



**STRATEGY AND POLICY  
REVIEW COMMITTEE**

**AGENDA**

**2 FEBRUARY 2009**

## Welcome

Welcome to this Strategy and Policy Review Committee Meeting of the Port Phillip City Council.

Committee Meetings are a useful way for Councillors to be presented with, and consider, a large amount of information, from which a recommendation to the full Council can be made. 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.

Each item has a report written by a Council officer outlining the purpose of the report, all relevant information and a recommendation. The Committee will consider the report and either accept the recommendation or make amendments to it.

As this Committee does not have delegated authority, all decisions of the Committee are not final and will be presented to the next Ordinary Meeting of Council for further refinement and adoption.

A recommendation is carried if it receives majority support of the Councillors in attendance at the Committee 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 pursuant to section 223 of the Local Government Act and requested that she or he be heard in support of that written submission will be entitled to address the Committee.

If you would like to address the Committee 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 Committee. You will have 3 minutes to speak. If somebody has already raised an issue you agree with, there is no need to repeat it.



# **PORT PHILLIP CITY COUNCIL**

## **STRATEGY AND POLICY REVIEW COMMITTEE**

**To Councillors**

Notice is hereby given that a Meeting of the **Strategy and Policy Review Committee** of the **Port Phillip City Council** will be held in the **Council Chamber, St Kilda Town Hall** on **Monday, 2 February 2009 commencing at 6.00 pm.**

### **AGENDA**

- 1. APPOINTMENT OF TEMPORARY CHAIRPERSON**
- 2. APOLOGIES**
- 3. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**  
Minutes of the Strategy and Policy Review Committee held on 3 November 2008.
- 4. CORRESPONDENCE**
- 5. PUBLIC QUESTION TIME**
- 6. COUNCILLOR QUESTION TIME**
- 7. PRESENTATION OF REPORTS**
  - 7.1 Policy and Planning**
  - 7.2 Governance and Compliance**
- 8. CHIEF EXECUTIVE OFFICER'S REPORT**
- 9. REPORTS BY DELEGATES (COUNCILLOR) APPOINTED TO OTHER BODIES**
- 10. URGENT BUSINESS**
- 11. PRESENTATION OF CONFIDENTIAL REPORTS**
  - 11.1 Policy and Planning**
  - 11.2 Governance and Compliance**

Sally Calder  
Acting Chief Executive Officer  
28 January 2009

# STRATEGY AND POLICY REVIEW COMMITTEE

## REPORT INDEX

### 7. PRESENTATION OF REPORTS

#### 7.1 Policy And Planning

##### A1 City Of Port Phillip Recreational Boating Zones

**Responsible Executive Director:** Geoff Oulton, Executive Director Community Development & Planning

#### 7.2 Governance And Compliance

##### A2 Capital Works Project Board Quarterly Report

**Responsible Executive Director:** David Yeouart, Executive Director Community Assets And Services

##### A3 Proposed Discontinuance And Sale Of Right Of Way No. R3993 At The Rear Of 27 Philipson Street, Albert Park

**Responsible Executive Director:** Cathy Henderson, Acting Executive Director Organisation Systems And Support

##### A4 Proposed Discontinuance And Sale Of A Section Of Right Of Way No. R3197 (205) Rear 133 Market Street, South Melbourne

**Responsible Executive Director:** Cathy Henderson, Acting Executive Director Organisation Systems And Support

##### A5 2010 General Valuation

**Responsible Executive Director:** Cathy Henderson, Acting Executive Director Organisation Systems And Support

## 6. PRESENTATION OF REPORTS (CONT)

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**A6 Proposed Lease Extension – Teifal Pty Ltd (Trading As Decanters By The Bay),  
174 Nott Street, Port Melbourne**

**Responsible Executive Director:** Cathy Henderson, Acting Executive Director  
Organisation Systems And Support

**A7 Proposed Lease Agreement To Brewsters & Co. Pty Ltd – 147 Liardet Street,  
Port Melbourne**

**Responsible Executive Director:** Cathy Henderson, Acting Executive Director  
Organisation Systems And Support

**A8 Mayoral & Councillor Allowances**

**Responsible Executive Director:** Cathy Henderson, Acting Executive Director  
Organisation Systems And Support

**A9 Mid Year Budget 2008/2009**

**Responsible Executive Director:** David Filmalter, Chief Financial Officer

**A10 Quarterly Management Report'**

**Responsible Executive Director:** Sally Calder, Acting Chief Executive Officer

**A11 Building Maintenance Contracts 1251 To 1255 Summary Report**

**Responsible Executive Director:** David Yeouart, Executive Director Community  
Assets And Services

## **6. PRESENTATION OF REPORTS (CONT)**

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### **11. Presentation Of Confidential Reports**

#### **11.1 Policy And Planning**

Nil.

#### **11.2 Governance And Compliance**

Nil.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009**

**POLICY AND PLANNING**

<b>A1</b>	<b>CITY OF PORT PHILLIP RECREATIONAL BOATING ZONES</b>
<b>LOCATION/ADDRESS:</b>	<b>CITY OF PORT PHILLIP FORESHORE</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>GEOFF OULTON, EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT &amp; PLANNING</b>
<b>PREPARED BY:</b>	<b>STEVE SCOTT, PLACE MANAGER PORT MELBOURNE</b>
<b>FILE NO.:</b>	<b>12/01/02</b>
<b>ATTACHMENTS:</b>	<b>1. EXISTING BOATING ZONES</b> <b>(A) EXISTING BOATING MAP</b> <b>(B) EXISTING BOATING ZONES – MIDDLE PARK 7 ST KILDA WEST</b> <b>(C ) EXISTING BOATING ZONES – ST KILDA</b> <b>2. RECOMMENDED BOATING ZONES:</b> <b>(A) BOATING ZONES RECOMMENDATIONS – SANDRIDGE</b> <b>(B) BOATING ZONES RECOMMENDATIONS – MIDDLE PARK &amp; ST KILDA WEST</b> <b>(C) BOATING ZONES RECOMMENDATIONS – ST KILDA</b> <b>(D) BOATING ZONES RECOMMENDATIONS – ELWOOD &amp; BRIGHTON</b> <b>3. PROPOSED BOATING ZONE FRAMEWORK</b> <b>4. PARKS VICTORIA LETTER 23 JANUARY 2009</b>

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**1. PURPOSE**

- 1.1. To formally respond to the Parks Victoria proposed Recreational Boating Zone changes along the City of Port Phillip foreshore.
- 1.2. To respond to the petition received from residents of St Kilda in relation to the proposed changes to the Recreational Boating Zones at St Kilda beach between Brooks Jetty and St Kilda marina, submitted at its Council meeting 19 December 2008.

## **2. RECOMMENDATION**

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

- 2.1 In principle support the translation of the current boating zones to the new zones proposed by Parks Victoria and Marine Safety Victoria for the improved safety of all bay users.
- 2.2 Support the direction being sought by residents in St Kilda and petition received for maintaining swimming in the beach area between Brooks Jetty and the St Kilda Marina.
- 2.3 Request of Parks Victoria to amend the proposed Recreational Boating Zone at Brooks Jetty to a 5 knot zone in accordance with the new zone controls and include a no boating zone at Middle Park Beach between Harold and Nimmo Streets.

## **3. BACKGROUND AND CONTEXT**

Parks Victoria (PV) is the local port and waterway manager for Port Phillip and Westport Bay. In partnership with Marine Safety Victoria (MSV) the States marine safety agency responsible for coordination of waterway management, PV is reviewing boating zones across the bays.

The proposed changes are aiming to balance the needs of swimmers and vessels along the busier areas of the Port Phillip and Westernport shorelines.

Since mid 2008 PV has undertaken a broad information campaign to build awareness of the proposed zone changes and to provide the opportunity for community input. Submissions in regard to the proposed changes by PV have been received via the online survey and letters. The closing date for submissions was 5 December 2008. PV is now considering the feedback received from vessel operators, key stakeholders, beach users and the general community. PV are aware our response will be provided at the end of February.

Issues involving multiple users of our popular beach areas have been in the community consciousness for a very long time and certainly since the early 1990's with the introduction of no power ski areas (Personal Water Craft - PWC's) adjacent no boating zones and more recently the 'kite boarding only' trial zone at West Beach St Kilda.

The CoPP has jurisdiction on the land side of the high water mark along the foreshore. Community Amenity Local Law No. 3 clause 47 Use of boats and other watercraft, states that:

- A person must not take or locate a sailboard, personal watercraft, yacht, boat or similar vessel onto the beach other than through an access lane, launching ramp, slipway or designated area.
- The Council may designate areas within which personal watercraft may be launched or transferred from foreshore waters to a mode of land transport.
- Personal watercraft may be taken onto the beach from foreshore waters in any area which is not directly adjacent to a 'no boating' or 'no personal watercraft zone'.

Existing Recreational Boating Zone Controls – These are outlined in attachment 1(a)(b) & (c) & described below.

Sandridge, Port Melbourne, Albert Park Beach - current zones comprise:

- No boating zone - adjacent the Sandridge Beach Lifesaving Club, Lagoon Pier approximately 50m West of Pickles Street, 50m East of Foote Street to Withers Street.
- No personal watercraft or sailboards zone – Withers Street to Kerferd Road Pier.
- 5 knot zone – Sandridge Beach to Lagoon Pier and between Pickles Street and Foote Street.

Comment - the varying distance from the shoreline of the current zones and absence of consistent markers is confusing for both users of these areas. Further compounding this is the various uses permitted in the current zones and segmentation of the zones.

Middle Park, St Kilda West Beach - current zones comprise: No boating zone – approximately 50m East of Nimmo Street to approximately 50m West of McGregor Street.

- *No personal watercraft or sailboards zone – Kerferd Road Pier to approximately 50m east of Nimmo Street. Approximately 80m West of McGregor Street to Langridge Street.*
- *Boating only – Langridge Street to Fraser Street.*
- *Kite boarding only – Fraser Street to approximately 80m West of the Royal Melbourne Yacht Squadron slipway.*
- *5 knot zone - between the breakwater and boating, Kite boarding zone.*

Comment - the current zoning is segmented in small areas making it confusing for users and issues are presenting between kite boarders and boats around the St Kilda Pier and slipway in the absence of clear markings.

St Kilda Beach – current zones comprise:

- *No boating zone – St Kilda Pier to approximately 150m West of the alignment of the Lower Esplanade.*
- *No personal watercraft or sailboards zone – approximately 150m West of the Lower Esplanade to Brooks Jetty.*
- *5 knot zone – between Brooks Jetty and St Kilda Marina.*

Comment - the current zoning results in a mix of swimmers and boating activities around the entry to the St Kilda Marina in a busy and narrow area.

**Elwood Beach – current zones comprise:**

- *No boating zone – Elwood Life Saving Club to Head Street.*
- *No personal watercraft – Point Ormond to Elwood Life Saving Club.*
- *5 knot zone – St Kilda marina to Point Ormond.*

Parks Victoria Proposed Recreational Boating Zone controls. These are outlined in attachment 2 (A)(B)(C) & (D) & described below.

Sandridge, Port Melbourne, Albert Park Beach - PV recommended zones comprise:

- *No Boating zone – Aligning with Todd Road and existing rock groyne East of the Sandridge Life Saving Club.*
- *5 knot zone – extending from the existing rock groyne East of the Sandridge Life Saving Club to Lagoon Pier.*

Comment – the application of these zones would result in an increased no boating zone adjacent the Sandridge Life Saving Club and Port Melbourne Beach. The change of permitted use to the current zone Albert Park Sailing Club at Kerferd Road Pier would allow for greater access to watercraft.

Middle Park, St Kilda West Beach - PV recommended zones comprise:

- *No boating zone – Wright to Nimmo Streets.*
- *5 knot zone – Philipson to Wright Streets and Nimmo to Langridge Streets. The 5 knot zone also extends to Langridge Street to the St Kilda Pier outside the kite boarding zone.*

Comment – The application of the no boating zone would afford swimmers the comfort of a swimming only beach. This is consistent with the current zoning of a smaller no boating zone located further East of the proposed zone. The 5 knot zone would afford greater access to PWC's and sailboards currently excluded in this area.

St Kilda Beach – PV recommended zones comprise:

- *No boating zone – St Kilda Pier to Brooks Jetty,*
- *Boating only zone – Brooks Jetty to St Kilda Marina.*

Comment – the proposed zone changes increase the no boating zone area to encourage a greater use of the area for swimmers at St Kilda beach adjacent the recently completed foreshore promenade. South of Brooks Jetty the application of a boating zone only would result in no swimming in this area. Other uses consistent with this zone and currently would continue permitted. The proposed zone changes are consistent with the other marina entry areas around the bay.

Elwood Beach – PV recommended zones comprise:

- *No boating zone – Elwood Life Saving Club to Head Street.*
- *5 knot zone – St Kilda Marina to the Elwood Life Saving Club.*
- *The proposed zone changes would allow for PWC's within the 5 knot zone from Point Ormond to the Elwood Life Saving Club.*

PV propose to simplify the application of the zones and permitted uses as per the zone table Attachment 3 to this report. The new zones proposed would be a consistent distance from shore and at each change of use the zones would be clearly marked.

Council at its December 2008 meeting received a petition from St Kilda residents consisting of 201 signatories objecting to the PV proposal to change the existing boating zone at St Kilda. The area of foreshore impacted by these proposed changes includes Brooks Jetty to the St Kilda Marina.

The basis of the objection is:

- *The area of beach being zoned by PV as a jet ski (PWC) area.*
- *Swimming to be banned.*
- *Jet ski's being noisy, smelly, disruptive and environmentally unsustainable.*
- *Swimmers and dog walkers should not lose enjoyment of their local beach.*
- *Jet- skiers should use the marina ramps*

The current zoning at Brooks Jetty consists of a 5 knot area of which permitted uses include, all forms of vessels (PWC's are in this category) which may access the beach area whilst needing to comply with the 5 knot speed limit. Swimming, wading, dog walking are also permitted uses.

The default position in all waterways along the foreshore in Victoria in the absence of any clearly defined or marked zones is a 5 knot speed zone. This requires all vessels not to exceed 5 knots within: 50m of a swimmer, 50m of another vessel, 50m of any wharf, jetty, slipway, diving platform or boat ramp, when passing through a recognised anchorage for small vessels and 100m from a diver flag.

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

4.1 The people who have or are being consulted with in relation to this issue are:

Internal

Manager Culture and Recreation

Open Space Coordinator

Local Laws Coordinator

External

Nick Aargren – Friends of Port Melbourne Foreshore

Hobsons Bay Council

Bayside Council

Lifesaving Victoria

Sandridge, Port Melbourne, South Melbourne, St Kilda and Elwood Lifesaving clubs.

PV organized a series of 6 workshops in the latter part of 2008 with key stakeholders to develop a revised set of boating zones. The boating zones have been developed within the guidelines as set out in the State Safety Framework Plan developed by PV and MSV. The zones were developed by identifying a series of criteria and not in response to individual issues within each area or municipality.

In September 2008 PV facilitated a workshop at the Port Melbourne Yacht club. Invitations were extended to peak bodies and Local Councils to attend. An outcome of those workshops was the formulation of the proposed boating zones included as Attachment 3 to this report.

PV presented to the Association of Bayside Municipalities in September 2008 and discussed the rationale behind the proposed zone changes, project process and progress.

A letter from PV was written to the CEO of CoPP in November 2008 seeking input to the development of the new zones.

PV has distributed Information to clubs and associations, Association of Bayside Municipalities, Local Government, Members of Parliament and peak bodies seeking feedback. In excess of 200 submissions have been received to date of which at the time of writing this report PV advise there is broad support for the changes recommended.

PV will continue to liaise with the community and key stakeholders prior to a recommendation being made to MSV and ensure that local port users and residents will be informed of the outcome as recommended by the Director of Marine Safety Victoria. PV advise the zones finally adopted will be subject to regular monitoring and review. Changes to the zones would be considered based on use issues or emerging issues in the future.

## 5. DISCUSSION

5.1 Council officers have met with PV to gain an appreciation of the context being applied to the recommended zone changes. The principles that have been applied during the review of the zones include:

- Safety
- Practicality
- Easy identification
- Ease of compliance
- Ability to respond to current and anticipated future water uses

PV advise the proposed zones have in principle support from VicWater Police, Life Saving Victoria, MSV and senior officers in relevant State Government departments. Council officers have been in contact with neighbouring Councils to understand their issues and have been informed that the general direction being sought by PV is supported.

PV advise that resources are readily available for ensuring compliance on the busy areas of the foreshore and together with VicWater police, extensive and ongoing educational campaign regarding the new zones will achieve the safety goals being sought by the various agencies.

The zone plans as attachment 1 and 2 to this report show the current and recommended zone controls. There is no control that will achieve everything and the success of the zones is always dependant on the level of compliance and enforcement. Compliance and enforcement are the direct responsibility of Parks Victoria and VicWater police.

Council officers have successfully negotiated an additional no boating zone be applied for Middle Park Beach. The principal reason for the change to the recommended zones was the extensive walking distance required to reach a swimming beach only should users wish not to be around vessel users.

The beach between Point Ormond and Elwood Sailing Club is predominantly used as a swimming beach which is reflected in the current restriction of PWC access. The proposed 5 knot zone will allow PWC access, but is considered to be a safe compromise. An option Council may wish to consider is making all or some of this beach a no boating zone. This is not supported by PV at this time. In terms of current beach management, the northern end of this beach is currently an early morning dog off leash beach during summer mornings, whilst the southern end is a dog on leash area during summer (1 November to 31 March).

Based on the information available at the time of writing this report and the open process PV have applied in seeking comment for the proposed zone changes Council officers recommend the zone changes be supported with the following changes:

- Amend the proposed zone at Brooks Jetty St Kilda to a 5 knot zone as per the current zone to accommodate swimming in this area.
- Amend the proposed zone at Middle Park Beach between Wright and Nimmo Streets to a No boating zone to provide for a local swimming only beach consistent with other areas along the CoPP foreshore.

## **5.2 POLICY IMPLICATIONS**

The boating zones along the foreshore should be considered in the context of Council Plan Initiative 1 – Renewing our Special Places (Foreshore) and Strategy 7 – support and encourage inviting and accessible spaces and places.

## **5.3 FINANCE / RESOURCE IMPLICATIONS**

- There is no capital cost to Council for the implementation of the revised boating zones.
- Upon direction from MSV, Parks Victoria will begin to implement the revised boating zones.
- Council officers will be required to discuss with PV the location and coordination of signage to be placed on the foreshore.

## **5.4 LEGAL & RISK IMPLICATIONS**

- There may be adverse reputation impacts on Council associated with the changed boating zones. Implicit in the wider application of a 5 knot zone is greater access is afforded to foreshore areas by PWC's.

## **5.5 SUSTAINABILITY ASSESSMENT**

### **SOCIAL EQUITY**

The application of the new zones will provide for a safer beach environment and promote social interaction from different beach users.

### **ECONOMIC VIABILITY**

The new zones would increase the attractiveness of CoPP as a destination in that the zones facilitate a better distribution of uses along the foreshore for all users. CoPP resources are less likely to be required as the zones will be clearly marked and easier to understand.

### **ENVIRONMENTAL RESPONSIBILITY**

The new zones will enable beach users to more readily understand the activities that are permitted in the various areas along the foreshore. The increase in boating zones provides for more areas of swimming only.

### **CULTURAL VITALITY**

The new zones would strengthen the municipality's setting as a City by the bay.

## **6. IMPLEMENTATION STRATEGY**

### **6.1 TIMELINE**

PV advise further consultation will be undertaken in the following months with a recommendation being put to MSV by June 2009. The roll out of the signage required to support the zones will be incremental over a two year period.

### **6.2 COMMUNICATION**

PV have committed to a program of ongoing consultation with CoPP regarding appropriate sign placement and an extensive communication, education and enforcement program with the community.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<b>A2</b>	<b>CAPITAL WORKS PROJECT BOARD QUARTERLY REPORT</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>RESPONSIBLE EXECUTIVE DIRECTOR:</b>	<b>DAVID YEOUART, EXECUTIVE DIRECTOR COMMUNITY ASSETS AND SERVICES</b>
<b>AUTHOR:</b>	<b>SAM HEWETT, MANAGER ASSET SERVICES</b>
<b>FILE NO.:</b>	<b>78/17/08</b>
<b>ATTACHMENTS:</b>	<b>ATTACHMENT #1 - CAPITAL WORKS PROJECT BOARD RECOMMENDATIONS DECEMBER 2008</b> <b>ATTACHMENT #2 – PROJECTED ‘FINANCIAL’ ROLLOVER POSITION FOR YEAR ENDING 30 JUNE 2009</b> <b>ATTACHMENT #3 – PROJECTED ‘PROJECTS’ ROLLOVER POSITION FOR YEAR ENDING 30 JUNE 2009</b>

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**1. EXECUTIVE SUMMARY**

- 1.1. Council resolved in August 2008 to establish a Capital Works Project Board to monitor the progress of the annual capital works program.
- 1.2. At that time Council requested quarterly update reports on the progress of the program including a detailed financial report on the progress of the program and a projected year-end rollover analysis.
- 1.3. This report is the second quarterly report to Council since the formation of the Capital Works Project Board in August 2008.

**2. BACKGROUND AND CONTEXT**

- 2.1. In 2007, Council's internal auditor recommended some changes to the capital works processes which resulted in the development of the Capital Works Improvement Plan. This plan identified 40 actions that when implemented would assist the organisation to deliver the annual capital works program with reduced carryovers.
- 2.2. As part of the Capital Works Improvement Plan, recommendations were made to improve the monitoring and reporting.
- 2.3. In June 2007, the Asset Services Department investigated a project management methodology 'Prince 2' which uses a concept called the Project Board to monitor the progress of the delivery of individual projects.
- 2.4. In August 2008, Council resolved 'to endorse the establishment of the Capital Works Project Board which will have the responsibility for monitoring and reporting on the progress of the annual capital works program and intervening where necessary to ensure capital works project accountability'
- 2.5. Since September 2008, the Capital Works Project Board has met monthly with project managers and project sponsors from across the organisation.
- 2.6. The project board meeting is chaired by the Executive Director Community Assets and Services and the board discusses all capital projects scheduled for delivery in 2008/2009.
- 2.7. At the project board meetings, project managers and project sponsors responsible for the delivery of individual projects are asked to report on;
  - Progress on key milestones
  - Risks facing the project
  - Issues that need resolution
  - Financial summary
  - Current status of the project
  - Whether the project will be delivered in 2008/2009
- 2.8. As a result of the meetings held in the second quarter of this financial year, decisions were made by
  - The Executive Director Community Assets and Services as part of his delegated authority, or
  - Are being recommended to the Council for a decision (Attachment #1 – Capital Works Project Board Recommendations December 2008).
- 2.9. At the meeting of October 6, 2008 Council requested further analysis of the projected year-end rollover position. Attachment #2 highlights the projected 'financial' rollover position at June 30, 2009 and Attachment #3 highlights the projected 'project' rollover position at June 30, 2009.

- 2.10. Based on information supplied by project managers and project sponsors at the monthly Capital Works Project Board meeting, the projected financial rollover percentage at year's end currently stands at approximately 10% (Attachment #2). Eleven projects have been identified as 'at risk' of not being delivered. These are listed on Attachment #3.
- 2.11. As part of the original report to the Strategy and Policy Committee on August 4, 2008 in relation to the establishment of the Capital Works Project Board, a review was promised by March 2009 of the operating practices of the board. The internal review was to consider the board membership, financial delegation limits of the Executive Director Community Assets and Services, decision making and meeting frequency. As the board has been operating now effectively for 2 quarters, the following are observations of the board members;
- Greater accountability exists for delivering capital works projects.
  - There is a greater likelihood of meeting key deliverables and targets due to this increased accountability.
  - Greater project management expertise exists in relation to capital project delivery.
  - A clearer decision making process now exists in relation to scope change and budget change requests.
  - Membership and meeting frequency of the board is appropriate.
  - The Council and the Executive Team are more regularly provided with thorough and accurate information about the capital program progress. This information allows for a quicker and more appropriate intervention where project delivery is at risk.
  - The total amount of capital funding able to be reallocated by the Executive Director Community Assets and Services under delegation from the Chief Executive Officer is inadequate (ie currently up to \$50,000). The project board would recommend increasing this limit to \$100,000.\* This change will be reflected in the Instrument of Delegation to Members of Council staff by the Chief Executive Officer.

*(\*The recommendation to increase the Executive Director's financial delegation to \$100,000 was based on some analysis of the size of the capital program and projects relative to the size of the delegated authority to reallocate capital savings. The project board has received a number of requests outside the \$50,000 authority which have, in turn, been referred to Council for a decision.*

*This financial delegation has not been reviewed since 2001. In that time the annual capital works program has increased from \$13m to \$25m and yet the delegation to reallocate savings from one capital project to another has remained static at \$50,000.*

*It is the view of the project board that the increase in delegation to \$100,000 still provides Council with the necessary control over the capital program without needing to make relatively minor decisions. A*

*detailed financial report will still be presented to Council each quarter and Council may, at any time, revoke any delegation previously made.)*

**3. RECOMMENDED OPTION**

- 3.1 That council endorses the recommendations made by the Executive Director Community Assets and Services outlined in Attachment 1 - Capital Works Project Board Recommendations December 2008
- 3.2 That Council notes that the next quarterly report will be presented to Council in April 2009.

Criterion for recommendation

- The Capital Works Project Board has made recommendations based on the likelihood of the project being completed in the 2008/2009 year. Clear evidence was presented to the Project Board by project managers and project sponsors to support each and every recommendation.
- Where the Project Board was unclear about the likelihood of the project being completed in 08/09, project sponsors and project managers have been asked to present again to the Project Board with more supporting evidence.
- The next detailed report will be presented to Council in April 2009.

3.1. Sustainability assessment

**SOCIAL EQUITY**

Social Pillar	There are many capital works projects proposed each year which enhance the city and promote the social benefits to residents and visitors. In each of the projects being considered by Council as part of this report, the social value of the consequence of the decision has been taken into account.
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**ECONOMIC VIABILITY**

Economic Pillar	The Capital Works Project Board has ensured greater accountability of project managers and project sponsors for their projects by having to report the financial consequences of the project delivery to the board. In this report, the Project Board is making 15 recommendations all of which have a financial consequence. These consequences are spelt out in the Resources Section of this report.
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**ENVIRONMENTAL RESPONSIBILITY**

Environmental Pillar	There are no negative environmental impacts as a result of decisions Council makes in response to this report. Each project carries considerable environmental expectations and any project scope change will consider the environmental impacts of the proposed change before a decision is made.
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**CULTURAL VITALITY**

Cultural Pillar	All decisions have no negative cultural impacts on projects or the overall program
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**3.2. Policy and legislative implications**

- 3.2.1. In its decision of 25 August 2008, Council resolved to endorse the establishment of the Capital Works Project Board and at that time expected regular quarterly reporting against the progress of the program.
- 3.2.2. Council also noted at that time *'that the Capital Works Project Board will supervise the financial consequences of the capital works program delivery and the Executive Director Community Assets and Services will be responsible (under existing delegation limits) for reallocating savings from one completed capital works project to another up to a maximum of \$50,000.'*
- 3.2.3. Decisions made as part of this report are consistent with that delegation (except in the case of the Chief Executive Officer's decision for the Elwood Foreshore Management Plan where an urgent decision was required).
- 3.2.4. At the meeting of October 6 2008 Council also requested further analysis of the projected year-end rollover position. This report complies with this request.

**3.3. Risk implications**

There are risks associated with rejecting the recommendation of some of the projects listed in Attachment #1 - Capital Works Project Board Recommendations October 2008.

By rejecting scope change and budget change recommendations of the board, significant re-work will be required by project managers and project sponsors to ensure those projects are redesigned to meet community expectation. This would almost certainly result in those projects being either deferred or incomplete at year's end and the project would then need to be rolled over.

**3.4. Resource implications**

The financial consequence of the decisions of this report is set out in the table below.

<b>Project</b>	<b>Original Budget (08/09)</b>	<b>Additional funding</b>	<b>Reduction in Funding</b>
Luna Park Interchange *	\$0	\$50,000 *	
Clarendon Street - Pedestrian Safety	\$200,000	\$12,000	
Coventry Street Streetscape Upgrade	\$50,000	\$1,500	
Alma Park Senior Playground	\$184,300	\$24,000	
Elwood Foreshore Management Plan	\$1,000,000	\$128,846	
Byron St Tennyson St - Pedestrian Safety	\$100,000		\$16,000
Sport and Recreation Minor Improvements	\$250,000	\$4,500	
Public Toilet Strategy - Middle Park beach	\$50,000	\$44,000	
Fitzroy St Lighting	\$130,000		\$30,000
Pedestrian Improvements – Inkerman/ Pakington Lane	\$70,000	\$36,000	
Port Melbourne Light Rail Reserve Stage 5			\$60,000
Murphy Reserve Path and Fence (Vic Roads) **	\$0	\$218,000 **	
<b>TOTAL</b>		<b>\$250,846</b>	<b>\$106,000</b>

\* Luna Park Interchange - This is to be funded through the Future Capital Works - Pre Planning funding. Therefore this is cost neutral to Council.

\*\* Murphy Reserve Path and Fence (Vic Roads) – This is a fully funded project from a Vic Roads Grant. Therefore this is cost neutral to Council.

**Accumulative Financial Summary 08/09**

	<b>Increase in funding recommended</b>	<b>Decrease in funding recommended (savings)</b>	<b>Net result</b>
<b>September Project Board Report</b>	\$418,648	\$680,000	\$261,352
<b>December Project Board Report</b>	\$250,846	\$106,000	(\$144,846)
<b>TOTAL</b>	<b>\$669,494</b>	<b>\$786,000</b>	<b>\$116,506</b>

**4. ALTERNATIVE OPTIONS**

4.1. Alternative 1

Council may choose to reject some or all of the recommendations made by the Capital Works Project Board.

All recommendations made have been based on the best information available from project managers and project sponsors. They are considered reasonable and conservative and they give the best possible outcome for all stakeholders of the individual project and the highest possibility of full completion on time.

4.1.1. **Sustainability assessment**

Social Equity Pillar	No Change
Economic Viability Pillar	No Change
Environmental Responsibility Pillar	No Change
Cultural Vitality Pillar	No Change

4.1.2. **Risk implications**

No Change.

4.1.3.      **Resource implications**

The major consequence of rejecting some or all of the recommendations listed in the Attachment #1 is that those projects reliant on an increased budget for completion will be unable to be completed with their existing allocated resource.

**5.      PARTICIPATION AND ENGAGEMENT**

5.1.      Internal

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

- Managers of Buildings and Green Services, Infrastructure Services, Community Services, Environment and Renewal, Culture and Recreation.
- Co-ordinators of Parks Services, Open Spaces, Capital Project Services, Traffic and Parking Management and Infrastructure Development Services
- Project Sponsors and Project Managers from across the organisation.

5.1.2.      The Capital Works Project Board process ensures accountability for the delivery of each capital project scheduled for delivery in 08/09. It has also given Council the opportunity to intervene early, where necessary, on projects that have been identified as having increased risks. Project managers and sponsors have agreed that this higher level of accountability will lead to an increased likelihood of reduced rollovers.

5.2.      **External**

Not applicable.

**6.      IMPLEMENTATION**

6.1.      Not Applicable.

**7.      COMMUNICATION**

7.1.      Not Applicable.

**8. RECOMMENDATION**

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

8.1.1. Endorse the recommendations made by the Executive Director Community Assets and Services outlined in Attachment 1 - Capital Works Project Board Recommendations December 2008.

8.1.2. Note that the next detailed report from the Capital Works Project Board will be in April 2009.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<b>A3</b>	<b>PROPOSED DISCONTINUANCE AND SALE OF RIGHT OF WAY NO. R3993 AT THE REAR OF 27 PHILIPSON STREET, ALBERT PARK</b>
<b>LOCATION/ADDRESS:</b>	<b>REAR 27 PHILIPSON STREET, ALBERT PARK</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>CATHY HENDERSON, ACTING EXECUTIVE DIRECTOR, ORGANISATION, SYSTEMS &amp; SUPPORT</b>
<b>PREPARED BY:</b>	<b>TOULA KOTSABOUKIS, PROPERTY &amp; VALUATIONS</b>
<b>FILE NO.:</b>	<b>34/14/3993</b>
<b>ATTACHMENTS:</b>	<b>SITE PLAN &amp; PHOTOGRAPH</b>

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**2. PURPOSE**

The owners of 27 Philipson Street, Albert Park, have requested that Council discontinue the road at the rear of their property and sell the land to them. In these circumstances Council is required to consider whether the road is reasonably required as a road for public use.

Before a final decision can be made, the procedures to ensure formal public consultation, as set out in the Local Government Act 1989, must be initiated by Council resolution.

**2. RECOMMENDATION**

- 2.1 That the Strategy and Policy Review Committee recommend that Council resolve as follows:
- 2.2 That Council being of the opinion that –
- 2.2.1 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; and
  - 2.2.2 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.

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

#### **3.1 GENERAL**

It is common for Council to consider a discontinuance and sale proposal for roads or laneways which are no longer required for access by the public or abutting property owners. By removing small public spaces the following benefits may result;

- Improved amenity – where the space becomes a haven for anti-social behaviour or is used to dump rubbish
- Improved security and safety – as access to properties is reduced
- Cost savings – as Council's maintenance responsibility is transferred with the land

In other situations it may become apparent that abutting owners are occupying the road or have encroached into the air space. In these circumstances Council can take action to discontinue the road and sell the land to maintain the status quo or to remove obstructions to maintain access. However, if there has been exclusive and uninterrupted use of the land in excess of 15 years, an abutting owner may have evidence to establish rights to the land through adverse possession.

#### **3.2 RIGHT OF WAY NO 3993**

An application has been received from the owners of 27 Philipson Street, Albert Park to purchase Right of Way No. R3993 situated at the rear of the property. The road (right of way) comprises approximately 15.7 sq m. The road is enclosed by a high fence and is occupied as if it was part of the property at 27 Philipson Street.

There are special circumstances which apply to this proposal. The land has not been proclaimed a "Public Highway" nor has it been constructed by Council. While the original subdivision plan indicates an intent that the land be set aside as a road, there is no notation as such. The applicant can make application to the Land Registry to vest the land in their name. However, the road appears on Council's register of public roads and therefore adverse possession could be disputed. In short the status of the road is not clear.

It appears that the land is not reasonably required for public use as it has not been used for this purpose for many years. The discontinuance and sale of the road will assist by establishing order and certainty in respect to future dealings in the property at 27 Philipson Street. At the same time, there is a monetary benefit derived by the community through sale and problems associated with a small public open space can be averted.

The purchase price has been negotiated with the applicant. The price reflects the special circumstances that apply in this particular case. Associated costs are to be borne by the applicant. The applicants have accepted the sale price of the land of \$15,700.00 plus an administration cost of \$2,500.00.

**4. CONSULTATION AND STAKEHOLDERS**

Council will consult with the community through a “Public Notice” inviting submissions to be published in the local newspaper in accordance with the statutory procedures.

All abutting owners will be advised of the proposal by letter and invited to make a submission.

Service Authorities will be consulted to ascertain any requirements for easements.

**5. DISCUSSION**

**5.1 OPTIONS**

An anomalous property situation can be rectified by Council using its powers for road discontinuance and sale for the benefit of the parties and the community at large.

If Council decides to refuse the proposal, it would be duty bound to open the road for public access and thereby create a small public space that could lead to amenity and safety problems.

**5.2 POLICY IMPLICATIONS**

This proposal for discontinuance and sale will be undertaken accordance with the powers, functions and statutory process set out in the Local Government Act 1989.

The administrative procedures and sale negotiation are undertaken in accordance with Council policy for the discontinuance and sale of roads but the special circumstances in this case are reflected in the proposed sale price.

**5.3 FINANCE / RESOURCE IMPLICATIONS**

Council's costs are to be borne by the applicant.

Income derived from the sale will be transferred to Council's general reserves.

**5.4 LEGAL & RISK IMPLICATIONS**

By complying with legislation and policy and making reasonable conditions for servicing authorities, there are no legal or risk implications associated with the proposal.

If Council decides to refuse the proposal, it would be duty bound to open the road for public access and thereby create a small public space that could lead to amenity and safety problems. There is also risk that the applicant could make an application to the Land Registry for adverse possession at which point Council would need to consider whether or not to contest the claim.

## **5.5 SUSTAINABILITY ASSESSMENT**

### **SOCIAL EQUITY**

An anomalous property situation can be rectified by Council using its powers for road discontinuance and sale for the benefit of the parties and the community at large.

### **ECONOMIC VIABILITY**

Income derived from the sale is considered to be due compensation to the community for the loss of public land.

### **ENVIRONMENTAL RESPONSIBILITY**

Amenity and security/safety benefits may result through avoiding the creation of small public spaces.

### **CULTURAL VITALITY**

It appears that the road is not reasonably required to be used as a road for public use.

## **6. IMPLEMENTATION STRATEGY**

### **6.1 TIMELINE**

The following is the sequence of actions if the proposal is ultimately approved.

- The applicant will be required to provide 10% deposit on the purchase price.
- A Public Notice will invite submissions from interested persons within 28 days of the date it is published.
- A report will be prepared for Council's Strategy and Policy Review Committee when the committee will hear and consider any submissions received. Council will make the final decision on the proposal.
- A surveyor will be engaged to prepare a title plan, consolidation plan and gazettal plan.
- A notice will be published in the Victorian Government Gazette to formally discontinue the road.
- Lawyers will be engaged to carry out conveyancing, collect the settlement costs and ensure that consolidation is completed.

The above can be accomplished within 12 months.

**6.2 COMMUNICATION**

Communication will be in accordance with the statutory procedures which invite submissions and ensure that each submitter will;

- Be given an opportunity to be heard in person
- Have their views considered, and
- Be told of Council's decision and the reasons for it

In addition to the statutory procedures, abutting owners will be advised of the proposal by letter and invited to participate in the decision making process.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<b>A4</b>	<b>PROPOSED DISCONTINUANCE AND SALE OF A SECTION OF RIGHT OF WAY NO.R3197 (205) REAR 133 MARKET STREET, SOUTH MELBOURNE</b>
<b>LOCATION/ADDRESS:</b>	<b>REAR 133 MARKET STREET, SOUTH MELBOURNE</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>CATHY HENDERSON, ACTING EXECUTIVE DIRECTOR, ORGANISATION SYSTEMS &amp; SUPPORT</b>
<b>PREPARED BY:</b>	<b>TOULA KOTSABOUKIS, PROPERTY ADVISOR, PROPERTY &amp; VALUATIONS</b>
<b>FILE NO.:</b>	<b>34/14/205-01, 3685/129-01</b>
<b>ATTACHMENTS:</b>	<b>SITE PLAN &amp; PHOTOGRAPH</b>

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**1. PURPOSE**

The owner of 129 Market Street, South Melbourne, has requested that Council discontinue the road at the rear of 133 Market Street and sell the land to him. In these circumstances Council is required to consider whether the road is reasonably required as a road for public use.

The procedures for formal public consultation as set out in the Local Government Act 1989 have been initiated. As a result of public notice one submission has been received. Council can now consider the submission and make a decision to complete the procedures and finalise the matter.

**2. RECOMMENDATION**

- 2.1 That the Strategy and Policy Review Committee recommend that Council resolve as follows:
- 2.2 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 -
- discontinues the road;
  - directs that a notice be published in the Government Gazette;
  - directs that the land from the road be sold to the abutting owner of 129 Market Street, South Melbourne;
  - 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;

- 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, and
- authorises the use of the Common Seal of the Port Phillip City Council to be affixed to the Transfer of Land.

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

#### **3.1 GENERAL**

It is common for Council to consider a discontinuance and sale proposal for roads or laneways which are no longer required for access by the public or abutting property owners. By removing small public spaces the following benefits may result;

- Improved amenity – where the space becomes a haven for anti-social behaviour or is used to dump rubbish
- Improved security and safety – as access to properties is reduced
- Cost savings – as Council's maintenance responsibility is transferred with the land

In other situations it may become apparent that abutting owners are occupying the road or have encroached into the air space. In these circumstances Council can take action to discontinue the road and sell the land to maintain the status quo or to remove obstructions to maintain access. However, if there has been exclusive and uninterrupted use of the land in excess of 15 years, an abutting owner may have evidence to establish rights to the land through adverse possession.

#### **3.2 RIGHT OF WAY NO 3197**

An application has been received from the owner of 129 Market Street, South Melbourne to purchase the road (Right of Way No. R3197) at the rear of 133 Market Street, South Melbourne. The road comprises approximately 24 square metres.

The road was occupied as if it was part of the property at 129 Market Street. A cyclone fence preventing public access was removed in 2007 as a result of Council enforcement action.

In accordance with the procedures set out in the Local Government Act 1989, a notice was published in the Caulfield/Port Phillip Leader newspaper on 23 September 2008. The notice invites submissions from interested persons. In response, one submission was received from Lemon Baxter acting on behalf of the owner of 133 Market Street. The submitter has not requested to be heard in person in support of the submission.

In the submission it is reported that the owner of 133 Market Street does not object to the proposed discontinuance and sale provided that the new owner is not permitted to build on the land. There are windows on the wall of the 133 Market Street property which forms the boundary with the subject road and the owner is concerned about the loss of air and light. An easement can be created to meet this condition to the satisfaction of all parties.

It is considered that the land is not reasonably required for public use as it only provides access for the two properties - 129 and 133 Market Street. The

discontinuance and sale of the road provides a monetary benefit derived by the community through sale and problems associated with a small public open space can be averted.

The purchase price has been determined by Council's valuer in accordance with the discontinuance and sale policy. The applicant has accepted the sale price (\$46,000 plus an administration cost of \$2,500). Associated costs are to be borne by the applicant.

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

There has been formal public consultation through the statutory procedures. The applicant and the submitter are the only property owners affected by the proposal and both are agreeable to it being approved.

The following departments of Council have been asked to comment on the proposal; Asset Management, Traffic Management, Strategic Planning, Planning and Building and Project Services. There is no internal opposition to the proposal.

Council's Heritage Advisor has confirmed that there are no heritage issues.

Service Authorities have been consulted. While there is no objection to the proposal, service assets (sewer) are located within the land and therefore an easement is required.

#### **5. DISCUSSION**

##### **5.1 OPTIONS**

An unnecessary road may be removed by Council using its powers for road discontinuance and sale for the benefit of abutting property owners and the community at large.

If Council decides to refuse the proposal, it would be duty bound to keep the road open for public access and thereby create a small public space that could lead to amenity and safety problems.

##### **5.2 POLICY IMPLICATIONS**

This proposal for the discontinuance and sale of the section of Right of Way has been undertaken in accordance with the powers, functions and statutory process set out in the Local Government Act 1989.

The administrative procedures and sale negotiations were undertaken in accordance with Council policy for the discontinuance and sale of roads.

##### **5.3 FINANCE / RESOURCE IMPLICATIONS**

Council's costs are to be borne by the applicant.

Income derived from the sale will be transferred to Council's general reserves.

#### **5.4 LEGAL & RISK IMPLICATIONS**

An easement will be created for light and air in favour of the owner of 133 Market Street, South Melbourne, to restrict development of the land, once it is consolidated to the title of 129 Market St. South Melbourne.

By complying with legislation and policy and making reasonable conditions for service authorities and neighbours, there are no legal or risk implications.

#### **5.6 SUSTAINABILITY ASSESSMENT**

##### **SOCIAL EQUITY**

Council can use its powers for road discontinuance and sale for the benefit of the parties and the community at large.

##### **ECONOMIC VIABILITY**

Income derived from the sale is considered to be due compensation to the community for the loss of public land.

##### **ENVIRONMENTAL RESPONSIBILITY**

Amenity and security/safety benefits may result through removal of a small public space.

##### **CULTURAL VITALITY**

It is considered that the road is not reasonably required to be used as a road for public use.

### **6. IMPLEMENTATION STRATEGY**

#### **6.1 TIMELINE**

The following is the sequence of actions if the proposal is ultimately approved.

- If approved, a surveyor will prepare plans for the creation of easements, title plan, consolidation plan and gazettal plan.
- A notice will be published in the Government Gazette to formally discontinue the road.
- Lawyers will be engaged to carry out conveyancing, collect the settlement costs and ensure that consolidation is completed.
- The above can be accomplished within 4 months.

**6.2 COMMUNICATION**

In accordance with the statutory procedures, the submitter will be advised of Council's decision and the reason for it.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<b>A5</b>	<b>2010 GENERAL VALUATION</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>CATHY HENDERSON, ACTING EXECUTIVE DIRECTOR ORGANISATION SYSTEMS AND SUPPORT</b>
<b>PREPARED BY:</b>	<b>DAVID GRAFFEN, PROPERTY CO- ORDINATOR</b>
<b>FILE NO.:</b>	<b>90/02/11</b>
<b>ATTACHMENTS:</b>	<b>1 – DECLARATION OF IMPARTIALITY</b>

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**1. PURPOSE**

Under the Valuation of Land Act 1960, Council must undertake a General Valuation of all properties within the municipality every two years. Provisions of the aforementioned Act also require Council to do as follows:

- Adopt a resolution to “cause” a General Valuation to be made;
- Appoint valuer(s) for this purpose; and
- Give notice of the resolution to the Valuer-General.

It is recommended that Council complies with its statutory obligations by making the necessary resolutions for the 2010 General Valuation. Under the legislation, these further resolutions are required even though Council resolved to extend the valuations contract at its meeting in December 2008.

**2. RECOMMENDATION**

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

- 2.1 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.
- 2.2 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.
- 2.3 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.

- 2.4 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.

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

- 3.1 The General Valuation is a legislative requirement of the State Government under the Valuation of Land Act 1960 which applies to all Councils. A General Valuation must be undertaken every two years on the even years. The next General Valuation is known as the 2010 General Valuation. In this valuation, all properties within the municipality must be valued as at 1 January 2010 to become effective by 1 July 2010.
- 3.2 Information from the General Valuation is used to base the comparative levels of Council Rates and State Land Tax Charges.
- 3.3 Council is well placed to meet its statutory obligations. At its meeting held on 18 December 2006, Council awarded a contract to service its property valuation responsibilities. Westlink Corporation Pty Ltd (trading as Westlink Consulting) was awarded the valuation contract for a two year period with a two year option commencing on 1 February 2007. On 18 December 2008, Council resolved to exercise the two year contract option commencing on 1 February 2009. The contract requires a General Valuation to be undertaken for all rateable properties within the City of Port Phillip in accordance with the Valuer General Victoria's best practice guidelines.

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

#### **4.1 Internal Consultation**

Consultation with respect to the planning for the 2010 General Valuation was undertaken as part of the extension of the Municipal Valuation Contract No 0946 in December 2008.

In addition there is constant consultation between senior staff, Council's contract supervisor and contractors.

#### **4.2 External Consultation**

The Valuer-General's Department nominates a supervisor for each municipality who regularly monitors the progress of the General Valuation to ultimately determine whether a generally true and correct Certificate may be issued to enable Council and other authorities to use the valuation for rating purposes. The Valuer- General representative has been consulted in regard to this initial phase of the 2010 General Valuation.

**5. DISCUSSION**

**5.1 RECOMMENDED OPTION**

5.1.1 It is recommended that Council consider this report and make formal resolutions in compliance with its statutory requirements as outlined in Section 2. The table below contains a summary of the necessary resolutions noting the relevant provisions of the Valuation of Land Act 1960.

Resolution	Valuation of Land Act 1960
To cause the 2010 General Valuation to be made	Section 6 (1)
To appoint valuers and other personnel to undertake and return the General Valuation	Section 13DA
To authorise notification of the above resolutions to the Valuer-General and rating authorities	Section 6 (1)
To note declarations of impartiality provided by the appointed valuers and personnel	Section 13DH

5.1.2 No alternative options exist that would meet Council's obligations under the Valuation of Land Act 1960. The 2010 General Valuation is a legislative requirement and must proceed. It is necessary for Council to adopt formal resolutions to "cause" the General Valuation to be made, appoint valuers for this purpose and advise the Valuer-General and other relevant rating authorities of the resolution.

**5.2 POLICY IMPLICATIONS**

5.2.1 The 2010 General Valuation will be performed in accordance with all relevant legislation in particular the Valuation of Land Act 1960 and the Local Government Act 1989.

5.2.2 The 2010 General Valuation will be undertaken in accordance with the Valuation Best Practice 2010 Specification Guidelines as approved by the Valuer-General's Department.

5.2.3 Council's Municipal Valuation Contract No 0946 contains specifications drafted to ensure compliance with all legislative requirements and best practice guidelines.

**5.3 FINANCE / RESOURCE IMPLICATIONS**

5.3.1 There is currently a budget allocation for the remainder of the 2008-09 for the commencement of the 2010 General Valuation. It is expected that Council will allocate the required budget for 2009-10.

**5.4 LEGAL & RISK IMPLICATIONS**

5.4.1 The proposal requires formal resolutions of Council which are not contentious. Therefore the level of risk exposure is minimal.

**5.7 SUSTAINABILITY ASSESSMENT**

**SOCIAL EQUITY**

It is important to produce a true and accurate reflection and comparison of the property values within the City of Port Phillip, in order to understand how “market rates” are distributed across our community so that no particular section / part of the municipality is disadvantaged through the payment of rates.

**ECONOMIC VIABILITY**

The City of Port Phillip is charged with the duty of raising sufficient monies to provide relevant and effective services for its community. Valuations are an important component of Council income.

**ENVIRONMENTAL RESPONSIBILITY**

The monies collected through the payment of rates will support the City of Port Phillip to implement sustainable services.

**CULTURAL VITALITY**

The monies collected through the payment of rates will support the City of Port Phillip to continue to build on cultural vitality.

**6. IMPLEMENTATION STRATEGY**

**6.1 TIMELINE**

6.1.1 Council’s Municipal Valuation Contract No 0946 contains an agreed timetable to ensure the return of the 2010 General Valuation will occur no later than 30 April 2010.

**6.2 COMMUNICATION**

6.1.2 Council’s decision will be communicated in writing to Westlink Corporation Pty Ltd, the Valuer General and other relevant rating authorities.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<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>EXECUTIVE DIRECTOR:</b>	<b>SALLY CALDER, EXECUTIVE DIRECTOR ORGANISATION SYSTEMS AND SUPPORT</b>
<b>PREPARED BY:</b>	<b>JEANENE SIMMONS, SENIOR PROPERTY ADVISOR</b>
<b>FILE NO.:</b>	<b>4320/174-02</b>
<b>ATTACHMENTS:</b>	<b>1 – LOCATION PLAN, 174 NOTT STREET</b> <b>2 – CONFIDENTIAL ATTACHMENT, LEASE EXTENSION REQUEST</b>

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**1. PURPOSE**

- 1.1 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 under Sections 190 and 223 of the Local Government Act 1989. The property is currently used as a retail and wholesale liquor store.
- 1.2 This matter was considered by the City of Port Phillip's Property Advisory Board on 17 November 2008. The Property Advisory Board is supportive of a 5 year lease extension for Teifal Pty Ltd through to 9 September 2018.

**2. RECOMMENDATIONS**

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

- 2.1 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 services.

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

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

Rental reviews: Market rent review every two years.

- 2.2 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.

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

- 3.1 On 10 September 2001, Council granted a 3 year lease to Teifal Pty Ltd for use of 174 Nott Street, Port Melbourne as a retail and wholesale liquor store. The agreement contained 3 further options of 3 years each.

- 3.2 Summary information regarding the property is provided in the following table:

Item	Details
Property Description	The subject property comprises a single storey warehouse. It is bounded by three streets – Nott Street, Pool Street and Lalor Street and is located one block west of the main Bay Street retail strip.(Refer to Attachment 1 – Location Plan, 174 Nott Street).
Land status	Council owned.
Current Permitted Use	Retail and wholesale of liquor and associated services.
Lease Area	Approximately 367 square metres.
Zoning	Residential 1 Zone, Within a Special Building Overlay Area, Heritage Overlay 1.
Value of Land and Buildings	\$945,000.
Lease details (ie commencement, expiry and further options)	Lease term – 3 years starting on 10 September 2001. Lease options – 3 further terms of 3 years each. Lease expiry once all options have been exercised – 9 September 2013.
Current rental	\$73,500 per annum plus GST
Market rent reviews	Every two years. The next market rent review is due on 10 September 2009
Yield	7.8%

Tenant Performance	The Tenant's rent account is up to date.
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- 3.3 On 4 November 2008, Mr John Tei of Teifal Pty Ltd formally requested a lease extension of 9 years through to 9 September 2022, broken up into 3 further options of 3 years each. The extension is required for the implementation of a new financial strategy for the business which includes a share buy out between the current business partners (refer to Attachment 2 – Confidential, Lease Extension Request).
- 3.4 This request was considered by the City of Port Phillip's Property Advisory Board on 17 November 2008. To allow future site flexibility, the Property Advisory Board resolved to put forward an alternative 5 year lease extension proposal to Council in early 2009.
- 3.5 The Board's recommendation was discussed with Mr Tei on 19 November 2008. Mr Tei confirmed that a 5 year lease extension through to 9 September 2018 would still meet his business and financial needs.
- 3.6 Any change to the lease term for Teifal Pty Ltd is best documented through a Deed of Surrender of Lease (to wind up the current arrangements) and the execution of a new lease agreement through to 9 September 2018.

**4. CONSULTATION AND STAKEHOLDERS**

- 4.1 The external people and organisations who have been engaged with in relation to this issue are:

John Tei and Glenn Pentland – Teifal Pty Ltd.

Peter Shanley – business associate of John Tei.

- 4.2 Council Officers have also liaised with the following internal staff members with respect to the lease extension proposal:

Kathy Dillon - Manager, Building and Green Spaces

George Borg – Manager, City Development.

Sam Hewett – Manager, Asset Services.

**5. DISCUSSION**

**5.1 RECOMMENDED OPTION**

- 5.1.1 The recommended option is to grant a lease extension to Teifal Pty Ltd on the terms outlined in Section 2.1 above. By doing so Council will assist Teifal Pty Ltd and add value to its current investment at the site. It is considered that the commercial value of the site will not be adversely affected by the lease extension. As the extension period is relatively short, Council is not completely foregoing the ability to sell

the site to a developer or an investor in future, if this course of action is deemed appropriate.

- 5.1.2 As there is a current lease on foot, Council is under no legal obligation to accede to the extension request by Teifal Pty Ltd. If it is regarded on balance, that the need to preserve an alternative future use for the property outweighs the anticipated rental return (from the current arrangements with Teifal Pty Ltd), Council may elect to deny the request.

## **5.2 POLICY IMPLICATIONS**

- 5.2.1 As Teifal Pty Ltd's current lease rental exceeds \$50,000 per annum, Council is required to comply with Sections 190 and 223 of the Local Government Act 1989 regarding the proposed lease extension. These Sections include the requirement to publish a notice regarding the intention to enter into a lease agreement and receive submissions on the matter.

## **5.3 FINANCE / RESOURCE IMPLICATIONS**

- 5.3.1 By approving the proposed lease extension, Council will secure a proven tenant for the site for the next 9 years with a rental of at least \$80,000 per annum inclusive of GST. There are no special resourcing issues associated with the preferred option.

## **5.4 LEGAL & RISK IMPLICATIONS**

- 5.4.1 As the property is owned by Council, the maximum lease term available is 50 years. The proposed lease extension fits within this framework.
- 5.4.2 As Teifal Pty Ltd operates a liquor store at the property, there is the possibility that the lease extension proposal may elicit some negative community feedback. It is anticipated that the statutory advertising process will provide all interested parties with an appropriate opportunity to make written submissions on the matter.

**5.8 SUSTAINABILITY ASSESSMENT**

**SOCIAL EQUITY**

By approving the proposed lease extension, Council will be supporting a local business in Port Melbourne which has contributed to the community through its unique product range and employment of approximately 30 local residents over the past 7 years.

**ECONOMIC VIABILITY**

The proposal will ensure a rental income of least \$80,000 per annum inclusive of GST going forward plus the benefit of market rent reviews in 2009, 2011, 2013, 2015 and 2017.

**ENVIRONMENTAL RESPONSIBILITY**

The lease extension proposal has limited environmental responsibility elements. It represents the continuation of an existing business enterprise on an existing site with no major proposed changes to service delivery or building design.

**CULTURAL VITALITY**

The lease extension for Teifal Pty Ltd will ensure that liquor product variety and purchasing options are maintained for Port Melbourne residents and visitors.

**6. IMPLEMENTATION STRATEGY**

**6.1 TIMELINE**

An indicative timeline (which does not provide for any major process delays) is shown below:

Item	Date
Commence advertising and submission process under Sections 190 and 223 of the Local Government Act 1989 for proposed lease to Teifal Pty Ltd.	2 March 2009
Advertisement closes.	30 March 2009
Report for Strategy and Policy Review Committee and hearing of submissions (if any).	May 2009
Council Decision.	May 2009
Finalisation of new lease agreement (including Disclosure Statement and Deed of Surrender of Lease to wind up previous agreement).	June 2009

**6.2 COMMUNICATION**

- 6.2.1 Council's decision will be communicated to Teifal Pty Ltd in writing and to the community via the notice of intention to lease in local newspapers.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<b>A7</b>	<b>PROPOSED LEASE AGREEMENT TO BREWSTERS &amp; CO PTY LTD – 147 LIARDET STREET, PORT MELBOURNE</b>
<b>LOCATION/ADDRESS:</b>	<b>147 LIARDET STREET, PORT MELBOURNE (PART OF THE LAND COMPRISED IN CERTIFICATE OF TITLE VOLUME 09830 FOLIO 297)</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>CATHY HENDERSON, ACTING EXECUTIVE DIRECTOR ORGANISATION SYSTEMS AND SUPPORT</b>
<b>PREPARED BY:</b>	<b>JEANENE SIMMONS, SENIOR PROPERTY ADVISOR</b>
<b>FILE NO.:</b>	<b>3270/147-04</b>
<b>ATTACHMENTS:</b>	<b>1 – LOCATION PLAN, 147 LIARDET STREET</b> <b>2 - CONFIDENTIAL SUBMISSION</b>

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**1. PURPOSE**

- 1.1 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 and to complete the statutory procedures under Sections 190 and 223 of the Local Government Act 1989.

**2. RECOMMENDATIONS**

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

- 2.1 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.

- 2.2 To authorise the Chief Executive Officer to execute the lease on behalf of Council.

**3. BACKGROUND AND CONTEXT**

- 3.1 Council is the owner of the property known as 147 Liardet Street, Port Melbourne (Refer to Attachment 1 – Location Plan, 147 Liardet Street). The property was used as Council offices up until March 2008 and is currently vacant.
- 3.2 The property had been previously identified by the Council's internal Landlord Committee in 2003 as a commercial property which should be leased as part of the commercial property portfolio. The Council's Executive Team confirmed the property was suitable for commercial leasing on 18 December 2007.
- 3.3 The property was advertised for lease through Lemon Baxter Pty Ltd in early 2008 via standard real estate methods including an advertising board and internet advertisements.
- 3.4 Brewsters & Co Pty Ltd formally offered to lease the site in late April 2008. Following a Council resolution on 28 July 2008, a notice of intention to lease the property to Brewsters & Co Pty Ltd was advertised in the Port Phillip Leader on 5 August 2008. Two other parties, Conile Nominees Pty Ltd (on behalf of Coles Supermarkets) and Messrs Balla and El Samad lodged submissions in response to the advertisement by the closing date of 20 August 2008.
- 3.5 Due to the unexpected level of commercial interest in the site, Council resolved on 22 September 2008 to commence a tender process to determine the best possible leasing outcome and tenant for the property. The invitation to tender was advertised in the Public Notices Section of the Port Phillip Leader on 30 September 2008.
- 3.6 Only two submissions were received by the tender closing date of 17 October 2008.
- 3.7 At an Ordinary Meeting of Council on 27 October 2008, Council resolved:
- 3.7.1 To award preferred tenderer status to Brewsters & Co Pty Ltd for the lease of 147 Liardet Street, Port Melbourne;
- 3.7.2 To commence the statutory procedures under Section 190 and 223 of the Act and publish a notice in local newspapers advising of Council's intention to grant a lease and inviting interested persons to make a submission under Section 223 of the Act for the proposed lease of 147 Liardet Street, Port Melbourne to Brewsters & Co Pty Ltd; and
- 3.7.3 To appoint its Strategy and Policy Review Committee to hear and consider any submissions made under Section 223 of the Act at its meeting to be held in February 2009.

- 3.8 A notice regarding the intention to lease to Brewsters & Co Pty Ltd and the proposed lease terms was subsequently published in the Port Phillip Leader on 4 November 2008. No submissions were received by the closing date of 2 December 2008.
- 3.9 A late submission was received on 8 December 2008 (refer to Attachment 2 – Confidential Submission). This submission falls outside both the tender and statutory advertising processes and is therefore not eligible for consideration. It is included as a confidential attachment for Councillor information only.

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

- 4.1 Copies of the invitation to tender were sent directly to representatives of Brewsters & Co Pty Ltd, Conile Nominees Pty Ltd, Messrs Balla and El Samad and Council's real estate agent, Lemon Baxter Pty Ltd on 30 September 2008. Advice regarding the appointment of the preferred tenderer was also provided to the above parties on 29 October 2008.

#### **5. DISCUSSION**

##### **5.1 RECOMMENDED OPTION**

- 5.1.1 The recommended option is to finalise the statutory procedures and grant a lease to Brewsters & Co Pty Ltd based on the terms outlined in Section 2.1 above.
- 5.1.2 The consideration of any further submissions on the matter outside the tender and statutory advertising process is not appropriate from a governance perspective. Due process has been followed and the integrity of Council's September 2008 tender process for the leasing of the property should be protected.

##### **5.2 POLICY IMPLICATIONS**

- 5.2.1 The lease proposal aligns with Council's Corporate Property Strategy which aims to maximise property performance and match property use with community needs and general community development.
- 5.2.2 The procedural requirements associated with Sections 190 and 223 of the Act have been met as the intention to enter into a lease agreement with Brewsters & Co Pty Ltd was advertised and no submissions were received by the closing date of 2 December 2008.

##### **5.3 FINANCE / RESOURCE IMPLICATIONS**

- 5.3.1 The proposed rental of \$175,000 per annum plus GST constitutes a new income stream for Council as the property is currently vacant. There are no special resourcing issues associated with the preferred option.

**5.4 LEGAL & RISK IMPLICATIONS**

- 5.4.1 Council has adopted a thorough and transparent approach to the leasing of this site over the past 12 months. By advertising the site through Lemon Baxter Pty Ltd and then running a separate tender process for the lease of the site in September 2008, ample opportunity has been provided for all interested parties to come forward.
- 5.4.2 The proposed lease addresses risk implications by formalising the relationship between Council and Brewsters & Co Pty Ltd and providing certainty about each party's respective rights and obligations.

**5.9 SUSTAINABILITY ASSESSMENT**

**SOCIAL EQUITY**

The proposed lease agreement to Brewsters & Co Pty Ltd will ensure that the subject property is no longer vacant.

**ECONOMIC VIABILITY**

The proposed rental of \$175,000 per annum plus GST exceeds the estimated commercial rental of the site.

**ENVIRONMENTAL RESPONSIBILITY**

The proposed lease to Brewsters & Co Pty Ltd is consistent with Council's Activity Centres Strategy Implementation Plan (July 2006). This plan states that further supermarket retail activities should be investigated for the Bay Street area.

**CULTURAL VITALITY**

A new fresh food retail business in the area will translate into greater variety and purchasing options for residents and visitors.

**6. IMPLEMENTATION STRATEGY**

**6.1 TIMELINE**

The recommendation of this report can be implemented by the finalisation and execution of a lease based on the terms outlined in Section 2.1 above.

An indicative timeline (which does not provide for any major process delays) is shown below:

Item	Date
Preparation and execution of lease agreement (including disclosure statement)	March 2009
Brewsters and Co Pty Ltd takes up occupation of the property	End March 2009 / April 2009.

**6.2 COMMUNICATION**

6.2.1 Council's decision will be communicated to all interested parties (ie Brewsters & Co Pty Ltd, Lemon Baxter Pty Ltd, Conile Nominees Pty Ltd and Messrs Balla and El Samad) in writing.

**Key Messages**

6.2.2 Council has concluded its tender process for the leasing of 147 Liardet Street, Port Melbourne.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<b>A8</b>	<b>MAYORAL &amp; COUNCILLOR ALLOWANCES</b>
<b>LOCATION/ADDRESS:</b>	<b>N/A</b>
<b>EXECUTIVE DIRECTOR:</b>	<b>CATHY HENDERSON, ACTING EXECUTIVE DIRECTOR ORGANISATION SYSTEMS &amp; SUPPORT</b>
<b>PREPARED BY:</b>	<b>NORM MCCLELLAND, GOVERNANCE ADVISOR</b>
<b>FILE NO.:</b>	<b>18/04/05-04</b>
<b>ATTACHMENTS:</b>	<b>NIL.</b>

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**1. PURPOSE**

Council must review its mayoral and councillor allowances within seven months after every general council election.

The allowances are to be fixed for a period of four years – 2009 to 2013.

Council must provide the community with an opportunity to be involved in the determination of the quantum of the allowances.

It is proposed that Port Phillip Council adopt the maximum allowances within the range for Category 3 councils for its mayor and councillors.

**2. 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 \$84,257 per annum, being the maximum allowed for Category 3 councils.
3. The proposed councillor allowance be \$26, 378 per annum, being 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.

**3. BACKGROUND AND CONTEXT**

The payment of Mayoral and Councillor allowances is governed by the *Local Government Act 1989*. The allowances are set by an Order in Council (approved by the Minister for Local Government) for all councils.

Councils are categorised within a three-level framework based on population and total revenue. Port Phillip Council is classified in the highest category, level 3. In April 2005 Port Phillip Council made a successful application to the Local Government Councillor Allowances Category Review Panel to be elevated from level 2 to level 3 due to exceptional circumstances.

In 2005, Council adopted the maximum Councillor and Mayoral allowances for category 3 of \$18,000 and \$57,500 respectively for the period 2005 to June 2009.

In 2007 Victorian councils lobbied the state government for an increase in the allowances and following a comprehensive review the state government released a report in 2008 which outlined an increased range of allowances, as well as, a minimum level of support for councillors.

Subsequent to the review an Order in Council was made in December 2008 detailing the following allowances and an additional amount *equivalent* to the Superannuation Guarantee Contribution which is currently 9%:

Councillor Allowances	Category 1		Category 2		Category 3	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Part A (allowance)	\$6,800	\$16,200	\$8,400	\$20,200	\$10,100	\$24,200
Part B (supn equiv)	\$612	\$1,458	\$756	\$1,818	\$909	\$2,178
Total Payment	<b>\$7,412</b>	<b>\$17,658</b>	<b>\$9,156</b>	<b>\$22,018</b>	<b>\$11,009</b>	<b>\$26,378</b>

Mayoral Allowance	Category 1	Category 2	Category 3
	Up to	Up to	Up to
Part A (allowance)	\$48,400	\$62,500	\$77,300
Part B (supn equiv)	\$4,356	\$5,625	\$6,957
Total Payment	<b>\$52,756</b>	<b>\$68,125</b>	<b>\$84,257</b>

Councillors and the Mayor are currently being paid the amounts shaded in the tables above. It should be noted that:

1. a mayor cannot receive the councillor allowance at the same time as receiving the mayoral allowance;
2. the amount of the allowance must be the same for each councillor (except the mayor);
3. a Council does not have to pay an allowance to a Councillor who does not wish to receive it; and
4. a person is only entitled to receive an allowance while he or she holds the office of councillor or mayor.

Recent legislative amendments require allowance levels during the four year period be subjected to indexation reviews to be determined annually by the Minister for Local Government. Any indexation of the allowances is applied automatically.

The Local Government Act requires that sometime before 30 June 2009, Council must set councillor and mayoral allowances for the period July 2009 – June 2013.

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

The Local Government Act requires that before the final decision is made on the level of allowances there must be a public process of inviting public submissions on the quantum of allowances.

The submission process is to be conducted in accordance with section 223 of the Local Government Act. Council must publish a public notice:

1. specifying the matter in respect of which the right to make a submission applies;
2. specifying the date by which submissions are to be submitted, being a date not less than 28 days after the date that the public notice is published; and
3. stating the person making the submission is entitled to appear in person, or to be represented by a person specified in the submission, to be heard at a meeting.

Council must also resolve that a Council meeting or committee meeting will review submissions and give reasonable notice of the day, time and place of the meeting to each submitter.

Council must take into account all submissions received within the prescribed time.

Once Council has determined the level of allowances it must notify in writing each person who made a separate submission, and where a submission is made on behalf of a number of people, one of those persons, of the decision and the reasons for the decision.

#### **5. DISCUSSION**

##### **OPTIONS**

1. There is a legislative requirement that Council determines the level of its mayoral and councilor allowances by the end of June 2009.
2. Council is able to determine the allowances at any level between the minimum and maximum range applicable to Category 3 as set by the Order in Council in December 2008.

3. Council does not have to pay an allowance to a mayor or councillor who does not want to receive an allowance.

#### **POLICY IMPLICATIONS**

The minimum and maximum levels of the allowances is determined by legislation. Council is required to determine allowances within the range set by legislation.

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

As a Category 3 council, the cost to Council for mayoral and councillor allowances per annum could vary between \$77,063 and \$242,525. This is dependent upon where within the range Council sets its allowances.

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

There should be no legal or risk implications if Council complies with the legislative requirements in determining the allowances.

#### **SUSTAINABILITY ASSESSMENT**

**Social** – Councillors provide the link between the Council organisation and the community. The allowance provides some support to councillors to assist them in their role to promote access for all to universal services, target specific services for those with extra needs, promote connections within the community, improve community health, well-being and safety.

**Economic** – The current annual cost of mayoral and councillor allowances is \$242,525 which is approximately 0.16% of Council's revenue in 2008. This amount has a minor financial impact on the cost of providing Council services.

**Environmental** – The payment of allowances to councillors has no direct environmental impact, but it does provide support to councillors in their role to take the environmental message to the community.

**Cultural** – Generally, the community recognizes the important role of Councillors and is supportive of an allowance commensurate with the work undertaken. The review initiated by the State Government in 2007/2008, determined the appropriateness of the level of allowances for the responsibilities undertaken by councillors.

#### **FURTHER INFORMATION**

Nil.

**6. IMPLEMENTATION STRATEGY**

**TIMELINE**

Below is a table outlining the process to be undertaken:

Initial report to Strategy & Policy Review Committee to commence the process	2 February 2009
Council Meeting to adopt the proposed process	23 February 2009
Public notice in the Emerald Hill Weekly & Port Phillip Leader calling for public submissions	1 <sup>st</sup> week of March 2009
Closing date for submissions	2 April 2009
Notify submitters of the day, time and place of the meeting to review submissions	Week ending 10 April 2009
Report to Ordinary Meeting of the Council to review public submissions and set the mayoral and councillor allowances	27 April 2009
Notify those that made submissions of the outcome of the process to determine the mayoral and councillor allowances	Week ending 8 May 2009

**COMMUNICATION**

A public notice will be placed in both local newspapers and the Council website advising the community of the process to determine the level of mayoral and councillor allowances.

**FURTHER INFORMATION**

Nil.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

A9

MID YEAR BUDGET 2008/2009

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. 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.
- 1.4. 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 \$121K accumulated budget surplus for the full year. This is a \$262K decrease on the original budget that projected a surplus of \$383K for the full year. This is summarised in Attachment 2.

- 1.5.** 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)

- 1.5.1. Increased service levels for the provision of Home Care - \$246K
- 1.5.2. 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
- 1.5.3. Increased administrative requirements in relation to the management of the child care waiting lists - \$63K
- 1.5.4. Drought mitigation costs for the South Beach Reserve - \$20K
- 1.5.5. Consultancy costs in relation to Council's Skate Parks - \$78K

Service Initiatives (Internal)

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

Controls & Compliance

- 1.5.8. The purchase of additional TRIM (Records Management software) licenses - \$29K
- 1.5.9. Increased compliance costs in relation to Council's tendering processes - \$70K
- 1.5.10. Legal fees principally associated with Freedom Of Information requests - \$50K
- 1.5.11. Business continuity planning across the organisation - \$50K
- 1.5.12. Increased internal audit costs - \$40K
- 1.5.13. A review of Council's governance operations and requirements - \$50K

Global Financial Crisis

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

Financial and Other

- 1.5.15. Increased rate income due to the impact of supplementary rates - \$800K
- 1.5.16. Greater than expected grant income from the Victorian Grants Commission - \$220K.
- 1.5.17. Reduced insurance premiums due to Council's favourable claims experience - \$220K

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

**1.7.** The proposed forecast changes will have an unfavourable impact on the 2008/09 operating budget of \$425K. In addition, the capital works program is seeking additional net funding of \$195K. The capital works program is also looking to defer several projects (thereby reducing the 2008/09 budget) and to carry over a project to the 2009/10 works program.

**1.8.** An additional transfer from general reserves of \$359K, being expenditure commitments completed in prior years, partially offsets the unfavourable mid year adjustments for operating and capital expenditure.

**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.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

<b>A10</b>	<b>QUARTERLY MANAGEMENT REPORT</b>
<b>LOCATION/ADDRESS:</b>	
<b>EXECUTIVE DIRECTOR:</b>	<b>SALLY CALDER, ACTING CHIEF EXECUTIVE OFFICER</b>
<b>PREPARED BY:</b>	<b>CHRIS PIKE, MANAGER CORPORATE PLANNING &amp; PERFORMANCE</b>
<b>FILE NO.:</b>	
<b>ATTACHMENTS:</b>	<b>ATTACHMENT 1: 2<sup>ND</sup> QUARTER FINANCIAL REPORT</b> <b>ATTACHMENT 2: 2<sup>ND</sup> QUARTER KPI REPORT</b> <b>ATTACHMENT 3: 2<sup>ND</sup> QUARTER SERVICE PROMISE REPORT</b>

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**1. PURPOSE**

- To provide Council with information on the financial, capital works, service and internal performance of the organisation.

**2. RECOMMENDATION**

- That the Strategy and Policy Review Committee recommend that Council resolve to:
  - Receive and note the 2nd Quarter 2008/09 Quarterly Management Report.

**3. BACKGROUND AND CONTEXT**

- The Local Government Act requires that at least every 3 months, the Chief Executive Officer must ensure that a statement comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date is presented to the Council at a Council meeting which is open to the public.
- The CEO has traditionally provided a quarterly report to Council detailing:
  - the financial position and performance of the organisation
  - progress on the Capital Works program
  - the performance against target for organisational key performance indicators.

**4. CONSULTATION AND STAKEHOLDERS**

- Officers from across the organisation have collected and reviewed the data contained within the attachments. Variance analysis has been provided accordingly.

**5. DISCUSSION**

**OPTIONS**

- Council is asked to receive and note the report. It contains three attachments for the 2<sup>nd</sup> Quarter (Oct-Dec 2008) period:
  - Quarterly Financial Report including summary of progress on the Capital Works Program
  - Key Performance Indicator (KPI) Report detailing results against the 10 most important measures of operational success
  - Service Promise Report - included for the first time. The Service Promises were established in August 2008 for Council's top 10 most important services (as deemed by the residents and ratepayers of the City of Port Phillip).

**POLICY IMPLICATIONS**

- No policy adjustments are recommended at this time.

**FINANCE / RESOURCE IMPLICATIONS**

- The net operating surplus (excluding non cash items) for the 6 months ending 31 December 2008 is \$5.066M favourable compared to budget. The key variances are as follows:

Income (\$2.247M favourable)

- Open Space Contributions - \$1.336M favourable due to greater than expected developer contributions, particularly in the St Kilda Road and St Kilda Hill areas. These funds are transferred to statutory reserves.
- Rate Revenue - \$475K favourable due largely to supplementary rates of \$505K being raised and amortised (nb. full year supplementary rates are \$1.01M)
- Fees and Charges - \$473K unfavourable predominantly due to the West St Kilda Children's Centre not being operational and a variety of minor unfavourable variances within the Community Services department.
- Parking Revenue - \$465K unfavourable due to reduced patronage specifically in short term parking areas (South Melbourne Central and the Tourist Precinct). The part closure of Elwood car park is another contributing factor.
- Operating Grants - \$357K favourable largely due to the receipt of greater than anticipated grants from the Victorian Grants Commission (\$111K) and an unbudgeted grant from the Department Of Infrastructure in relation to Beacon Cove Planning Scheme Amendments (\$100K).

- Interest Received - \$317K favourable due to extra funds available for investment.

### Expenditure (\$2.819M favourable)

- Contract Services - \$1.579M favourable due to the reversal of a year end accrual (\$314K) which is a timing variance, and delays in expending the phased budget across various departments throughout the organisation, most notably Community Services, Culture & Recreation and Building Services.
- Materials and Other Costs - favourable \$891K due to delays in expending the phased budget across various departments throughout the organisation, namely Community Services, Governance & Risk Management and Information Management Group.
- Employee Costs - favourable \$352K due to the phasing of the redundancy budget and delays in filling vacant positions across various departments throughout the organisation, namely Infrastructure Services, City Development, People & Culture and Governance & Risk Management.

### **LEGAL & RISK IMPLICATIONS**

- The Local Government Act requires that at least every 3 months, the Chief Executive Officer must provide a financial report to the Council.
- Risk management actions are one of the key performance indicators reported on in this report.

### **SUSTAINABILITY ASSESSMENT**

#### **SOCIAL EQUITY**

- Progress on the social equity dimension is addressed via the Service Promise Report (e.g. Community Care).

#### **ECONOMIC VIABILITY**

- Progress on the economic viability dimension is addressed via the Quarterly Financial Report and the KPI Report (e.g. Operating Profit and Loss indicator).

#### **ENVIRONMENTAL RESPONSIBILITY**

- Progress on the environmental responsibility dimension is addressed via the Service Promise Report (e.g. Parks and Open Spaces) and the KPI Report (e.g. Carbon Emissions indicator).

#### **CULTURAL VITALITY**

- Progress on the cultural vitality dimension is addressed via the Service Promise Report (e.g. Library Services).

**6. IMPLEMENTATION STRATEGY**

**6.1 TIMELINE**

- N/A.

**6.2 COMMUNICATION**

- Following the adoption of this report by Council, the KPI results will be posted on the Council's website.
- Key messages are:
  - The Council is in a strong financial position and is well placed to develop a new Council Plan for the period 2009-2013.
  - The Council is on track to deliver on the commitments outlined in the 2008/09 Council Plan.
  - The Financial, KPI and Service Promise Reports provide accountability and transparency in the Council's operations.

**STRATEGY AND POLICY REVIEW COMMITTEE**  
**2 FEBRUARY 2009** **GOVERNANCE AND COMPLIANCE**

**A11** **BUILDING MAINTENANCE CONTRACTS**  
**1251 TO 1255 SUMMARY REPORT**

**LOCATION/ADDRESS:**

**EXECUTIVE DIRECTOR:** **DAVID YEOUART, EXECUTIVE**  
**DIRECTOR COMMUNITY ASSETS AND**  
**SERVICES**

**PREPARED BY:** **DAVID YEOUART**

**FILE NO.:** **14/01/1251 TO 1255**

**ATTACHMENTS:** **NIL.**

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**1. PURPOSE**

- The report presents the process, to date, in the tendering of a selection of building maintenance services, including plumbing and gas services (Contract #1251); specialist cleaning services (Contract #1252); painting services (Contract #1253); carpentry/handyman services (Contract #1254) and floor covering services (Contract #1255).

**2. RECOMMENDATION**

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

**3. BACKGROUND AND CONTEXT**

- In October 2007 Council tendered, considered and awarded a number of building maintenance contracts covering the above services. The contracts followed an exhaustive tender process conducted by Council.
- During 2008, the process of awarding some contracts was questioned, arising out of a perceived conflict of interest on the part of a member of the TEP. It arose out of an alleged relationship between the TEP member and a contractor. Legal advice was sought and no new work was allocated to the contractor in question, during the second half of 2008.

- This, in effect, left Council short of resources and made it desirable to tender five (5) contracts to both replace this missing resource and to supplement existing resources.

The existing contracts (#1004; #1007; #1009; #1010 and #1012) for the services remain in operation and will run concurrently with any new contracts.

- Some of the contracted services (specialist cleaning services (Contract #1252) and floor covering services (Contract #1255) involve a single service provider, while the others consist of a panel of contractors, whereby work is assigned on a quotation and/or asset basis.

- The following text was inserted in the new contracts to clarify the matter to tenderers:

“The services which are the subject of this Tender are the subject of an existing contract (**[insert name and number of existing contract – eg Contract No. 1010 (Carpentry & Handyman Services)]**). That contract ('the existing contract') remains on foot.

*A supplier engaged under the existing contract has been told that it will not be allocated any new work under the existing contract. Effectively, then, its services have been 'suspended', because of suggestions that the process leading to its engagement under the existing contract was tainted. It has been told that no new work will be allocated to it under the existing contract until an investigation into that process is complete.*

That supplier will be free to submit a tender response for this Tender. So too will anyone interested in providing **[insert description of services – eg Carpentry & Handyman Services]** to Council. It is a genuine tender open to all. No preference will be given to the supplier described above or, for that matter, to any other tenderer.

If any tender is accepted, a new contract will come into being ('the new contract'). The new contract will co-exist with the existing contract. Accordingly, Council will be free to decide between suppliers under the existing contract and suppliers under the new contract for the provision of **[insert description of services – eg Carpentry & Handyman Services]**.”

- Tender specifications were prepared for plumbing and gas services, specialist cleaning services, painting services, carpentry/handyman services and floor covering services on a similar basis to the “existing contracts” i.e. with some minor changes (following governance and operational review)
- The call for tenders is consistent with City of Port Phillip tender guidelines and the following timelines applied:-

Sep to Oct 2008	Legal advice sought and form of new specifications finalised
22 October 2008	Specifications completed
1 November 2008	Tenders advertised
1 to 10 November	Registration of interest period

11 November	Issue of tender documents to all registrants
14 November	Compulsory tender information session
28 November	Tenders for all five contracts close
29 Nov – 30 Jan 2009	Evaluation of tender submissions including referee checks and interviews
2 February 2009	Process report to Strategy and Policy Committee Meeting
23 February 2009	Final recommendations to Ordinary Council Meeting

- The TEP consisted of:-
  - David Yeouart - Executive Director Community Assets and Services
  - Jim Maclean - Building Maintenance Coordinator
  - Peter Graf - PMR Services Technical Consultant
  - Terry Makings – Governance Consultant
- The TEP adopted the following evaluation criteria:
  - experience and demonstrated ability
  - systems and processes of business management
  - price.

In addition, each tender evaluation included a series of assessment areas including financial viability, relevant insurances, corporate management and technical backup, personnel skills and qualifications, OH&S and industrial relations, risk management, infrastructure and quality systems.

#### 4. CONSULTATION AND STAKEHOLDERS

- Legal advice was sought from Council's Solicitors with respect to the "suspension" of a contractor, the explanatory notes in the new documentation and the best process to move forward.
- Council's Governance Unit was consulted in respect to the processes to follow, having regard to the unusual nature of the situation.
- Both the legal advice and the internal consultation, suggested tendering the services and running the new contracts concurrently with existing contracts, was an option available to Council.

**5. DISCUSSION**

**5.1 OPTIONS**

- The application of the evaluation criteria by the TEP will result in recommendations to Council, which will provide the best value for money outcomes and adequate resources to perform the services.
- Given the nature of the history to these services, legal advice has determined that public tender was the best option.

**5.2 POLICY IMPLICATIONS**

- Each of these contracts will assist in ensuring Council buildings are well maintained.
- Council is obliged by the requirements of the Occupational Health and Safety Act 2004 to provide safe work places.
- Council, as a building owner and custodian has a duty to protect and manage its assets.

**5.3 FINANCE / RESOURCE IMPLICATIONS**

- The contracts will be formed on a “schedule of rates” basis and expenditure provided from the allocation for building maintenance.
- It is expected that, tenders will deliver similar value for money outcomes to the current contractors and thus, be within current budgetary constraints. Current staff resources required to manage all building maintenance contract will remain unchanged.

**5.4 LEGAL & RISK IMPLICATIONS**

The tenders have been advertised and evaluated according to Council’s tendering guidelines and processes.

- With the ‘suspension’ of an existing contractor, there presented a risk of under-servicing the building maintenance area.
- The advertising for additional service providers has reduced this risk.

Having considered the circumstances which developed, following the “suspension” of one of the existing contractors, increasing the number of suppliers, on a panel basis, is the recommended approach.

## **5.5 SUSTAINABILITY ASSESSMENT**

### **SOCIAL EQUITY**

- To building a just, resilient, healthy and inclusive city, with equitable access to responsive and relevant services and resources.
- In a social equity context, the contracts are designed to ensure each Council facility is appropriately maintained and the services being provided from each able to be provided safely for all occupiers and users.
- In practice, well maintained buildings assist in the delivery of excellent services.

### **ECONOMIC VIABILITY**

- To promote effective stewardship of the Council's assets and promote economic development within Port Phillip that also supports the Council's social, cultural and environmental goals.
- The maintenance of all Council facilities ensures the preservation of the assets and the optimization of demand for use of these buildings.

### **ENVIRONMENTAL RESPONSIBILITY**

- To foster a liveable and attractive urban environment that uses fewer finite resources.
- Each of the tenders is specifically evaluated on their environmental systems and practices and preference is awarded to those whose systems and practices are in line with Council's Towards Zero policy.

### **CULTURAL VITALITY**

- To foster conditions that allow communities within Port Phillip to express experience and enjoy diversity of values, beliefs and aspirations.
- Having a wide range of Council facilities, well maintained and available for community access is seen as an important ingredient of ensuring cultural vitality in the City of Port Phillip.

## **6. FURTHER PROCESSES**

### **6.1 TIMELINE**

- The TEP will present its recommendations to the Ordinary Council meeting on 23 February 2009.

### **6.2 COMMUNICATION**

- The tender evaluation process is carried out in confidence.
- Following the results of the tender process, tenderers will be invited to attend an individual feedback session, if requested. This would focus upon their tender submission, interviews (where requested) and Council's scoring system.