



PLANNING & COMMUNITY DEVELOPMENT COMMITTEE MEETING AGENDA

**to be held on Tuesday 3 February 2004 at 8.00 pm
at the Richmond Town Hall**

COUNCILLOR MEMBERSHIP

Councillor Judy Morton (Chairperson)

Councillor Greg Barber

Councillor Di Natale

Councillor Kay Meadows

Councillor Gurm Sekhon

I. ATTENDANCE

II. DECLARATIONS OF PECUNIARY INTEREST

III. COMMITTEE BUSINESS REPORTS

***Welcome to the City of Yarra.
Council acknowledges the
Wurundjeri community as the first
owners of this country.
Today, they are still the custodians
of the cultural heritage of this land.***

PLANNING & COMMUNITY DEVELOPMENT COMMITTEE MEETING

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2.1 Amendment C50 to the Yarra Planning Scheme – Design Guidelines for Development above Three Storeys

EXECUTIVE SUMMARY

Purpose

To consider the Panel Report regarding Amendment C50 to the Yarra Planning Scheme, Design Guidelines for Development above Three Storeys.

To adopt Amendment C50 to the Yarra Planning Scheme with changes and to recommend to the Minister for Planning that it be approved.

Issues

Amendment C50 to the Yarra Planning Scheme proposes to introduce Design Guidelines for Development above Three Storeys (the Guidelines) as a policy in the Scheme.

An independent Panel has considered the proposed amendment and recommended that subject to changes it be approved. The Panel accepted the need for the policy and found that the Guidelines follow accepted good design practice.

Resource Financial Implications

The costs associated with the Amendment and Independent Panel process will be borne by Council and are within the approved 2003/4 strategic planning budget.

Community Implications

Four submissions were received in response to the public exhibition of the amendment. Two of the submitters requested to be heard by the Panel. The Panel considered all written and verbal submissions in reaching its conclusions.

The Panel was satisfied that adequate notice of the amendment was given, and accepted that the low number of submissions reflects the general acceptability of the Guidelines to the Yarra community.

Environmental Implications

Guidelines have been developed to improve the design quality and performance of buildings over three storeys.

City Plan, Strategy and Policy Implications

The proposed Policy is required under City Plan 2002/05 where one of the projects is to *“Consolidate completed strategic studies and prepare design guidelines for development above 3 storeys.”*

Legal Implications

Consideration of the Panel report and adoption of the Amendment is in accordance with the *Planning and Environment Act 1987*.

PROPOSED ACTIONS

Adoption of Amendment C50 to the Yarra Planning Scheme with changes.

2.1 Amendment C50 to the Yarra Planning Scheme – Design Guidelines for Development above Three Storeys

File: 30/25/07/50
Responsible Officer: Coordinator Strategic Planning

Purpose

1. To consider the Panel Report regarding Amendment C50 to the Yarra Planning Scheme, Design Guidelines for Development above Three Storeys.
2. To adopt Amendment C50 to the Yarra Planning Scheme with changes and to recommend to the Minister for Planning that it be approved.

Background

3. The Design Guidelines for Development Above Three Storeys (the Guidelines) were placed on public exhibition from 14 November 2002 until 17 January 2003. The Guidelines describe parameters for good building design. They will apply to all development (in all zones) that is above three storeys in height and is located on land outside of the Heritage Overlay. ResCode only applies to residential development up to three storeys in height.
4. The exhibited Guidelines were amended by Council in response to submissions. A copy of the Guidelines as amended by Council is provided at Attachment 1. The Panel endorsed the amended Guidelines but recommended further changes, which are discussed in detail below.
5. The Guidelines are divided into nine elements that address the key design and development issues that arise from development of this type. The nine elements covered in the Guidelines are:
 - (a) setbacks and site coverage;
 - (b) building height and silhouette;
 - (c) streetscape amenity;
 - (d) environmental sustainability;
 - (e) on-site amenity;
 - (f) off-site amenity;
 - (g) landscaping and fencing;
 - (h) parking, traffic and access; and
 - (i) service infrastructure.
6. Similar to the ResCode structure of assessment, the Guidelines have mandatory and non-mandatory requirements. Each element contains design objectives that must be met and design guidelines that are preferred

suggestions of how to meet the objectives. While it is desirable for the design guidelines to be met, these are not mandatory requirements.

7. However, where the design guidelines are not met, the written submission included with an application must explain how the proposed development achieves the related design objectives.
8. The Guidelines also require that an application must be:
 - (a) discussed at a pre-application meeting with a Senior Statutory Planner prior to finalisation;
 - (b) accompanied by a Site Analysis Plan and Design Response; and
 - (c) accompanied by a written report detailing how the development responds to the provisions of the Yarra Planning Scheme and the Guidelines.

Panel Hearing Process

9. There were four submissions to Amendment C50. Council, at its meeting of 10 June 2003, resolved:

“That Council request the Minister for Planning to appoint an Independent Panel pursuant to s. 23(1)(b) of the Planning and Environment Act 1987 to consider submissions received in response to Amendment C50.”
10. The main issues raised in the submissions relate to the following:
 - (a) the relationship of the policy to Melbourne 2030; and particularly the fact that the Policy does not address activity centres;
 - (b) too much emphasis on existing character and residential development;
 - (c) the Policy should be more restrictive with regard to height and more prescriptive in its wording; and
 - (d) VicRoads requested that conditions be added.
11. The Minister for Planning appointed a two person Panel, consisting of Lester Townsend and Isabelle Johnstone to consider the amendment and submissions.
12. The Panel held a directions hearing on 21 August 2003 and the public hearing was held on 15 September 2003. The following people made written and verbal presentations at the Panel Hearing:
 - (a) Robyn Hellman, Senior Strategic Planner (City of Yarra);
 - (b) Simon Evans (Salta Properties); and
 - (c) Ron Cameron (resident).

13. The Panel report, which was received and distributed to all Councillors in early December, 2003 states that:

“The Panel recommends that Amendment C50 to the Yarra Planning Scheme be adopted, subject to modifications.”

Refer Attachment 2 for the full Panel recommendation.

Issues

14. Due to the pressure of applications for development over three storeys across the City, the Panel accepted the need for the Policy. The overall findings of the Panel are:
- (a) the Policy will assist with the implementation of Melbourne 2030 by providing guidelines that will promote well-designed taller buildings;
 - (b) the Guidelines follow good design practice;
 - (c) the Policy is well structured and the role of the different components of the Policy (design objectives and design guidelines) are clearly explained;
 - (d) the approach of making decisions about height and bulk in the context of a “desired neighbourhood character” is generally supported; and
 - (e) the language used in the policy accords with planning terms in regular use in planning schemes in Victoria.
15. Below is a discussion of the specific recommendations of the Panel.

State Guidelines

Panel Findings and Recommendation

16. The State Government is in the process of preparing its own guidelines for buildings above three storeys. The Panel states that once the State guidelines have been included in all planning schemes, part of the Yarra policy will become redundant. The Panel therefore recommends:

“That the need for the policy be reviewed once the contents and statutory implementation mechanisms for Statewide guidelines are known.”

Comment

17. Under Section 7. (4)(b) of the *Planning and Environment Act 1987* (the Act), State standard provisions prevail over local provisions. When the Statewide guidelines are introduced into the Planning Scheme, Council should therefore review its own Guidelines to resolve inconsistencies and determine which aspects of the Guidelines are still required.

Minor Wording Changes

Panel Findings and Recommendation

18. The Panel found that some wording was not clear and states that:

“That the use of the term ‘within the primary setback’ in Design Guidelines 2.1 and 2.5 be reviewed for ambiguity.”

Comment

19. In order to more precisely define the term “within the primary setback” the words “within the primary setback” should be replaced by the words “between the primary setback and the secondary setback”.

Height and Bulk

Panel Findings and Recommendation

20. The Panel supported the approach in the Guidelines of making decisions about the height and bulk of buildings in the context of a “desired neighbourhood character”. However the Panel states that desired neighbourhood character cannot simply be accepted as the existing character and the possibility ought to exist for a change in character where this is appropriate.
21. The Panel also states that the Guidelines need to make it clear that in some areas a transformation of character is appropriate and in others existing tall buildings should not necessarily be taken as a precedent. The Panel states further that it is not reasonable to presume, without detailed study, that the character of all areas of Yarra can be preserved as is, while achieving wider planning objectives such as Melbourne 2030. With regard to this issue, the Panel recommends as follows:

“(a) that the first objective at 22.09-2 be amended to read:

‘Ensure that new development positively responds to the context of the development and respects the scale and form of surrounding development where this is a valued feature of the neighbourhood character.’

(b) that Objective 2.1 be amended to read:

‘To ensure that the height of new development is appropriate to the context of the area (as identified in the Site Analysis Plan and Design Response) and respects the prevailing pattern of heights of the area where this is a critical feature of a valued neighbourhood character.’

(c) that Objective 2.2 be amended to read:

‘To recognise that some sites and some areas can accommodate taller buildings.’

(d) *that Guideline 2.1 be amended to read:*

'The height for the portion of the new development within the secondary setback should not exceed the height of the higher of the two adjacent buildings, unless:

- (i) another provision of the Yarra Planning Scheme sets a specific height;*
- (ii) the development is in an area where it is appropriate and practicable to establish a distinctly different new character in order to achieve planning objectives;*
- (iii) the adjacent buildings do not reflect the prevailing heights of the area;*
- (iv) one of the adjacent buildings is considerably lower in height than the other and it is appropriate to step down to the lower building to create a transition on building heights."*

Comment

- 22. The Guidelines are currently structured to promote heights that are in keeping with context (in areas with a preferred future character of one or two storeys) but they do accept a change in height where height is not a feature of neighbourhood character. The changes suggested by the Panel make the reference to neighbourhood character more explicit and are generally supported, except for the following.
- 23. There is generally a range of features that contribute to a neighbourhood character. The Panel's use of the words "valued feature" when referring to scale and form calls for a judgement as to which elements of character are more important, rather than an impartial assessment of all the characteristics that positively contribute to a particular character and a recognition that character is determined by the interrelationship of a number of characteristics.
- 24. If scale and form are positive features of neighbourhood character, then scale and form along with the other features of that neighbourhood character, must be respected in new developments. This is consistent with the ResCode approach to character.
- 25. Similar to the above, the use of the word "critical" when referring to an element of character, calls for an assessment as to which aspects of a particular character are important, rather than a comprehensive view of all the attributes that when combined make up a particular urban character. The Panel appears to be attempting to introduce these words so that scale and form are important only when they are "valued" or "critical". As explained above, this is not appropriate when referring to the positive attributes that when combined constitute urban character. This aspect of the Panel's recommended wording should therefore be deleted.
- 26. Guideline 2.1 was included in order to specifically address the heights of buildings between the primary setback and the secondary setback. The Panel seems to have misunderstood this, and has changed this Guideline so that it refers to the overall height of the building. (Guidelines 2.4 and 2.5 address the

overall height of a building.) Guideline 2.1 should therefore be amended by replacing the words “within the secondary setback” by the words “between the primary setback and the secondary setback”.

Coverage

Panel Findings and Recommendation

27. The Panel has a concern that Guideline 1.2 may be inapplicable in sites where for contamination reasons land may need to be capped and therefore recommends:

“That Guideline 1.2 be amended to address the issue of the need to cap contaminated sites.”

Comment

28. This is a valid concern and Guideline 1.2 should therefore be amended to read:

New development should not exceed a maximum site coverage of 80% of the site area unless:

- (a) the pattern of site coverage in the immediate area is higher than this figure (as identified in the Site Analysis Plan and Design Response); or
- (b) there is a need to cap the site to deal with contamination.

Environmental Sustainability

Panel Findings and Recommendation

29. The Panel states that the need for more environmentally sustainable development is clear and has no concerns with the objectives in the Policy. However the Panel is concerned that as environmental sustainability has not been addressed in detail, some of the Guidelines may be difficult to implement. The Panel therefore recommends:

“That the element dealing with Environmental Sustainability be deleted from the policy.”

Comment

30. Council is currently developing a comprehensive environmental sustainability policy, which will require environmentally sensitive development for all development throughout the city. As the Panel has stated that it does not have concerns with the objectives of this element, it is considered that the objectives of the element should remain in the Policy; that the Guidelines be deleted; and that a comprehensive environmentally sustainable development report be required as part of the information provided with an application. This approach will complement the new environmental policy being developed by indicating from the outset that environmentally sustainable development is a requirement of Council.

Parking

Panel Findings and Recommendation

31. Guideline 8.2 states that non-residential development shall be assessed against the requirements of Clause 52.06 of the Yarra Planning Scheme and Council's Town Planning Parking Policy.
32. The Panel states that the Parking Policy is not part of the Planning Scheme and therefore recommends that Guideline 8.2 be deleted.

Comment

33. As the proposed Policy will be one of a suite of controls in the Planning Scheme, all of which have to be taken into account, it is not necessary to mention Clause 52.06 of the Planning Scheme. Council's Town Planning Parking Policy is not a policy under the Act (i.e. not part of the Planning Scheme). Council is currently undertaking a parking strategy which is reviewing parking requirements for development.
34. It is therefore considered that Guideline 8.2 should be deleted and if necessary when the revised parking rates have been finalised, a planning scheme amendment to include them in the Planning Scheme can be exhibited.

Definitions

Panel Findings and Recommendation

35. The Panel states that definitions in the Guidelines must accord with the VPP and therefore recommends that:

"The definition of building height be deleted from the policy, or be replaced with the VPP definition."

and

"The definitions of setbacks and frontages be clarified by the use of a diagram. These definitions should adopt VPP definitions as appropriate."

Comment

36. As under the Act a VPP definition would override any definition in a local planning Policy, the definitions in the policy should be amended to accord with the VPP definition.

Conclusion

37. The Guidelines were developed to provide urban design parameters for development in all parts of the municipality not covered by the Heritage Overlay. They were prepared in response to an identified gap in planning provisions used to assess developments over three storeys. It is anticipated that the Guidelines will facilitate improved development outcomes in that they will provide Council and the development industry with a comprehensive set of urban design principles to work with in assessing and designing buildings over three storeys.

38. The Guidelines can be seen as complementing other strategic work currently underway which is likely to generate built form guidelines for particular locations or building typologies within the City.
39. Amendment C50 can thus be regarded as the first layer in the controls relating to building design in the non-Heritage areas of the City of Yarra. As it is the first layer, it is appropriate that context and contextual design is the starting point for the Policy.
40. The next layer of control will be more specific and may for example indicate where higher buildings will be appropriate. Further layers of control i.e. the structure plans and urban design frameworks which will be the outcomes of detailed and comprehensive studies, will include more specific development guidelines such as building envelopes for particular sites or precincts.
41. It is considered that subject to the changes discussed above, the recommendations of the Panel should be adopted and the amended Guidelines sent to the Minister for Planning for approval. The Guidelines with the changes discussed above form Attachment 3.

Consultations

42. As stated in the Council report dated 24 September 2002, Amendment C50 was placed on public exhibition from 14 November 2002 to 17 January 2003 in the following manner:
 - (a) direct notice to all attendees at the recent Built Form Review workshops;
 - (b) direct notice to all submitters to the proposed Yarra Residential Design Guide amendment;
 - (c) direct notice to all submitters to the Punt Road/ Hoddle Street Design Guidelines amendment;
 - (d) direct notice to all relevant State Government departments, Ministers and agencies;
 - (e) information in the City of Yarra advertorial published in the Yarra Leader;
 - (f) notices in the Yarra Leader, Melbourne Times and Government Gazette; and
 - (g) displaying the amendment at the Richmond and Collingwood Town Halls, the libraries and the Department of Infrastructure.
43. The Panel was satisfied that adequate notice of the amendment was given, and accepts that the low number of submissions reflects the general acceptability of the Guidelines to the Yarra community.

Resource and Financial Implications

44. The costs incurred in processing the amendment will be borne by Council and are within the approved 2003/4 strategic planning budget.

Environmental Implications

45. Guidelines have been developed to improve the design quality and performance of buildings over three storeys.

City Plan, Strategy and Policy Implications

46. The proposed Policy is required under City Plan 2002/05 where one of the projects is to "Consolidate completed strategic studies and prepare design guidelines for development above 3 storeys."

Legal Implications

47. Consideration of the Panel report and adoption of the Amendment is in accordance with the *Planning and Environment Act 1987*.

Options

48. Having considered the Panel Report, Council has three options available in relation to Amendment C50 under the provisions of the Act. These options are to:
- (a) adopt the amendment without changes; or
 - (b) adopt the amendment with changes; or
 - (c) abandon the amendment or part of the amendment.

Proposal

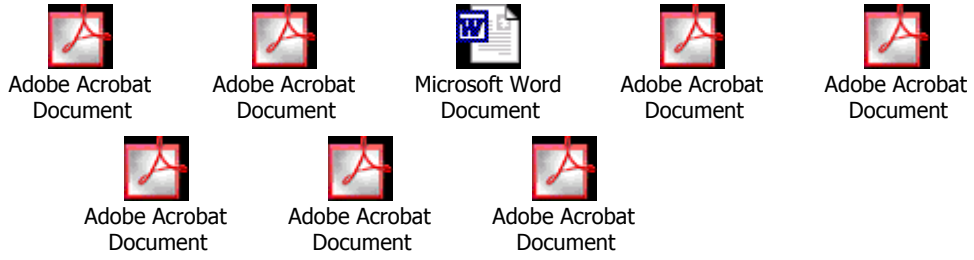
49. The Guidelines with the changes as discussed in the body of the report will provide Council with a policy where existing character and context are important but which will allow change in the built form where this is appropriate. The further strategic work being undertaken by Council will identify those areas where change may be appropriate and will include suitable policies and controls. It is therefore proposed that Option 2 be pursued and that the amendment be adopted with changes, as shown in Attachment 3.

RECOMMENDATION

50. That Council:
- (a) pursuant to Section 29(1) of the *Planning and Environment Act 1987*, adopt Amendment C50 to the Yarra Planning Scheme with the changes shown in Attachment 3; and
 - (b) submit the adopted amendment for approval together with the prescribed information to the Minister for Planning pursuant to Section 31(1) of the *Planning and Environment Act 1987*.

CONTACT OFFICER: Robyn Hellman
TITLE: Senior Strategic Planner
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See Attachment



2.2 Amendment C54 to the Yarra Planning Scheme – Cnr. Bedford, Johnston and Perry Streets, Collingwood – Amendment Adoption Stage

EXECUTIVE SUMMARY

Purpose

To adopt Amendment C 54 to the Yarra Planning Scheme pursuant to section 29 (1) of the *Planning & Environment Act 1987* ('the Act'), with one change and to submit the amendment to the Minister for Planning pursuant to section 31(1) of the Act.

Issues

Amendment C 54 proposes to rezone land at 2-8 Bedford Street and 10 Perry Street, Collingwood from a Business 3 to a Business 2 Zone, and 15- 33 Johnston Street, Collingwood from a Business 3 Zone to a Business 1 Zone (the amendment land). In addition, it is proposed that properties with a history of industrial land uses in the amendment land would have an Environmental Audit Overlay (EAO) applied.

No submissions against the proposed rezoning have been received following exhibition of the amendment. The proponent has supplied evidence that 4 Bedford Street has already been subject to an Environmental Audit under the requirements of a planning permit issued for the site (95/016).

Resource and Financial Implications

The costs associated with the amendment (\$1,860) will be borne by the proponent.

Community Implications

The amendment was placed on public exhibition for a one-month period, and no objecting submissions have been received.

Environmental Implications

The proposed amendment will facilitate a more efficient use of existing physical infrastructure.

City Plan, Strategy and Policy Implications

The amendment proposal is consistent with relevant planning policies.

Legal Implications

The amendment has been processed in accordance with the provisions of the Act.

PROPOSED ACTIONS

That Council:

- (a) adopt Amendment C 54 to the Yarra Planning Scheme pursuant to section 29 (1) of the Planning and Environment Act 1987 with one change to the Environmental Audit Overlay so that it includes only sites that have been used for industrial purposes; and
- (b) submit Amendment C54 to the Yarra Planning Scheme to the Minister for Planning pursuant to section 31(1) of the Act.

2.2 Amendment C54 to the Yarra Planning Scheme – Cnr. Bedford, Johnston and Perry Streets, Collingwood – Amendment Adoption Stage

File: 30/25/07/54
Responsible Officer: Coordinator Strategic Planning

Purpose

1. That Council:
 - (a) resolve to make changes to the exhibited environmental audit overlay in Amendment C54 to the Yarra Planning Scheme pursuant to section 29 (1) of the *Planning and Environment Act* 1987 (the Act);
 - (b) adopt Amendment C 54 to the Yarra Planning Scheme as amended pursuant to section 29 (1) of the Act; and
 - (c) submit Amendment C54 to the Yarra Planning Scheme to the Minister for Planning pursuant to section 31(1) of the Act.

Background

2. The rezoning request has been made on the basis of the recommendations contained in the *Industrial and Business Activity: Trends and Opportunities Analysis* (Ratio Consultants Pty. Ltd. 2000) (The Ratio Report). This report was adopted by Council in July 2000.
3. Council, at its meeting on 14 October 2003, resolved to prepare and exhibit Amendment C 54 to the Yarra Planning Scheme.

Subject Site & Environs

4. The amendment land is located on the south side of Johnston Street, Collingwood in an established commercial/ industrial area. It is bordered by Bedford Street to the west and Perry Street to the south. The eastern boundary of the site is formed by an abuttal with the Northern Melbourne Institute of TAFE (Collingwood Campus) which fronts Johnston Street.
5. The amendment land is more particularly described as:

Street Address	Title Volume	Title Folio
2 Bedford Street	5859	771
2A Bedford Street	4612	274
4 Bedford Street	10241	414 and 415
6 – 8 Bedford Street	9331	016
15 Johnston Street	6761	093
17 Johnston Street	9821	879
Substation (rear of 15 Johnston Street)	6761	094
19 Johnston Street	6151	126
21 Johnston Street	5712	231
23- 25 Johnston Street	4265	889

Street Address	Title Volume	Title Folio
27 Johnston Street	4500	918
31- 33 Johnston Street	6499	776
10 Perry Street	4544	605

A site location plan and existing zoning map is provided in Attachment 1.

Current Planning Scheme Controls

6. The amendment land is currently located in the Business 3 Zone of the Yarra Planning Scheme.
7. The primary purpose of the Business 3 Zone is to “*encourage the integrated development of offices and manufacturing industries and associated commercial and industrial uses*”. Residential and retail uses are prohibited.
8. The amendment land is covered by the Heritage Overlay (HO 324, Johnston Street). The heritage precinct extends well beyond the amendment site, there are no individual buildings of heritage significance on the amendment land and no change to the Heritage Overlay is proposed.

Proposed Planning Scheme Controls: Business 1 Zone, 15 – 33 Johnston St.

9. The purpose of a Business 1 Zone is to “*encourage the intensive development of business centres for retailing and other complimentary commercial, entertainment and community use.*” In this zone, land uses such as food and drink premises and shop do not require a town planning permit, as long as all other relevant controls under the scheme are met. In this zone the use of land for a dwelling does not require a town planning permit if the entrance at ground level is less than two metres. The zoning requirements emphasise the development of dwelling uses above retail office or commercial uses at ground level though this is not mandatory.
10. Buildings and works in this zone require town planning permission but are exempt from the public notification requirements of Section 52 of the Yarra Planning Scheme unless another part of the Scheme triggers the requirement for advertising.
11. Any demolition of the current buildings would require town planning approval, which would include a referral to Council’s Heritage Advisors.

Proposed Planning Scheme Controls: Business 2 Zone, 2-8 Bedford & 10 Perry Street

12. The purpose of a Business 2 Zone is “*to encourage the development of offices and associated commercial uses*”. In this zone the use of land for an office does not require a town planning permit as long as all other relevant provisions of the scheme are met. The use of the land for accommodation, including dwelling and a caretaker’s house requires a town planning permit.

Environmental Audit Overlay

13. The planning scheme amendment proposes to apply the Environmental Audit Overlay to the amendment land. This is required to comply with Ministerial Direction No. 1, which is designed for land that has previously been used for industrial purposes. The Direction states that,
- “A planning authority must include in the amendment a requirement to the effect that before a sensitive use commences or before the construction or carrying out of buildings or works in association with a sensitive use commences:*
- (a) a certificate of environmental audit must be issued for the land in accordance with Section 57AA of the Environment Protection Act 1970, or*
 - (b) an environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Section 57AA(5)(b) of that Act that the environmental conditions of that land are suitable for the sensitive use.”*
14. Investigation was undertaken in relation to the appropriate application of the EAO on the amendment land. The EPA has advised that the Overlay should only be applied to land that has a history of industrial land uses. Council investigation has revealed that:
- (a) a number of properties in the amendment land were used for industrial land uses in 1897;
 - (b) the precinct was zoned a General Industrial (IN4) zone with the introduction of the first metropolitan planning scheme in 1954. This zoning reflected the land uses that existed on the amendment land at the time;
 - (c) the proponent’s investigations have ascertained that it cannot be determined with any certainty that properties in the amendment land have not been used for industrial land uses in the past;
 - (d) advice from the EPA has confirmed that the application of the EAO should be as a blanket control on the amendment land in this instance, except for any property that has previously had an environmental audit undertaken;
 - (e) the only property in the amendment land that has had an environmental audit undertaken is number 4 Bedford Street. The EPA has confirmed that they are satisfied with the certificate of Environmental Audit issued and that the property should not be included in the EAO. It is therefore proposed that the EAO not be applied to this site; and
 - (f) this change to the advertised EAO is not considered a change to the amendment requested by a referral authority (EPA), therefore the change can be considered under section 29 (1) of the Act. The EPA has confirmed that no submission to change the amendment has been made.

15. The application of an Environmental Audit Overlay on the amendment land, except on number 4 Bedford Street will meet the requirements of Ministerial Direction Number 1.

Strategic Context

16. The following analysis was included in the previous report submitted to Council that requested exhibition of the amendment. It has been included here due to the DSE requirement to consider these implications at the amendment adoption stage.

Strategic Assessment Guidelines for Planning Scheme Amendments

17. The Minister for Planning requires that proposed planning scheme amendments are assessed against the *General Practice Note (November 2001): Strategic Assessment Guidelines for Planning Scheme Amendments*. This practice note requires that proposed planning scheme amendments respond to five tests which are:

- (a) Is the Amendment Required?

The amendment land, when assessed against the criteria contained in the Ratio Report, Council's primary strategic policy for commercial and industrial land, can be considered for rezoning.

- (b) What is the strategic basis for the Amendment?

Council's Municipal Strategic Statement highlights that appropriate lands use controls need to be placed in the Scheme to recognise the shift in the local industrial and commercial sector, particularly in relation to declining industrial activity and changing retail patterns.

- (c) Does the proposed amendment meet the requirements of any Ministerial Direction?

The requirements of Ministerial Direction Number 1 will be met by the application of an Environmental Audit Overlay on the amendment land.

- (d) What aspects of the State Planning Policy Framework are relevant?

The proposed amendment is consistent with the direction of the State Planning Policy Framework, particularly in relation to Business Objectives and economic development, with the proposed zoning recognising the community's need for retail, commercial, office, and other commercial services.

- (e) How does the amendment accord with the Local Planning Policy Framework?

Council's Municipal Strategic Statement highlights that appropriate lands use controls need to be placed in the Scheme to recognise the shift in the local industrial and commercial sector, particularly in relation to declining industrial activity and changing retail patterns.

Ministerial Direction Number 9: Melbourne 2030

18. Ministerial Direction Number Direction No. 9 requires that planning authorities have regard to five matters when making decisions about planning scheme amendments. Each of these matters in relation to Amendment C 54 is addressed below.

(a) What Aspects, if Any, of the Metropolitan Strategy Are Relevant?

The Strategy presents a vision for a more compact and environmentally sustainable Melbourne. One way of achieving this is to ensure that the planning system is responsive to micro economic change, providing a zoning framework that enables the revitalisation and redevelopment “lifestyle” based mixed use precincts, encouraging the integration of retail, commercial and accommodation land uses.

(b) How Does the Metropolitan Strategy Affect the Amendment?

Not applicable.

(c) Is the Amendment Consistent with any Directions and Policies in the Metropolitan Strategy?

The proposed rezoning is consistent with one of the key directions, “A More Compact City,” by enabling accommodation uses to be developed in this precinct in tandem with retail, commercial and office uses. The strategy focuses on making better use of underutilised land within the metropolitan area. Much of this land will become available in former industrial areas which will need to be decontaminated. By locating housing in areas of already existing infrastructure a more sustainable and compact city is encouraged.

(d) Does the Amendment Support, Give Effect to or Assist the Implementation of the Metropolitan Strategy or can it be Reasonably Modified to do so?

As Above.

(e) Will the Amendment Compromise the Implementation of the Metropolitan Strategy?

No.

Statutory Context

19. Any proposed rezoning of the amendment land must be assessed against the following criteria and this assessment has been organised into three key areas. These are:

- (a) recommendations from the Ratio Report and the management framework for amendment assessment provided in the Ratio Report;
- (b) Council's consideration of the results from the application of the rezoning request to the above; and

- (c) the consultants' (proponents) arguments that have been made in support of the rezoning of the amendment land.

Recommendations from the Ratio Report

- 20. A central tenet of the Ratio Report is to *“reinforce the ability of business and industrial precincts to maintain a viable and sustainable role as a location of economic activity”*. In relation to the amendment land *“re zoning may be considered if viable projects can be presented that will facilitate revitalisation and reinvestment in the area.”*
- 21. Given the above, the Ratio Report establishes a decision making framework within which consistent decisions can be made concerning the rezoning of commercial and industrial land. The main categories for this consideration are:
 - (a) that there should be a change in the land use zoning only in exceptional circumstances;
 - (b) that no 'spot' rezoning will be considered (individual sites within a particular precinct); and
 - (c) that suitability for residential land uses is not enough reason for rezoning.
- 22. The key element contained in the above tests is the ability to determine how the rezoning of a precinct could lead to its revitalisation and to reinvestment in the precinct, if that is genuinely needed, and if a specialised form of retail could be established.
- 23. These considerations are accompanied by the requirement to show that there will be no net loss of employment generating activities on land that is being rezoned from commercial and industrial to a zone which could permit residential.

Council Consideration

- 24. The following key points are made:
 - (a) site inspections have revealed that all lots are tenanted, however the precinct is in need of revitalisation;
 - (b) the proposed rezoning could foster revitalisation of the area with the rezoning facilitating a restructuring of land use and business activity in line with the emerging trends for the precinct, and consistent with the retail uses that have established on the amendment land for a long time;
 - (c) the proposed rezoning could facilitate some land use change in the precinct over time, to a combination of retail and accommodation in the land proposed to be rezoned Business 1, and a combination of offices and accommodation in the land proposed to be rezoned Business 2;
 - (d) it is apparent that the proposed land use zones permit accommodation subject to planning permission. The purpose of both the proposed zones are however focused on commercial and office uses and accommodation that is consistent with these uses. The amendment request does therefore not constitute a residential rezoning;

- (e) in accordance with the adopted decision making framework contained in the Ratio Report, the proposed Business 1 Zone along Johnston Street will facilitate the rejuvenation of existing retail uses with good exposure to Johnston Street and immediately adjoining the Smith Street shopping strip. Furthermore the proposed Business 2 zoning in Bedford Street will provide opportunities for redevelopment consistent with the purpose of the zone, namely for offices and associated commercial uses;
- (f) the proposed rezoning should be seen as providing the opportunity to increase the supply of off street car parking through the planning permit process when sites are consolidated;
- (g) rezoning to Business 1 Zone along Johnston Street will, more than likely, encourage similar types of "lifestyle" based retail uses similar to those which have been established in the Business 1 zone in Smith Street in the last few years. The proposed Business 1 Zone along Johnston Street will read as a natural extension of the Business 1 Zone in Johnston Street and Smith Street; and
- (h) the application for rezoning was referred to Council's Manager Economic Development for comment who is supportive of the proposed Business 1 Zoning along Johnston Street as it is consistent with the zoning of the retail strips nearby/adjacent in Johnston and Smith Streets. The purpose of the proposed Business 2 Zone is considered broad enough to permit a range of complimentary land uses to establish on the amendment land given the current use of the TAFE site, or any future use except general industrial, which is unlikely.

Proponent's Consideration

25. Ratio Planning Consultants for the proponent have made the following observations:
- (a) the long term viability and sustainability of the amendment land for industrial purposes is doubtful;
 - (b) the broader range of land uses permissible in the Business 1 Zoning that is proposed along Johnston Street will provide a framework for the ongoing revitalisation of the amendment land. The proposed Business 1 Zone for this section of the amendment land will result in shops and dwellings becoming as a right, or no planning permit required as long as all other relevant provisions of the scheme are met, and as long as a residential frontage to the street is less than two metres. This use is currently prohibited in the Business 3 Zone. The opportunity of retail activities in combination with accommodation could work well together to help revitalise the Johnston Street frontage of the amendment land;
"The preferred position of property owners and business operators is for both the retention and long term viability of the area as well as a statutory framework that permits upper level reinvestment.";
 - (c) the consultants commented that the simple dichotomy whereby permission to allow for some residential land use would automatically lead to a loss in employment generating land uses was simplistic and outmoded. The argument was that with a change in land use zoning that

the amendment proposes, any accommodation land use that may take place on the upper floors of the precinct would contribute to the sustainability and potential for improvement of the current properties; and

- (d) the consultants comment that *“the rezoning of the site would be generally consistent with future intentions for the city’s industrial and business activity centres, as outlined in the ‘Industrial and Business Activity’ Report. The business activity analysis recognised that activity within the precinct is dynamic and circumstance may change. The survey of business zoned land use, and assessment of the project proposal against provisions of the ‘Industrial and Business Activity Report’, establish that the proposed rezoning of land has the ability to broaden the base of allowable development for the gateway Johnston Street Precinct. The proposed Business 1 and 2 zones would open up opportunities for shops and accommodation that are clearly at the vanguard of revitalisation of the inner areas generally, and in the locality of the site.”*

26. An on site meeting was held between the proponents, their planning consultants, Council officers and ward councillors, Cr. Greg Barber and Cr. Deborah Di Natale on 11 August 2003. Further information was sought, and the following key points were made:

- (a) the precinct should be considered in isolation given its distinctiveness from other Business 3 Precincts. It is geographically separate from other Business 3 Precincts, consists of a small number of lots, and many non conforming land uses;
- (b) the Ratio Study recognises that a zoning change could be considered if it would lead to reinvestment in the precinct. The proposed Business 1 Zoning along the Johnston Street frontage allows a wider range of retail land uses as well as accommodation, but the purpose of the zoning is retail and commercial. The change in zoning will legitimise the existing businesses and facilitate future reinvestment in the area;
- (c) the proposed Business 2 Zoning at the rear of the amendment land will reflect what exists with the possibility of accommodation on upper floors potentially facilitating reinvestment;
- (d) the Ratio Report requires a viable project to be submitted to Council before the consideration of rezoning could take place. It is recognised now that one single project would be unlikely given the fragmented land ownership and that a more likely outcome would be a number of smaller projects; and
- (e) in conclusion, Ratio has responded thoroughly to the criteria contained in its 2000 Report, and has demonstrated that the rezoning applied for will lead to reinvestment in the precinct. An important consideration for any planning permit for the new land uses permitted under the rezoned land should be the provision of off street car parking as it appears that consolidation of sites will not take place just because of rezoning of the precinct.

Conclusions

27. A framework for analysis of sites for potential rezoning is given in the Ratio Report. The above mentioned characteristics of the amendment land have been compared to the decision framework provided. The following is apparent:

Decision Framework	Comment
Does the precinct have clearly defined physical boundaries?	Yes
Is the precinct serviced by collector and arterial roads?	Yes
Does the precinct contain a diversity of allotment sizes and types?	Yes
Is there reasonable provision of on street and off street parking?	No Particularly for businesses in Johnston Street.
Is there evidence in reinvestment in building stock?	No
Are there appropriate site conditions to re use existing building stock?	No It appears that the current land use zoning is inhibiting the revitalisation of the precinct in a manner that is consistent with structural macro economic changes.
Does the precinct contain specialist business infrastructure?	No
Is there any highly problematic residential interface?	No The proposed Business 2 Zoning will facilitate the development of offices on the southern portion of the amendment land. These land uses should have less of an impact on the residentially zoned properties to the south and the existing residences in the amendment land, than the land uses permitted in the current Business 3 zone (office and manufacturing industries).

28. The Ratio Report provides a sound framework for determining if a precinct is a candidate for a rezoning. The precinct should fail the majority of the above mentioned tests to be suitable for rezoning. As the precinct fails the majority of the above mentioned tests it can be considered suitable for rezoning.
29. The following key conclusions are made:
- (a) it is apparent that the precinct has locational characteristics that make it more suitable for an office and commercial/ retail zoning than the current commercial and industrial emphasis of the Business 3 Zoning. These

attributes include a main road frontage and the locational advantage of proximity to a major shopping strip;

- (b) synergies will be created between the proposed Business 1 Zoning of the amendment land and the Business 1 Zoning along Smith Street and Johnston Street, that could help to revitalise and invigorate the amendment land;
- (c) the zoning controls give an adequate level of protection from the encroachment of residential land uses on the amendment land. Both proposed land use zonings require a planning permit for the use and development of residential land uses on ground level, at the frontage of sites. This is due to the zoning controls requiring town planning permission for residential land uses with frontages greater than 2 metres at ground level;
- (d) it is clear that the proposed Business 1 and 2 zones on the amendment land better suit the existing land uses as well as provide an appropriate statutory land use framework for the revitalisation of the amendment land in line with structural economic changes taking place at a local level;
- (e) the amendment land is already affected by the Heritage Overlay HO 327. Amendment C 43 to the Yarra Planning Scheme (The Heritage Amendment) seeks to strengthen the built form controls in heritage areas throughout the municipality. This overlay used in an integrated manner in tandem with other design and built form controls in the scheme as well as ResCode if a residential development is applied for will provide several layers of assessment frameworks to ensure that issues of built form and private public interface are addressed during the planning permit process. It is for this reason that the application of a further overlay on the amendment land should not be undertaken; and
- (f) application of the decision making framework in the Ratio Report to the amendment land provides a clear direction for the recommendation to rezone the amendment land.

Consultations

Public Exhibition Process

- 30. Amendment C 54 was placed on public exhibition between 5 November 2003 and 11 December 2003 by:
 - (a) sending direct notices to all owners and occupiers of the subject sites;
 - (b) sending notices to all parties required by section 19 of the Act;
 - (c) placement of the amendment documentation on Council's website;
 - (d) placement of a notice in the Government Gazette on 6 November 2003;
 - (e) placement of a notice in the Yarra Leader on 3 November 2003; and

- (f) display of the amendment at the Richmond and Collingwood Town Halls and at the Department of Infrastructure (now the Department of Sustainability and Environment).

Submissions

- 31. Five 'no objection' submissions were received. These were from the Environment Protection Authority, Melbourne Water, The Department of Sustainability and Environment, Vic Roads and the Department of Primary Industry.
- 32. Since the advertising of the amendment the proponents have submitted the environmental audit for 4 Bedford Street. This has been referred to the EPA who have agreed that the EAO should not be applied to this site.
- 33. Given this the advertised EAO on the amendment land has been altered. A resolution of Council is required under section 29 (1) of the Act to alter the advertised EAO before submission to the Minister under the provisions of section 31 (1) of the Act.

Refer Attachment 2 for amendment documentation.

Resource and Financial Implications

- 34. The costs incurred in processing the amendment will be borne by the proponent who has instigated the amendment. Remaining fees will be paid prior to the amendment proceeding to the Minister for consideration.

Environmental Implications

- 35. The proposed amendment will facilitate a more efficient use of existing physical infrastructure. In addition, the application of the Environmental Audit Overlay on sites in the amendment land that have that have a history of industrial land uses will ensure that if a more sensitive land use is applied for, any contaminated soil from the amendment land will be taken to a prescribed waste land fill. These are designed for the storage and disposal of contaminated soil.

City Plan, Strategy and Policy Implications

- 36. As discussed in the body of the report the amendment application is consistent with relevant planning policies.

Legal Implications

- 37. Adoption of the amendment accords with the relevant provisions of the Act.

Options

- 38. Pursuant to Section 23 (1) of the Act, an amendment only requires consideration by a panel if either objecting submissions or submissions requesting changes are received. As this is not the case, the amendment does not require consideration by a panel. The Council therefore has the following options:
 - (a) Option 1 - adopt the amendment without changes; or

- (b) Option 2 - adopt the amendment with changes; or
- (c) Option 3 – abandon the amendment.

Proposal

39. As outlined in the Background section of the report the proposed amendment meets Council's responsibilities in relation to Ministerial Direction Number 1, implements relevant Council strategies and policies and accords with the Department of Infrastructure's 'Strategic Assessment Guidelines'. It is therefore appropriate that Option 2 be pursued, that is that Council resolve to support the amendment with changes to the EAO so that number 4 Bedford Street does not have the EAO applied.

RECOMMENDATION

40. That Council:
- (a) adopt Amendment C 54 to the Yarra Planning Scheme pursuant to section 29 (1) of the Planning and Environment Act 1987 with one change to the Environmental Audit Overlay so that it includes only sites that have been used for industrial purposes; and
 - (b) submit Amendment C54 to the Yarra Planning Scheme to the Minister for Planning pursuant to section 31(1) of the Act.

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See Attachment



Adobe Acrobat
Document



Adobe Acrobat
Document

2.3 Statutory Planning – Protocol for the Representation of Council at the Victorian Civil and Administrative Tribunal (VCAT)

EXECUTIVE SUMMARY

Purpose

To report to Council on the manner with which it is represented at the Victorian Civil and Administrative Tribunal (VCAT), to highlight the need for a protocol to ensure consistency of representation and to recommend that a protocol be adopted by Council and incorporated into the Urban Planning Branch Schedule of Delegation.

Issues

Council, at its meeting of 18 November 2003 resolved that a report be presented providing referral options for representation at VCAT when an officer's recommendation is overturned at the Internal Development Approval Committee (IDAC). Integral to these referral options is the need for a protocol to inform the level of any representation by Council at VCAT, and to incorporate any protocol into the Urban Planning Branch's Schedule of Delegation.

Resource Financial Implications

Currently Council's urban planners often represent Council at VCAT, with external consultants and legal representation employed to represent Council when internal resources are not available. The structure of the Urban Planning Branch includes the provision of a specialist planning appeals officer, a position which has been vacant since October 2003. It is envisaged that this position will be filled in the near future.

Community Implications

The proposed resolution has been referred to Council's Planning Community Advisory Committee (PCAC) for comment. No objections have been raised.

City Plan, Strategy and Policy Implications

The application of this protocol will provide consistent, clear and transparent decision making and good governance of Council's decisions through appropriate representation at VCAT.

Legal Implications

Council must represent its decisions at VCAT hearings and the adoption of an appeals protocol will be included into the Urban Planning Branch Schedule of Delegation to define how this occurs, particularly where legal representation is required.

PROPOSED ACTIONS

It is recommended that the Instrument of Delegation for the Urban Planning Branch be amended to reflect a "Planning Appeals Process" Protocol.

2.3 Statutory Planning – Protocol for the Representation of Council at the Victorian Civil and Administrative Tribunal (VCAT)

File: 10/60/02/06
Responsible Officer: Manager Urban Planning

Purpose

1. To report to Council on the manner with which it is represented at the Victorian Civil and Administrative Tribunal (VCAT), to highlight the need for a protocol to ensure consistency of representation and to recommend that a protocol be adopted by Council and incorporated into the Urban Planning Branch Schedule of Delegation.

Background

2. Council, at its meeting of 18 November 2003, resolved:
 - (a) That a report be presented to the February 2004 Council cycle providing referral options (internal and external), for Council to use where an Officers Recommendation is overturned at IDAC, in those instances where further representation/advocacy will be required on Council's behalf; and
 - (b) That the report detail and assess the policies of inner city councils and provide fully detailed, costed and defined options for Council consideration. It is expected that the outcome of the report will be a clear and transparent policy for Council to adopt with regard to IDAC outcomes that require further details.

Current Practice

3. The current Planning Appeals Policy was adopted by Council on 12 December 2000 and states that:
 - “(a) the City of Yarra will be represented at VCAT hearings in the most professional manner appropriate to the matters under review in all cases;*
 - “(b) in all cases where the recommendation of an officer has not been accepted by the Council or its Committee and the planning application has been refused, then the City will be represented by someone other than the originating officer. This will be either the Planning Appeals Officer, a legal representative or another senior planner;*
 - “(c) in all cases where Council has refused a planning application and there is community interest in the application, the Manager Urban Planning will discuss the choice of appeal representation with the Chair of Planning and Community Development Committee prior to selection;*
 - “(d) prior to appeal hearing an opportunity will be provided to Council to brief Council's legal representative or town planner where Council requests this;*

- (e) *Council's legal representative will always be assisted at VCAT hearings by the relevant planning officer (for the purpose of support and professional development) and will attend hearings as appropriate for this purpose; and*
 - (f) *a monthly report is to be presented to the Planning and Community Development Committee by the Manager Urban Planning providing information and advice to Council on:*
 - (i) *recent VCAT determinations in relation to the City of Yarra;*
 - (ii) *statistical information about City of Yarra VCAT determinations;*
 - (iii) *an analysis of any policy or procedural implications coming from VCAT determinations; and*
 - (iv) *relevant changes to State Government planning and building legislation or regulations."*
4. Within the context of Council's Planning Appeals Policy, Council's Urban Planning Branch exercises its discretion when deciding the manner in which Council will be represented at any VCAT hearing. Complex or contentious appeals are typically handled by Council's Solicitors, a specialist 'planning appeals officer' or senior planner, under the supervision of the Co-ordinator Statutory Planning.
 5. From time to time, the decision adopted by Council or the Internal Development Approvals Committee (IDAC) in relation to a planning application is contrary to the planning officer's reported recommendation to Council.
 6. Council officers are obliged in a professional sense to represent the views and interests of the Council when making submissions to VCAT. It is an expectation not only of Councillors and the public, but also of VCAT itself. VCAT relies upon the Council as the 'responsible authority' to inform it of the facts of the case and the reasons for Council's decision. The officer's role is in contrast to an 'advocacy' role that may be adopted by developers or objectors.
 7. VCAT require, as a part of the information supplied prior to a hearing, the officer's original report. Therefore VCAT is aware of the determination of the planner and if it is different than the decision reached at IDAC. In this situation the ability of the planner to represent an alternative decision resolved by council is compromised.
 8. Council planning officers regularly represent Council and make submissions on its behalf when planning permit applications are brought before VCAT.
 9. However, it is the current practice of the Urban Planning Branch that in those instances where an officer's recommendation is overturned by Council, that officer will not represent Council at any subsequent VCAT hearing related to that application. This is because of the perception that the decision may not be thoroughly represented at the hearing. This is often only a perception, but important to recognise nonetheless.
 10. Councillors have asked that a protocol be put in place to ensure that Council's interests are not disadvantaged, or could possibly be seen to be

disadvantaged, especially when the decision adopted by Council in relation to a planning application is contrary to the planning officer's reported recommendation if the decision is appealed at VCAT.

11. The protocol would relate to applications where the officer's recommendation is overturned by IDAC. Approximately 10 per cent of all permit applications determined by IDAC in 2003 have been decisions to refuse to grant a planning permit contrary to the officer's recommendation. This amounts to seven applications in 2003. Each of these decisions was later subject to appeal at VCAT.
12. Appeals of this kind represent only a small proportion of the overall appeals against Council's planning decisions. Therefore it is appropriate that the proposed protocol be expanded to relate to the manner in which Council is represented at all appeals, not just those which relate to IDAC decisions.

Practice of Other Councils

13. Other inner-city metropolitan councils approach the issue of representation at VCAT by either utilising Council planning officers or employing external persons to conduct the case on behalf of Council. The table below details the practice of selected Councils.

Council	Employ existing planning staff	Employ external persons
Boroondara		X
Darebin	(Varies)	(Varies)
Maribyrnong	X	
Moreland	X	
Port Phillip		X
Stonnington		X

14. Those councils that employ external representation tend to do so in order to signal to the permit applicant, objectors and VCAT, that a demarcation exists between the views held by the planning officer during the course of the application, and the decision ultimately adopted by the Council. The decision to employ external representation is often made at the management level rather than by means of a formal resolution or Council protocol. Sometimes the decision simply reflects the complexity of the permit application and the desire by Council for experienced representation (such as by a barrister).

Issues

15. As part of the Urban Planning Branch continuous improvement program, Council is constantly seeking to improve processes to ensure quality, timely, effective and efficient provision of planning services. In line with this aim, the proposed planning appeals protocol has been formulated to ensure that standard processes are followed. This protocol does not alter the current method of operation but rather seeks to give status to what has been a standard procedure for some time.
16. Given the small number of IDAC related appeals at VCAT, it is appropriate that the context of the requested protocol be expanded to direct the use of Council's resources for all appeals at VCAT.

17. The Urban Planning Branch schedule of delegation currently provides for delegation by Council of planning functions and tasks, under a range of Acts and regulations, to Urban Planning Branch staff, and includes protocols to be followed in the carrying out of these functions and tasks. This instrument of delegation was ratified by Council in October 2001.
18. It is proposed that any adopted protocol be incorporated into this document. The inclusion of an appeals process protocol embodied within the delegation instrument, which defines the level and extent of representation on behalf of Council at VCAT in planning matters is important. The protocol in essence embodies what has been "unwritten procedure" into the schedule of delegation, to ensure consistency, transparency and awareness of the procedures being followed. The proposed protocol divides planning matters into various categories, depending on complexity, number of objections, and policy matters, and details of the process to be instituted in each circumstance.
19. No change is proposed at this stage to the delegation of tasks to individual officers under the current Urban Planning Branch schedule of delegation, however this will be the subject of a future report to Council by the Governance Branch.

Consultations

20. The proposed resolution has been referred to Council's Planning Community Advisory Committee for comment. No objection to the proposed protocol has been raised.

Resource and Financial Implications

21. The costs associated with employing existing planning officers to represent Council at VCAT are accounted for under the existing budget of the Urban Planning Branch. The organisational structure of the Branch includes the provision of a specialist planning appeals officer.
22. Council's existing budget also provides \$100,000 in legal expenses to cover Council's representation by its contracted lawyers, Maddocks.
23. The current market rate for a planning consultant or lawyer to conduct a case varies considerably but can be estimated to be between \$3,500 - \$5,500 for a one day hearing. Senior Legal Counsel fees can go up to \$8,000 - \$10,000 per day including preparation.

Environmental Implications

24. None.

City Plan, Strategy and Policy Implications

25. The application of a VCAT representation protocol will help ensure consistency of representation of Council's decisions at VCAT and improve the transparency of the manner of representation at VCAT. This is consistent with Council's aim of clear and transparent decision making and good governance.

Legal Implications

26. Council must represent its decisions at VCAT hearings and sometimes these involve complex legal issues which require legal representation. Also, there are, from time to time, matters which could have direct legal consequences for the City of Yarra.

Options

27. The following options are possible:
- (a) the incorporation of the proposed protocol into the Urban Planning Schedule of Delegation;
 - (b) the incorporation of the proposed protocol with any amendments suggested by Council; or
 - (c) that continuation of current Urban Planning Branch practices.

RECOMMENDATION

28. That the Instrument of Delegation for the Urban Planning Branch be amended to reflect the attached "Planning Appeals Process" Protocol in order to provide consistency, transparency and awareness of the procedures.

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See Attachment



Adobe Acrobat
Document

2.4 Nicholson Street, Abbotsford – Introduction of 40 km/hr Speed Limit

File: S00100-02
Responsible Officer: Manager Infrastructure

Purpose

1. To obtain Council endorsement to seek VicRoads approval to permanently amend the existing speed limit on Nicholson Street, Abbotsford, between Johnston Street and Victoria Street from 50 km/hr to 40 km/hr.

Background

2. Informal discussions held with VicRoads to date, suggest they do not object to the introduction of a 40 km/hr speed limit on Nicholson Street.
3. In October 2003, a 40km/hr speed limit was established along a section of Nicholson Street, outside the Sophia Mundi Steiner School.
4. The speed and volume of traffic along Nicholson Street has been an ongoing concern for local residents for some time. In June 2003, speed cushions were installed along Nicholson Street, between Johnston Street and Gipps Street. The speed cushions have been successful in reducing the traffic speed and volume.

Issues

5. Some residents living close to the speed cushions have expressed their dissatisfaction with the noise performance of the speed cushions. The noise created when a vehicle crosses over a speed cushion is a result of both the vehicle's deceleration and acceleration and its vertical displacement.
6. To reduce the noise level, it is necessary to reduce vehicular deceleration and acceleration. Reduced noise levels may be achieved by installing additional speed cushions of a narrower width (than currently exist) along Nicholson Street and to reduce the current speed limit to 40km/hr.
7. It is anticipated that the reduced speed limit will act in conjunction with the speed cushions to reduce the degree of vehicular acceleration and deceleration and acceleration to provide a smoother and quieter traffic flow.
8. The narrow width of the proposed speed cushion will enable most vehicles to ride over its tapered side faces, reducing the vertical displacement of the vehicle. Large commercial vehicles will be able to almost entirely straddle the narrow speed cushion, eliminating the noise that would otherwise be created through vertical displacement.

9. The traffic calming of Nicholson Street has been achieved through an ongoing process of community consultation. To address the noise issue, Council officers met again with local residents on 1 December 2003. The following outcomes were agreed upon:
 - (a) As part of Council's February 2004 report cycle, a recommendation will be made to Council seeking approval to introduce a permanent 40 km/hr speed limit along Nicholson Street from Johnston Street to Victoria Street; and
 - (b) Council officers undertook to review the design (width), location and spacing of the existing speed cushions – it would pursue the installation of up to three additional speed cushions (of the narrow type) along Nicholson Street from Johnston Street to Gipps Street. A target date for implementation is February 2004.
10. Council has successfully implemented 40 km/hr speed zones in residential streets like Scotchmer Street, North Fitzroy, between Nicholson Street and Street Georges Road.

Consultations

11. Several meetings have been held with the residents of Nicholson Street. This initiative has been strongly supported in the meetings.

Resource and Financial Implications

12. The resource and financial implications are minimal, with funding already available in the road safety program. The costs will provide for new signposts to display the new speed limit.

Environmental Implications

13. A reduction in speed will lead to better residential amenity, improved road safety outcomes and a better environment for pedestrians and cyclists.

City Plan, Strategy and Policy Implications

14. This initiative is in line with Council's vision to improve liveability and amenity throughout the municipality and to limit the impact of through traffic on local communities through the use of traffic calming measures.

Legal Implications

15. In accordance with the *Road Safety (Road Rules) Regulations* 1999, a speed limit is a major traffic control item and as such requires the written approval of VicRoads to amend it.

Options

Option 1

16. To permanently amend the existing speed limit along Nicholson Street, Abbotsford, between Johnston Street and Victoria Street from 50 km/hr to 40 km/hr.

Option 2

17. To retain the existing 50 km/hr speed limit along Nicholson Street.

Proposal

18. It is proposed that the existing 50 km/hr speed limit along Nicholson Street, Abbotsford, between Johnston Street and Victoria Street be permanently amended to 40 km/hr.

RECOMMENDATION

19. That, subject to VicRoads approval, Council endorses the introduction of a permanent 40 km/hr speed limit on Nicholson Street, Abbotsford, between Johnston Street and Victoria Street.

CONTACT OFFICER: Mark Kulyk
TITLE: Traffic Design Engineer
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EXECUTIVE SUMMARY

Purpose

To seek Council endorsement of the Multicultural Action Plan 2004/06 ('the plan') and the Multicultural Policy Statement 2004/06 ('the policy statement').

Issues

The *Strength in Diversity Statement 1998* informs the Policy Statement which has a specific focus on Council's commitment to, and support for multicultural / ethnic communities.

The City of Yarra's Multicultural Action Plan 1999 has expired. Council approved a consultation and review process for a revised plan on 30 June 2003.

Resource Financial Implications

The revised Plan proposes a staged implementation of several key activities. The development and coordination of these activities can be achieved within current budget limits. Additional costs associated with the implementation of these activities will be referred to annual budget planning processes.

Community Implications

The plan and the policy statement are designed to strengthen partnerships and service delivery to Yarra's culturally and linguistically diverse residents, community groups, multicultural organisations, and ethno-specific agencies.

City Plan, Strategy and Policy Implications

The plan and policy statement 2004/06 reflect Council's key commitment area of *Community Development: Improve, Value, Celebrate* that underpins the City Plan 2003/06 and other key policies and strategies.

Legal Implications

The plan and policy statement promote adherence to equal opportunity statutory requirements, quality assurance policies, and Best Value.

PROPOSED ACTIONS

That Council endorses the Multicultural policy statement and endorse the broad directions of the Plan 2004/06 subject to a separate costing of the actions items (as outlined in Attachment 1) and assessment of the capacity to fund these actions within budget and prior to referral to annual budget planning processes.

That the plan and policy statement be promoted widely to local community groups and multicultural / ethno-specific organisations.

2.5 Multicultural Action Plan and Multicultural Policy Statement 2004/06

File: 50/05/11-03
Responsible Officer: Manager Culture and Community Planning

Purpose

1. To seek Council endorsement of the Multicultural Action Plan 2004/06 ('the plan') and the Multicultural Policy Statement 2004/06 ('the policy statement').

Background

2. The *Strength in Diversity Statement (1998)* informs the Policy Statement which has a specific focus on Council's commitment to, and support for multicultural / ethnic communities.
3. The City of Yarra's Multicultural Action Plan (1999) has expired. Council approved a consultation and review process for this Plan on 30 June 2003.
4. The Plan (1999) incorporated objectives and actions designed to improve Council's cross-cultural responsiveness. While many of the actions of the Plan have been achieved, eg: the introduction of translated information on Council letterhead, there are further initiatives to undertake for Council to achieve best practice in culturally responsive service delivery.
5. While a slight decline in culturally and linguistically diverse (CALD) populations has been the trend in Yarra, the fact the municipality has the highest proportion of public housing in Victoria (11.4% of the total population) and significant stocks of emergency and transitional housing, means the City will continue to be home to a culturally diverse community.
6. In terms of local government cultural diversity, the City of Yarra is rated as 'very high' and ranked 17th within Victoria's 79 councils for population diversity by the Victorian Multicultural Commission.
7. The plan and policy statement are informed by the findings, recommendations and policy directions of recent State Government publications including:
 - (a) *Access, Services, Support, Respect Local Government's Response to Cultural Diversity Project Report 2003* released by the Victorian Multicultural Commission (VMC); and
 - (b) *Cultural Diversity Framework 2003* prepared by the Multicultural Strategy Unit, Department of Human Services.

Issues

8. The plan and policy statement aims to:
 - (a) incorporate and consolidate Council's existing multicultural policy perspectives and activities;
 - (b) address current 'gaps' in culturally responsive service delivery by establishing and revising internal protocols and processes; and

- (c) enhance Council's role and profile in working with ethno-specific and multicultural agencies, and the communities they represent.
9. Actions to address these issues are outlined in the Plan (Attachment 1) and include:
- (a) Phase 1: 2004 / 2005
 - (i) Multilingual Communication and Engagement.
 - development of a multilingual communication and engagement strategy; and
 - investigation of the establishment of a bi-lingual staff register;
 - (ii) Workforce Development and Training.
 - development of a cross-cultural skills training program for staff; and
 - training workshops on the development of policies and protocols for enhanced service delivery to CALD communities eg: information on strategies to improve access to services for people from CALD backgrounds;
 - (b) Phase 2: 2005 / 2006
 - (i) Responsive Service Delivery to Culturally and Linguistically Diverse Communities (internal service review).
 - undertake an assessment of service delivery across the organisation to CALD communities. Using an existing 'Multicultural Planning Tool', assess cross-cultural responsiveness within the organisation eg: consultation with CALD communities, use of ethnicity data for service planning, and translation of relevant written information.
 - (c) Parallel and Concurrent activities 2004/2006
 - (i) Community Advocacy and Policy Development
 - develop strategic advocacy approach focusing on key issues for CALD communities; and
 - development of a Refugee and Asylum Seeker Policy statement;
 - (ii) Community Partnerships and Collaboration (celebrating and strengthening Yarra's cultural and linguistic diversity)
 - strengthen partnerships with multicultural groups and service providers, eg: resource community festivals events; and
 - share information about grants, funding programs, demographic data and changes in government policy etc with service providers.

10. The plan and policy statement will be reviewed on an annual basis and a report outlining the outcomes of the review will be presented to Council prior the upcoming budget cycle(s).

Consultations

11. The plan and policy statement were developed in consultation with peak ethnic and multicultural organisations, key community agencies, ethnic workers in the City of Yarra, specific community groups and Council branches and units. A dedicated *Cultural Diversity Reference Group* was also established to assist Council develop both documents.

Resource and Financial Implications

12. The Plan proposes a staged implementation of several key activities. The development and coordination of these activities can be achieved within current budget limits. Additional costs associated with the implementation of these activities will be referred to annual budget planning processes.

City Plan, Strategy and Policy Implications

13. The plan and policy statement reflects Council's key commitment area of *Community Development: Improve, Value, Celebrate* which underpins the City Plan 2003 / 2006 and other key policies and strategies.

Proposal

14. It is proposed that Council endorse the plan and policy statement 2004 - 2006. These documents:
 - (a) incorporate and consolidate Council's existing multicultural policy perspectives and activities;
 - (b) address current 'gaps' in culturally responsive service delivery by establishing and revising internal protocols and processes; and
 - (c) enhance Council's role and profile in working with ethno-specific and multicultural agencies, and the communities they represent.
15. Actions to address these issues are outlined in the Plan (Attachment 1) and include:
 - (a) Phase 1: 2004 / 2005
 - (i) Multilingual Communication and Engagement.
 - development of a multilingual communication and engagement strategy; and
 - investigate the establishment of a bi-lingual staff register;

- (ii) Workforce Development and Training.
 - development of a cross-cultural skills training program for staff; and
 - training workshops on the development of policies and protocols for enhanced service delivery to CALD communities eg: information on strategies to improve access to services for people from CALD backgrounds;

- (b) Phase 2: 2005 / 2006
 - (i) Responsive Service Delivery to Culturally and Linguistically Diverse Communities (internal service review).
 - undertake an assessment of service delivery across the organisation to CALD communities. Using an existing 'Multicultural Planning Tool', assess cross-cultural responsiveness within the organisation eg: consultation with CALD communities, use of ethnicity data for service planning, and translation of relevant written information.

- (c) Parallel and Concurrent activities 2004/2006
 - (i) Community Advocacy and Policy Development
 - develop strategic advocacy approach focusing on key issue for CALD communities; and
 - development of a Refugee and Asylum Seeker Policy statement;

 - (ii) Community Partnerships and Collaboration (celebrating and strengthening Yarra's cultural and linguistic diversity)
 - strengthen partnerships with multicultural groups and service providers, eg: resource community festivals events; and
 - share information about grants, funding programs, demographic data and changes in government policy etc with service providers.

RECOMMENDATION

16. That Council strongly endorses the Policy Statement 2004/06 as contained in Attachment 1.

17. That Council endorse the broad directions of the Plan 2004/06 subject to a separate costing of the actions items (as outlined in Attachment 1) and assessment of the capacity to fund these actions within budget and prior to referral to annual budget planning processes.

18. That the Plan 2004/06 and Policy Statement 2004/06 be promoted widely to local community groups and multicultural / ethno-specific organisations.

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See Attachment



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2.6 Strategy for Growth in Housing for Low Income Victorians - Development of Housing Associations - Council Submission

EXECUTIVE SUMMARY

Purpose

To inform Council of a State Government policy initiative titled "Strategy for Growth in Housing for Low Income Victorians - Development of Housing Associations" ("the Strategy").

To seek Council endorsement of a submission in response to the Strategy consultation document.

Issues

The State Government has released a policy proposal to establish four Housing Associations across Victoria. Housing Associations are a State Government initiative to develop innovative social housing models that will maximise social and economic benefits. There is \$70m in capital growth funds attached to the establishment of this project.

Housing Associations are to be delivered by non-profit community organisations. Housing Associations are expected to be self-funded through financial models that include debt financing and rent-generated income streams.

The new model has raised concerns within the broader housing sector about whether Housing Associations will be under financial pressures to be discerning about the allocation of stock to tenants who may be deemed to be high risk. Additionally, there are concerns about the lack of detail in the policy proposal on issues such as a regulatory framework, financial sustainability and outcomes for housing affordability.

Community Implications

The establishment of Housing Associations may alter the process by which members of the community on low-incomes can access affordable housing options.

City Plan, Strategy and Policy Implications

Council's position on Housing Associations will be incorporated into the development of the Affordable Housing Policy and Action Plan, currently under review.

PROPOSED ACTIONS

Council endorsement of a City of Yarra submission in response to the Strategy and advocacy for the development of an appropriate social housing model as contained in the submission.

2.6 Strategy for Growth in Housing for Low Income Victorians – Development of Housing Associations - Council Submission

File: 45/05/06
Responsible Officer: Community Planner- Housing

Purpose

1. To inform Council of a State Government policy initiative, titled "Strategy for Growth in Housing for Low Income Victorians - Development of Housing Associations" ("the Strategy").
2. To seek Council endorsement of a submission in response to the Strategy consultation document.

Background

3. On 31 December 2003 the Department of Human Services' (DHS) Office of Housing released the Strategy (Attachment 1) for consultation.
4. Housing Associations are a State Government initiative to develop innovative social housing models that will maximise social and economic benefits. There is \$70m. in capital growth funds attached to the establishment of this project.
5. This funding reflects an election commitment made by the State Government and is over and above its core housing funding provided under the Commonwealth / State Housing Agreement.
6. The establishment of Housing Associations represents a significant policy shift for the State Government in the way long-term housing is delivered.
7. Housing Associations are proposed to *"provide affordable housing to a broader range of applicants and tenants and attracting private sector investment to affordable housing."* (Strategy, page 3) It is proposed that Housing Associations would not replace public housing management, rather that they will be a complementary alternative to current housing options such as public and community housing.
8. One of the core aims of the Housing Associations model is to increase housing stock through new funding model arrangements and joint ventures with a range of partners.
9. Housing Associations will enable the State Government to transfer ownership of some sections of public housing stock to a private housing provider (an Association). The attraction of this model for the State Government is that an Association can lever private sector finance into residential development for affordable housing, and also allow the Association to borrow / mortgage funds against the housing stock asset.
10. The DHS held consultations on this policy direction in January 2004.
11. In order to provide an opportunity for the Yarra community to discuss the Strategy prior to the DHS consultation process, Council convened a forum for

residents, agencies and interested individuals in the City of Yarra. The forum, held on 19 January 2004, aimed to give an opportunity for all stakeholders to:

- (a) receive a briefing on the contents of the discussion paper;
 - (b) hear differing points of view as to the merits of the Strategy, and
 - (c) work towards developing a municipal position in response to the proposed policy direction.
12. Sixty community members attended the forum. The outcomes of the forum have been considered in the development of Council's response and proposed submission to DHS.

Issues

13. The Strategy builds upon the 2001 State Government funded "Social Housing Innovations Project (SHIP)" report. The SHIP report flagged the development of a variety of strategies to increase the supply of affordable housing options in Victoria, including the establishment of Housing Associations.
14. The SHIP report flagged support for the concept of attracting private finance to public housing, and also supported an affordable housing model that saw public housing remain owned and controlled by a State Authority. In response, Council's SHIP submission did not support the establishment of Housing Associations as a model of social housing on the basis that the proposed model did not adequately address issues of eligibility, support services to people with complex needs and provided inadequate information regarding financial modelling. Council submitted a framework for a Statutory Social Housing Model as an alternative to the Housing Association model. This position has been reiterated in the current submission.
15. The SHIP report made numerous recommendations regarding the role of local government in the establishment and development of social housing initiatives.
16. The Strategy document does not discuss the role of local government in the establishment of Housing Associations. Consequently it is unclear what role, if any, the State Government may expect local government to play in the establishment of Housing Associations.
17. Forum participants raised a number of issues regarding the establishment of Housing Associations. Participants identified strengths in the proposal, including the growth of affordable housing stock, an ability to attract private finance to the sector, and opportunities to include residents in management and planning frameworks.
18. Participants also identified areas of the policy proposal that require further clarification, or input from the community. These areas included the regulatory framework proposal, the policy and procedural operational strategies (including the setting of rents, tenure, allocation and eligibility), the broader policy framework for affordable housing provision in Victoria, and the proposed financial modelling to achieve market sustainability and viability.
19. The issues raised at the community forum have been considered in the development of the City of Yarra submission to DHS (Attachment 2).

Consultations

20. Sixty community members, representing public tenants, welfare organisations, neighbouring councils and a range of housing providers, attended the forum.

City Plan, Strategy and Policy Implications

21. Council's position on Housing Associations will be incorporated into the development of the Affordable Housing Policy and Action Plan, currently under review.

Proposal

22. A submission, in response to the Strategy has been prepared for Council's consideration. Comments raised at the community forum, held on 19 January 2004 have been incorporated in the submission.
23. The submission recommends that DHS, through the Office of Housing, commit to a process of ongoing discussion and consultation between public and community housing residents, the community sector, local government, churches and business prior to any commitment to implementation of a Housing Associations model.
24. In summary, the submission seeks further consideration of the following key issues:

Key Issue	Summary of Council Response
Consultation Process prior to any Registration of Interest – Housing Associations	<i>Request that the timelines outlined in the Strategy is altered to include an extended consultation period prior to any Registration of Interest process. Offering the opportunity to assist in this process by providing a venue for regional forums to discuss the policy proposal and the outcomes of this consultation period.</i>
Transfer of Public Housing Stock	Council does not support the establishment of a new model of social housing that would result in a net loss of public housing stock. Suggest that the establishment of Housing Associations be achieved through a capital growth program that includes State grants and private financing in the first instance.
People with high support needs	Concern that Housing Associations will rely on Public Housing to accommodate tenants with highest need while they cater to less problematic tenants. The development of a Housing Association model needs to acknowledge and address the high support needs of tenants in social housing. Planning needs to be undertaken with the local community and regional DHS to ensure that appropriate support links are in place.

Role of Local Government	The Consultation document does not refer to the role of local government in the establishment or ongoing functioning of Housing Associations. Council welcomes the opportunity to begin dialogue with the Office of Housing to discuss the perceived role that local government may play in this new model of social housing
Accountability and Regulatory Framework	The development of a regulatory framework consultation process must be fully implemented and finalised prior to any call for Registrations of Interest from potential Housing Associations. Council supports the proposal that the Office of Housing provide the Registrar role to a Housing Association model.
Financial modelling	Lack of certainty regarding the capacity of Housing Associations to attract external funds or the capacity of Housing Associations to potentially manage stock of significant dollar value. Recommendation that the Office of Housing develop a clear context for the expenditure of the funds over three years, with an expectation that any Housing Association be required to develop a business plan that is premised on more detailed 10-year economic modelling.
Victorian Affordable Housing Strategy	The Housing Associations Strategy has been undertaken in isolation from the rest of the social housing sector. The recommended development of a 10-year Housing Associations Model needs to coincide with a corresponding 10-year plan for Public Housing, Transitional Housing, Crisis Housing, Housing Co-operative and Community Housing Program.
Alternative model	Council recommends the investigation of a Social Housing Authority model that strengthens the role of regional Office of Housing offices through the devolution of responsibilities for all public and community housing stock to the regions. Regional offices would become Statutory Authorities managing all publicly funded social housing stock.

Table 1

RECOMMENDATION

25. That Council:

- (a) endorses Attachment 2 - "City of Yarra Submission – Response to the Strategy for Growth in Housing for Low Income Victorians- Development of Housing Associations Consultation Document" and that the submission is forwarded to the Industry Development Unit, Office of Housing, and
- (b) advocates for the development of an appropriate alternative social housing model as contained in the submission.

26. That Council writes to the Minister of Housing, highlighting the concerns expressed in the submission and by forum participants, and seek an extension to the community consultation process to enable an adequate review and analysis of the Strategy.

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See Attachment



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