

ORDINARY COUNCIL MEETING
13 JULY 2009

1.	REVISED LOCAL PLANNING POLICY FRAMEWORK / AMENDMENT C62
LOCATION/ADDRESS:	CITY WIDE
EXECUTIVE DIRECTOR:	GREG WOOD - ACTING EXECUTIVE DIRECTOR, COMMUNITY DEVELOPMENT AND PLANNING
PREPARED BY:	KATRINA TERJUNG - CO-ORDINATOR STRATEGIC PLANNING
FILE NO.:	66/02/161
ATTACHMENTS:	ATTACHMENT 1: SUMMARY TABLE - FORMAT / CONTENT OF EXISTING AND PROPOSED LPPF ATTACHMENT 2: DRAFT LOCAL PLANNING POLICY FRAMEWORK AND SCHEDULE TO CLAUSE 52.01

1. EXECUTIVE SUMMARY

- 1.1 Amendment C62 proposes to introduce a revised Local Planning Policy Framework (LPPF) into the Port Phillip Planning Scheme, comprising a Municipal Strategic Statement (MSS) and ten (10) issue specific Local Planning Policies. The Amendment would also introduce a new Schedule to Clause 52.01 (Public Open Space Contribution and Subdivision) to establish a mandatory 5% public open space requirement.
- 1.2 The draft LPPF has been developed following a detailed 'audit' of the current Planning Scheme and consultation with key stakeholders. The draft LPPF represents a consolidated policy position in relation to land use and development matters, and will provide Council with a more current and refined strategic basis for decision making pursuant to the Port Phillip Planning Scheme.
- 1.3 A number of changes have been made to the draft LPPF which was endorsed by Council in August 2008. These changes reflect emerging issues and priorities of the current Council, including assessing social impacts, minimising the impact of licensed premises, and clarifying future directions for the St Kilda Neighbourhood.
- 1.4 It is recommended that Council endorse the draft LPPF for the purpose of community consultation, and formally request the Minister for Planning to 'authorise' the preparation and exhibition of Amendment C62 to the Port Phillip Planning Scheme.

2. RECOMMENDATION

That Council:

- 2.1 Endorses the Local Planning Policy Framework in accordance with Attachment 2 (incorporating the Municipal Strategic Statement and Local Planning Policies) as a basis to commence community consultation through Amendment C62.
- 2.2 Requests that the Minister for Planning authorise the preparation and exhibition of Amendment C62 to the Port Phillip Planning Scheme, pursuant to Section 9(a) of the Planning and Environment Act 1987, to introduce a revised Local Planning Policy Framework (Clauses 21 and 22) and a new Schedule to Clause 52.01 – Public Open Space Contribution and Subdivision (which establishes a mandatory 5% open space contribution).
- 2.3 Advises the Minister for Planning that:
 - Pursuant to Section 19 (1A) of the Planning and Environment Act 1987, Council considers it impractical to notify all owners and occupiers individually of Amendment C62.
 - Council will give notice of the amendment in accordance with Section 19(1B) of the Planning and Environment Act (being notice in a paper circulating within the affected area inviting submissions to be made) and will also undertake a range of non-statutory consultation measures to ensure wide community awareness of the proposed amendment.
- 2.4 Prepares and places on exhibition Amendment C62 to the Port Phillip Planning Scheme, in accordance with Section 19 of the Planning and Environment Act 1987, subject to Ministerial authorisation.
- 2.5 Requests that any substantive changes to proposed Amendment C62, if directed by the Minister for Planning as a condition of authorisation, be reported back to Council for consideration prior to public exhibition of the amendment.
- 2.6 Authorises the Executive Director Community Development and Planning to finalise the exhibition documentation for Amendment C62.

3. BACKGROUND AND CONTEXT

Role of the LPPF:

- 3.1 The Local Planning Policy Framework (LPPF) of the Port Phillip Planning Scheme incorporates Clause 21 – the Municipal Strategic Statement (MSS) and Clause 22 – Local Planning Policies. The MSS provides a 10 to 15 year vision for land use planning and development in the municipality and provides a framework for the application of objectives, strategies and policies to achieve these land use and development outcomes.

- 3.2 Local Planning Policies are one of the tools available for implementing the objectives and strategies in the MSS. Local Policies provide guidance for decision making in relation to planning permit applications on specific matters such as heritage, gaming and outdoor advertising.
- 3.3 Each zone and overlay provision within the planning scheme contains the purpose 'To implement the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies'.
- 3.4 Section 12B of the Planning and Environment Act 1987 ('the Act') requires a planning authority to review the provisions of the planning scheme at least once every four years, including the MSS and Local Policies.

Process to Date:

- 3.5 An 'audit' of the current LPPF was completed in November 2006, in accordance with the requirements of the Act. The audit reviewed the format, scope and effectiveness of existing policy, and also identified policy 'gaps'.
- 3.6 Preparation and progressive refinement of the draft LPPF over 2007/2008 involved expert advice on a 'best practice' format, and extensive consultation with Councillors, statutory planners, other Council departments and adjoining Councils. The LPPF was developed in parallel with the 2007 Community Plan and also draws extensively on policies and strategies which have each undergone extensive consultation, thereby ensuring that the draft is representative of community views.
- 3.7 On-going discussion / negotiations with the Department of Planning and Community Development (DPCD) were held throughout the preparation of the LPPF. Ministerial Authorisation to exhibit was granted, however, this was conditional on the removal of detailed policy requirements / standards relating to Environmentally Sustainable Design (ESD) and Building Accessibility, and also clarification of policy relating to housing growth in activity centre's. These changes were reported to and endorsed by Council in August 2008.
- 3.8 The formal public exhibition of Amendment C62 was not progressed due to the caretaker period preceding the November 2008 Council elections.

Format / Content of the LPPF and Amendment C62:

- 3.9 The draft LPPF comprises:
 - (i) The Municipal Strategic Statement (Clause 21) with policy statements structured around the themes of 'sustainability', 'land use' and 'built form'. In addition, the document includes specific policy directions for each of the seven (7) planning 'neighbourhoods' across Port Phillip.
 - (ii) The Local Planning Policies (Clause 22) include four (4) new policies (Non-Residential Uses in Residential Zones, Backpackers Lodges, Caretaker's Dwellings and Accessible Buildings) and six (6) existing policies (Heritage, Urban Design for Non-Residential Development and Multi Unit Residential Development, Gaming, Outdoor Advertising, Subdivision and the St Kilda Foreshore Area Policy).

Attachment 1 illustrates the key differences (structure and content) between the existing and proposed LPPF.

3.10 Amendment C62 also proposes to introduce a requirement in the Schedule to Clause 52.01 – Public Open Space Contribution and Subdivision for a mandatory 5% open space requirement for subdivisions, to apply to “all land in the municipality”. This supports the implementation of open space policy in the MSS.

3.11 Policy content reflected in the draft LPPF is based on either:

- (i) The translation of existing policy statements from the current LPPF (ie where still relevant to and effective in guiding planning decisions) or:
- (ii) Adopted Council strategies / policies which are yet to be incorporated into the Planning Scheme. These include; Housing Strategy (2007), Activity Centre Strategy (2005), Open Space Strategy (2006), Sustainable Transport Framework (2004), Port Phillip Industry and Business Strategy (2003), Towards Zero Sustainable Environment Strategy (2007) and Sustainable Design Policy (2006).

Recent Changes Proposed to the LPPF:

3.12 A number of changes have been made to the draft LPPF which was endorsed for public exhibition in August 2008. These changes reflect emerging issues and priorities of the current Council being:

- (i) The new Council Plan (2009-2013),
- (ii) The cumulative impacts of licensed premises,
- (iii) The social impact of major use and development proposals, and
- (iv) Future directions for the St Kilda Neighbourhood (including the St Kilda Triangle site).

3.13 Attachment 2 provides an updated the version of the draft LPPF which incorporates the changes as follows:

- (i) New Council Plan (Clause 21.01-3):

Reference to the current Council Plan (2009-2013), and inclusion of the key ‘directions’ and ‘strategies’ related to land use and development (ie ‘Taking Action on Climate Change’, Strengthening Our Diverse and Inclusive Community’ and ‘Enhancing Liveability’).

- (ii) Cumulative Impacts of Licensed Premises (Clause 21.03-2):

Inclusion of two (2) additional strategies under the existing objective “*To minimise the impact of tourism and entertainment uses*” requiring:

- That late night entertainment uses must not be concentrated to the extent that there are significant adverse cumulative impacts on the amenity of the surrounding area.
- A “Noise and Amenity Action Plan” to be provided for proposals operating after 10.00pm.

An Entertainment Precinct Strategy and associated Cumulative Impacts Data Project are currently being undertaken. The State Government also has a range of initiatives in progress. These projects will inform the future development of more detailed planning scheme policy on the Cumulative Impacts of Licensed Premises.

(iii) Social Impact Assessments (new Clause 21.04-8):

Inclusion of an additional policy (objective and strategy) that will ensure the social impact of major land use and development proposals are considered and addressed, through requiring the preparation of a Social Impact Assessment (for planning applications which meet specified criteria).

(iv) St Kilda Neighbourhood / St Kilda Triangle Site (Clause 21.06-6):

Changes to the *Key Planning Challenge* and *Vision* for the St Kilda neighbourhood to delete reference to St Kilda as a 'regionally' significant activity hub and also delete reference to Acland Street, The Triangle site and Fitzroy Street as forming the St Kilda Activity Centre.

Changes to the strategies for *Fitzroy and Acland Street Retail Strips* (Strategies 6.6.8 and 6.6.16 respectively) to delete reference to these locations as being of regional and state significance.

Change to strategies 6.6.40 for the *St Kilda Foreshore Area* to delete reference to this location as being regionally significant.

Changes related specifically to the *St Kilda Triangle site* to:

- Include a new strategy (reflecting the Council Plan - 2009/2013) which seeks to "*ensure that future use and development on the St Kilda Triangle site enhances the liveability of the St Kilda neighbourhood*".
- Modify Strategy 6.6.22 to delete reference to the site as a '*regional*' (hub), and highlight the "*arts, entertainment and leisure*" as the primary uses for the site, whilst stating that these may be "*supported by some commercial and retail land uses*" (reflecting the Urban Design Framework's reference to 'retail' / 'shops' / 'craft shops' as possible uses on the site).
- Modify Strategy 6.6.23 to replace the reference to "*Principal*" with the word "*Key*" when referring to the site as an activity node.

(v) Additional Changes:

- Inclusion of reference to the Park Street Tram link at Clause 21.03-2 Sustainable Transport (Strategy 4.4).
- Deletion of the reference to 'Todd Road' in relation to rail infrastructure to the Port (Planning Challenges - Clause 21.06-4)
- Consequential changes to the description of the MSS structure and the numbering of strategies.

- 3.14 As a consequence of these additional changes to the LPPF, and also given twelve months has elapsed since the initial Ministerial authorisation, Council is required to request further authorisation to prepare and exhibit Amendment C62.

4 CONSULTATION AND STAKEHOLDERS

- 4.1 The draft LPPF was developed in parallel with the Community Plan 2007-2017 and accordingly, reflects the following key community priorities; facilitating sustainable travel to reduce the impact of cars and parking; encouraging affordable housing; promoting environmentally sustainable design; creating additional / quality open space; and 'the development of a planning scheme that highlights sustainability, economic development, quality urban design and social / community amenity'
- 4.2 Public Exhibition of Amendment C62 will provide for formal community input in accordance with Section 19 of the Planning and Environment Act 1987. This process allows all members of the community to make submissions to the amendment. The review of submissions by Council, and subsequently by an Independent Panel, provides scope to make appropriate changes to the LPPF, prior to finalisation and adoption of the amendment.
- 4.3 A communications strategy has been developed which builds upon the requirements of the Act, in order to encourage wide community understanding and ownership of the proposed MSS and Local Policies.
- 4.4 The key elements of this communications strategy are as follows:

Statutory Notification:

- Formal public exhibition period for a period of 2 months, rather than the required 1 month.
- Public Notices in local papers (Port Phillip Leader and Emerald Hill Times) to advise the community of Amendment C62 and invite submissions.
- A Public Notice in 'The Age' to notify non-resident owners of the amendment.
- Notice / article in 'Diversity', delivered to each household in the municipality.
- Direct mail to key stakeholder groups including residents associations, industry groups, business data bases, adjacent Councils and the Port of Melbourne Corporation, and meetings with these groups as requested.
- Direct mail to prescribed Ministers under the Act.
- Public Notice in the Government Gazette, as required by the Act.

Non-Statutory Communication:

- Distribution of a detailed flyer informing the community of key issues addressed in the MSS and Local Policies, and how they may make a submission (via Divercity and at key locations).
 - Information sheets for each neighbourhood, outlining key issues addressed in the MSS and Local Policies.
 - A “travelling road show” at a location within each neighbourhood (for example, Bay Street, Port Melbourne on a Saturday morning) during the consultation period.
 - Detailed web site through which further information can be obtained and submissions can be made.
 - Telephone and email enquiry lines.
 - A media strategy to generate interest in the amendment.
- 4.5 The communications strategy will involve a notice and article in Divercity which is delivered to each household in the municipality. Under Section 19 (1A) of the Act, the planning authority (Council) is not required to give notice to each owner and occupier of land in the municipality if it considers the number of owners and occupiers affected makes it impractical to notify them all individually. Pursuant to Section 19 (1B) of the Act, the planning authority is required to take reasonable steps to ensure that public notice of the proposed amendment advising of the opportunity to make submissions is given in the area affected by the amendment.
- 4.6 Council informed the Minister for Planning of its intention to undertake notification in accordance with Section 19 (1B) of the Act at the time of the initial authorisation of Amendment C62. DPCD officers advised that the proposed notification was considered acceptable. This process is typical of Amendments which have a city wide effect, such as a revised LPPF.
- 4.7 The key messages that have been developed to guide the communications strategy for the amendment are as follows:
- As part of the process there will be opportunity for community feedback. We want everyone to have a say.
 - This is a simple, responsible and easy to use approach to planning in the City of Port Phillip.
 - This amendment updates Council’s planning policy to be more reflective of Port Phillip’s priorities.
 - This is an important part of Port Phillip’s response to Melbourne 2030, having regard to local conditions and community aspirations.

5. DISCUSSION

5.1 OPTIONS

5.1.1 Council has the following options available to it:

Option 1: Resolve to endorse the draft LPPF for consultation purposes and to request Ministerial Authorisation to prepare and exhibit Amendment C62.

Option 2: Determine not to commence the exhibition of the draft LPPF / Amendment C62 at this stage.

This option would be appropriate if Council considers that further substantial changes are required to the LPPF, prior to commencing a formal community consultation process.

5.1.2 Option 1 is recommended. The draft LPPF presented as Attachment 2 represents a consolidated and updated policy position in regards to land use and development. Amendment C62 is required to incorporate the revised LPPF into the Port Phillip Planning Scheme. When approved as part of the scheme, the new LPPF will provide an enhanced strategic basis for (and give statutory weight to) future planning decisions by Council.

The public exhibition and submission stage, any subsequent Independent Panel hearing process, and Council's final consideration of the amendment for adoption, each provide the opportunity for community input and further refinement of the LPPF / Amendment C62.

Whilst Amendment C62 represents a major review of the LPPF, the local policy content of the planning scheme will continue to be reviewed to incorporate strategic work currently in progress (such as the Carlisle and Bay Street Structure Plans, Cumulative Impacts of Licensed Venues and Gaming Strategy) and any other emerging planning issues.

5.2 ALIGNMENT TO COUNCIL PLAN

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

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

- preserving heritage, and
- leading in sustainable design.

5.3 POLICY IMPLICATIONS

- 5.3.1 The Planning and Environment Act 1987 establishes Council's duties as a 'Planning Authority' being (amongst others): 'to provide sound, strategic and co-ordinated planning of the use and development of land in its area'.
- 5.3.2 The LPPF delivers on this requirement through establishing the local policy framework for land use and development within the planning scheme. Specifically the MSS (as required by the Act) establishes land use and development 'objectives' and the 'strategies' for achieving these objectives.
- 5.3.3 An 'audit' of the current LPPF and Planning Scheme identified a number of adopted Council policies and strategies which have not been incorporated into the Planning Scheme (and therefore are not considered to have 'statutory weight'). The revised LPPF reflects these policies and will therefore provide Council with a more current and refined strategic basis for decision making.

5.4 FINANCE / RESOURCE IMPLICATIONS

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

5.5 LEGAL & RISK IMPLICATIONS

- 5.5.1 Council is required to review its planning scheme (including the LPPF) every four years pursuant to the Planning and Environment Act 1987.
- 5.5.2 A decision not to proceed with Amendment C62 may expose Council to risks associated with not fulfilling its obligations under The Act, and also to criticism from the community for having a planning scheme that includes an outdated policy framework.

- 5.5.3 Amendment C62 will undergo a full public exhibition process and will be reviewed by an Independent Panel. This will provide an extensive and transparent process for community involvement thereby minimising any political risks.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

- 6.1.1 Amendment C62 (incorporating the revised Local Planning Policy Framework and new Schedule to Clause 52.01) would be immediately forwarded to the Minister for Planning, with a request to authorise the preparation and exhibition of the amendment. It is estimated that Authorisation may take up to 4 months.
- 6.1.2 The Minister may authorise the amendment subject to further changes to the MSS and / or Local Policies. Any substantive changes required by the Minister prior to exhibition of the amendment will be reported back to Council.
- 6.1.3 Once authorised, Amendment C62 will be exhibited for a period of 2 months, during which time submissions may be made. All submissions made to the amendment will be reported to Council along with any recommended changes to the LPPF / amendment documentation. Submissions made are likely to be referred to an Independent Panel (appointed by the Minister for Planning) for review.
- 6.1.4 A Panel Hearing is likely to occur in early / mid 2010 depending on the number and nature of submissions. It is anticipated that the Council could consider adoption of the Amendment in the later half of 2010.

6.2 COMMUNICATION

- 6.2.1 A Council decision to proceed with Amendment C62 will result in formal Public Exhibition later this year. The exhibition process will involve a range of statutory and non-statutory processes as outlined earlier in this report, to ensure wide community awareness of the proposal.
- 6.2.2 The Amendment process will invite public submissions from interested persons and groups. All submitters will continue to be involved in and informed of the progress of the amendment, including any Panel Hearing and Council meetings at which the matter will be considered. Regular updates in Council's "Diversity" publication are also proposed.