

**ORDINARY MEETING OF COUNCIL  
9 NOVEMBER 2009**

<b>1</b>	<b>REVISED LOCAL PLANNING POLICY FRAMEWORK / AMENDMENT C62</b>
<b>LOCATION/ADDRESS:</b>	
<b>GENERAL MANAGER:</b>	<b>SUE WILKINSON, GENERAL MANGER – ENVIRONMENT AND PLANNING</b>
<b>PREPARED BY:</b>	<b>LEONIE KIRKWOOD, SENIOR STRATEGIC PLANNER</b>
<b>FILE NO.:</b>	<b>66/02/161</b>
<b>ATTACHMENTS:</b>	<b>ATTACHMENT 1: SUMMARY OF PROPOSED CHANGES TO THE DRAFT LOCAL PLANNING POLICY FRAMEWORK</b> <b>ATTACHMENT 2: DRAFT LOCAL PLANNING POLICY FRAMEWORK AND SCHEDULE TO CLAUSE 52.01 REFLECTING PROPOSED CHANGES</b> <b>ATTACHMENT 3: COMMUNICATIONS STRATEGY</b>

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**1. EXECUTIVE SUMMARY**

- 1.1 Amendment C62 proposes to introduce a revised Local Planning Policy Framework (LPPF) into the Port Phillip Planning Scheme and would also establish a mandatory 5% public open space requirement through the Schedule to Clause 52.01 (Public Open Space Contribution and Subdivision).
- 1.2 Council resolved in July to endorse the draft LPPF / Amendment C62 and formally request the Minister for Planning to ‘authorise’ preparation and exhibition of the Amendment. Council also resolved that any “*substantive changes to proposed Amendment C62, if directed by the Minister for Planning as a condition of authorisation, be reported back to Council for consideration prior to public exhibition of the amendment.*”
- 1.3 The request for authorisation was sent to the Minister for Planning in July 2009. Discussions with officers from the Department of Planning and Community Development have indicated that the Accessible Buildings Policy is unlikely to be supported by the Minister, and have identified minor changes which would clarify the policy intent in relation to social impact assessments and the cumulative impacts of licensed premises.
- 1.4 It is recommended that Council endorse the proposed changes to the draft LPPF documents to facilitate ministerial authorisation and enable the formal exhibition of Amendment C62 to commence.

**2. RECOMMENDATION**

That Council:

- 2.1 Endorse the revised Local Planning Policy Framework / Amendment C62 in accordance with Attachment 2, incorporating the changes requested by the Department of Planning and Community Development prior to the granting of authorisation.
- 2.2 Forward the revised amendment (Attachment 2), as the basis for requesting Ministerial authorisation to prepare and exhibit Amendment C62 to the Port Phillip Planning Scheme, pursuant to Section 9(a) of the Planning and Environment Act 1987.
- 2.3 Authorise the General Manager Planning and Environment to finalise the exhibition documentation for Amendment C62.
- 2.4 Continues to advocate, in conjunction with the Universal Housing Alliance, to the State and Federal Governments, for accessibility standards to be incorporated into either planning requirements or building regulations as a matter of priority.
- 2.5 Seek a commitment from the State Government to fast-track the Regulatory Impact Statement and to include mandatory standards for accessible housing in the Building Regulations.
- 2.6 Initiate a specific planning scheme amendment to introduce an Accessible Buildings Policy into the Port Phillip Planning Scheme, if the Regulatory Impact Statement does not include a recommendation for mandatory standards for accessible housing in the Building Regulations.
- 2.7 Advocate to the Federal Government to fast-track the accessibility standards for public and commercial buildings (Access to Premises Standards) and, as a matter of priority, include the provisions in the Building Code of Australia.

**3. BACKGROUND AND CONTEXT**

- 3.1 Amendment C62 proposes to introduce a revised Local Planning Policy Framework (LPPF) into the Port Phillip Planning Scheme, comprising a Municipal Strategic Statement (MSS) and ten (10) issue specific Local Planning Policies. The Amendment would also introduce a new Schedule to Clause 52.01 (Public Open Space Contribution and Subdivision) to establish a mandatory 5% public open space requirement.
- 3.2 At its 13 July meeting, Council resolved to endorse the draft LPPF for the purpose of consultation and to formally request the Minister for Planning to 'authorise' the preparation and exhibition of Amendment C62 to the Port Phillip Planning Scheme. Council also resolved that any "*substantive changes to proposed Amendment C62, if directed by the Minister for Planning as a condition of authorisation, be reported back to Council for consideration prior to public exhibition of the amendment.*"

- 3.3 Officers from the Department of Planning and Community Development have provided comments on the draft LPPF for Council to consider before the amendment and authorisation request is formally forwarded to the Minister for Planning. DPCD officers generally support the content of the draft LPPF, however have advised that:
- The Minister is likely to require the deletion of the Accessible Buildings Policy before the amendment will be authorised for public exhibition.
  - Minor changes should be made to clarify policy requirements relating to Social Impact Assessments and Cumulative Impacts of Licensed Premises.

**Accessible Buildings Policy:**

- 3.4 Port Phillip was originally given authorisation to exhibit the LPPF (including an Accessible Buildings Policy) in April 2008, however this has now lapsed. The 2008 authorisation required, as a condition of authorisation, that *“Local policy should not include accessible building matters that are more appropriately addressed by building regulations. It should also not replicate standards already legislated for.”* The policy was revised to remove references to building standards in consultation with DPCD.

- 3.5 In April 2009, the Premier announced a package of measures to promote accessible housing – “Build for Life”. The package includes the development of a Regulatory Impact Statement to consider the impacts of including four mandatory accessibility features into new homes. The mandatory features being investigated include:

1. A clear path from the street to entry level
2. Wider doorways and halls
3. A toilet suitable for people with limited mobility on entry level
4. Reinforced bathroom walls to withstand the installation of grab rails.

The requirements would apply to all new houses, all new ground floor units in medium density dwellings and 1 in 5 units in high density residential developments.

- 3.6 DPCD has also advised that the City of Yarra’s Accessible Buildings Policy, also part of its revised LPPF (Amendment C84), was not supported. The policy was deleted at the approval stage by the Minister and replaced with an objective and strategies in the MSS. (NB - Since 2004, the Cities of Melbourne, Manningham and Moonee Valley have also tried unsuccessfully to introduce local planning policies for accessible housing / buildings.)
- 3.7 It is expected, based on recent decisions and the imminent Regulatory Impact Statement, that the Minister will adopt a consistent position for Port Phillip.
- 3.8 Despite constraints to progressing the issue of accessible buildings through the planning scheme, Council can actively continue its advocacy efforts and seek a commitment from the State Government for accessibility standards to be incorporated into building regulations, as a matter of priority.

3.9 In this context, the following actions are recommended:

3.9.1 Delete the Accessible Buildings Policy (Clause 22.05) from the draft LPPF and delete references to accessible and adaptable housing in Clause 21.04-1 Housing and Accommodation.

3.9.2 Replace an existing strategy in Clause 21.05-3 Urban Design and the Public Realm relating to accessibility with a new more specific objective and strategy which encourages the provision of universal access (see Attachments 1 and 2).

3.9.2 Strengthen Council's leadership and advocacy role in relation to accessible buildings through:

- Writing to the State Government to seek a commitment to fast-tracking the Regulatory Impact Statement and including mandatory standards for accessible housing in the Building Regulations.
- Continuing Councils' participation and membership of the Universal Housing Alliance - a growing group of organisations seeking universal accessibility and adaptability of all new housing - co-ordinated through VCOSS (Victorian Council of Social Services). Members include Local Councils (eg Cities of Melbourne, Yarra and Moreland), VCOSS, VLGA (Victorian Local Government Association) and Housing Resource & Support Service Inc.
- Following the release of the Regulatory Impact Statement, make a submission in conjunction with the Universal Housing Alliance.
- Initiating a specific planning scheme amendment to introduce an Accessible Buildings Policy into the Port Phillip Planning Scheme, if the outcome of the Regulatory Impact Statement is unsatisfactory.
- Advocating to the Federal Government to fast-track the accessibility standards for public and commercial buildings (Access to Premises Standards) and, as a matter of priority, include the provisions in the Building Code of Australia.

The Access to Premises Standards have been under development for some time at the Federal Government level and have recently been the subject of inquiry by the House of Representatives Standing Committee on Legal and Constitutional Affairs. The Committee released its report on the inquiry into the Premises Standards in June 2009. The key recommendation is that the Premises Standards are introduced without delay. The standards are currently being considered by the Government.

**Social Impact Assessments / Cumulative Impacts:**

3.10 DPCD has also sought minor changes to the clauses relating to the cumulative impacts of licensed premises and social impact assessments. The proposed changes improve the clarity of policy requirements but do not change their intent. The key changes are:

3.10.1 Cumulative Impacts of Licensed Premises (Clause 21.03-2) - A small change to this clause is recommended to ensure that it is clear that a “Noise and Amenity Action Plan” (prepared by an applicant for a planning permit for licensed premises) should consider cumulative impacts.

3.10.2 Social Impact Assessments (Clause 21.04-8) – Some minor changes have been suggested to better explain why social impact assessments are required and specify a precise trigger for a social impact assessment for rezonings which would allow residential uses and residential proposals at densities not envisaged by the planning scheme or policy. The changes include:

(i) The addition of key issues to better justify the requirement for social impact assessments.

(ii) The addition of a trigger of 30 dwellings for the following:

- *Proposals for a residential development where the form or density is not anticipated by existing planning scheme policy and provisions, or by supporting strategic plans (including Activity Centre Structure Plans or Housing Strategy).*
- *Rezoning of land from an Industrial, Business or Public Use Zone which enables residential use for the first time.*

A development of 30 dwellings is considered a large scale development – especially in areas where residential development or higher density development was not intended. The trigger of 30 dwellings is based on triggers used in SIA policies in NSW.

3.11 Council needs to consider whether to endorse the changes to draft Local Planning Policy Framework as outlined above, and detailed in Attachments 1 and 2, as the basis for progressing Ministerial authorisation and exhibition of Amendment C62.

#### **4 CONSULTATION AND STAKEHOLDERS**

4.1 Consultation has been undertaken with the Department of Planning and Community Development leading to the changes outlined in this report.

4.2 Public exhibition of Amendment C62 will provide for formal community input in accordance with Section 19 of the Planning and Environment Act 1987. This process allows all members of the community to make submissions to the amendment. The review of submissions by Council, and subsequently by an

Independent Panel, provides scope to make appropriate changes to the LPPF, prior to finalisation and adoption of the amendment.

- 4.3 Building on the notification requirements of the Act and to encourage community participation, a wide range of consultation is planned during exhibition of the amendment. This communications strategy was endorsed through the 13 July report to council and is summarised in Attachment 3.
- 4.4 Exhibition of Amendment C62 for two months is likely to commence after Australia Day 2010, once Ministerial authorisation has been granted.

## **5 DISCUSSION**

### **5.1 OPTIONS**

5.1.1 Council has the following options available to it:

Option 1: Endorse the changes to the draft LPPF outlined in Attachment 1, including deletion of the Accessible Buildings Policy. This would enable the Minister to expedite authorisation of the balance of Amendment C62. Following the release of the Regulatory Impact Statement (at the end of 2009), Council could initiate a separate planning scheme amendment to introduce the Accessible Buildings Policy if the outcome of the RIS is unsatisfactory.

Option 2: Retain the Accessible Buildings Policy as part of Amendment C62, recognising that the Minister is likely to require its deletion as a condition of authorisation.

Retaining the policy would clearly demonstrate Council's ongoing commitment to improving accessibility, however could also delay, indefinitely, the processing of Amendment C62.

5.1.2 Option 1 is recommended, in the interests of progressing the entire amendment (crucial to establishing an updated and comprehensive policy framework in the planning scheme) and given the Minister is highly unlikely to support the Accessible Buildings Policy.

### **5.2 ALIGNMENT TO COUNCIL PLAN**

5.2.1 The LPPF aligns with the *Council Plan 2009-2013* in relation to;

- promoting sustainable transport modes
- seeking opportunities for social and affordable housing
- enhancing Council's engagement with the community
- maintaining and building upon the unique character of the city's neighbourhoods
- supporting integrated open space planning and delivery

- managing the impacts of licensed venues
- preserving heritage
- leading in sustainable design

### **5.3 POLICY IMPLICATIONS**

- 5.3.1 The LPPF establishes the local policy framework for land use and development within the planning scheme. Specifically the MSS (as required by the Planning and Environment Act 1987) establishes land use and development 'objectives' and the 'strategies' for achieving these objectives.
- 5.3.2 The revised Local Policies are one of the tools available for implementing the objectives in the MSS. They provide guidance for planning permit applications on specific matters such as heritage, gaming and outdoor advertising.

### **5.4 FINANCE / RESOURCE IMPLICATIONS**

- 5.4.1 \$70,000 has been allocated in the 09/10 strategic planning budget to cover the costs associated with processing Amendment C62. This will fund extensive formal notification / consultation (to ensure wide community knowledge of and input to the proposed amendment), costs associated with an Independent Panel Hearing, and subsequent statutory fees.
- 5.4.2 In addition to direct costs, significant in-house staff resources will be allocated to this project to prepare amendment documentation, progress the public exhibition phase, review and report on submissions, and to represent Council at any Panel Hearing.

### **5.5 LEGAL & RISK IMPLICATIONS**

- 5.5.1 A decision to retain the Accessible Buildings Policy as part of the LPPF at this point could delay, indefinitely, the processing of Amendment C62. This may expose Council to risks associated with not fulfilling its obligations under The Act for reviewing the MSS. It may also lead to criticism from the community because the planning scheme includes an outdated policy framework.
- 5.5.2 Whilst Council is a strong advocate for the inclusion of mandatory standards for accessible buildings, deletion of the Accessible Buildings Policy may be subject to criticism from accessibility advocates.
- 5.5.3 To address this concern and to reinforce its strong support for introducing accessibility standards, Council should continue to participate in the Universal Housing Alliance and to lobby the State and Federal Governments for mandatory standards.

- 5.5.4 Amendment C62 will undergo a full public exhibition process and will be reviewed by an Independent Panel. This will provide an extensive and transparent process for community involvement.

## **6. IMPLEMENTATION STRATEGY**

### **6.1 TIMELINE**

- 6.1.1 The revised LPPF / Amendment C62 would be immediately forwarded to the Minister for Planning for formal authorisation. It is anticipated that authorisation to prepare and exhibit the amendment would be granted before the end of the year.
- 6.1.2 Once authorised, Amendment C62 will be exhibited for a period of two months, during which time submissions may be made. All submissions made to the amendment will be reported to council along with any recommended changes to its content. The amendment and any submissions would then be referred to an Independent Panel (appointed by the Minister for Planning) for review.
- 6.1.3 A Panel Hearing is likely to occur in mid 2010, depending on the number and nature of submissions. It is anticipated that the council could consider adoption of the Amendment in late 2010 or early 2011.

### **6.2 COMMUNICATION**

- 6.2.1 It is anticipated formal public exhibition will take place early next year. The exhibition process will involve a range of statutory and non-statutory processes to ensure wide community awareness of the proposal.
- 6.2.2 The Amendment process will invite public submissions from interested persons and groups. All submitters will continue to be involved in and informed of the progress of the amendment, including any Panel Hearing and Council meetings at which the matter will be considered. Regular updates in Council's "Diversity" publication are also proposed.