



**ORDINARY  
MEETING OF  
COUNCIL**

**AGENDA**

**23 FEBRUARY 2009**

# Ordinary Meeting of Council

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## Welcome

Welcome to this Meeting of the Port Phillip City Council.

Council Meetings are an important way to ensure that your democratically elected representatives are working for you in a fair and transparent way. They also allow the public to be involved in the decision making process of Council.

## About this meeting

There are a few things to know about tonight's meeting. The first page of tonight's Agenda itemises all the different parts to the meeting. Some of the items are administrative and are required by law. In the agenda you will also find a list of all the items to be discussed this evening.

The agenda may include new items that have not previously been considered before at a Committee Meeting, these items are known as Orders of the Day. The agenda may also include supplementary reports which provide additional information requested by Council. Recommendations from Council's Strategy and Policy Review Committee and at times the Statutory Planning Committee (which both have met during the month) will also be presented.

Each Order of the Day and supplementary information will have reports written by a Council officer outlining the purpose of the report, all relevant information and a recommendation. Council will consider the report and either accept the recommendation or make amendments to it. All decisions of Council are adopted if they receive a majority vote from the Councillors present at the meeting.

## Public Question Time

Provision is made at the beginning of the meeting for question time from members of the public. Question time is limited to 20 minutes unless the meeting resolves to extend this time.

If you would like to ask a question tonight, please fill in the blue 'Do You Wish to ask a Question or make a Public Comment' form located outside the chamber and give it to the Administrative Officer.

## Public Comment

Any person who has made a written submission on an item and requested that she or he be heard in support of that written submission pursuant to section 223 of the Local Government Act will be entitled to address Council. Any other public comment at this meeting is at the discretion of the Chairperson.

If you would like to address the Council on any of the items being discussed tonight, please fill in the blue 'Do You Wish to ask a Question or make a Public Comment' form located outside the chamber and give it to the Administrative Officer.

When your item is being discussed the Chairperson will call your name and ask you to address the Council. The length of time available to each speaker will be at the Chairpersons discretion, noting that time available may be limited.



CITY OF PORT PHILLIP

# PORT PHILLIP CITY COUNCIL BUSINESS PAPER

## To Councillors

Notice is hereby given that an **Ordinary Meeting** of the **Port Phillip City Council** will be held in the **Council Chamber, St Kilda Town Hall** on **Monday, 23 February 2009 at 6.00pm.**

## AGENDA

1. **APOLOGIES**
2. **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**
  - Minutes of the Ordinary Meeting of the Port Phillip City Council held on 18 December 2008.
  - Minutes of the Ordinary Meeting of the Port Phillip City Council held on 27 January 2009 – MEETING CANCELLED.
  - Minutes of the Special Meeting of the Port Phillip City Council held on 27 January 2009.
  - Minutes of the Special Meeting of Council held on 12 February 2009.
3. **PETITIONS AND JOINT LETTERS**
4. **SEALING SCHEDULE**
5. **CORRESPONDENCE**
6. **PUBLIC QUESTION TIME**
7. **COUNCILLOR QUESTION TIME**
8. **PRESENTATION OF REPORTS AND RECOMMENDATIONS FROM S86 SPECIAL COMMITTEE MEETINGS**
  - Reports of the Strategy and Policy Review Committee - 2 February 2009.
  - Reports of the Statutory Planning Committee - 9 February 2009.
9. **CHIEF EXECUTIVE OFFICER'S REPORT**
10. **ORDERS OF THE DAY**
11. **REPORTS BY COUNCILLOR DELEGATES APPOINTED TO OTHER BODIES**
12. **URGENT BUSINESS**
13. **CONFIDENTIAL MATTERS**

Including reports considered at the Strategy and Policy Review Committee and the Statutory Planning Committee.

Darrell Treloar  
Chief Executive Officer (Interim)  
18 January 2009

### 3. PETITIONS AND JOINT LETTERS

#### Item 1

A Petition was received from 20 residents requesting Council review the street tree planting in Smith Street, St Kilda.

The Petition states the following:

*'We would like Smith Street greening status to be reviewed and its rating upgraded to priority 1.*

- *Smith Street has no trees between Foster Street and where it curves round into Blessington Street.*
- *Its grey and bleak in winter, and hot, dusty in summer.*
- *Smith Street was partially ungraded some years ago (between Foster Street and Barkly Street with an inappropriate species. Inexplicitly the planting stopped at Foster Street and this end missed out.*
- *A year or so ago, in Tennyson Street opposite the Botanical Gardens, existing planting was removed and new, different plants put in. Why was this given priority when Smith Street has no trees at all?*
- *I and the other people signing the Petition would like some greenery in Smith Street.'*

***\*\*A copy of the Petition has been forwarded to David Yeouart, Executive Director Community Assets and Services for information and appropriate actioning.***

#### Item 2

A Petition was received from 33 residents/traders regarding concerns that the business needs and promotion of the 'paris end of Bay Street' appear to be an area of serious neglect.

The Petition states the following:

*'We the undersigned, urge Council to revisit these on-going and very genuine concerns:*

- *Justification for the compulsory special levy through regular and identifiable street promotions which take place at the Paris End.*
- *The beautification of the median strip from Raglan Street to Bridge Street.*
- *Construction of the urgently needed pedestrian crossing.*
- *Completion and implementation of the self-guided Historic Tour.'*

***\*\*A copy of the Petition has been forwarded to Geoff Oulton, Executive Director Community Development and Planning for information and appropriate actioning.***

**Item 3**

Joint Letter has been received from 7 residents in regards to the installation of a bus shelter outside 10 Mitford Street, Elwood. The residents are seeking its removal.

***\*\*A copy of the Joint Letter has been forwarded to Geoff Oulton, Executive Director Community Development and Planning for information and appropriate actioning.***

#### 4. SEALING SCHEDULE

The following documents are submitted for signature and sealing:

TRANSFER OF LAND between PORT PHILLIP CITY COUNCIL and SHANE HAYDEN BROCK, for the sale & transfer of land (right of way) at rear of 124 Heath Street, Port Melbourne.

<i>Councillor Note</i>	<i>6 September 2007</i>
<i>Advertising</i>	<i>22 April 2008</i>
<i>Council Report</i>	<i>23 June 2008</i>

**Responsible Manager:** Cathy Henderson, Manager Governance and Risk Management

APPLICATION TO REPLACE LOST TITLE between PORT PHILLIP CITY COUNCIL and BARKER MONAHAN PTY LTD and LAND REGISTRY OFFICE, to replace title that was lost for the sale of a right of way at the rear of 14 Daly Street, Elwood.

Item not previously considered by Council.

**Responsible Manager:** Cathy Henderson, Manager Governance and Risk Management

TRANSFER OF LAND between PORT PHILLIP CITY COUNCIL and LUC JEROME CONSTANT MALAUSSENA, for the sale & transfer of land (right of way) at rear of 3 Little Finlay Street, Albert Park.

<i>Councillor Note</i>	<i>20 February 2008</i>
<i>Advertising</i>	<i>15 April 2008</i>
<i>Council Report</i>	<i>23 June 2008</i>

**Responsible Manager:** Cathy Henderson, Manager Governance and Risk Management

TRANSFER OF LAND between PORT PHILLIP CITY COUNCIL and JUDITH DOLKIN and ADAM DOLKIN, for the sale & transfer of land (drainage reserve) abutting 73 Tennyson Street, Elwood.

<i>Councillor Note</i>	<i>24 October 2007</i>
<i>Advertising</i>	<i>6 May 2008</i>
<i>Council Report</i>	<i>28 July 2008</i>

**Responsible Manager:** Cathy Henderson, Manager Governance and Risk Management

SECTION 173 AGREEMENT between PORT PHILLIP CITY COUNCIL and DANIEL JOHN MUNDY, to restrict the use of the land to office and caretaker dwelling at 182 Buckhurst Street, South Melbourne.

Item not previously considered by Council. A planning permit has been issued for the land for use as an office and caretakers dwelling. As a normal dwelling is prohibited in the location a covenant on the land that limits the dwelling to caretaker occupation only was required by permit condition on Permit No. 186/2007.

**Responsible Manager:** George Borg, Manager City Development

SECTION 173 AGREEMENT between PORT PHILLIP CITY COUNCIL and STRUCTURAL ELEMENTS PTY LTD, to ensure that Condition 10 of the Planning Permit No. 1197/2008 at 78 Westbury Street, East St Kilda is satisfied.

Item not previously considered by Council.

Planning Permit states the following:

Prior to the issue of a Statement of Compliance, the owner shall enter into an agreement with the responsible authority pursuant to Section 173 of the Planning and Environment Act 1987 under which it specifically covenants that:-

- a) The land shall only be developed in accordance with the plans endorsed under Planning Permit No. 277/2007 dated 20/06/2008; and
- b) It shall play the Responsible Authority's Solicitor/client costs in respect to the preparation and registration of the agreement.

The agreement shall otherwise be on terms satisfactory to the Responsible Authority.

**Responsible Manager:** George Borg, Manager City Development

### **RECOMMENDATION**

That the Common Seal of the Port Phillip City Council be affixed to the above documents.

## 5. CORRESPONDENCE

### Item 1

A copy of the Confidential List of Registered Correspondence for the Mayor and Councillors between the month of 17 December 2008 and 17 February 2009 is attached for information.

**6. PUBLIC QUESTION TIME**

**7. COUNCILLOR QUESTION TIME**

**8. PRESENTATION OF REPORTS AND RECOMMENDATIONS  
FROM S86 SPECIAL COMMITTEE MEETINGS**

**8(A) REPORTS OF THE STRATEGY AND POLICY REVIEW COMMITTEE HELD AT THE  
ST KILDA TOWN HALL ON 2 FEBRUARY 2009**

**A1 CITY OF PORT PHILLIP RECREATIONAL BOATING ZONES**

**Purpose**

To respond to a request from Parks Victoria to support the proposed boating zone changes along the City of Port Phillip foreshore.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolve to:

1. Receive and note Parks Victoria proposed Recreational Boating Zone changes.
2. Defer consideration of Parks Victoria proposed Recreational Boating Zone changes pending targeted community engagement within the City of Port Phillip and an assessment of the environmental and social impacts of these proposed changes.
3. Request a Supplementary Report to its Ordinary Meeting of Council to be held on Monday, 23 February 2009, outlining the outcomes of the community engagement process.

**A2 CAPITAL WORKS PROJECT BOARD QUARTERLY REPORT**

**Purpose**

To advise Council on the progress of the delivery of the Capital Works program for 2008/2009.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolve to:

1. Receive and note the report made by the Executive Director Community Assets and Services, including variations to projects made under Delegation.
2. Endorse the recommendations for budget variations made by the Executive Director Community Assets and Services to the Luna Park Interchange project and the Beach Road Bike Lane.
3. Note the next detailed report from the Capital Works Project Board will be in April 2009.

**A3 PROPOSED DISCONTINUANCE AND SALE OF RIGHT OF WAY NO. R3993 AT THE REAR OF 27 PHILIPSON STREET, ALBERT PARK**

**Purpose**

This report is to commence the process for the discontinuance and sale of Right of Way No. R3993 at the rear of 27 Philipson St, Albert Park in accordance with statutory procedures set out in the Local Government Act 1989.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolve as follows:

1. That Council being of the opinion that –
  - a) The road at the rear of 27 Philipson Street, Albert Park as shown on the plan attached to this report is not reasonably required as a road for public use.
  - b) The road should be discontinued and the land from the road be sold to abutting owners.

now directs that under Section 206 and Schedule 10 Clause 3 of the Local Government Act 1989, statutory procedures be commenced to discontinue the road and that under Section 207A (a) and Section 223 of that Act, public notice of the proposed discontinuance be given in the Port Phillip Leader and that Council's Strategy and Policy Review Committee be appointed to hear and consider any submissions received in response to the public notice at an appropriate time and date.

**A4 PROPOSED DISCONTINUANCE AND SALE OF A SECTION OF RIGHT OF WAY  
NO. R3197 (205) REAR 133 MARKET STREET, SOUTH MELBOURNE**

**Purpose**

This report is to finalise the discontinuance and sale of a section of Right of Way No. 3197 rear 133 Market St, South Melbourne in accordance with statutory procedures set out in the Local Government Act 1989.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolve as follows:

1. That Council, being of the opinion that the road at the rear of 133 Market Street, South Melbourne as shown on the plan attached to this report is not reasonably required as a road for public use -
  - a) Discontinues the road.
  - b) Directs that a notice be published in the Government Gazette.
  - c) Directs that the land from the road be sold to the abutting owner of 129 Market Street, South Melbourne.
  - d) Directs that the discontinuance and sale will not affect any right power or interest held by service authorities in connection with assets under the control of the authority in or near the road.
  - e) Directs that an easement for light and air be created in favour of the owner of the abutting property at 133 Market Street, South Melbourne.
  - f) Authorises the use of the Common Seal of the Port Phillip City Council to be affixed to the Transfer of Land.

**A5 2010 GENERAL VALUATION**

**Purpose**

To provide Council with an update on the 2010 General Valuations.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolves to:

1. Cause a General Valuation of all rateable properties within the municipal boundaries of the City of Port Phillip to be undertaken pursuant to Section 6(1) of the Valuation of Land Act 1960, as at 1 January 2010 being the relevant date prescribed by the Valuer-General Victoria and to be returned no later than 30 June 2010.
2. Appoint Westlink Corporation Pty Ltd (trading as Westlink Consulting) to make and return the 2010 General Valuation pursuant to Section 13DA of the Valuation of Land Act 1960, and in particular to appoint Paul Farrelly, Monique Lopes, Katrina Williamson, Brendan Sheales, Frank Carbone, Angela Passaro, Florianna Khait and David Graffen to serve this purpose.
3. Authorise officers to advise the Valuer-General and other relevant rating authorities of the resolution to "cause" the 2010 General Valuation to be undertaken pursuant to Section 6(1) of the Valuation of Land Act 1960.
4. Note the Declarations of Impartiality (copies attached) made by Paul Farrelly, Monique Lopes, Katrina Williamson, Brendan Sheales, Frank Carbone, Angela Passaro, Florianna Khait and David Graffen in compliance with Section 13DH of the Valuation of Land Act 1960.

- A6 PROPOSED LEASE EXTENSION – TEIFAL PTY LTD (TRADING AS DECANTERS BY THE BAY), 174 NOTT STREET, PORT MELBOURNE**  
***(SEE SUPPLEMENTARY REPORT)***

**Purpose**

To provide information to Council on Teifal Pty Ltd's request for an extension to its current lease at 174 Nott Street, Port Melbourne and to commence the necessary statutory procedures for the lease extension.

**COMMITTEE'S RECOMMEDATION**

That this item be deferred for further consideration and that a Supplementary Report be presented to the Ordinary Meeting of Council to be held on Monday, 23 February 2009.

**A7 PROPOSED LEASE AGREEMENT TO BREWSTERS & CO. PTY LTD – 147 LIARDET STREET, PORT MELBOURNE**

**Purpose**

To advise Council of the outcome of the advertising and submission process for the lease of 147 Liardet Street, Port Melbourne to Brewsters & Co Pty Ltd.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolve:

- 1 To finalise the statutory procedures under Section 190 and 223 of the Local Government Act 1989 ("the Act") and enter into a commercial lease agreement with Brewsters & Co Pty Ltd for use of 147 Liardet Street, Port Melbourne on the following terms:
  - Area: Ground Floor, approximately 560 square metres.
  - Permitted use: Gourmet supermarket – fresh and dry food retail.
  - Term: 10 years.
  - Options: Three further terms of 10 years each.
  - Rental: \$175,000 per annum plus GST.
  - Rental Reviews: Annual percentage increases ranging from 2% to 4% and market rent reviews every 5 years.
2. To authorise the Chief Executive Officer to execute the lease on behalf of Council.

**A8 MAYORAL & COUNCILLOR ALLOWANCES**

**Purpose**

Council to commence the process to determine the Mayoral and Councillor Allowances for the period 2009 to 2013.

**COMMITTEE'S RECOMMENDATION**

The Strategy and Policy Review Committee recommends that Council resolve the following:

1. That Council commence the process to determine the mayoral and councillor allowances for the period 2009 to 2013, and that Council authorise the Chief Executive Officer and the Manager Governance and Risk to undertake the administrative process to enable the Council to determine the level of the allowances.
2. The proposed mayoral allowance be the maximum allowed for Category 3 Councils.
3. The proposed councillor allowance be the maximum allowed for Category 3 Councils.
4. That Council authorise the calling for public submissions and that at the Ordinary Meeting of Council dated 27 April 2009 submissions be reviewed and Council determine the level of the mayoral and councillor allowances.

**A9 MID YEAR BUDGET 2008/2009**  
***(SEE SUPPLEMENTARY REPORT)***

**Purpose**

To provide a report to Council on the proposed mid year budget changes highlighted from a review of Council's performance to end of December 2008.

**COMMITTEE'S RECOMMENDATION**

That this item be deferred for further consideration at the Ordinary Meeting of Council to be held on Monday, 23 February 2009 pending further briefings on the Elwood Pavilion and other matters, including criteria used to develop the short list of projects requiring additional funding.

**A10 QUARTERLY MANAGEMENT REPORT**

**Purpose**

To provide information on the financial, service and internal performance of Council.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolve to:

1. Receive and note the 2nd Quarter 2008/09 Quarterly Management Report.

**A11 BUILDING MAINTENANCE CONTRACTS 1251 TO 1255 SUMMARY REPORT  
(SEE CONFIDENTIAL SUPPLEMENTARY REPORT)**

**Purpose**

The report presents the process to date in the tendering of a selection of building maintenance services.

**COMMITTEE'S RECOMMENDATION**

That the Strategy and Policy Review Committee recommend that Council resolve to:-

1. Note the report on the tender process, to date, for the new building maintenance service contracts, covering plumbing and gas services; specialist cleaning services; painting services; carpentry/handyman services and floor covering services.
2. Note that a confidential evaluation report and final recommendations of the Tender Evaluation Panel (TEP), regarding contracts #1251; #1252; #1253; #1254 and #1255 will be provided to the Ordinary Council Meeting, 23 February 2009.

**8(B) REPORTS OF THE STATUTORY PLANNING COMMITTEE HELD AT THE ST KILDA TOWN HALL ON 9 FEBRUARY 2009**

Note: Business items B1 and B2 were resolved by the Statutory Planning Committee held on 9 February 2009 in accordance with Section 86 of the Local Government Act 1989.

**B3 DELEGATE REPORT**

**Purpose**

To present Council with a summary of all Planning Permits issued under Delegation.

**COMMITTEE'S RECOMMENDATION**

That the Council receive and note the report regarding the summary of all Planning Decisions issued in accordance with the Schedule of Delegation made under Section 98 of the Local Government Act 1989 and Section 188 of the Planning & Environment Act 1987 adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

**9. CHIEF EXECUTIVE OFFICER'S REPORT**

## 10. ORDERS OF THE DAY

### ORDER OF THE DAY 1

**ST KILDA SKATE PARK - APPOINTMENT OF MEMBERS TO THE COMMUNITY REFERENCE GROUP AND THE APPOINTMENT OF THE INDEPENDENT ASSESSOR**  
*(Refer to attached report)*

### ORDER OF THE DAY 2

**UPDATE REPORT TO COUNCILLORS ON ST KILDA TRIANGLE DEVELOPMENT**  
*(Refer to attached report)*

### ORDER OF THE DAY 3

**THE CITY OF PORT PHILLIP'S RESPONSE TO THE VICTORIAN BUSHFIRES**  
*(Refer to attached report)*

### ORDER OF THE DAY 4

**ABC CHILDCARE CENTRES IN RECEIVERSHIP**  
*(Refer to attached report)*

## 11. REPORTS BY COUNCILLOR DELEGATES APPOINTED TO OTHER BODIES

### Item 1

Cr Bolitho to present a report as Delegate to the Metropolitan Transport Forum (MTF).

The following issues were raised:

1. Elections for the executive
  - Jacky Fristacky, Yarra, Chair
  - Janet Bolitho, Deputy Chair
  - Rose Iser, Moonee Valley, Secretary
  - Griff Davis, Treasurer, Whittlesea
  - Toby Archer, Moreland, Member
  - Trevor Shewin, Kingston, Member
  - Tom Melican, Banyule, Member
  - Claude Cullino, Manningham, Member
  
2. MAV: Role of local government in transport

The MAV has developed a position paper on transport to guide advocacy for the sector. The paper has 7 objectives:

  - Environment and climate change
  - Modal shift
  - Equity and access
  - Recognition of cycling and walking
  - Integrated transport and land use planning
  - Economic efficiency
  - Ongoing public transport investment

The full position paper is in hard copy in the file marked MTF in the councillors' resource room and also available on the MAV website  
<http://www.mav.asn.au/transport/resources>
  
3. Geoff Gough presented on the **Manningham Mover**, a 24 seater bus which loops around Manningham, launched in November 2008. Relevant points for Port Phillip
  - This is not a new service, but a re-configuration of an under-performing route
  - It is designed to connect people with other public transport services, shopping and community facilities
  - Preconditions for success were the support of the bus company (Ventura), the community, the council and the Department of Transport
  - It is integrated with the public transport system via metlink ticketing so people don't need to get separate tickets

Slide presentation notes are in the MTF folder in the councillors' resource room

4. Suggestions for future presentations included

- Freight
- Accessibility
- Transport around schools
- Integration of land use and transport planning
- Fare structures
- Walking
- How the processes are working for DoT as referral authority
- Network operating plans

For more: <http://mtf.org.au/>

**12. URGENT BUSINESS**

### **13. CONFIDENTIAL MATTERS**

Nil.

**ORDINARY MEETING OF COUNCIL  
23 FEBRUARY 2009**

**SUPPLEMENTARY REPORT**

<b>A6</b>	<b>PROPOSED LEASE EXTENSION -TEIFAL PTY LTD (TRADING AS DECANTERS BY THE BAY), 174 NOTT STREET, PORT MELBOURNE</b>
<b>LOCATION/ADDRESS:</b>	<b>174 NOTT STREET, PORT MELBOURNE</b>
<b>RESPONSIBLE EXECUTIVE DIRECTOR:</b>	<b>SALLY CALDER, EXECUTIVE DIRECTOR, ORGANISATION SYSTEMS AND SUPPORT</b>
<b>AUTHOR:</b>	<b>JEANENE SIMMONS, SENIOR PROPERTY ADVISOR</b>
<b>FILE NO.:</b>	<b>4320/174-02</b>
<b>ATTACHMENTS:</b>	<b>1 – CORPORATE PROPERTY STRATEGY AND POLICY</b> <b>2 - PROPERTY REGISTER EXTRACT (CONFIDENTIAL)</b>

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**1. EXECUTIVE SUMMARY**

- 1.1. This supplementary report provides additional information to Council on the size and performance of Council's commercial property portfolio and the subject property at 174 Nott Street, Port Melbourne.

**2. BACKGROUND AND CONTEXT**

- 2.1. At its meeting on 2 February 2009, the Strategy and Policy Review Committee deferred the matter of the proposed lease extension for Teifal Pty Ltd (trading as Decanters By the Bay) to allow for the receipt of further information regarding Council's commercial property portfolio, the subject property and alternative use scenarios for the site.
- 2.2. The current lease expires September 2013. Teifal Pty Ltd has proposed that the lease be extended for nine years until September 2022. The officers recommendation is for a five year lease extension until September 2018.

**3. SUPPLEMENTARY INFORMATION**

**3.1. Overview – Property Management**

- 3.1.1. Council holds and manages property to support the effective delivery of the broad range of services it provides for the people who live, work and visit in the City of Port Phillip.
- 3.1.2. At the most fundamental level, property assets may be held for operational and non operational reasons. Operational property is used and occupied to provide direct and indirect services to the

community (eg libraries, town halls, offices, childcare centres, parks, open spaces, leisure facilities and depots). Non operational property is held primarily for investment purposes or to influence the way areas within the municipality are improved or developed over time. Commercial restaurant leases such as those along the St Kilda foreshore and the retail liquor outlet at 174 Nott Street, Port Melbourne are examples of income generating investments for Council.

3.1.3. On 18 April 2008, Council resolved to adopt a Corporate Property Policy and Strategy (Refer to Attachment 1 – Corporate Property Policy and Strategy). This property strategy provides a whole of Council framework for the management of property assets and sets out an approach and guiding principles for the alignment of Council's property portfolio with its service delivery objectives.

3.1.4. The property strategy covers all key elements of property ownership:

- (1) Buying property – identifying what property is needed so that the right purchase decisions can be made at the right time so that the necessary resources (including lifecycle costs) can be planned in advance.
- (2) Identifying non ownership alternatives to property solutions.
- (3) Owning property – knowing what property is owned and why it is owned.
- (4) Managing property - knowing that the property owned is fulfilling its purpose.
- (5) Investing in property – capturing the benefits of growth for the community.
- (6) Releasing property – making informed choices about when and why to dispose of property which has no further purpose in Council ownership.

3.1.5. Council's vision for its property portfolio over the next 10 years is to have a well managed portfolio which: meets current and future community service needs; is environmentally sustainable; is reviewed regularly against agreed performance criteria; is in good condition with no maintenance backlogs; and provides best value for money.

### **3.2. Commercial Property Portfolio**

3.2.1. Council's commercial property portfolio (excluding the South Melbourne Market) comprises a total of 37 properties which generate approximately \$2.2 million in revenue per annum. A breakdown of the properties by use and land status is shown in the following table:

**Table 1: Summary - Commercial Property Portfolio**

Property Use	No.	Crown Land	Freehold	Annual Rent ex GST	Valuation	Average Yield - %
Kiosk	6	6		\$226,386.73	\$3,806,895.00	5.9
Restaurant / Café / Diner	7	7		\$1,176,887.96	\$13,879,000.00	8.5
Mobile Food Van Site	2	2		\$37,455.00	\$60,000.00	62.4
Residential	11	4	7	\$125,949.68	\$4,933,700.00	2.6
Office / Clubrooms	4	2	2	\$144,257.56	\$7,877,144.00	1.8
Retail Liquor Outlet	1		1	\$73,500.00	\$945,000.00	7.8
Fennell Reserve - site for Melbourne Main Sewer works	1	1		\$54,600.00	\$2,550,000.00	2.1
Other	3	3		\$342,662.36	\$35,578,992.00	1.0
Vacant*	2	1	1	\$0.00	\$1,908,256.00	0.0
<b>Total</b>	<b>37</b>	<b>26</b>	<b>11</b>	<b>\$2,181,699.29</b>	<b>\$71,538,987.00</b>	<b>3.0</b>

\* Vacant Properties: Ground Floor, 147 Liardet Street, Port Melbourne and Kiosk 8, 72A Beaconsfield Parade, South Melbourne.

- 3.2.2. Further information regarding each tenancy (ie tenant names, agreement expiry etc) can be found in Confidential Attachment 2 – Property Register Extract.
- 3.2.3. With respect to land status, approximately 70% of the properties within the portfolio are on Crown Land. Crown Land properties have various restrictions placed upon them limiting what the site can be used for and the length of any tenure agreements. In general, Crown Land (under the control of the City of Port Phillip as an appointed Committee of Management) cannot be sold, leased or licensed without the consent of the Department of Sustainability and Environment.
- 3.2.4. In comparison, freehold land owned by the City of Port Phillip has fewer impediments and it can be leased, licensed or sold in accordance with the provisions of the Local Government Act 1989 and Council policy. Freehold land provides greater flexibility with respect to permitted uses and agreement length / term.
- 3.2.5. It is anticipated that the revenue from the commercial property portfolio will continue to increase over time as vacant properties are tenanted, new areas come on line for leasing (eg Beacon Cove) and significant Crown Land leases reach maturity (eg re-negotiation of new lease agreements post 2018 for the sites currently occupied by Donovan's and the Stokehouse).
- 3.2.6. If the portfolio continues to grow as expected and generate additional income in future, this will have a beneficial flow on effect to ratepayers within the municipality (ie a \$ reduction on average rates payable).
- 3.2.7. As set out in the report to Strategy & Policy review Committee on 2 February 2009, supporting an extension of the lease will assist the tenant's business and, importantly, ensure an extended

period of revenue stream, which reduces council's reliance on rates and fees income.

- 3.2.8. A detailed briefing on the Property Strategy is scheduled for councillors during March 2009. The first annual review of properties scheduled to be formally considered by Council mid 2009.

**3.3. Additional Property Information – 174 Nott Street, Port Melbourne.**

- 3.3.1. Further detail regarding the subject property is shown in the following table:

**Table 2: Additional Property Information**

Location	<p>The property is close to both bus and light rail services. It is approximately 2 kilometres south of the Melbourne CBD.</p> <p>Closest retail centre: Bay Street, Port Melbourne.</p> <p>Public open space within the vicinity: Lagoon Reserve, Edwards Park, Crighton Reserve, Smith Reserve, Hester Reserve, Sangster Reserve and Olive's Corner.</p> <p>Nearby community facilities: Port Melbourne Library, Port Melbourne Town Hall, Port Melbourne Neighbourhood House.</p> <p>Housing and accommodation services in the area: Wintringham, Port Melbourne.</p> <p>Schools in close proximity: Port Melbourne Primary School and Port Phillip Specialist School.</p> <p>Other nearby commercial properties owned by the City of Port Phillip: 147 Liardet Street, Port Melbourne.</p>
Land Description	<p>The subject property is a regular level site with a frontage of 9.14 metres to Nott Street and a depth of 40.13 metres along Pool Street.</p>
Heritage Factors	<p>Heritage Overlay 1 – External paint controls apply to this site. Given the Heritage Overlay, Teifal Pty Ltd's activities at the site have been largely restricted to the interior of the building (eg internal fitout works to maximize retail floor space).</p>
Yield / Performance	<p>7.8% yield, not including capital growth which could be expected to be 5% p.a. long term. As illustrated in Table 1 above, this represents one of the higher performing sites within the commercial property portfolio.</p>

**3.4. Property Advisory Board Meeting – 17 November 2008**

- 3.4.1. At its meeting on 17 November 2008, the Property Advisory Board considered the lease extension proposal by Teifal Pty Ltd. In considering the request the Board weighed up the following points:

- (1) the perceived benefit to Council and the community associated with locking in the current site use for a further term (eg guaranteed income stream for

Council at market rates, business continuity for Teifal Pty Ltd and maintenance of the current retail / product offering); versus

- (2) the loss of future site flexibility (eg the opportunity cost of leaving the site as is, given other emerging issues such as social / community housing).

3.4.2. As the property had not been earmarked for any immediate alternative use and feasibility studies would take some time to complete, the Board resolved to support a reduced further term of 5 years for Teifal Pty Ltd. This proposal was deemed to be an appropriate compromise.

**3.5. Alternative Uses - Port Melbourne Context.**

3.5.1. As outlined in Table 2, the subject property is well situated within Port Melbourne and is close to a range of amenities and services. Historically it has operated as a commercial site for a number of years.

3.5.2. Port Melbourne is considered to be under-represented in the current social / community housing program as only 2 projects out of a total of 17 occur within the area. The subject site is considered to have good potential from a community housing perspective given its location and site characteristics.

3.5.3. Although the site is narrow, it has 3 street frontages, leaving only one potentially sensitive abuttal on the south side. The current structure is built right up to the boundary, so it is likely that any future remodeling of the site would not face any significant set-back restrictions. Any building remodeling or demolition would need to take into account the current heritage and flood overlays for the site. For example, the current flood overlay may preclude any consideration of underground car parking at the site and the heritage overlay may require that the Nott Street building façade be maintained.

3.5.4. The subject property is only 367 square metres (excluding airspace and subterranean development). Guidelines exist as to the area required for family units (70 square metre allowance), single rooms (50-55 square metre allowance), circulation space, communal areas and carparking. As the tenant mix will drive the development design, a feasibility study is required to determine how the site can be best utilised in this regard.

3.5.5. If the current lease is not extended, it will expire on 9 September 2013.

**3.6. Options**

- 3.6.1. Council could choose to adopt the recommendation below. This is a viable decision which would support an existing council revenue stream into the future and support a local business.
- 3.6.2. Council could choose to reject the proposal for a lease extension, with a view to a feasibility study being conducted in 2011 or 2012. This is a viable decision which would support future flexibility for the site and, possibly, a future social housing development.
- 3.6.3. Council could choose to delay deciding on the lease extension, while a feasibility study is conducted. This would result in a lengthy delay to the decision and is impractical.

**4. RECOMMENDATIONS**

That the Council receive and note the supplementary report and resolve:

- 4.1. To commence the statutory procedures under Section 190 of the Local Government Act 1989 ("the Act") for a new lease agreement with Teifal Pty Ltd by publishing a notice in local newspapers inviting interested persons to make a submission under Section 223 of the Act for the proposed lease of 174 Nott Street, Port Melbourne on the following terms:

Proposed Tenant: Teifal Pty Ltd (trading as Decanters by the Bay).

Demised Premises: 174 Nott Street, Port Melbourne

Area: Approximately 367 square metres.

Permitted Use: Retail and wholesale of liquor and associated serves.

Term: through to 9 September 2018 (approximately 9 years).

Rental: \$73,500 per annum plus GST.

Rental Reviews: Market rent review every two years.

- 4.2. To appoint its Strategy and Policy Review Committee to hear and consider any submissions made under Section 223 of the Act and to authorise Council officers to fix the day, time and place of the meeting.

- 4.3. To declare Attachment 2 – Property Register Extract confidential under section 89 (d) of the Local Government Act 1989.

**ORDINARY MEETING OF COUNCIL  
23 FEBRUARY 2009**

**SUPPLEMENTARY REPORT**

**A9**

**MID YEAR BUDGET 2008/2009 –  
SUPPLEMENTARY REPORT**

**LOCATION/ADDRESS:**

**RESPONSIBLE EXECUTIVE DIRECTOR:**

**DAVID FILMALTER, CHIEF FINANCIAL  
OFFICER**

**AUTHOR:**

**DAVID FILMALTER, CHIEF FINANCIAL  
OFFICER**

**FILE NO.:**

**ATTACHMENTS:**

- 1. SUMMARY OF OPERATING BUDGET  
FORECAST CHANGES (ATTACHMENT 1)**
  - 2. REVISED RATE DETERMINATION  
STATEMENT (ATTACHMENT 2)**
  - 3. CAPITAL WORKS EXPENDITURE  
VARIATIONS (ATTACHMENT 3)**
- 

**1. KEY ISSUES**

- 1.1.** Council officers carried out a structured mid year review of their budgets in accordance with directions from the Executive Team and the Chief Financial Officer.
- 1.2.** This review emphasised the importance of ensuring that the revenue and expenditure forecasts fairly present the expected full year financial results and the amended revenue and expenditure forecasts have been reviewed by the Executive Team and the Chief Financial Officer.
- 1.3.** Requests for additional funding from officers have been assessed by the Executive team against the following criteria:
  - 1.3.1.** Council policy decisions that will have a financial impact in the current financial year and were made after the adoption of the Annual Budget.
  - 1.3.2.** Unforeseen changes in the external environment, most notably the global financial crisis.
  - 1.3.3.** Demonstrated demand for Council services which is having an ongoing impact on costs.
  - 1.3.4.** Legislative compliance requirements that have a financial impact.
  - 1.3.5.** Improvements to controls and systems that have a financial impact.

- 1.3.6. In addition to these criteria, changes are made to capital works projects as a result of:
  - 1.3.6.1. Changes to the scope which could typically result from the detailed design of the project.
  - 1.3.6.2. Additional costs that come to light when the project is put out to tender.
  - 1.3.6.3. Cost overruns that could arise from unforeseen problems during the construction phase.
  - 1.3.6.4. Soil remediation costs.
- 1.4. Attachment 1 summarises the operating budget changes that have been recommended as a result of this review. The review has identified \$2.480M of expenditure savings and additional revenue which will be applied towards unfavourable permanent budget variances of \$2.905M.
- 1.5. The overall impact of the revenue and expenditure review (for both operating and capital budgets) combined with the 2007/08 carry over surplus is a projected \$371K accumulated budget surplus for the full year. This is a \$12K decrease on the original budget that projected a surplus of \$383K for the full year. This is summarised in Attachment 2.
- 1.6. The mid year budget includes a number of forecast changes to the original budget, with the most significant changes being categorised as follows:

**Service Initiatives (External)**

- 1.6.1. Increased service levels for the provision of Home Care - \$246K
- 1.6.2. A review of the Clarendon Child Care Centre's ability to expand available child car places in light of the collapse of ABC Child Care - \$20K
- 1.6.3. Increased administrative requirements in relation to the management of the child care waiting lists - \$63K
- 1.6.4. Drought mitigation costs for the South Beach Reserve - \$20K
- 1.6.5. Consultancy costs in relation to Council's Skate Parks - \$78K

**Service Initiatives (Internal)**

- 1.6.6. Development of a business case in regards to Council's "Records Knowledge Management" - \$50K.
- 1.6.7. Redevelopment of Council's intranet and internet - \$120K

**Controls & Compliance**

- 1.6.8. The purchase of additional TRIM (Records Management software) licenses - \$29K
- 1.6.9. Increased compliance costs in relation to Council's tendering processes - \$70K

1.6.10. Legal fees principally associated with Freedom Of Information requests - \$50K

1.6.11. Business continuity planning across the organisation - \$50K

1.6.12. Increased internal audit costs - \$40K

1.6.13. A review of Council's governance operations and requirements - \$50K

Global Financial Crisis

1.6.14. Reduced parking income as a result of higher petrol prices and the global economic slowdown - \$900K

Financial and Other

1.6.15. Increased rate income due to the impact of supplementary rates - \$800K

1.6.16. Greater than expected grant income from the Victorian Grants Commission - \$220K.

1.6.17. Reduced insurance premiums due to Council's favourable claims experience - \$220K

**1.7.** Full details of the proposed changes to the budget are set out in Attachment 1.

**1.8.** The proposed forecast changes will have an unfavourable impact on the 2008/09 operating budget of \$425K. This is partly offset by a net reduction of \$55K in funding requirements for the capital works program. The capital works program is also looking to defer several projects (thereby reducing the 2008/09 budget).

**1.9.** An additional transfer from general reserves of \$359K, being expenditure commitments completed in prior years, further offsets the unfavourable mid year adjustment for operating expenditure.

**2. Elwood Park Sports Pavilion**

**2.1.** Council had originally budgeted \$1M for 2008/09 and the 5 year program included \$1M in 2009/10 to complete this project. During the planning stages, a construction estimate of \$2M was prepared. While every effort was made to inform council of the estimated total cost of this project when they approved the capital works program, accurate cost plans are not always possible.

- 2.2.** At the tender stage it became apparent that the proposed budget of \$2M was inadequate. This was namely due to the cost of raw materials, in particular steel, having increased markedly since the budget was agreed upon and the project going to tender. Another impacting factor was the changing of design to accommodate stakeholders. Tender bids ranged from \$2.368M to \$3.078M and Council awarded the contract to the lowest tenderer at that time.
- 2.3.** At the Ordinary Meeting of Council on 22 September 2008, it was resolved that:
- 2.3.1. Council award Contract Number 1138 for the Elwood Park Sports Pavilion Redevelopment to Cetalee Pty Ltd at a total construction cost of \$2,368,648.
  - 2.3.2. Council approve the revised construction program period of October 2008 to May 2009 in order to complete the project in 2008/09 ahead of schedule.
  - 2.3.3. Council approve funding the second stage of the construction works (\$1,368,648) from 2 sources – access to \$1,000,000 from general reserves in 2008/09 and \$368,648 in savings from other capital works projects in 2008/09.
  - 2.3.4. The Capital Works Project Board report to council, as part of the quarterly reporting process, options to fund the identified shortfall of \$368,648 through 2008/09 capital works savings.

**3. CONTEXT**

The original 2008/2009 budget contained stringent expenditure targets that were set by the Executive Team and approved by Council, following the extensive reviews of past and future performance.

**4. PROPOSAL**

That Council adjusts its budget forecast to reflect the changes in the full year expenditure and revenue estimates that have arisen as consequence of this review.

**5. POLICY IMPLICATIONS**

This report and the recommendations arising from it do not have a direct impact on Council policy.

**6. RESOURCE IMPLICATIONS**

The operating variances identified by the mid year review have been classified as one offs (\$1.032M net favourable) and ongoing (\$1.457M net unfavourable).

All ongoing variances will be taken into account for the purpose of setting forward revenue and expenditure budget targets.

**7. INTERNAL CONSULTATION**

Councillors

Executive Team

**8. EXTERNAL CONSULTATION**

N/A.

**9. IMPLEMENTATION**

Council approval of the mid year budget forecasts will result in future financial performance being reported against the revised budget forecast.

This will be implemented with effect from the January Monthly Financial Report and March Quarterly Financial Report, which will be presented to Council in the April reporting cycle.

**10. CONCLUSION**

Financial performance for the balance of the financial year will be reported against the revised budget forecast.

**11. COMMUNICATION**

Following Council adoption of the mid year budget forecast, detailed advice will be provided internally to affected officers by the Finance & Investments department.

**12. RECOMMENDATION**

That Council adopt the 2008/09 mid year budget forecast as outlined in the body of this report and Attachments 1 and 2, and approve the favourable and unfavourable variances as outlined in these Attachments.

Council adopt the changes recommended to the Capital Works program as outlined in Attachment 3.

**ORDINARY MEETING OF COUNCIL  
23 FEBRUARY 2009**

**ORDER OF THE DAY**

<b>ORDER 1</b>	<b>ST KILDA SKATE PARK - APPOINTMENT OF MEMBERS TO THE COMMUNITY REFERENCE GROUP AND THE APPOINTMENT OF THE INDEPENDENT ASSESSOR</b>
<b>LOCATION/ADDRESS:</b>	<b>ST KILDA</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>GEOFF OULTON, EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT AND PLANNING</b>
<b>PREPARED BY:</b>	<b>ANITA LANGE, SPECIAL PROJECTS MANAGER</b>
<b>FILE NO.:</b>	<b>76/04/35-03</b>
<b>ATTACHMENTS:</b>	<b>1. ST KILDA SKATE PARK CONSULTANT PROJECT BRIEF 2. ASSESSMENT OF CONSULTANT SUBMISSIONS 3. CONSULTANT SUBMISSIONS (CONFIDENTIAL) 4. ST KILDA SKATE PARK COMMUNITY REFERENCE GROUP T.O.R.S 5. FRAMEWORK FOR ASSESSING NOMINATIONS FOR THE ST KILDA SKATE PARK COMMUNITY REFERENCE GROUP (CRG) 6. GOVERNANCE PROCESSES AND OPERATING PRINCIPLES</b>

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**1. PURPOSE**

To provide Council with information on the two consultant submissions for the role of Independent Assessor and a recommendation to appoint Simon Leisure Consulting to this role to assist the process of site selection for the St Kilda Skate Park.

To provide Council with information on nominations for membership to the St Kilda Skate Park Community Reference Group (CRG) to enable the Council to select the 6 community representatives to be appointed to the CRG, noting that a supplementary report will be tabled at the Council meeting on the 23<sup>rd</sup> February 2009 summarising nominations to inform Council's decision on committee appointees.

## **2. RECOMMENDATION**

That Council resolves to:

- Appoint Simon Leisure Consulting to the role of Independent Assessor to assist the process of site selection for the St Kilda Skate Park.
- Agrees to establish the St Kilda Skate Park Community Reference Group and endorse the Terms of Reference included in Attachment 4, noting that the CRG will cease operation following the presentation of the final report to the Council.
- Select representatives in the following categories to the St Kilda Skate Park Community Reference Group:
  - 3 young persons and/or skater representatives
  - 3 community representatives
  - 2 Councillors

Following the receipt of a supplementary report to be tabled at the Council meeting on the 23<sup>rd</sup> February 2009 summarising nominations to inform Council's decision on committee appointees.

## **3. BACKGROUND AND CONTEXT**

3.1 Council at its meeting of the 18<sup>th</sup> December 2008, decided to withdraw the planning application for the St. Kilda Skate Park proposed on Fitzroy Street in Albert Park Reserve and commence a new and transparent process to select a suitable site for the St Kilda Skate Park.

3.2 Specifically the Council resolved to:

1. Withdraw the current planning application for the St. Kilda Skate Park proposed in Albert Park reserve.
2. Commit to retain current funding to enable development of a skate park in the near future.
3. Engage a suitably skilled and qualified recreation or Open Space planner to undertake an independent assessment of the 8 sites previously assessed and considered by Council, and any new sites that may be identified.
4. Establish a community reference group of key stakeholders and local skater representatives (including young people and 2 Councillors) to assist and provide input into the assessment process. The broad terms of reference for the community reference group being to:
  - Provide advice to the independent assessor.
  - Consider the criteria and weightings that the reference group agrees appropriate to the assessment process.

- Consider any additional sites that the reference group agrees appropriate to the assessment process for approval by Council.
  - Consider and provide comment to any draft recommendations of the independent assessor prior to a final report being presented to Council by the assessor.
5. Apply the approved criteria as the basis for an assessment of the sites indicated in recommendation 3 above, and in addition establish the following Council objectives for the St Kilda Skate Park:
- To provide a local skate park for use by all ages and skill levels in the shortest possible time.
  - To provide a safe facility.
  - To minimise any impact on other community based facilities and stakeholders.
  - Be consistent with the principles outlined in Council's Open Space Strategy 2006.
6. Receive the report of the independent assessor to be presented to Council at the earliest practicable date.

3.3 To implement the above process the following has been undertaken:

**A) Appointment of an Independent Assessor**

Four consultants were approached on the 6<sup>th</sup> and 9<sup>th</sup> February 2009 and forwarded a project brief (Attachment 1) to consider.

Two submissions were received by the due date of the 16<sup>th</sup> February 2009.

Care was taken to refer the project brief to consultants that had expertise in recreation planning and open space and to approach consultants that had not been previously involved in this issue in order to facilitate an independent process.

Each consultant was requested to submit:

- Description of methodology to be used identifying key tasks and resources
- Identify personnel who will be responsible for each of the tasks
- Timeframe for various tasks and the project as a whole
- A fee proposal for various tasks and the project as a whole

**B) Appointment of Members to the St Kilda Skate Park Community Reference Group:**

The St Kilda Skate Park Community Reference Group Terms of Reference (TORs) (Attachment 4) were discussed with the Council (at the Council briefing of the 29/01/09) and notices were placed in the Emerald Hill Weekly and the Port Phillip Leader newspapers on the 4/02/09 and 3/02/09 respectively; on the Council's website on the 2 February 2009 and notices were also widely circulated to various networks in the community.

The closing date for nominations is Wednesday the 18<sup>th</sup> February which is after this report has been prepared. A supplementary report will be tabled at the Council meeting on the 23<sup>rd</sup> February 2009 summarising nominations to inform Council's decision on committee appointees. (Attachment 5 includes the framework for assessing nominations for the St Kilda Skate Park Community Reference Group).

In relation to setting up the St Kilda Skate Park CRG, the following points should be noted:

- Establishing the CRG requires formal endorsement by Council and a recommendation to this effect has been included in this report
- That the CRG is to be established for a limited period and will cease operation following the presentation of the final report to the Council
- Recruitment of nominees has allowed qualified nominees to put themselves forward for selection.
- The selection process is based on the need to demonstrate fairness and equity.

The advice of Governance was sought in relation to the CRG structure and governance processes. Based on this advice, draft governance processes and operating principles are attached to this report (Attachment 6) which includes the TORs. These processes and principles will be one of the first matters for the new Committee to discuss and confirm.

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

##### **A) Appointment of an Independent Assessor**

The list of consultants that were referred a brief was discussed with fellow council officers to ensure that the brief was referred to consultants with expertise in recreation planning and open space that had not been previously involved in this issue in order to facilitate an independent process.

The assessment of the consultant submissions was carried out in conjunction with Ms Fiona Blair, Manager Parks and Open Space who has had extensive experience on this topic as well as appointing consultants to a range of council projects.

##### **B) Appointment of Members to the St Kilda Skate Park Community Reference Group**

This matter will be addressed in the supplementary report

## 5. DISCUSSION

### Assessment of Consultant Submissions

- An analysis of the 2 submissions as well as an assessment against the selection criteria of experience, capability, independence and price is included in Attachment 2. Attachment 3 (Confidential Attachment) includes the 2 submissions.
- The analysis found that while both submissions were of a high standard the submission by Simon Leisure Consulting was superior. The assessment concluded that:  
*While both consultancies would be capable of providing the required service based on the submissions received, it is felt that the Simon Leisure Consulting consultancy is preferable as it demonstrates a higher level of experience in the area of open space and recreation planning with particular experience in sensitive situations such as the Newport Skate park which was a very controversial local issue, it has demonstrated a very clear understanding of the process and how the consultant will interact with the CRG and the Council and it has demonstrated a higher-level of experience and expertise in the area of design, project facilitation, planning and consultancy*
- It is therefore recommended that the Council appoint Simon Leisure Consulting as per their proposal.

## 6. POLICY IMPLICATIONS

### A) Appointment of an Independent Assessor

The appointment of the Independent Assessor is consistent with the council's policy of adopting a new process as per the Council resolution of the 18<sup>th</sup> December 2008 which is outlined in Section 3.2. The proposed consultant meets the criteria of experience, capability, independence and price and will be able to assist in the process of selecting a new site which is consistent with Council policy

### B) Appointment of Members to the St Kilda Skate Park Community Reference Group

This matter will be addressed in the supplementary report

## 5.3 FINANCE / RESOURCE IMPLICATIONS

### A) Appointment of an Independent Assessor

The resourcing of the Independent Assessor has been factored into the mid year budget review following the Council's decision of December last year.

### B) Appointment of Members to the St Kilda Skate Park Community Reference Group

This matter will be addressed in the supplementary report

**5.4 LEGAL & RISK IMPLICATIONS**

**A) Appointment of an Independent Assessor**

There are considered to be no legal or risk implications in the appointment of the Independent Assessor. The Council's procurement policy has been followed and the Council's standard contract will be used.

**B) Appointment of Members to the St Kilda Skate Park Community Reference Group**

This matter will be addressed in the supplementary report

**7. IMPLEMENTATION STRATEGY**

**TIMELINE**

It is anticipated that a report of the Independent Assessor on the most suitable site for the St Kilda Skate Park will be able to be tabled to the Council by June 09.

**COMMUNICATION**

The decision will be communicated as follows:

- The Council's website will be updated on the appointment of the Independent Assessor as well as the members of the CRG
- A press release will be prepared and forwarded to the local papers and information included in Divercity
- Letters will be forwarded to all successful and unsuccessful applicants

Key messages are:

- Council is committed to the establishment of a skate park in St Kilda.
- Council is committed to community consultation and engagement.
- Council intends to find the right solution for the community as quickly as possible

**ORDINARY MEETING OF COUNCIL  
23 FEBRUARY 2009**

**ORDER OF THE DAY**

<b>ORDER 2</b>	<b>UPDATE REPORT TO COUNCILLORS ON ST KILDA TRIANGLE DEVELOPMENT</b>
<b>LOCATION/ADDRESS:</b>	<b>ST KILDA TRIANGLE ST KILDA</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>GEOFF OULTON, EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT AND PLANNING</b>
<b>PREPARED BY:</b>	<b>ANITA LANGE, SPECIAL PROJECTS MANAGER</b>
<b>FILE NO.:</b>	<b>12/02/30-09</b>
<b>ATTACHMENTS:</b>	<b>1. TRIANGLE UPDATE TABLE 2. ST KILDA TRIANGLE DEVELOPMENT DA – CONTRACT NOTICES AND VARIATIONS</b>

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**1. PURPOSE**

- 4.1. This report provides an update to Councillors on the main topics relating to the St Kilda Triangle Site following the last update on the 27<sup>th</sup> October 2008.
- 4.2. As per Attachment 1, this update is divided into:
  - 4.2.1. Pre-site handover
  - 4.2.2. Contract administration
  - 4.2.3. Other contract requirements
  - 4.2.4. Construction commencement
  - 4.2.5. General project management topics

**2. RECOMMENDATION**

- 4.3. That Council notes the Triangle Site project update.
- 4.4. That a further update be provided to Council in 3 months.

**Attachment 1 – Triangle Update Table**

**1. Progress on preliminary and secondary conditions:**

Requirement	Status
<b>Preliminary Conditions</b> – achieved on 22nd November 2007	
<b>Secondary Conditions</b> – date extended to 25 August 2010 or the date which is 24 months after the date on which any Dispute Proceeding in connection with the Developer's Project is Determined (as defined in the Development Agreement), provided certain requirements are met. The developer may also request a further extension provided the developer is progressing various additional milestones.	

**2. Progress on coordination structure to monitor Development Agreement Commitments:**

Requirement	Status
<b>Project Control Group</b>	
The role of the PCG is to coordinate project delivery and review the progress and quality of works, the performance of the developer and agree any remedial measures required.	15 meetings held to monitor progress against contract milestones and discuss matters arising including: - Satisfaction of conditions - Progress on additional milestones - Contamination plan
<b>Design Review Committee</b>	
The purpose of the Committee is to provide independent expert architectural and urban design advice to the design development process on the project to assist the achievement of the optimum design outcome for the St Kilda Triangle development.	Meetings are on hold.  The Office of the State Government Architect has been briefed on the project and has been invited to participate in future design discussions.
<b>Tenancy Review Committee</b>	
The purpose of the Committee is to provide a forum for discussion to achieve the St Kilda Triangle Tenancy Guidelines, the general policy objectives of the project and opportunities to maximise the St Kildaness outcomes for the project in relation to tenancy matters.	No further meetings – on hold

**3. Progress on planning approval process**

Milestone	Status
<b>Development plan approval</b>	
Development Plan lodged with the Council for statutory approvals	<ul style="list-style-type: none"> <li>Application for review of DP approval under S149B of the P&amp;EA1987 lodged 9/9/08</li> <li>VCAT hearing held 9 -11 February 2009. Member has reserved his judgment.</li> </ul>

**4. Progress on other Triangle Site issues**

Issue	Status
<b>Palais Theatre</b>	
Lease administration	On track
Heritage Vic (HV)	HV are being kept in the loop with proposed development, no issues to date
Interim Protection Order (IPO) – amendment to Palais Theatre registration	The IPO has expired. 4 submissions have been received. HV will hear the matter in mid April 2009. Items are not considered to be at imminent threat.
<b>Progress on the Palace Site</b>	
Temporary use of the site	<p>Site has been converted to temporary car park.</p> <p>Site was used for arts and cultural uses such as So Co Cargo (1 week), general activities and street art wall for St Kilda Festival.</p> <p>Currently finalising the Site Activation Plan in conjunction with the Developer as per the Development Agreement. The principles underlying the SAP are:</p> <ul style="list-style-type: none"> <li>- Activities and/or events should be of a type or use that showcases the potential of the site to contribute to the arts, cultural and recreational life of the community</li> <li>- Activities and/or events should improve community access and use of the site including promoting the Palais Theatre</li> <li>- Activities and/or events should assist the building of community understanding of how the site could function and contribute to the arts and cultural life of the community in the future</li> <li>- Activities and/or events should be varied and occur on a regular basis throughout the year</li> <li>- Activities and/or events should be open to all and easily accessible, though a fee for certain services would be appropriate</li> <li>- Activities and/or events should link to any existing precinct wide activities</li> <li>- Activities and/or events must be consistent with the Council’s Business Sponsorship Policy</li> </ul> <p>A budget of \$25k this financial year will be allocated.</p> <p>Fencing was erected in mid February 2009. Signage details are currently being finalised prior to erection.</p>
Condition of the Palace site	Restricting archaeological diggers and public access is no longer an issue as site has been converted to a temporary car park

<b>Upper Esplanade Market</b>	
Upper Esplanade Market temporary relocation	Temporary relocation on hold pending construction commencement.
<b>Progress on Operating Plan</b>	
Operating plan	Has been amended as part of Deed of Variation 2. No further work anticipated in the short term
<b>Progress on Communications</b>	
Communication plan	Communication plan on hold until outcome of the legal proceedings are known
<b>Proposed additional Cultural facility</b>	
Proposed national cultural facility above Linden Building	On hold pending the outcome of the legal proceedings
<b>Other items</b>	
FOI	<p>A number of FOI requests have been made in relation to the Triangle, some of which are currently before VCAT.</p> <p>The St Kilda Triangle Development Agreement (with redactions), current to 22 November 2007, was posted on the Port Phillip website on 17 November 2008. The Agreement was posted following BBC's withdrawal of their reverse application. Additional information was released on 28 January subsequent to the Compulsory Conference and the Agreement on the Port Phillip website was subsequently updated on 3<sup>rd</sup> February 2009.</p> <p>A current version of the Development Agreement (as amended) is being prepared and will be posted on the council website (with redactions) once agreed between the parties (as required by the Development Agreement). The State Government will also post this version on their website to comply with state government policy.</p>
Parliamentary Select Committee on Public Land Development	No further follow up is anticipated
Ombudsman report on Triangle Site	The Ombudsman has been requested to investigate and report on the probity of the St Kilda Triangle development processes followed by the State Government and the Port Phillip Council.

**5. Progress on other St Kilda's Edge issues not the subject of a separate report**

<b>St Kilda Life Saving Club</b>	
St Kilda Life Saving Club investigation	Council are currently undertaking an investigation into options for housing the St Kilda Life Saving Club in a manner consistent with the principles of Council's Life Saving Club Strategy, St Kilda Urban Design Framework, Community Hubs Policy, City of Port Phillip Financial

	<p>Principles and the Life Saving Victoria Future Clubhouse Guidelines.</p> <p>A Steering Group has been established, a consultant (Stratcorp Consulting) appointed and the project has just commenced. The Consultant is currently doing situational analysis, background research and consultation with the club to be followed by consultation with the community and on-site surveys. The feasibility report is due to be reported to the council in mid 2009.</p>
<b>SKE Committee</b>	
SKE Committee Instrument of Delegation, TORS and membership	These matters are for the new Council to consider.

**ATTACHMENT 2 - ST KILDA TRIANGLE DEVELOPMENT DEVELOPMENT AGREEMENT-  
CONTRACT NOTICES AND VARIATIONS**

**Contract Notices to BBC**

1	Commissioning Test Acceptance Criteria (CTAC) and approval of construction costs schedule	Approval of full construction schedule of costs and deferral of the Commissioning Test Acceptance Criteria, until the date the Secondary Satisfaction Conditions	30/10/07
2	Development Plan	Approval of the draft Development Plan by Project Administrator in accordance with the requirements of the Development Agreement.	30/10/07
3	Gresham's approval	Approval of Gresham Property Funds Management Limited as a mezzanine financier to the developer	13/11/07
4	Preliminary Conditions	Notice confirming satisfaction of preliminary conditions	22/11/07
5	Advise of assistant Project Administrator	Notice advising of Mr R O'Loughlen as assistant Project Administrator for the period between 5/12/07 to 10/1/08	4/12/07
6	Advice regarding Independent Assessor	Notice advising of agreement to appoint Napier Blakely as Independent Assessor	18/12/07
7	Advice on Secondary Satisfaction Time (SST) new date	Notice approving extension of SST to 25 August 2009	24/9/08

**Variations to DA**

1	Variation 1	Extension to SST	10/5/08
2	Variation 2	Further extension to SST	24/10/08

**ORDINARY MEETING OF COUNCIL  
23 FEBRUARY 2009**

**ORDER OF THE DAY**

<b>ORDER 3</b>	<b>THE CITY OF PORT PHILLIP'S RESPONSE TO THE VICTORIAN BUSHFIRES</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>RESPONSIBLE EXECUTIVE DIRECTOR:</b>	<b>DAVID YEOUART, COMMUNITY ASSETS AND SERVICES</b>
<b>AUTHOR:</b>	<b>SAM HEWETT, MANAGER ASSET SERVICES (MUNICIPAL EMERGENCY RESOURCES OFFICER)</b>
<b>FILE NO.:</b>	<b>N/A</b>
<b>ATTACHMENTS:</b>	<b>1. OTHER LOCAL GOVERNMENT CONTRIBUTIONS</b>

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**1. EXECUTIVE SUMMARY**

- 1.1. On Saturday February 7 2009, Victoria suffered what is being called the worst natural disaster in its history.
- 1.2. At least 200 lives and 2000 homes and were lost in 400 major bushfires that swept the State on that day.
- 1.3. The immediate response and recovery from such a disaster will take many months with the full recovery expected to take many years.
- 1.4. Local Government has Emergency Management responsibilities for emergency risk mitigation and later, emergency response and recovery.
- 1.5. This report outlines the City of Port Phillip's immediate response to the Victorian Bushfires and makes recommendations on future commitments.

**2. BACKGROUND AND CONTEXT**

- 2.1. On February 7, 2009, Victoria experienced its hottest day on record. The top temperature reached 46 degrees Celsius and came with northerly winds in excess of 100 kilometers an hour.
- 2.2. As many as 400 fires swept Victoria on that day resulting in significant loss of life and property.
- 2.3. While a cool change hit Melbourne and other parts of Victoria later that day, 10 significant fire fronts remained burning for most of the week.
- 2.4. Over the course of the next 7 days, at least 200 lives were lost, with the Victoria Police cautiously estimating that the number could rise to as many as 300.
- 2.5. Almost 2000 homes were lost to fire as well as many other public buildings, public infrastructure, outbuildings and at least 61 businesses. As many as 7,000 people are reported to be homeless as a result of the fires.
- 2.6. In addition, countless livestock, wildlife and domestic pets have also perished or have been destroyed as a result of their injuries.
- 2.7. On February 8, 2009 the State Government (via the Department of Human Services) assumed responsibility for the response and recovery stage of the disaster. The Premier also announced the establishment of a Bushfire Appeal Fund which would be established in partnership with the Federal Government and the Red Cross.
- 2.8. Since the appeal began, approximately \$100million has been raised to go to those affected by the bushfires.

**The City of Port Phillip's Response**

- 2.9. On Sunday February 8, 2009, the City of Port Phillip hosted the St. Kilda Festival and collected a total of \$14,000 for the bushfire relief, from visitors to the festival.
- 2.10. On Monday, February 9, 2009, the City of Port Phillip announced that it would match "dollar for dollar" the money raised during the St. Kilda Festival bringing the total initial donation to \$28,000.
- 2.11. The Municipal Association of Victoria (MAV) wrote to all Councils on Monday February 9, to advise that they were working closely with the Department of Human Services (DHS) to co-ordinate a response from all local governments in Victoria to assist those municipalities requiring assistance to respond to and recover from the disaster.

- 2.12. At that time, the City of Port Phillip's Municipal Emergency Resources Officer (MERO) was appointed to co-ordinate the external response from Port Phillip to the MAV and DHS. Council's Municipal Recovery Manager (MRM) and Council's Manager People and Culture were appointed to manage internal communications with staff, contractors and volunteers.
- 2.13. The MAV indicated that immediate assistance was sought from qualified emergency management personnel (later placed on hold until a 'gap analysis' was completed). In addition, Council received a request for the following expertise
- Municipal Building Surveyors
  - Environmental Health Officers
  - Trained Counselors
  - Local Laws Officers with animal management experience.
  - Administrative support staff
- 2.14. The following is a summary of the immediate response from Council, management, staff, businesses and residents of Port Phillip towards the bushfire relief effort.

**Council**

- Council responded to calls from the MAV and DHS by sending 2 Environmental Health Officers (EHO) to Alexandra on Tuesday 10 February for 4 days to assist this community to respond to immediate health and food related issues. Council also supplied a fax/printer/scanner to assist the operations.
- Council responded to requests from the Country Fire Authority and VicRoads by sending two Arborists from contractor CitiWide to the Melba Hwy region to assist to clear the roads.
- A donation of \$14,000 to match the donations of visitors to the St. Kilda Festival
- Council immediately placed fundraising collection tins at each of the Town Halls and libraries throughout the municipality.
- Council's Municipal Operations Centre (MOC) Manager is conducting an audit of its physical resources if and when a call is received for physical resources (e.g. graders, generators, backhoes) to assist the clean up.
- Provision of Council facilities and open space at no cost to groups raising funds for the Bushfire relief for a period of 3 months.
- There are Bushfire Condolence Books at each of the Town Halls and libraries throughout the municipality.

- All fines from overdue library books from Council's Library Service in March are being donated to the Bushfire Appeal (approximately \$2,000)

**Management/Staff**

- A staff lunch fundraiser held in the auditorium on Friday February 13, 2009, raised \$3,581.30.
- Council staff have begun registering their interest and commitment on a centralized register, to assist the recovery and clean up, if and when a request is received. To date, the following skills are being offered by staff – additional EHO support, animal management expertise, child care workers, bus drivers, administrative support and emergency management staff. Decisions on the deployment of these resources will be made at a future time should a request be received.
- Council staff are collecting animal feed for Coldstream Animal Aid
- Council staff are collecting old mobile phone chargers to send to Telstra (who are co-ordinating their distribution to relief areas).
- Council staff are planning a Summer BBQ in early March with proceeds going towards the Bushfire Appeal.

**Businesses/Other**

- St. Kilda Festival organizers donated 1,000 bottles of water to emergency services personnel currently fighting the fires and assisting in the relief activities.
- A donation of \$14,000 by visitors to the St. Kilda Festival
- South Melbourne Market Stallholders raised \$333.90 from a fundraiser at the weekend of 14 and 15 February.
- The Oxfam Family Day will now be directing all proceeds from their gathering in Alma Park on 22 February towards the Bushfire Appeal and Council will provide the park at no cost to assist the fundraiser (Council's contribution \$212)

- Council updated its website to direct the Port Phillip Gives information towards the Bushfire Appeal. A total of \$25,000 has already been raised from staff, businesses and residents.

Total City of Port Phillip Contribution (From Council, staff, businesses, residents, stallholders and contractors)

<b>Contributor</b>	<b>Cash Contribution</b>	<b>In Kind/Other Support</b>
Council	\$16,000	\$7,712
Management Staff	\$3581.30	
Businesses/Other	\$39,333.90	\$2,000
<b>TOTAL</b>	<b>\$58,915.20</b>	<b>\$9,712</b>

### **Port Phillip Community Responses**

- Two events held over the weekend of 14 and 15 February were fundraising for the Bushfire Appeal – the Hookstock kite boarding event were donating funds raised from a sausage sizzle and the St. Kilda Cycling Club were donating all entry fees.
- St. Kilda Open Air Cinema is donating \$5.00 from tickets sales to 'Could this be love' to the Bushfire Appeal.
- On Tuesday 17 February a fundraising concert for InternationalPEN and the Bushfire Relief was held at the St. Kilda Town Hall.
- On Thursday 19, Luna Park ran a fundraising event for the Bushfire Appeal with rides tickets at half price and with total rides revenue going to the relief fund.

### **Other requests of the City of Port Phillip**

- Council has received the following requests from community groups, corporate groups and individual residents;
  - Providing the St. Kilda Town Hall at no charge to a Salsa dancing event in March with all proceeds going to the Bushfire Appeal (Council in-kind contribution of \$4,500)
  - Providing traffic management for a fundraising motorcycle ride from St Kilda to Ferntree Gully in early April.
  - Council is being asked to donate its 12-seater buses to a finance company in South Melbourne who plan to transport their volunteers at weekends to assist the clean up if and when the request is received.

- Councils are being asked to send messages of support to the Victorian Local Government Association (VLGA) who will pass on messages of support to the affected municipalities.

**3. RECOMMENDED OPTION**

Council is asked to endorse a recommendation to provide public buildings (including Town Halls) and public parks and open space at no charge, for 3 months, to groups who plan to use the space to raise funds for the Bushfire Appeal.

Council to note the response so far to the Victorian Bushfire recovery and to consider further options of assistance and support in the coming months.

**3.1. Criterion for recommendation**

The communities that have suffered from the Victorian Bushfires will need recovery support for many years and some individuals of those communities will never return to that community.

The City of Port Phillip has made an initial offer of support while it considers longer term support and assistance options. The above recommendations are a reasonable initial response and gives Council an opportunity to fully consider other offers of support when further information is available in order to inform a more sustainable response.

**3.2. Sustainability assessment**

***SOCIAL EQUITY***

Social Pillar	Communities that have suffered as a result of the Victorian Bushfires will need much support and assistance over the coming months and years in order to re-establish themselves. The communities in Port Phillip would acknowledge Local Government’s responsibilities to assist to build communities. This report indicates ways that Port Phillip is able to contribute from our community to other affected communities.
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***ECONOMIC VIABILITY***

Economic Pillar	The measures outlined in this report are a financially responsible initial response. The total cost to Port Phillip ratepayers of the measures outlined in this report (\$16,000) is commensurate with an initial response. Council also has an opportunity to lodge a claim for reimbursements for some support services from the Department of Human Services at an appropriate future time.
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**ENVIRONMENTAL RESPONSIBILITY**

Environmental Pillar	Municipalities affected by the Victorian Bushfires will suffer long term environmental consequences as a result of the fire damage. Any and all requests from affected municipalities to restore and repair their local environment can only benefit the rest of Victoria.
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**CULTURAL VITALITY**

Cultural Pillar	There are communities that exist in Port Phillip that have a reasonable expectation that if an opportunity exists to assist another community suffering then this should be a priority.
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**3.3. Policy and legislative implications**

Councils have a legislated responsibility under the Emergency Management Act 1986 to have a Municipal Emergency Management Plan (MEMP) and to appoint a Municipal Emergency Resources Officer (MERO). Council has complied with this obligation.

For larger scale emergencies, the State Government can declare a State of Disaster which allows for significant powers to be delegated to the Co-ordinator in Chief (Chief Police Commissioner). These include power to direct government agencies, restrict movement to an area, compel evacuations and commandeer property.

Where requested (and where able) Councils will support other municipalities with resources to respond to, and recover from, an emergency.

**3.4. Risk implications**

There are risks associated with Council allocating staff and physical resources to assist with the recovery from the Victorian Bushfires.

There is a risk that affected communities are overwhelmed by well meaning but ill-placed 'volunteers' when the community is not ready for them. The allocation of resources needs to be at the direction of co-ordinating agencies, MAV and DHS.

Occupational Health and Safety and Workcover considerations need to be clearly communicated prior to any deployment. Staff also need to be fully trained in the discipline for which they are being deployed (eg Environmental Health Officers).

Resources should only be allocated when it impacts least on Port Phillip's operations. While Council can suspend some operations for short periods of time in order to assist with the bushfire response, residents and ratepayers have an expectation that normal operations are not disrupted for extended periods.

**3.5. Resource implications**

The allocation of human and physical resources will be managed by the Executive Team on recommendations from the Municipal Emergency Resources Officer and the Municipal Recovery Manager. Recommendations will be made on evidence that the resource can be spared for the short term and that costs associated with the resources are clearly documented (in the event that Council makes a claim for reimbursement through DHS).

**4. ALTERNATIVE OPTIONS**

**4.1. Alternative 1**

Council may choose to consider its response to the Victorian Bushfires at a future time when more information is available. That is, Council may choose to suspend any other offer of assistance until it is clear what is likely to be the most appropriate level of support.

As it is still unclear as to the full extent of the tragedy, the months to come will bring more information about what assistance is required to ensure a sustainable rebuilding of affected Victorian communities.

**4.1.1. Policy and legislative implications**

NA

**4.1.2. Risk implications**

Risks will be deferred until Council makes its decisions about the level of its intervention.

**4.1.3. Resource implications**

There will be no resource implication until Council makes its decision on the support it will offer the Bushfire victims and their communities.

**5. PARTICIPATION AND ENGAGEMENT**

**5.1. Internal**

**5.1.1.** The people who have been engaged with in relation to this issue are:

- Executive Director Organisational Systems and Support
- Executive Director Community Development and Planning
- Deputy MEROs (Manager Building Services, Service Co-ordinator Operations)
- MRM (Manager Community Development)
- Deputy MRM (Co-ordinator Meetings and Events)

- MOC Manager (Manager Infrastructure Services)
- Manager Health and Amenity
- Manager Statutory Planning.
- Manager People and Culture
- Manager Culture and Recreation
- Manager Parks and Open Space
- Other Co-ordinators and Staff from across the organisation.

5.1.2. The response from staff wanting to assist has been overwhelming. Most people are eager to do what they can to assist in the response and recovery. Most people acknowledge that the initial recovery phase will be many months coming and that if and when a request is received, they will then be willing to assist.

**5.2. External**

5.2.1. The external people and/or organisations who have been engaged with in relation to this issue are:

- The Municipal Association of Victoria
- The Department of Human Services
- The Inner South Community Health Service (ISCHS)
- Port Phillip Community Group (PPCG)

5.2.2. The MAV and DHS understand that we have staff and physical resources at the ready and waiting to be deployed should the need arise.

5.2.3. Both ISCHS and PPCG were engaged in relation to support services local people might need, as this disaster touches many people – even those not directly impacted upon.

**6. COMMUNICATION**

6.1. Council's Website has been updated with some key messages about Council's response to the disaster.

6.2. An article is being written for the Divercity magazine which will outline the response received via the Port Phillip Gives website.

6.3. At a future time, appropriate press releases will outline Council's contribution to the Bushfire recovery process.

**7. RECOMMENDATION**

- 7.1. That the Council resolve to endorse a recommendation to provide public buildings (including Town Halls) and Parks and Open Space at no charge, for 3 months, to groups who plan to use the space to raise funds for the Bushfire Appeal.
- 7.2. Council to note the response so far to the Victorian Bushfire recovery and to consider further options of assistance and support in the coming months.

**ORDINARY MEETING OF COUNCIL  
23 FEBRUARY 2009**

**ORDERS OF THE DAY**

<b>ORDER 4</b>	<b>ABC2 CHILDCARE CENTRES IN RECEIVERSHIP</b>
<b>LOCATION/ADDRESS:</b>	<b>ABC MELBOURNE (77 PARK STREET, SOUTH MELBOURNE) ABC EAST ST KILDA (89 WESTBURY STREET, BALACLAVA)</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>DAVID YEOUART, EXECUTIVE DIRECTOR COMMUNITY ASSETS AND SERVICES</b>
<b>PREPARED BY:</b>	<b>GREG WOOD, MANAGER COMMUNITY SERVICES</b>
<b>FILE NO.:</b>	
<b>ATTACHMENTS:</b>	<b>1. ABC2 CENTRES OPERATIONAL ISSUES (CONFIDENTIAL) 2. LEGAL ADVICE ON LEASE ARRANGEMENTS (CONFIDENTIAL) 3. LEGAL ADVICE ON CONTRACT OF SALE DOCUMENTS AND BINDING OFFER (CONFIDENTIAL) 4. COMPARATIVE UNIT COSTING FOR CHILDCARE AND COMMUNITY CARE</b>

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**1. PURPOSE**

- 1.1. To allow council to consider whether or not to put in a binding offer (and any conditions on such offer) to the receivers for ABC2 child care centres in the City of Port Phillip

**2. RECOMMENDATION**

- 2.1. That Council resolves not to submit in a binding offer to PPB (receivers for ABC2) for the child care businesses known as ABC East St Kilda and ABC Melbourne because of the significant costs and risks outlined in the confidential attachments.
- 2.2. That Council re-affirms its goal of support for childcare which is:
- 2.2.1. A joint responsibility of the three levels of government together with families.

- 2.2.2. Affordable and of high quality.
- 2.2.3. Available to families in Port Phillip when they need it.
- 2.2.4. Part of integrated family and children's services which provide quality care, health and educational outcomes for children and families.
- 2.3. That Council again calls on the Federal Government to:
  - 2.3.1. Lead a revitalised national early year's reform agenda which is based on research that clearly demonstrates the importance of the early years (particularly 0 to 3 years old) on health and educational outcomes for children.
- 2.4. That Council calls on the federal and state governments to:
  - 2.4.1. Recognise and support the role of Local Government in the roll-out of integrated family and children's service delivery models.
  - 2.4.2. Provide funding in partnership with local government authorities to construct and operate additional family and children's centres including additional childcare places to meet demand.
- 2.5. That council officers explore options for future consideration by Council for additional family and children's centres in the City of Port Phillip. Such options include, but are not limited to, the purchase of land, and/or the purchase or long term lease of premises suitable for integrated service delivery for families and children.

### **3. BACKGROUND AND CONTEXT**

- 3.1. The ABC Childcare group of companies has been placed in receivership. There were four ABC child care centres within the City of Port Phillip at the time the receivers were appointed.
- 3.2. The original receivers determined that a number of the centres were unviable and a second set of receivers were appointed to deal with the unviable centres. There are two such "unviable" centres in the City of Port Phillip. These centres are ABC East St Kilda (Westbury St) and ABC Melbourne (Park St, South Melbourne)
- 3.3. In 2005 Council conducted a Best Value Review of children services which led to the adoption of a new childcare policy on 22 February 2006, and a 5 year capital works program aimed at upgrading council and community managed centres to retain childcare places, as well as create new childcare places.
- 3.4. The Child Care Policy commits Council to improving access to high quality, affordable childcare and re-affirmed council's ongoing commitment to support, financially and otherwise, council and community childcare operations.

- 3.5. Council's 5 year capital works program for council and community managed children's centres was adopted on 19 December 2005. The program was for \$5.4M to create 268 places over 5 years.
- 3.6. Council strengthened its commitment to capital works, such that by the end of June 2008 more than \$6M had already been spent on 241 new places with a further commitment to two new integrated family and children's centres in partnership with the state and federal governments.
- 3.7. In the absence of Council's investment, the number of childcare places in the City would have reduced by 101 places (a combination of closures and reductions due to regulation changes).
- 3.8. The potential closure of ABC Centre puts at risk childcare places in the City. As a result, Council adopted the following resolution at its meeting on 8 December 2008 regarding the EOI process for ABC centres:
- "1. That Council re-affirms its goal of support for childcare which is:
- a) A joint responsibility of the three levels of government together with families.
  - b) Affordable and of high quality.
  - c) Available to families in Port Phillip when they need it.
  - d) Part of integrated family and children's services which provide quality care, health and educational outcomes for children and families.
2. That the City of Port Phillip calls on the Federal Government to:
- a) Lead a revitalised national early year's reform agenda which is based on research that clearly demonstrates the importance of the early years (particularly 0 to 3 years old) on health and educational outcomes for children.
  - b) Recognise and support the role of Local Government in the roll-out of integrated service delivery in co-located child and family services hubs.
  - c) Provide funding to local government authorities who are prepared to operate failed ABC childcare centres.
3. That the City of Port Phillip notifies the Federal Government, State Government, Municipal Association of Victoria and the receivers of the ABC Learning group of companies that:
- a) Council's policy position is as outlined in 1 and 2 above.
  - b) Council is keen to support families affected by the failure of ABC Learning and is prepared to operate ABC childcare centres in the municipality provided that:
    - The net operating costs, including leases and other costs associated with buildings and grounds, are funded by the Federal Government and any costs to be borne by Council are identified for Council to consider.

- Council's existing children's services operations are not compromised.
  - Council is indemnified against any liabilities arising from the existing operations.
  - The centres will be operated by Council to the same high standards with respect to quality of care, conditions of employment and compliance with regulations as Council managed centres.
  - Such operations are short to medium term whilst a national reform agenda is developed and implemented.
4. That Council notes that Council's family and children's services staff will continue to offer advice and support to ABC Learning staff and users."
- 3.9. Council officers have been in contact with ABC2 receivers since this time in relation to the EOI process.
- 3.10. Council submitted an expression of interest on 20 January 2009 and a non binding indicative offer was made on the 30 January 2009.
- 3.11. Council's Manager Community Services, Coordinator Family and Children's Services and Operations Coordinator Children's Services inspected both the ABC2 centres on 15 February 2009.
- 3.12. In both cases it was noted that in order for the two centres to operate at a standard which our community would expect of a facility managed by the City of Port Phillip significant additional financial and human resources would be required. For example:
- internal capital works to improve supervision and safety of children and reduce operational inefficiencies
  - increased staffing levels with higher qualifications
  - additional and improved bathroom facilities to increase hygiene and safety levels and more respectful practices for children
  - upgrades to the outdoor play spaces to incorporate natural materials and increased sensory and gross motor experiences
  - improved toys and equipment
  - additional professional development for existing staff to improve health and educational outcomes for children.
- 3.13. Note that the premises are not for sale in this process so any capital works would require approval from the landlord and if approved, would be carried out on premises that are not owned by council.

- 3.14. Note that ABC St Kilda East is subject to a heritage overlay and ABC Melbourne is a former church. This would impact on what works could be approved.
- 3.15. If Council were to proceed to purchase the two businesses a binding offer is due on the 25 February 2009.
- 3.16. Note that in order to participate in the process Council has been required to give an undertaking not to disclose publically any financial or other information such as utilisation rates and residency status of users.

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

- 4.1. The people who have been engaged with in relation to this issue are:
  - Mayor and councillors
  - Chief Executive Officer
  - Family and Children's Services Coordinators
  - Governance Department
  - Property Services
  - Maddocks Lawyers
- 4.2. Engagement has been principally about information provision because of the short timelines and the slow release of information by the receivers.

#### **5. DISCUSSION**

##### **5.1. OPTIONS**

- 5.1.1. There are two broad options – either to not put in a binding offer or to put in a binding offer for the two centres.
- 5.1.2. To not put in an offer and do nothing further, may not adequately deal with the potential closure of the two centres if there are no other bidders.
- 5.1.3. Similarly, a simple binding offer on the terms and conditions expected by the receivers poses significant risks and costs to council such that it is not recommended for consideration.
- 5.1.4. Consequently two options are outlined below for Council's consideration. The recommended option is to not to put in a binding offer, but to consider other initiatives consistent with Council's policy objectives.
- 5.1.5. If council proceeds with submitting a conditional binding offer, and is successful, it will be committed to immediately allocating additional operational expenditure and capital funding for centres that council would not own.
- 5.1.6. If council proceeds with the recommended option, additional expenditure may also be required. However under this option the

decision to commit to additional funding would be made having had greater opportunity for more in depth needs analysis and scoping of any projects arising. Such projects would be for longer term, more sustainable solutions and produce higher quality outcomes for children and families.

5.2. OPTION ONE (Recommended Option)

5.2.1. That Council resolves to not submit a formal offer to PPB (receivers for ABC2) for the child care businesses known as ABC East St Kilda and ABC Melbourne because of the significant costs and risks outlined the confidential attachments.

5.2.2. That Council re-affirms its goal of support for childcare which is:

5.2.2.1. A joint responsibility of the three levels of government together with families.

5.2.2.2. Affordable and of high quality.

5.2.2.3. Available to families in Port Phillip when they need it.

5.2.2.4. Part of integrated family and children's services which provide quality care, health and educational outcomes for children and families.

5.2.3. That Council again calls on the Federal Government to:

5.2.3.1. Lead a revitalised national early year's reform agenda which is based on research that clearly demonstrates the importance of the early years (particularly 0 to 3 years old) on health and educational outcomes for children.

5.2.4. That Council calls on the federal and state governments to:

5.2.4.1. Recognise and support the role of Local Government in the roll-out of integrated family and children's service delivery models.

5.2.4.2. Provide funding in partnership with local government authorities to construct and operate addition family and children's centres including additional childcare places to meet demand.

5.2.5. That council officers explore options for future consideration by Council for additional family and children's centres in the City of Port Phillip. Such options include, but are not limited to, the purchase of land, and/or the purchase or long term lease of premises suitable for integrated service delivery for families and children.

5.3. OPTION TWO

- 5.3.1. That Council resolves to submit a binding offer to PPB (receivers for ABC2) for the child care businesses known as ABC East St Kilda and ABC Melbourne on the conditions summarised below and detailed in the confidential attachments.
- 5.3.2. That Council notes that the details of its conditions of offer are confidential for commercial reasons but in general terms can be summarised as follows:
  - 5.3.2.1. That new lease arrangements are negotiated on terms and conditions which are consistent with market value, for a fixed term of medium duration with the option of extensions.
  - 5.3.2.2. That the premises (buildings and grounds) are upgraded to a standard which would enable the facilities to be operated at a standard which our community would expect of a facility operated by the City of Port Phillip.
  - 5.3.2.3. That the costs of the upgrades be met by the federal government and/or the landlords.

5.4. POLICY IMPLICATIONS

- 5.4.1. The recommended option is consistent with a range of council policies regarding integrated services and facilities for children and their families.
- 5.4.2. Establishing integrated family & children's centres has been identified as a key action of Port Phillips **Municipal Early Years Plan (MEYP)** i.e . 'establish a program of co-location for stand alone services such as Maternal and Child Health, kindergarten, childcare and related services.' The MEYP identified six goals that support the establishment of these facilities in particular 'adopt a fully integrated approach'.
- 5.4.3. Council also adopted a **Community Hubs Policy** in 2004 which provides the framework for the planning and delivery of integrated family and children's services models for Port Phillip.
- 5.4.4. Council's **Health Plan** also promotes opportunities for greater social cohesion and integration of service provision as key determinants of improved health and wellbeing outcomes for children and families. The recommended option is also consistent with the **Council Plan 2005-2009** goals to 'consolidate services and activities in community centres in key locations' and 'Bringing people together to make our city better'.
- 5.4.5. The recommended option is also consistent with the policies that underpin the establishment of the newly created, integrated State Government Department of Education and Early Childhood Development and the department's '**Blueprint for Education and Early Childhood Development**' and related policies (e.g. Children First, Best Start, A Fairer Victoria, and Joining the Dots, Victoria's plan to improve outcomes in early childhood - National Reform Agenda).

5.4.6. The Australian Government has committed to a broad reform agenda for early childhood education and care which focuses on providing families with high quality, accessible and affordable integrated early childhood education and care (**Draft Early Years Learning Framework, 2008**).

5.4.7. Option two is not consistent with the council, state and federal government policies regarding integrated service planning and provision for the early years outlined above.

5.4.8. The recommended option and option two are both consistent with council, state and federal government's policies regarding increased access to childcare, but option two does not necessarily provide the service quality level obtainable with purpose built integrated facilities.

#### 5.5. FINANCE / RESOURCE IMPLICATIONS

5.5.1. The recommended option would require some additional operational funding for project work/feasibility study but this would be within the parameters of normal budget processes. Council would have the opportunity to consider in detail at a future date any capital works proposals arising from this process.

5.5.2. The second option would require significant additional operational expenditure. Various scenarios are modeled in Attachment 1 (confidential)

5.5.3. There would also be significant capital funding required for option two, unless funding was made available from third parties, for example the federal government. There has been insufficient time and information available to properly scope the extent of works required.

#### 5.6. LEGAL & RISK IMPLICATIONS

5.6.1. Legal advice has been obtained on the leases for the two properties (Attachment 2) and the proposed binding offer and contract of sale documents (Attachment 3).

5.6.2. Significant risks to Council have been identified, even if a conditional binding offer were accepted by the receivers.

5.6.3. The recommended option is consistent with families' and children's human rights to quality services.

#### 5.7. SUSTAINABILITY ASSESSMENT

##### **SOCIAL EQUITY**

5.7.1. The recommended option has the potential to provide additional integrated, affordable and accessible care, education and health services to children, their families and the local community. Increased

opportunities for community connection and friendship would be created.

- 5.7.2. Identifying more suitable premises would allow for greater adaptability of the physical environment as community needs change over time. Actively engaging the community and local service providers in the planning for this model of service provision would ensure its relevance to the local community now and into the future. Strong neighbourhood partnerships, central management, group employment and integrated service provision will ensure long term flexibility, sustainability and quality services for the Port Phillip community.

#### **ECONOMIC VIABILITY**

- 5.7.3. The recommended option will seek to maximize council's finite resources and, through more effective and flexible use of facilities, would reduce costs of providing services to the local community.
- 5.7.4. The development of additional integrated family and children's centres will increase the longer term sustainability and viability of the early childhood care, education and health sector. Consolidating administrative aspects and processes would increase efficiencies. There will be opportunities to utilise staff across a range of services and programs as well as resource staff and families in a more effective manner.

#### **ENVIRONMENTAL RESPONSIBILITY**

- 5.7.5. The recommended option, through the design and operations of more suitable premises, will demonstrate significant environmental improvements and increased sustainability compared to what is achievable with the existing buildings. Alternative premises would be sought with easy access to public transport and which are convenient for the local community.

#### **CULTURAL VITALITY**

- 5.7.6. The recommended option would enable families to be better connected to supportive networks from the birth of their first baby. Integrated facilities, with a range of universal and specialist services, would have increased capacity to respond to children and families with additional needs, those from culturally and linguistically diverse backgrounds and families in complex situations. Integrated facilities would enable residents to enjoy lifelong learning, from birth.

### **6. IMPLEMENTATION STRATEGY**

#### **6.1 TIMELINE**

- 6.1.2. If Council proceeds with option two, a binding offer must be submitted by the 25 February 2009.

6.1.3 If council proceeds with the recommended option, and the outcome of the receivers EOI process resulted in either or both of the ABC2 centres ceasing to operate, steps would be taken to immediately assist families to find alternative care arrangements.

6.1.4 Additionally, work would commence immediately on exploring options for additional integrated family and children's centres. This process has yet to be properly scoped, but a six month time frame is envisaged for exploration of options.

**6.2 COMMUNICATION**

6.2.1. If the recommendation is adopted, it suggested that the following communication messages be employed:

6.2.1.1. After careful consideration the Council will not be putting in a formal offer to PPB (receivers for ABC2) for the child care businesses known as ABC East St Kilda and ABC Melbourne.

6.2.1.2. Council will be exploring other options with the aim of securing more suitable premises for additional integrated service delivery, including childcare, for families and children.

6.2.1.3. The City of Port Phillip is committed to supporting services for family and children, including the provision of high quality, accessible and affordable childcare.

6.2.1.4. Council is acting responsibly by maximizing its finite resources whilst striving to ensure children and families can access quality, affordable childcare services.

6.2.1.5. Council will continue to assist children and families currently attending ABC East St Kilda and ABC Melbourne to find alternative childcare, if required.

6.2.1.6. The provision of high quality, accessible, affordable care is a responsibility of all three levels of government, and is best achieved by integrated family and children's services.

6.2.1.7 The provision of childcare in Australia requires major structural reform within the context of integrated care, education and health of children from birth. It is the federal government's responsibility to lead this reform and a comprehensive review is required in partnership with state and local government.

6.2.2. These messages will be delivered via:

- Media releases
- Updates on council website
- Divercity newsletter

