development, specifically in regard to height;
- Consideration of any external amenity impacts;
- Adequacy of internal amenity;
- Consideration of the provision of car parking and traffic related matters; and
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the State and Local Planning Policy Framework, Business 2 Zone, the relevant particular provisions and Clause 65 – Decision Guidelines (subject to appropriate conditions).

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

17.0 RECOMMENDATION:

That a Notice of Decision to Grant a Permit for the development of this site for a seven (7) storey building comprising seventy-five (75) dwellings with a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme and to create access to a Road Zone Category 1 be issued, subject following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 6 May 2009, but modified to show:
 - a. the provision of an improved landscape plan and associated planting schedule for the site and surrounds showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent actual canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
 - iv. a range of plant types from ground covers to large shrubs and trees;
 - v. adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi. sustainable lawn areas and plant species taking current water restrictions into consideration;
 - vii. all trees provided at a minimum of two (2) metres in height at time of planting;
 - viii. medium to large shrubs to be provided at a minimum pot size of 200mm;
 - ix. 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;
 - x. all specie types for trees nominated, including the two (2) trees located to the western side of the building and the four (4) street trees located to the northern side of the building and shown to accommodate VicRoads siting requirements, in accordance with Condition 11 of this permit;
 - xi. clear delineation of all pedestrian paths, including to the south (rear) and west (side) of the building, in association with Condition 1.h. of this permit;

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- xii. improved detail to the southern end of the pedestrian walkway near the Moorabbin Railway Station entrance with this space designed in conjunction with the existing Railway Station entrance and designed in consultation with Council's Urban Designer and VicTrack;
 - xiii. the provision of an alternative quality finish for the pedestrian walkway/s (e.g. stained concrete or similar);
 - xiv. the provision of landscape, communal furniture and facility (eg. barbeque/s) details for the second floor terrace area;
 - xv. the provision of suitable landscape treatment to the west side of the ground floor car park, adjacent to car parking spaces 4 and 5 and in accordance with Condition 1d. of this permit; and
 - xvi. the provision of notes in accordance with Conditions 5, 6, 7, 8 and 9 of this planning permit.
-
- b. all requirements of the Department of Transport, in accordance with Condition 10 of this permit;
 - c. all requirements of the VicRoads, in accordance with Condition 11 of this permit;
 - d. the provision of a two-way thoroughfare / access created of no less than 5.5 metres in width between the ground floor car park to the carriageway easement (common property E-11) adjacent to car parking spaces 14 and 15, with the creation of this accessway to result in a loss of no more than two (2) car parking spaces from the site;
 - e. the provision of detailed car parking, traffic management and signage, which includes:
 - I. fully dimensioned plans which show the crossover widths, all car parking spaces, all access way widths and a full design for the integration of the proposed car park with the existing car parking under the Kingston City Hall;
 - II. in accordance with Condition 1.d. of this permit, a total of thirty-five (35) car parking spaces located on the ground floor and eight (8) car parking spaces on the first floor (i.e. a total of forty-three (43) car parking spaces) nominated for the use of patrons to the Kingston City Hall and Kingston Arts Centre, as required by Section 173 Agreement (AE423794S);
 - III. a total of no less than twenty-one (21) allocated car parking spaces nominated for the development and three (3) visitor car parking spaces clearly nominated;
 - IV. the location, content and size of signage both internal and external to the subject land which provides visitors with details of entry and exit points to the subject land;
 - V. full details of signage proposed to demarcate each car space to be allocated to the Kingston City Hall and Kingston Arts Centre;

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- VI. the signage required to indicate height clearances between the different car park levels;
 - VII. the location and details of any statutory signage deemed necessary by Council to be replaced to reinforce parking restrictions for the Kingston City Hall and Kingston Arts Centre car parking spaces;
 - VIII. a device which provides real time information to vehicles on the ground floor as to whether any Kingston City Hall or Kingston Arts Centre car parking spaces are available on Level 1;
 - IX. any proposed mechanisms, if deemed necessary, to secure the car parking spaces allocated to the development including how visitor access would be achieved; and
 - X. full details of pedestrian access to and from the eight (8) car parking spaces located on the first floor level, nominated for the use of the Kingston City Hall and Kingston Arts Centre.
-
- f. in accordance with Condition 1.d. and 1.e. of this permit, the provision of an improved walkway between the ground floor car park and the carriageway easement (common property E-11);
 - g. the provision of artwork graphics along the development's northern (front) façade, essentially at ground level, to enliven the development's presentation to South Road and provide an improved connection between the development and the Arts Centre;
 - h. the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development with light colour tones to be predominately selected for the external facades of the building to increase heat reflection from those surfaces most exposed to heat loads and, where possible, the selection of applied finishes to the building's façade to be of superior heat resistant properties;
 - i. all traffic directional arrows shown along carriageway easement E-11 to be deleted from the site plan(s) and as appropriate addressed in Condition 1e of this permit;
 - j. the provision of fixed / retractable clothes drying facilities to each dwelling to be nominated on all balconies to be positioned so that clothes would not be visible from outside the building;
 - k. the location of all externally located heating and cooling units, exhaust fans and the like, clearly shown;
 - l. a notation on the floor plan(s) stating: "The redundant vehicle crossing must be removed, kerb & channel must be reinstated and the extension to the existing footpath up to the wing of the vehicle crossing must be constructed to the satisfaction of the Responsible Authority";

- m. a notation on the floor plan(s) stating: 'any new crossover to be designed and built to Council's standard requirements' and in accordance with the plans submitted as part of Condition 1e of this permit';
 - n. the dark grey blade screen, directly to the east side of the access point to the ground floor car park and the grey/green perforated lining with graphic treatment, directly to the west side of this access point, to be transparent for at least its first 1.5 metres to a minimum height of 1.5 metres from natural ground level or provided with a splay, or similar, to provide sightlines for vehicles exiting the site;
 - o. the respective elevation plan (i.e. north elevation plan), amended in accordance with Condition 1n. of this permit;
 - p. the provision of metal hoods or shading elements (retractable screening or shading devices) included and clearly nominated on at least 80 percent of the east and west facing windows to add articulation, interest and provide sun protection;
 - q. the notation of dark grey sunshade hoods to be clearly nominated on all elevations plans to correspond with the external finishes schedule;
 - r. the provision of noise attenuation measures incorporated into the design, in accordance with the recommendations and findings of the Acoustic Report required by Condition 17 of this permit;
 - s. the ground floor plan to correspond with the east elevation plan with the dark grey blade screening to extend, in its entirety, right along the east side of the car park and pedestrian path to provide a visual barrier;
 - t. the north to south aligned corridor, on each residential level, provided with a window at its most southern end (i.e. along the south (rear) elevation) to provide natural light and assist with cross-ventilation to these corridor spaces;
 - u. the access path to the bicycle storage on the first floor level car park clear of any obstructions;
 - v. the surface material of all driveways / accessways and car parking spaces nominated; and
 - w. the finished floor levels, finished ceiling levels and overall height of the building from natural ground level, clearly nominated.
2. The development and use 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 development hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
 4. Prior to the occupation of the development hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
 5. A Tree Protection Zone (TPZ) must be observed at a distance of five (5) metres in a radius surrounding the *Eucalyptus melliodora* (Yellow Box) at the rear of the site.

6. Prior to the commencement of the development hereby permitted, a Tree Protection Fence defined by a 1.2 metre (or larger) high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting, must be erected around the *Eucalyptus melliodora* (Yellow Box) at the distances specified for the TPZ.
7. The following must be observed within the TPZ area (without the further consent in writing of Council's Vegetation Management Officer):
 - a. the existing soil level must not be altered either by fill excavation;
 - b. the soil must not be compacted or the soil's drainage changed;
 - c. no fuels, oils, chemicals, poisons, rubbish and other materials harmful to trees are to be stored or dispersed;
 - d. no storage of equipment, machinery or material is to occur;
 - e. open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used;
 - f. tree roots must not be severed or injured; and
 - g. machinery must not be used to remove any existing concrete, bricks or other materials.
8. All tree pruning work must be in accordance with the Australian Standards AS4373 (2007) "Pruning of Amenity Trees" and be undertaken by a qualified and experienced Arborist.
9. The existing asphalt path (within an 8 metre radius of the *Eucalyptus melliodora* (Yellow Box) tree) must be retained in the existing condition unless approved in writing by Council's Senior Vegetation Management Officer.
10. **Conditions required by the Department of Transport**
 - a) The permit holder must take all reasonable steps to ensure that disruption to train operation within the railway corridor is kept to a minimum during the construction of the development. Foreseen disruption to rail operation during construction and mitigation measures must be communicated to Connex and the Director of Public Transport fourteen days (14) prior.
 - b) The permit holder must ensure that all track, overhead power and supporting infrastructure is not damaged or that works do not cause unplanned disruption to rail operations. Any damage to public transport infrastructure must be rectified to the satisfaction of the Director of Public Transport at the full cost to the permit holder.
11. **Conditions required by VicRoads**
 - a) Prior to the commencement of the permitted development amended plans generally in accordance with the submitted plan prepared by Hayball Pty Ltd

Ref: SK002 titled -Ground Floor Plan dated 5/5/2009 but modified to the show the following must be submitted to and approved by the Responsible Authority:

- i. The proposed vehicle crossover widened to at least 6.4m wide as measured at the property boundary and the edges of the vehicle crossover angled at 60 degrees to the road reserve boundary, to improve the entry and exit conditions.
 - ii. The street trees proposed along South Road planted at least 3m away from the edge of the road pavement.
 - b. Prior to the commencement of the use of the permitted development the crossover in accordance with VicRoads condition must be constructed and sealed to the satisfaction of the Responsible Authority.
 - c. Prior to the commencement of the use of the permitted development the existing cross-over which would be redundant must be removed and footpath, nature strip and kerbing reinstated to the satisfaction of the Responsible Authority.
 - d. All the vehicles associated with the development and use must drive forward when both entering and leaving the declared road reserve.
12. Prior to the commencement of the use and development hereby permitted, the owner of the land must enter into an executive agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority in which it shall be covenanted as follows:
- a) Pursuant to the provisions of Section 181 of the *Planning and Environment Act 1987* this agreement shall be registered with the Registrar of Titles and shall run with the land;
 - b) That the requirements contained in the agreement shall form part of any lease of the premises which the owner of the land under this permit may enter into with another party; and
 - c) The owner of the land under the permit shall pay the legal costs and be responsible for the preparation and registration of the said agreement

The Section 173 agreement must specifically provide for the following:

- a) Port Phillip Housing Association (PPHA) or, in the event that PPHA ceases to become or to continue to be the registered proprietor of the Land, another experienced provider and manager of community housing with the written consent of Council, to be the owner of the Land and to manage the building and tenancy arrangements;
- b) Without the further written consent of the Responsible Authority, all persons who occupy the 75 affordable housing dwellings are to be households on low incomes who meet the criteria for affordable housing as determined by the Victorian Office for Housing or similar approved scheme;

- c) No more than twenty-one (21) of the seventy-five (75) dwellings are to be allocated a single car parking space;
 - d) The lessor to make it clear at the time of negotiating a lease whether or not a particular tenant is entitled to a car parking space and that the designated forty-three (43) car parking spaces identified on the endorsed plans are for use by Kingston Arts Centre and Kingston City Hall Patrons only;
 - e) If at any time the Land is intended to be made available to be occupied by people other than people who require financial support to meet their housing needs, PPHA (or PPHA's successor, with the written consent of the Responsible Authority) must prior to selling or leasing the dwelling(s) determine whether or not any of the dwellings will be allocated with a car parking space recognising that the maximum number of allocated spaces for the entire seventy-five (75) dwellings must not exceed twenty-one (21) car parking spaces;
 - f) On the basis (subject to the written consent of the Responsible Authority) that any dwelling is sold or leased a separate agreement must be created which clearly indicates on the title or lease whether or not the dwelling is entitled to a car parking space;
 - g) The developer/owner/applicant must enter into an agreement with Council and VicTrack to implement the beautification and landscape works shown on the Landscape Concept Plan(s) – South Road to Moorabbin Railway Station Corridor (received by Council on 6 May 2009 and as amended by Condition 1a. of this permit) prepared by Michael Smith and Associates Landscape Architects and Urban Design at the full cost of the developer/owner/applicant;
 - h) The implementation and maintenance responsibilities of all required works to be provided for in the car parking, traffic management and signage plan required as part of Condition 1e. of this permit;
 - i) A detailed maintenance schedule outlining the responsibilities of the parties (i.e. 'who is going to maintain what') in relation to the ongoing maintenance of the ground floor car parking area;
 - j) The method in which Council's access to the first floor car park spaces will be protected; and
 - k) A notation on any future leases granted to residents which clearly recognises the City of Kingston's unfettered right to use the Kingston City Hall and Kingston Arts Centre for whatever activities it may wish irrespective of the operational elements (noise, number of people etc) associated with such activities.
13. Prior to commencement of the development hereby permitted, a Site Management Plan (SMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall

thereafter be complied with. The SMP must establish a set of 'house rules' for the building, to be followed thereafter to the satisfaction of the Responsible Authority. The SMP must ensure that a suitably qualified full time manager / supervisor with responsibility to oversee tenant behaviour is available and must detail arrangements, including but not limited to:

- a) the maintenance of the building;
- b) cleaning;
- c) supervision;
- d) management of common areas including noise control measures after hours;
- e) allocation of car parking and bicycle facilities consistent with the conditions of this planning permit;
- f) security of the building/site including the first floor parking area;
- g) allocation and ongoing arrangement of the eight (8) car parking spaces on the first floor level for the fulltime use of Kingston City Hall and the Arts Centre only; and
- h) contact details (i.e. direct telephone number) of the full-time manager provided to Council.

14. Before the commencement of any buildings and works on the Land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not limited to, the following:

- a) a detailed schedule of works which includes full project timing including when the car parking areas for the Kingston City Hall and Kingston Arts Centre would be released;
- b) traffic management for the Kingston City Hall, Kingston Arts Centre and other commercial activities carried out on the subject land including when or whether any access points would be required to be blocked;
- c) the location for the parking of all construction vehicles and construction worker vehicles during construction;
- d) delivery of materials including details of where materials will be stored and how concrete pours would be managed
- e) proposed traffic management signage for South Road and Nepean Highway (if required) indicating any inconvenience generated by construction;
- f) fully detailed plan indicating where construction hoardings would be located and as relevant the associated approvals required;
- g) times for loading/unloading of materials;
- h) containment of waste on site;
- i) suppression of dust management;
- j) business operations on the site during construction;
- k) site security;

- l) public safety measures; and
 - m) construction times, noise and vibration controls.
15. Before the commencement of any buildings and works on the Land, a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and thereafter be complied with. The WMP must include but is not limited to:
- a) The supply of bins for both 'general waste' and 'recyclable waste' and demonstrating how the garbage and recycling aspects of the development will operate;
 - b) The manner in which waste will be stored and collected including: type, size, number of containers and procedure(s) put in place as to how tenants are required to dispose of waste;
 - c) Spatial provision for on-site storage;
 - d) Private contractor details; and
 - e) The size of the collection vehicle and the frequency, time and point of collection.

The WMP must be implemented to the satisfaction of the Responsible Authority. The WMP must not be modified unless without the written consent of the Responsible Authority.

16. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of an ESD report to be prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The ESD report must include, but is not limited to, detailing initiatives for insulation, daylighting, stormwater harvesting, energy efficient internal illumination, energy efficient concepts, glazing and internal ventilation.
17. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of an Acoustic report to be prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. The appointed acoustic consultant must undertake testing on a time indicated by the Responsible Authority to measure the level of noise generated by the Kingston City Hall, Kingston Arts Centre, South Road, and Frankston Railway Line. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The Acoustic report must detail any additional reasonable acoustic measures that can be undertaken to improve the acoustic performance of the development with respect to its immediate surrounds, to ensure and protect the amenity of future residents.

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18. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration or bio retention system, rainwater tanks connected for reuse and a detention system.
19. 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.).
20. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
21. Prior to the occupation of any part of the development approved under this Planning Permit, the applicant / owner of the land must complete all works identified on the approved landscape plan and car parking, traffic management and signage plan..
22. The developer/owner must contact the Responsible Authority and VicRoads and arrange traffic management plans and **WORKS ZONE** for any works that may affect traffic (both vehicular and pedestrian) or parking on South Road or any of the surrounding streets. Works vehicles may not be able to stop in the street fronting the property. The developer will be responsible for the costs of arranging a **WORKS ZONE** and reinstatement of parking restriction signs, to the satisfaction of the Responsible Authority.
23. Prior to the occupation of the development hereby permitted, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must reinstated to the satisfaction of the Responsible Authority.
24. 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.
25. Prior to the occupation of development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.
 - c. Surfaced in accordance with the endorsed plans under this permit or in an all weather coloured concrete seal-coat, to the satisfaction of the Responsible Authority.

d. Drained and maintained to the satisfaction of the Responsible Authority.

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

26. No garbage bins or waste materials generated by the permitted use shall be deposited or stored outside the site.
27. The waste storage and collection arrangements must be to the satisfaction of the Responsible Authority.
28. Any external lighting must be provided with baffles to the satisfaction of the Responsible Authority so that no direct light is emitted outside the site.
29. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
30. No advertising signs shall be erected, painted or displayed on the land without the permission of the Responsible Authority unless in accordance with the exemption provisions of the Kingston Planning Scheme.
31. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
32. 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 within two (2) years from the date of permit issue.
 - The development is not completed within four (4) years from the date of permit issue.

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

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

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

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

GROUNDNS of REFUSAL for 999 NEPEAN HIGHWAY, MOORABBIN:

The proposal would detrimentally affect the amenity of the neighbourhood.

1. The proposal would prevent the orderly and proper planning of the zone.
2. The proposal would have an adverse effect on the amenity of area.
3. The proposal constitutes an over-development of the site.
4. The proposal would detract from the visual amenity of the locality and the streetscape.
5. The proposal is inconsistent with the relevant provisions of the Kingston Planning Scheme.
6. Inadequate provision has been made for off-street parking to cope with the demands of the proposal.
7. The proposal is inconsistent with the relevant policies under Clause 19.03 (Design & Built Form) of the Kingston Planning Scheme.

**APPENDIX B –
CONDITIONS INCLUDED ON PLANNING PERMIT KP245/09**

**PLANNING
PERMIT**

Permit Number: **KP245/09**
Planning Scheme: **KINGSTON**
Responsible Authority: **CITY OF KINGSTON**

ADDRESS OF THE LAND:

Part No. 999 (Lot 2 on PS 531995K) Nepean Highway, Moorabbin

THE PERMIT ALLOWS:

The development of this site for a seven (7) storey building comprising seventy-five (75) dwellings with a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme and to use for Accommodation, and to create access to a road in a Road Zone-Category 1, in accordance with plans to be submitted pursuant to Condition 1 herewith:

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

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 6 May 2009, but modified to show:
 - a. the provision of an improved landscape plan and associated planting schedule for the site and surrounds showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent actual

- canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
- iv. a range of plant types from ground covers to large shrubs and trees;
 - v. adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi. sustainable lawn areas and plant species taking current water restrictions into consideration;
 - vii. all trees provided at a minimum of two (2) metres in height at time of planting;
 - viii. medium to large shrubs to be provided at a minimum pot size of 200mm;
 - ix. 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;
 - x. all specie types for trees nominated, including the two (2) trees located to the western side of the building and the four (4) street trees located to the northern side of the building and shown to accommodate VicRoads siting requirements, in accordance with Condition 11 of this permit;
 - xi. clear delineation of all pedestrian paths, including to the south (rear) and west (side) of the building, in association with Condition 1.h. of this permit;
 - xii. improved detail to the southern end of the pedestrian walkway near the Moorabbin Railway Station entrance with this space designed in conjunction with the existing Railway Station entrance and designed in consultation with Council's Urban Designer and VicTrack;
 - xiii. the provision of an alternative quality finish for the pedestrian walkway/s (e.g. stained concrete or similar);
 - xiv. the provision of landscape, communal furniture and facility (eg. barbeque/s) details for the second floor terrace area;
 - xv. the provision of suitable landscape treatment to the west side of the ground floor car park, adjacent to car parking spaces 4 and 5 and in accordance with Condition 1d. of this permit; and
 - xvi. the provision of notes in accordance with Conditions 5, 6, 7, 8 and 9 of this planning permit.
- b. all requirements of the Department of Transport, in accordance with Condition 10 of this permit;
 - c. all requirements of the VicRoads, in accordance with Condition 11 of this permit;
 - d. the provision of a two-way thoroughfare / access created of no less than 5.5 metres in width between the ground floor car park to the carriageway easement (common property E-11) adjacent to car parking spaces 14 and 15, with the creation of this accessway to result in a loss of no more than two (2) car parking spaces from the site;

- e. the provision of detailed car parking, traffic management and signage, which includes:
 - i. fully dimensioned plans which show the crossover widths, all car parking spaces, all access way widths and a full design for the integration of the proposed car park with the existing car parking under the Kingston City Hall;
 - ii. in accordance with Condition 1.d. of this permit, a total of thirty-five (35) car parking spaces located on the ground floor and eight (8) car parking spaces on the first floor (i.e. a total of forty-three (43) car parking spaces) nominated for the use of patrons to the Kingston City Hall and Kingston Arts Centre, as required by Section 173 Agreement (AE423794S);
 - iii. a total of no less than twenty-one (21) allocated car parking spaces nominated for the development and three (3) visitor car parking spaces clearly nominated;
 - iv. the location, content and size of signage both internal and external to the subject land which provides visitors with details of entry and exit points to the subject land;
 - v. full details of signage proposed to demarcate each car space to be allocated to the Kingston City Hall and Kingston Arts Centre;
 - vi. the signage required to indicate height clearances between the different car park levels;
 - vii. the location and details of any statutory signage deemed necessary by Council to be replaced to reinforce parking restrictions for the Kingston City Hall and Kingston Arts Centre car parking spaces;
 - viii. a device which provides real time information to vehicles on the ground floor as to whether any Kingston City Hall or Kingston Arts Centre car parking spaces are available on Level 1;
 - ix. any proposed mechanisms, if deemed necessary, to secure the car parking spaces allocated to the development including how visitor access would be achieved; and
 - x. full details of pedestrian access to and from the eight (8) car parking spaces located on the first floor level, nominated for the use of the Kingston City Hall and Kingston Arts Centre.
- f. in accordance with Condition 1.d. and 1.e. of this permit, the provision of an improved walkway between the ground floor car park and the carriageway easement (common property E-11);
- g. the provision of artwork graphics along the development's northern (front) façade, essentially at ground level, to enliven the development's presentation to South Road and provide an improved connection between the development and the Arts Centre;
- h. the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and

driveways of the development with light colour tones to be predominately selected for the external facades of the building to increase heat reflection from those surfaces most exposed to heat loads and, where possible, the selection of applied finishes to the building's façade to be of superior heat resistant properties;

- i. all traffic directional arrows shown along carriageway easement E-11 to be deleted from the site plan(s) and as appropriate addressed in Condition 1e of this permit;
- j. the provision of fixed / retractable clothes drying facilities to each dwelling to be nominated on all balconies to be positioned so that clothes would not be visible from outside the building;
- k. the location of all externally located heating and cooling units, exhaust fans and the like, clearly shown;
- l. a notation on the floor plan(s) stating: "The redundant vehicle crossing must be removed, kerb & channel must be reinstated and the extension to the existing footpath up to the wing of the vehicle crossing must be constructed to the satisfaction of the Responsible Authority";
- m. a notation on the floor plan(s) stating: 'any new crossover to be designed and built to Council's standard requirements' and in accordance with the plans submitted as part of Condition 1e of this permit';
- n. the dark grey blade screen, directly to the east side of the access point to the ground floor car park and the grey/green perforated lining with graphic treatment, directly to the west side of this access point, to be transparent for at least its first 1.5 metres to a minimum height of 1.5 metres from natural ground level or provided with a splay, or similar, to provide sightlines for vehicles exiting the site;
- o. the respective elevation plan (i.e. north elevation plan), amended in accordance with Condition 1n. of this permit;
- p. the provision of metal hoods or shading elements (retractable screening or shading devices) included and clearly nominated on at least 80 percent of the east and west facing windows to add articulation, interest and provide sun protection;
- q. the notation of dark grey sunshade hoods to be clearly nominated on all elevations plans to correspond with the external finishes schedule;
- r. the provision of noise attenuation measures incorporated into the design, in accordance with the recommendations and findings of the Acoustic Report required by Condition 17 of this permit;
- s. the ground floor plan to correspond with the east elevation plan with the dark grey blade screening to extend, in its entirety, right along the east side of the car park and pedestrian path to provide a visual barrier;
- t. the north to south aligned corridor, on each residential level, provided with a window at its most southern end (i.e. along the south (rear) elevation) to provide natural light and assist with cross-ventilation to these corridor spaces;

- u. the access path to the bicycle storage on the first floor level car park clear of any obstructions;
 - v. the surface material of all driveways / accessways and car parking spaces nominated; and
 - w. the finished floor levels, finished ceiling levels and overall height of the building from natural ground level, clearly nominated.
2. The development and use 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 development hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
 4. Prior to the occupation of the development hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
 5. A Tree Protection Zone (TPZ) must be observed at a distance of five (5) metres in a radius surrounding the *Eucalyptus melliodora* (Yellow Box) at the rear of the site.
 6. Prior to the commencement of the development hereby permitted, a Tree Protection Fence defined by a 1.2 metre (or larger) high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting, must be erected around the *Eucalyptus melliodora* (Yellow Box) at the distances specified for the TPZ.
 7. The following must be observed within the TPZ area (without the further consent in writing of Council's Vegetation Management Officer):
 - a. the existing soil level must not be altered either by fill excavation;
 - b. the soil must not be compacted or the soil's drainage changed;
 - c. no fuels, oils, chemicals, poisons, rubbish and other materials harmful to trees are to be stored or dispersed;
 - d. no storage of equipment, machinery or material is to occur;
 - e. open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used;
 - f. tree roots must not be severed or injured; and
 - g. machinery must not be used to remove any existing concrete, bricks or other materials.
 8. All tree pruning work must be in accordance with the Australian Standards AS4373 (2007) "Pruning of Amenity Trees" and be undertaken by a qualified and experienced Arborist.
 9. The existing asphalt path (within an 8 metre radius of the *Eucalyptus melliodora* (Yellow Box) tree) must be retained in the existing condition unless approved in writing by Council's Senior Vegetation Management Officer.

10. Conditions required by the Department of Transport

- c) The permit holder must take all reasonable steps to ensure that disruption to train operation within the railway corridor is kept to a minimum during the construction of the development. Foreseen disruption to rail operation during construction and mitigation measures must be communicated to Connex and the Director of Public Transport fourteen days (14) prior.
- d) The permit holder must ensure that all track, overhead power and supporting infrastructure is not damaged or that works do not cause unplanned disruption to rail operations. Any damage to public transport infrastructure must be rectified to the satisfaction of the Director of Public Transport at the full cost to the permit holder.

11. Conditions required by VicRoads

- b) Prior to the commencement of the permitted development amended plans generally in accordance with the submitted plan prepared by Hayball Pty Ltd Ref: SK002 titled -Ground Floor Plan dated 5/5/2009 but modified to show the following must be submitted to and approved by the Responsible Authority:
 - i. The proposed vehicle crossover widened to at least 6.4m wide as measured at the property boundary and the edges of the vehicle crossover angled at 60 degrees to the road reserve boundary, to improve the entry and exit conditions.
 - ii. The street trees proposed along South Road planted at least 3m away from the edge of the road pavement.
- b. Prior to the commencement of the use of the permitted development the crossover in accordance with VicRoads condition must be constructed and sealed to the satisfaction of the Responsible Authority.
- c. Prior to the commencement of the use of the permitted development the existing cross-over which would be redundant must be removed and footpath, nature strip and kerbing reinstated to the satisfaction of the Responsible Authority.
- d. All the vehicles associated with the development and use must drive forward when both entering and leaving the declared road reserve.

12. Prior to the commencement of the use and development hereby permitted, the owner of the land must enter into an executive agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority in which it shall be covenanted as follows:

- d) Pursuant to the provisions of Section 181 of the *Planning and Environment Act 1987* this agreement shall be registered with the Registrar of Titles and shall run with the land;
- e) That the requirements contained in the agreement shall form part of any lease of the premises which the owner of the land under this permit may enter into with another party; and

- f) The owner of the land under the permit shall pay the legal costs and be responsible for the preparation and registration of the said agreement

The Section 173 agreement must specifically provide for the following:

- l) Port Phillip Housing Association (PPHA) or, in the event that PPHA ceases to become or to continue to be the registered proprietor of the Land, another experienced provider and manager of community housing with the written consent of Council, to be the owner of the Land and to manage the building and tenancy arrangements;
- m) Without the further written consent of the Responsible Authority, all persons who occupy the 75 affordable housing dwellings are to be households on low incomes who meet the criteria for affordable housing as determined by the Victorian Office for Housing or similar approved scheme;
- n) No more than twenty-one (21) of the seventy-five (75) dwellings are to be allocated a single car parking space;
- o) The lessor to make it clear at the time of negotiating a lease whether or not a particular tenant is entitled to a car parking space and that the designated forty-three (43) car parking spaces identified on the endorsed plans are for use by Kingston Arts Centre and Kingston City Hall Patrons only;
- p) If at any time the Land is intended to be made available to be occupied by people other than people who require financial support to meet their housing needs, PPHA (or PPHA's successor, with the written consent of the Responsible Authority) must prior to selling or leasing the dwelling(s) determine whether or not any of the dwellings will be allocated with a car parking space recognising that the maximum number of allocated spaces for the entire seventy-five (75) dwellings must not exceed twenty-one (21) car parking spaces;
- q) On the basis (subject to the written consent of the Responsible Authority) that any dwelling is sold or leased a separate agreement must be created which clearly indicates on the title or lease whether or not the dwelling is entitled to a car parking space;
- r) The developer/owner/applicant must enter into an agreement with Council and VicTrack to implement the beautification and landscape works shown on the Landscape Concept Plan(s) – South Road to Moorabbin Railway Station Corridor (received by Council on 6 May 2009 and as amended by Condition 1a. of this permit) prepared by Michael Smith and Associates Landscape Architects and Urban Design at the full cost of the developer/owner/applicant;
- s) The implementation and maintenance responsibilities of all required works to be provided for in the car parking, traffic management and signage plan required as part of Condition 1e. of this permit;

- t) A detailed maintenance schedule outlining the responsibilities of the parties (i.e. 'who is going to maintain what') in relation to the ongoing maintenance of the ground floor car parking area;
 - u) The method in which Council's access to the first floor car park spaces will be protected; and
 - v) A notation on any future leases granted to residents which clearly recognises the City of Kingston's unfettered right to use the Kingston City Hall and Kingston Arts Centre for whatever activities it may wish irrespective of the operational elements (noise, number of people etc) associated with such activities.
13. Prior to commencement of the development hereby permitted, a Site Management Plan (SMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The SMP must establish a set of 'house rules' for the building, to be followed thereafter to the satisfaction of the Responsible Authority. The SMP must ensure that a suitably qualified full time manager / supervisor with responsibility to oversee tenant behaviour is available and must detail arrangements, including but not limited to:
- i) the maintenance of the building;
 - j) cleaning;
 - k) supervision;
 - l) management of common areas including noise control measures after hours;
 - m) allocation of car parking and bicycle facilities consistent with the conditions of this planning permit;
 - n) security of the building/site including the first floor parking area;
 - o) allocation and ongoing arrangement of the eight (8) car parking spaces on the first floor level for the fulltime use of Kingston City Hall and the Arts Centre only; and
 - p) contact details (i.e. direct telephone number) of the full-time manager provided to Council.
14. Before the commencement of any buildings and works on the Land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not limited to, the following:
- n) a detailed schedule of works which includes full project timing including when the car parking areas for the Kingston City Hall and Kingston Arts Centre would be released;

- o) traffic management for the Kingston City Hall, Kingston Arts Centre and other commercial activities carried out on the subject land including when or whether any access points would be required to be blocked;
- p) the location for the parking of all construction vehicles and construction worker vehicles during construction;
- q) delivery of materials including details of where materials will be stored and how concrete pours would be managed;
- r) proposed traffic management signage for South Road and Nepean Highway (if required) indicating any inconvenience generated by construction;
- s) fully detailed plan indicating where construction hoardings would be located and as relevant the associated approvals required;
- t) times for loading/unloading of materials;
- u) containment of waste on site;
- v) suppression of dust management;
- w) business operations on the site during construction;
- x) site security;
- y) public safety measures; and
- z) construction times, noise and vibration controls.

15. Before the commencement of any buildings and works on the Land, a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and thereafter be complied with. The WMP must include but is not limited to:

- f) The supply of bins for both 'general waste' and 'recyclable waste' and demonstrating how the garbage and recycling aspects of the development will operate;
- g) The manner in which waste will be stored and collected including: type, size, number of containers and procedure(s) put in place as to how tenants are required to dispose of waste;
- h) Spatial provision for on-site storage;
- i) Private contractor details; and
- j) The size of the collection vehicle and the frequency, time and point of collection.

The WMP must be implemented to the satisfaction of the Responsible Authority. The WMP must not be modified unless without the written consent of the Responsible Authority.

16. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of an ESD report to be prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The ESD report must include, but is not limited to, detailing

initiatives for insulation, daylighting, stormwater harvesting, energy efficient internal illumination, energy efficient concepts, glazing and internal ventilation.

17. Prior to the endorsement of the Plans required pursuant to Condition 1 of this permit, the provision of an Acoustic report to be prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. The appointed acoustic consultant must undertake testing on a time indicated by the Responsible Authority to measure the level of noise generated by the Kingston City Hall, Kingston Arts Centre, South Road, and Frankston Railway Line. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The Acoustic report must detail any additional reasonable acoustic measures that can be undertaken to improve the acoustic performance of the development with respect to its immediate surrounds, to ensure and protect the amenity of future residents.
18. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration or bio retention system, rainwater tanks connected for reuse and a detention system.
19. 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.).
20. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
21. Prior to the occupation of any part of the development approved under this Planning Permit, the applicant / owner of the land must complete all works identified on the approved landscape plan and car parking, traffic management and signage plan.
22. The developer/owner must contact the Responsible Authority and VicRoads and arrange traffic management plans and **WORKS ZONE** for any works that may affect traffic (both vehicular and pedestrian) or parking on South Road or any of the surrounding streets. Works vehicles may not be able to stop in the street fronting the property. The developer will be responsible for the costs of arranging a **WORKS ZONE** and reinstatement of parking restriction signs, to the satisfaction of the Responsible Authority.
23. Prior to the occupation of the development hereby permitted, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must reinstated to the satisfaction of the Responsible Authority.

24. 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.
25. Prior to the occupation of development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
- e. Constructed to the satisfaction of the Responsible Authority.
 - f. Properly formed to such levels that they can be used in accordance with the plans.
 - g. Surfaced in accordance with the endorsed plans under this permit or in an all weather coloured concrete seal-coat, to the satisfaction of the Responsible Authority.
 - h. Drained and maintained to the satisfaction of the Responsible Authority.
- Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
26. No garbage bins or waste materials generated by the permitted use shall be deposited or stored outside the site.
27. The waste storage and collection arrangements must be to the satisfaction of the Responsible Authority.
28. Any external lighting must be provided with baffles to the satisfaction of the Responsible Authority so that no direct light is emitted outside the site.
29. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
30. No advertising signs shall be erected, painted or displayed on the land without the permission of the Responsible Authority unless in accordance with the exemption provisions of the Kingston Planning Scheme.
31. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
32. 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 within two (2) years from the date of permit.
 - The development is not completed within four (4) years from the date of 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: 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.

Motion

Crs West/Shewan

1. That Council resolve to issue an Amended Planning Permit for the development of the site at No. 358a (PC 371611L) & No. 358 (part Lot 3 on PS 531995K) South Road, Moorabbin for a seven (7) storey building comprising seventy-five (75) dwellings with a reduction in car parking requirements pursuant to Clause 52.06 of the Kingston Planning Scheme and to create access to a Road Zone Category 1, subject to the recommendations specified in the Officers report and the conditions outlined in the attached amended planning permit and the addition of the words “and Childrens’ playground” after the word “barbeque” to condition 1 w.; and
2. Council resolve to seek to remove the existing Section 173 Agreement (AE4237945) upon creation and registration of a new Section 173 Agreement required by way of Condition 13 of Amended Planning Permit KP245/09-A.

The motion was **put and lost**.

A division was called.

Division

For

Mayor Cr Athanasopoulos
Cr Shewan
Cr Staikos
Cr West

Against

Cr Bauer
Cr Brownlees
Cr Dundas
Cr Peulich

The Chairperson, in accordance with the practice of using the casting vote to maintain the status quo, declared the motion was **lost**.

4. Urgent Business

There were no items of urgent business.

5. Confidential Items in Camera

There were no items in camera.

The meeting closed at 7.04pm.

Confirmed.....His Worship The Mayor 14 December 2009.