COUNCIL MEETING
BER 1998

	11-12 Upper Esplanade and 6 Victoria Street, St. Kilda
	To consider submissions regarding Amendment L68/C11 and consider referral to an independent Panel for assessment.
ENT NOs.:	L68/C11
ANT:	Becton Corporation
USE:	Esplanade Hotel
USES:	Residential and Foreshore
ZONING:	Residential 1
OVERLAY:	Design & Development Overlay 6D & Heritage Overlay 48
NSIBLE MANAGER:	Stephen Dunn, Manager, Strategic Planning and Facilitation
OR:	Richard Schuster, Senior Planner and Sue Wood, Strategic Planner.

RELEVANT HISTORY

The Esplanade Hotel site, at 11-12 Upper Esplanade and 6 Victoria Street, St Kilda, is bounded by the Upper Esplanade, Pollington Street and Victoria Street. The rectangular 'island' site is approximately 4,200 square metres in area and is occupied by several buildings which are of recognised regional and local heritage significance. The site currently comprises three Titles with the hotel, the bottle shop/beer garden and Baymor flats on separate Titles.

The site is of strategic significance due to:

- its location at the hub of the St Kilda foreshore precinct;
- its regional/local historic and cultural significance - in particular, the hotel's pivotal role as a venue in the Australian entertainment and arts industries;
- its large area and road frontages to all boundaries; and
- several buildings on the site are unused and there is some vacant land.

13. The current development controls require:

- a permit to demolish, alter or construct any buildings and works;
- a maximum building height of 18 metres measured from the permanent footpath level at the centre of the site's Upper Esplanade frontage;
- a frontage setback equivalent to the existing hotel;
- discretionary side and rear boundary setbacks; and
- various guidelines for assessing permit applications which highlight the cumulative effects on the amenity of the area and the need to respect the heritage, scale and character of the area.

14. On 7 October 1998, Council resolved to place Amendment L68 on exhibition as follows:

- A sign measuring two square metres giving notice of the proposed amendment shall be placed in a visible location on the Esplanade Hotel site's Upper Esplanade frontage.
- Direct notification of the amendment by mail shall be given to:

  (a) All owners and occupiers and, where relevant, Body Corporates, within a 200 metres radius of the site, including the lessor and lessee of the St Kilda Seabaths (approximately 850 addresses).

  (b) Interested groups: Esplanade Alliance, St Kilda Heritage Watch, Acland Street Residents' Association, Acland Street Traders' Association, Fitzroy Street Residents' Association, Fitzroy Street Traders' Association, and the National Trust of Australia (Victoria).

- Notice of the proposed amendment on two separate occasions in each of the two local newspapers and The Age newspaper.
- Notice of the proposed amendment to the prescribed referral authorities, and also to all relevant servicing and government authorities.
- Notice of the proposed amendment in the Government Gazette.
- Public exhibition venues included the St Kilda and South Melbourne Town Halls and the St Kilda Library.

15. In addition to the statutory documents and supporting documents provided by the proponent of the amendment, Council placed information at each exhibition venue in a visible location which:

- outlined the amendment process;
- indicated that the Council is placing the revised amendment on public exhibition to hear what the community views are on the proposal; and

- indicated that Council has major concerns with the proposed amendment but will form a final position on the amendment at a later stage with the benefit of community input.

1.6. The public exhibition period concluded on 20 November 1998.

1.7. The new Port Phillip Planning Scheme was gazetted on the 29 October 1998. For amendments that were in train during the transition period of the new Planning Scheme, new amendment numbers have been assigned. In the case of Amendment L68 for the Esplanade Hotel site, the new amendment number will be Amendment C11.

2. PRPOSAL

2.1. Becton are proposing a Planning Scheme amendment for the Esplanade Hotel site which would:

2.1.1. ***Rezone*** the site from Residential 1 Zone ***to a Mixed Use Zone*** with a maximum retail floor area of 800 square metres applying to the site.

2.1.2. ***Remove the current heritage controls*** from the site comprising Heritage Overlay 31 and 238 ***and replace with a Heritage Overlay that applies to that section of the Esplanade Hotel which is proposed to be retained and a Development Plan Overlay*** which includes a Concept Development Plan which shows the ***retention of the main bar/entertainment areas of the existing hotel and the rendered section of the hotel's west wing to Pollington Street***. The remaining buildings on the site including the remainder of the west wing and the east wing of the hotel, the outbuildings to the rear of the hotel, the bottle shop and beer garden and Baymor flats would be demolished.

2.1.3. ***Remove the current Design and Development Control Overlay 6B*** and ***replace with a Development Plan Overlay*** which includes a Concept Development Plan (which shows existing buildings to be retained and proposed building envelopes for the remainder of the site), design guidelines and a schedule of items which the subsequent Development Plan must include, noting that the Development Plan must be generally in accordance with the Concept Development Plan.

2.1.4. The intent of the Development Plan Overlay (DPO) is to provide a site specific planning framework with any subsequent development proposal for the site having to be consistent with this framework. The DPO provisions exempt third party involvement in the approval of the subsequent Development Plan and any permits, although Council could initiate informal community consultation prior to making a decision on a Development Plan or permit. The applicant has appeal rights if the Council decides not to approve a Development Plan (either in whole or in part) or a permit.

2.1.5. In summary, there are three stages:

- firstly, the amendment - which establishes a planning framework for the site;
- secondly, a Development Plan - which is the development application for the site (comprising various plans and documents); and
- lastly, permits - which contain detailed conditions that the use and development must comply with.

2.2. Based on Council officer calculations (and applying a floor to floor height of 3.2 metres, as provided by Becton's architects), the proposed building envelopes shown on the Concept Development Plan could represent:

- a ***podium building in the order of 15 metres (up to 4 storeys)*** above ground level that wraps around the majority of the perimeter of the site with a 1 metre boundary setback to Victoria Street above podium level and a frontage setback equivalent to the existing hotel to The Esplanade of about 7 metres; and
- in the central area of the site ***a building envelope in the order of 54 metres (up to 17 storeys***) above ground level with a notional 'square' building footprint shown within the envelope which is ***joined to a building envelope in the order of 122 metres (38 storeys)*** above ground level with a notional 'oval' building footprint shown within the envelope. A caption for the 'oval' building footprint indicates that the remainder of the envelope is a "zone to accommodate minor modification to tower footprint design."

3. PLANNING POLICY AND CONTROL CONTEXT

3.1. ***Existing Planning Policy and Control Context:*** The State and local policy sections of the Port Phillip Planning Scheme address a broad range of planning policy issues relating to settlement, environment, housing, economic development, infrastructure, land uses, urban character, urban design and public spaces, heritage conservation and traffic and transport. For the purposes of this report, the main planning policies and controls that have a bearing on the planning framework proposed for the Esplanade Hotel site are considered.

3.2. ***State Section, Port Phillip Planning Scheme:*** Of specific relevance to the Becton proposal is the State Government Planning Policy Framework Design and Built Form provisions (Clause 19.03, Port Phillip Planning Scheme). The stated objective of these provisions is instructive:

"To achieve high quality urban design and architecture that:

Reflects the particular characteristics, aspirations and cultural identity of the community.

Enhances livability, diversity, amenity and safety of the public realm.

Promotes attractiveness of towns and cities within broader strategic contexts."

These provisions include ten design principles which a responsible authority must have regard to when assessing development proposals that are not covered by the Good Design Guide. The principles include 1. Context, 2. The public realm. 3. Landmarks, views and vistas, 4. Pedestrian spaces, 5. Heritage, 6. Consolidation of sites and empty sites, 7. Light and shade, 8. Energy and resource efficiency, 9. Architectural quality and 10. Landscape architecture. In particular, the principle of Context states; *"Development must take into account the natural, cultural and strategic context of its location."* and *"A comprehensive site analysis should be the starting point of the design process and form the basis for consideration of height, scale and massing of new development."*

3.3. ***Local Section Land Use:*** The Municipal Strategic Statement (Clause 21, Port Phillip Planning Scheme) provides a strategic basis for the Residential 1 Zone along the Upper Esplanade (and adjacent St Kilda Hill area) as follows:

- the nearby Acland Street and Fitzroy Street activity centres are areas within which a mix of uses, particularly retail uses, should be consolidated;
- the Lower Esplanade and foreshore reserve are areas where recreational, and limited tourism uses are encouraged; and
- the Upper Esplanade has a predominantly residential role whilst providing a promenade link to the nearby activity centres and foreshore attractions.

3.4. ***Overshadowing:*** The MSS states that new development adjacent to the foreshore reserve should not overshadow the reserve between 10.00 a.m. and 4.00 p.m. on 22 June.

3.5. ***Heritage:*** The whole of the site is included in a Heritage Overlay Area and, in addition, the Esplanade Hotel is an identified heritage place in the Heritage Overlay, Clause 43.01, Port Phillip Planning Scheme.

3.6. ***Development Controls:*** The proposed design objectives and guidelines and the development control framework foreshadowed in Amendment C5 (refer Section 5 of this report) reinforce the strategic basis for the current development controls contained in Design and Development Overlay 6B that apply to the Esplanade Hotel site and which have been carried over from the old Planning Scheme. DDO6B (Clause 43.02, Port Phillip Planning Scheme) includes a maximum building height for the site of up to 18 metres.

3.7. ***Proposed Planning Policy and Control Context:*** Amendment C5 to the Port Phillip Planning Scheme was on public exhibition from the 2 November to the 3 December 1998. The key strategic studies and consultations providing the foundation for AMC5 include the Review of Height and Development Controls, the Port Phillip Heritage Review, the Port Phillip Urban Character Study and a series of Neighbourhood Forums. This amendment proposes:

- Changes to the Municipal Strategic Statement.
- Introduction of Neighbourhood Policies.

- Changes to (largely additions to) the Heritage Overlay, noting that the Esplanade Hotel is included in the Heritage Overlay. The existing heritage controls applicable to the Esplanade Hotel site were reviewed as part of the AMC5 process and were still found to be relevant and have been retained for the site as a whole and for the hotel.
- Changes to the Design and Development Overlay including the introduction of design objectives, preferred maximum building heights and setbacks which may be varied with a permit subject to meeting various provisions, including an overshadowing performance measure to ensure that key open spaces (the foreshore reserve and the beyond the western kerbline of The Esplanade) are not unduly overshadowed. The existing development controls applicable to the Esplanade Hotel site were reviewed as part of the AMC5 process. The Review opens up discussion for a scale of development on part of the site which relates to the current built form context established by the Arrandale Apartments (15 storeys) and the Novotel (6 storeys) but having regard to a range of heritage, character, land use and amenity issues. 18 metres has been nominated as the preferred maximum building height for the site (DDO6-A9), pending the outcome of the Amendment L68/C11 and Amendment C5 processes.
- Incorporating the Port Phillip Heritage Review into the Planning Scheme and including the Port Phillip Design Manual as a reference document. The Design Manual contains Multi Storey and Commercial Building Guidelines (Chapter 5).

4. CONSULTATION

4.1. NUMBER OF SUBMISSIONS & SUBURB OF SUBMITTORS:

4.1.1. To date, 5,581 submissions and 5,368 petitioners signatures opposing the amendment and 618 submissions supporting the amendment have been received. The submissions have been received at two locations, the St. Kilda Town Hall and the Planning Department, South Melbourne Town Hall. There are currently two databases listing submittors which need to be combined. This had not been completed at the time of writing. Combination of the two lists may highlight some duplication of names and therefore the final number may be less than the figure given above.

4.1.2. A summary of the origin (suburb) of the submissions is also yet to be produced, pending combining the two databases, but is anticipated to be ready for a verbal report to the Special Council meeting.

4.2. SUMMARY OF SUBMISSIONS (OPPOSED);

4.2.1. IMPACT ON NEIGHBOURING PROPERTIES:

- Enormous shadows would be cast. Major overshadowing will occur.
- Overlooking for kilometres.

4.2.2. HEIGHT;

- Undesirable precedent (a new Surfer's Paradise would be created).
- Person's purchasing in the area had a reasonable expectation that height controls would not be breached and existing views, outlooks would be maintained.
- Height is inconsistent with the intent and purpose of current height controls.
- This sort of height should be contained to the CBD.
- The proposal is out of scale in this locality, suitable only for a CBD location. It is not a human scale and will alienate pedestrians and residents.
- Views of sunsets will be obstructed.
- Will dominate and ruin the skyline.

4.2.3. URBAN CHARACTER

- The proposal would detract from the heritage value of the Esplanade Hotel.
- Out of character with the neighbourhood and inconsistent with the built environment which gives it its current attraction; particularly its historic charm.
- This type of development will destroy the special character and charm of the suburb and simply turn it into another contemporary high rise precinct.
- Is at risk of become a signature piece for St. Kilda.

4.2.4. SOCIAL CONCERNS

- Excessive population density.
- The ambience and social function of the Esplanade Hotel would be lost. It would be overwhelmed and trivialised.
- The Espy is unique, this will change it.
- The social fabric of the area will be ruined. Social diversity would be diminished.
- Another step in the gentrification of St. Kilda.
- Will ruin the unique and individual village atmosphere of St. Kilda.
- Rising rental prices are forcing out the artists that make St. Kilda unique.
- Contrary to community values.

4.2.5. PARKING AND TRAFFIC

- Existing parking and traffic problems would be exacerbated.

4.2.6. URBAN DESIGN AND ARCHITECTURE:

- The proposal is an overdevelopment of the site.
- A conglomeration of tall buildings would create a "wall".
- Poor architectural design, it will look cheap and tacky in a short time. There is no art or sculpture on a 38 storey building. Design variously described as ugly, abysmal, unsympathetic, incompatible, monstrosity, tilt slab box, eyesore, offensive, abomination, an outrage, "Surfer's Paradise", obscenity, insensitive and hideous.
- St. Kilda already has landmarks. It doesn't need a tall building as a landmark.
- Do not repeat the mistakes of the Gas and Fuel Buildings.
- Mimics almost all Katsalidis buildings, has no contextual reference.
- A negative not a positive contribution.
- Learn the lesson from "Arrandale".

4.2.7. PROCESS

- The process provides insufficient detail to allow proper public input.
- References made to other bad planning decisions in the area (i.e. Novotel, Seabaths).
- Wind effects.
- The proposed amendment undermines the aims and integrity of the planning process by flouting well considered planning controls and by denying full public scrutiny of the intended development.
- A dangerous precedent would be set.

4.2.8. MISCELLANEOUS:

- Not necessary.

4.3. SUMMARY OF SUBMISSIONS (SUPPORT):

- Proposal is a quality development by a respected developer. Many comments about faith in Becton's product.
- One of the few locations where a building of this size could be constructed without overshadowing the beach.
- The Espy would be retained and improved with artists studios etc., and the poor buildings behind would be removed. The back part of the Hotel is a "dive".
- The proposal would be a real landmark in "the body of the site". It will improve on other ugly buildings in the area.
- A mix of heights is appropriate as long as it does not set a precedent. Tall buildings, evenly spaced, could provide interesting variation.
- The proposal will provide diversity of architecture; something new and exciting.
- The development would provide significant economic and social benefits.
- Proposal would re-establish the prominence of St. Kilda.
- The proposal is a good design solution for a difficult site.
- The tower will improve the social mix on the site.

4.4. KEY SUBMISSIONS:

PRO-FORMA OBJECTION #1:

- Completely inappropriate scale: A 38 storey tower will dominate the St. Kilda skyline, irrevocably changing the central physical image of St. Kilda. Its massive bulk and scale is completely inappropriate. It will severely unbalance and undermine the existing qualities and character of the Upper Esplanade and of St Kilda as a whole. The St. Kilda foreshore is an area of local and national significance. New development should complement the existing scale and character of the area, not overwhelm or trivialise it. A building of this size is unknown outside the CBD. It will change forever how we view the foreshore.
- A crucial precedent will be established. The tower will send a clear signal to other developers that St. Kilda's skies are open for business. While this skyscraper could become the first major building to breach the six-storey height control introduced in the late 1980's, it may not be the last. The Becton plan comes at a time when the State Government may possibly remove all the current foreshore height controls at the end of this year.
- St. Kilda's heritage diminished. A 38 storey tower will degrade one of the few places left in Melbourne where we can strongly feel the pull of the past. Surrounding the 120 year old Esplanade Hotel, the historic icon of the St. Kilda Esplanade, with a skyscraper will reduce the Hotel to a mere prop, a piece of trivia to be overlooked as we admire Becton's erection. Becton says the site needs a landmark building, well, it already has one, the Esplanade Hotel.
- Major Social Impact: The delicate balance of our community will be dramatically altered by this development. It will confirm that St. Kilda is fast becoming an exclusive playground, affordable only to one section of the community.
- Local amenity: The tower will severely aggravate wind, traffic and parking problems, and massively overshadow nearby parks, open space and houses.

PROFORMA OBJECTION #2:

I believe the proposal to be detrimental to the heritage values of the Esplanade Hotel, the Baymor Court Flats, the environmental and aesthetic values of the St. Kilda foreshore for the following reasons:

- The high rise part of the development , with a 16 level section, and a massive 38 level tower, would totally dominate and trivialise the historic Esplanade Hotel, reducing it from a landmark on the foreshore to a footnote at the bottom of a huge modern building.
- The high tower would cast a shadow over the Upper Esplanade and particularly the boardwalk on most days of the year. On many days, this shadow could stretch as far as the foreshore park and the Palais Theatre.
- The development would inevitably set a precedent for further high rise towers on the Upper Esplanade and elsewhere on the bay. This could lead to increased overshadowing of boardwalks and beaches and a dominating "Gold Coast" style high rise streetscape.

- The development involves the demolition of the Baymor Court flats, which are an important example of the Spanish mission style in Melbourne. An integral part of the character of St. Kilda and classified by the National Trust.
- The development also involves the demolition of the kitchen wing of the Esplanade Hotel which is a Trust classified building. This wing is an important element of the significance of the building.
- The design of the building proposed at ground level next to the Hotel is shown only in a vague sketch form and appears very unsympathetic.

ESPLANADE ALLIANCE PETITIONS:

- Such a tower would severely aggravate wind, traffic and parking problems, extensively overshadow surrounding houses and public spaces and generally erode local amenity to an unacceptable degree.
- It would overwhelm and trivialise the historic Esplanade Hotel, and destroy the scale and character of the St. Kilda Esplanade and Foreshore environment.
- An over-development of this size would threaten the area's social diversity and strain public resources and services.
- The proposed amendment undermines the aims and integrity of the planning controls and by flouting well considered planning controls and denying full public scrutiny of the intended development.

ESPLANADE ALLIANCE SUBMISSION:

- We support the Becton Corporation's plans to retain the current operations of the Esplanade Hotel - its music, comedy, poetry, recording studio, kitchen, and unique role in local, national and international sub-cultures.
- The Esplanade Alliance's principal concern about the proposed amendment relate to

  the concept development plan;

  the removal of significant heritage and conservation controls on the site;

  the building envelope; and

  elements of the Development Plan Overlay.

Key points:

- The level of controversy surrounding various proposals for the Upper Esplanade indicate the central place this area holds in the public imagination for St. Kilda.
- The mistakes of the past (i.e. Arrandale) should not be used as a benchmark.
- A landmark does not need to be a tower. The site is noteworthy because of the existing hotel.

- The consultant's notion that the site forms an important node intersecting visual links and the so-called book-end concept are enormously exaggerated. The links are only possible from a high rise tower in the CBD the air or a yacht on the bay, not sufficient basis to cause such a critical change to the landscape of St. Kilda.
- Becton's assertion that the proposal is necessary to ensure the future of the hotel contrasts with the successful refurbishment of the George and Prince of Wales hotels without high-rise towers and without diminishing their landmark status.
- Becton's opposition to listing the site on the Historic Buildings Register, proposed removal of heritage controls and proposed demolitions (i.e. Baymor Court and original rear service wing) contradicts its claim to value the heritage of the site.
- The Espy is like a great keystone in St. Kilda's historic foreshore frontage but the tower will just reduce it to a trivial curiosity at its foot. Current controls suggest new buildings next to heritage buildings should not be built any higher than the heritage building this is one of the principals behind the current 18 metre height control (i.e. the top of the Espy's chimneys).
- The architectural variety of the area will be unbalanced by a building of total singular dominance both visually and socially. It will dissolve quite dramatically the very urban character that it is trying to buy into.
- The consultant's report argues for revitalisation of the area but the foreshore continues to be one of Melbourne's major attraction already having gone through several refurbishments.
- A tower of this height will overshadow Catani's vision grounded in human aesthetic and scale encouraging human interaction (promenading) recreation and renewal of soul.
- The bottleshop component could obscure the view of the upper part of the existing hotel facade and west wing facade travelling from the south.
- The scale and design of the building to replace Baymor Court will not achieve their desired neighbourly street interface.
- The generic envelope proposal does not guarantee retention of the hotel of its musical and social culture.
- One major argument from Becton is the super slim shape of its main tower (in relation to its enormous height but it will be enormously wide too). It doesn't matter how brilliantly designed it is as a great looking skyscraper the issue is where the tower is to be located.
- Local amenity will be affected by vast shadows including over Alfred Square and over the foreshore proper in winter at times extending across the water., also it will be affected by overlooking, wind effects (no wind testing data provided), traffic generation, parking.
- The economic and social impacts need to be understood before proceeding any further with the amendment.
- Precedent.

- Amendment C5 recommends retention of the 18 metre height limit, no justification has been given for exceeding this other than Becton owns the site and that the site is special.
- Becton is asking for this amendment on the strength of its concept plan, if approved, control will be handed over almost entirely to Becton. If it was sold on there is no knowing what proposal would be put forward by the new owner within the envelope with no third party rights.

PORT PHILLIP BUSINESS ASSOCIATION SUBMISSION

- Provided that the new building is sensitively designed the scheme will provide a very important opportunity to revitalise and rekindle development interest in the area which is currently in a run down dilapidated state.
- It is the Association's policy to "support the redevelopment of the Esplanade Hotel and in particular it believes that the front section should be retained in its current form as a hotel. The site with an appropriate redevelopment could act as a landmark of redevelopment of the area and as a catalyst for selective associated redevelopment on the other side adjacent to the Upper Esplanade end as a link between Fitzroy/Acland Street and the foreshore".
- Urgent action needs to be taken to restore St. Kilda to its previous pre-eminent position as a recreational and tourist location as well as a special place to be. The proposal represents an exciting opportunity to construct a landmark building, introducing vitality and renewal and a much needed catalyst to further public and private sector redevelopment.
- Council strategies seem to be aimed at maintaining the status quo. Pressure on sensitive areas and the foreshore would be reduced if development is directed to the Port Melbourne and St. Kilda nodes.
- Council should take a business as well as a resident perspective into account when making decisions with regards to the St. Kilda foreshore.

NOTABLE SUBMITTORS OPPOSING THE AMENDMENT:

- St. Kilda Housing Association Incorporated
- St. Kilda Rooming House Issues Group Incorporated (concern about loss of social diversity).
- John Thwaites, MLA
- Louise Asher, MP: "Scale out of proportion".
- Senator Judith Troeth.
- Dr. John Spierings (Mayor of St.Kilda 1992-1993).
- Acland Street Residents Association.
- Residents for Responsible Development: (concern that the proposal represents a repeat of the HMAS Lonsdale issue and totally opposed to the proposal, but supporting a referral of the amendment to an Independent Panel for a report back to the Council in order for Council to keep control of the process).
- Neometro Architects.

- Chris Perks Design

National Trust of Australia (Victoria) full and detailed submission summarised as follows:

- Demolition of Baymor Court flats (classified as a relatively rare example of the use of the Spanish Mission style as applied to flat development and of local significance) and the kitchen wing of the Esplanade Hotel opposed. The whole of the Hotel is of at least regional significance and the Trust believes, of State significance Intact 19th Century kitchen rooms are relatively rare, even in private houses, let alone an early, large resort hotel. To demolish the kitchen wing would be to seriously affect the integrity of the building as a whole, and our ability to understand it.

- Tower block out of scale with Hotel, despite its elegant proportions, it would completely dominate and overwhelm this important heritage place, reducing it to a footnote at the base of a huge tower block, visible from all directions including significant public areas (as opposed to high rise buildings in the CBD).
- The tower block is only elegant because it is very tall and would appear so only from a distance. The highly visible side views would present a facade that is twice the width (and height) of Arrandale.
- Proposal is completely at odds with the current planning controls, designed to protect the heritage values of the site and to ensure that development in the foreshore area is appropriately scaled.
- Documentation is totally inadequate and fails to justify the proposed departure from current controls. Whilst the proposal would be a significant visual impact, there is no visual material indicating the actual appearance of the proposed building. The plans exhibited are sketchy and conceptual and do not provide an adequate basis for assessment.
- The process seeks to exclude third parties from the final approval.
- A dangerous precedent would be set.
- Being a landmark site is not a justification for the proposed height.
- The development should not repeat the mistakes of the past (Arrandale).
- Overshadowing will adversely affect residential areas and significant public places (foreshore areas and Alfred Square) every day. The acceptable shadow lengths should determine the building height not visa versa.

5. DISCUSSION OF KEY ISSUES

5.1. POLICY CONTEXT

5.2. ***Existing Planning Policy and Control Context:*** In relation to heritage, urban design and character, amenity and context, the existing policies in the Port Phillip Planning Scheme establish the importance of:

- conserving heritage;
- excellence in design and making a positive contribution to urban character;
- restricting the extent of overshadowing to major public spaces;
- respecting the scale, character and design features of an area;
- protecting the amenity of an area; and
- undergoing a rigorous analysis process to determine an appropriate development outcome for a site.

5.3. The Becton proposal is considered to fail in all of these areas as it:

- is selective about conserving heritage without demonstrating to Council's satisfaction that the proposed Development Plan Overlay will result in an acceptable development outcome for the site;
- will create additional overshadowing of the foreshore reserve and other public spaces;
- largely disregards its context; particularly in respect of building envelope scale/height and massing;
- will adversely impact on the amenity of the area in terms of, for example, overshadowing, diminish the heritage and character of the area, visual bulk, likely micro climatic impacts (eg wind tunnelling) and traffic and parking; and
- presents a Concept Development Plan which is largely a commentary on the proposed development outcome rather than being a rigorous site response and design analysis.

5.4. The existing planning controls establish a residential zoning for the site, a Heritage Overlay for the site as a whole and for the Esplanade Hotel, and a Design and Development Overlay which includes a maximum building height of up to 18 metres on the site and a frontage setback equivalent to the existing hotel with all other boundary setbacks being variable.

5.5. The Becton proposal seeks:

5.6. A Mixed Use Zone for the site which is supportable on the basis that it would:

- Ensure that the existing hotel/entertainment use remains as a permissible use. Becton's commitment to maintaining the current activities of the Esplanade Hotel is supported having regard to the hotel's pivotal role in fostering the Australian entertainment and arts industries.
- Enable a limited range of retailing uses on the site which would complement rather than compete with the nearby activity centres.
- Provide a low intensity activity node that would enhance the existing hotel/entertainment use and the pedestrian linkage role of The Esplanade.

5.7. A Heritage Overlay only in relation to that section of the Esplanade Hotel that is proposed to be retained and an addition to the schedule to the Development Plan which requires the Plan to include illustrations, diagrams or plans which show the junctions between the existing hotel and any new buildings. This approach potentially diminishes the heritage significance of the hotel, it site and its surrounding context by not having heritage overlay area provisions applying to the whole of the site (as apply across the remainder of The Esplanade properties and the St Kilda Hill area).

5.8. A Development Plan Overlay for the site which, amongst other components, includes a Building Envelope Plan (showing envelopes that could accommodate new buildings up to 4, 17 and 38 storeys in height) and would exempt third party involvement in any subsequent development approvals. The proposed Building Envelope Plan and the other components of the Concept Development Plan lack any rigorous analysis to support such a radical departure from the Council's existing (and proposed) development controls for the site. For the most part, the Concept Development Plan is no more than a commentary on the proposed Building Envelope Plan. The formal exclusion of third party involvement in the development approvals process is of concern considering the generous interpretation that could be applied to the sketchy Concept Development Plan that has been submitted. Concerns with detailed aspects of the Concept Development Plan have been highlighted in the reports to Council dated the 19 August and 16 September 1998 (Items D2 and D10 respectively).

5.9. ***Proposed Planning Policy and Control Context:*** In respect of the Esplanade Hotel site, Amendment C5 to the Port Phillip Planning Scheme reinforces the existing planning controls for the site but, consistent with planning reform, the maximum building height for the site of up to 18 metres is now expressed as a preferred maximum building height with the ability to apply for a permit to vary the height based on satisfying stated design objectives, an overshadowing performance measure and various heritage place considerations. Furthermore, AMC5 expands upon the important neighbourhood character and urban design policies; in particular emphasising the critical importance of a new development proposal being the result of a comprehensive site response and design analysis process which has regard to the scale, character and amenity of its surrounding context.

5.10. The key strategic studies and consultations providing the foundation for AMC5 include the Review of Height and Development Controls, the Port Phillip Heritage Review, the Port Phillip Urban Character Study and a series of Neighbourhood Forums.

5.11. In particular, in relation to the site and its context, the consultant's Hansen Partnership, who prepared the Review of Height and Development Controls Study for Council, have made the following comments in the Review:

> "A building lower than 'Arrandale' which exceeds the 18 metres height limit but which steps the built form down to the lower development to the south.
>
> A building which complies with the current 18 metres control and which sites comfortably in terms of scale and bulk, to the existing heritage building on the site, the Esplanade Hotel.
>
> The last two options [i.e. those above] would allow the built form to step up to follow the rise in topography along The Esplanade with the crescent form being reinforced as a strong horizontal element when viewed from the foreshore and St Kilda Pier.
>
> Because an amendment proposal is currently before the Council it is appropriate that this process runs its course. However, the issue of the height and form of a new development on the Esplanade Hotel site requires a detailed analysis based on the existing and preferred urban context for the area. Issues to be considered include:
>
> - the impact on the foreshore and environs in terms of overshadowing (including protection of the promenade on the west side of the Esplanade) and viewlines
> - the relationship of new built form to the heritage building on the site and in the locality
> - the juxtaposition of bulk, mass and form to the streetscape; and

- the overall identity and role of the area at the local and metropolitan level and whether the site is the place for a central city style form and treatment." (Page 42).

5.12. The St Kilda Neighbourhood Policy in AMC5 reflects the findings of the Review where it identifies ".. the need to protect the existing character and scale of development in the area and discourage new developments which propose a major variation from the established built form and scale.". Identified 'Valued Characteristics of the Neighbourhood' include, "..The current height limits across St Kilda which have helped create well designed new development of a scale and form compatible with the character and form of the area.". In relation to 'Neighbourhood Character , Heritage and Urban Design', the policy notes, ".. more recent multi storey buildings (such as the Novotel Hotel and Allendale (sic.) Apartments have located on The Esplanade to take advantage of views of the Bay. These elements have accentuated the change in topography on 'the hill', and created a stepping up of built form along The Esplanade from its low rise edges of heritage buildings located towards Fitzroy Street and Acland Street. These new buildings are of a scale [6 to 15 storeys] which is considered to be appropriate for other sites in this precinct.".

5.13. Whilst the Becton proposal was submitted prior to the public exhibition of AMC5, the consultants inputting into AMC5 provided comments on the Becton proposal which were reported to Council on 16 September 1998 and available in draft form in October/November. It is noteworthy that the review of heritage and development controls (undertaken by external consultants) responds to the planning reform requirements of State Government and reinforce the existing controls for the site whilst, in the case of the development controls, opening discussion for a development outcome on the site which may vary the building envelope between 18 metres and up to 45 metres having regard to a careful analysis of several identified planning issues.

5.14. ***Development Plan Overlay Mechanism:*** As reported to Council on the 19 August 1998, from Council's perspective, the main issues in respect of the Development Plan Overlay are:

- it is difficult to assess a radical change to the existing development controls without an actual development proposal to assess;
- the provisions exclude formal third party involvement in the subsequent approval stages; and
- a rigorous and comprehensive Concept Development Plan is required to minimise the scope for interpretation which can result in uncertainty for all parties.

5.15. As previously referred to, there are considered to be serious flaws with the Concept Development Plan which do not instill confidence to proceed with a Development Plan Overlay mechanism for the site.

5.16. ***Submitters responses:*** Whilst there have been a notable number of submissions in support of the proposed amendment, there have been more than an eight fold number of submissions strongly opposed to the amendment. It is acknowledged that a development on the site would satisfy economic, urban consolidation and revitalisation objectives but that these objectives need to be carefully balanced with other equally important objectives relating to matters such as heritage, character, urban design, protection of amenity etc. This amendment has drawn the highest number of objections ever received by this Council for a development proposal. Clearly, the Esplanade Hotel is a sensitive, strategic site in a location with recognised special attributes which give it a character and amenity of local and National significance. A development proposal which respects and builds upon the site's context is required rather than relying on a flimsy argument of creating a "landmark" which, in this case, appears to be the proponent's main justification for a radical departure from tested planning policies and controls for the site.

5.17. Many of the other concerns raised by submitters are addressed in the preceding discussion of key issues.

6. OPTIONS

6.1. At this stage in the amendment process, i.e. consideration of submissions after the close of the public exhibition period, the Council has three options under the Planning and Environment Act 1987 for courses of action as follows:

(a) Abandon the amendment(s)

(b) Change the amendment(s) in the manner requested by the submitters

or

(c) Refer the submissions to a independent Panel for consideration.

7. CONCLUSION

7.1. The Council has to determine whether to proceed with the process and refer the matter to an independent panel, where there are clearly major issues of disagreement between Council, some submitters and the proponent (Becton) in relation to:

- heritage matters;
- the proposed new building envelopes and corresponding amenity, heritage and character impacts;
- the effectiveness of the design principles in the Concept Development Plan which, as already noted, are largely commentaries on Becton's proposal for the site; and

- the appropriateness of the proposed Development Plan Overlay control noting that the changes to development controls have to be considered in the absence of an actual development proposal and that the subsequent Development Plan approval process would exclude third party involvement.

7.2. If Council does not proceed with the amendment process, the scenario may be that Becton will approach the Minister who may then devise his own process for facilitating the amendment.

7.3. There are risks in Council rejecting the amendment at this stage. However, there is substantial objection to the proposal from the community and serious officer and Councilor concern regarding the planning merits of the proposal to justify abandoning the amendment.

7.4. If Council resolves to abandon the amendment, then it is considered appropriate that the Council gives consideration to what process should follow to attempt to reach a conclusion with the owner and the community on an acceptable land use and development framework for the Esplanade Hotel site that would facilitate a development that would make a positive contribution to the site and its area.

7.5. REFER OPTIONS PAPER.

8. RECOMMENDATION

8.1. REFER SUGGESTED RECOMMENDATION

CITY OF PORT PHILLIP

MEMORANDUM

TO: Mayor & Councillors
Anne Dunn, Ceo

FROM: Stephen Dunn, Manager Strategic Planning & Facilitation

DATE: 11 December 1998

RE: **COUNCIL REPORT REGARDING THE PROPOSED AMENDMENT L68/C11 IN RELATION TO THE ESPLANADE HOTEL SITE, ST KILDA**

Attached to this memorandum are the following draft documents for discussion at the Council Briefing, at 2.45 pm on Monday the 14 December:

- Council report;
- Options paper; and
- suggested recommendation.

After the Briefing, the report will be finalised for distribution on Tuesday the 15 December.

STEPHEN DUNN

MANAGER STRATEGIC PLANNING AND FACILITATION

PROPOSED AMENDMMENT L68/C11 - ESPLANADE HOTEL SITE, ST KILDA

DRAFT SUGGESTED RECOMMENDATION

1. Council, as the Planning Authority for Amendment L68/C11 to the Port Phillip Planning Scheme, has:

   1.1 Received a request from the Becton Corporation to amend the Port Phillip Planning Scheme in relation to the planning controls that affect the Esplanade Hotel site, 11-12 The Esplanade and 6 Victoria Street, St Kilda.

   1.2 Caused notification and public exhibition of the amendment in accordance with Section 19 of the Planning and Environment Act 1987.

   1.3 Fully considered the request in light of the relevant sections of the Planning and Environment Act 1987, the Port Phillip Planning Scheme, the proposed Amendment C5 to the Port Phillip Planning Scheme and the many submissions received to the proposed amendment.

2. Council resolves to abandon Amendment L68/C11 for the following reasons:

   2.1 The proposed amendment is totally contrary to the relevant provisions of the Port Phillip Planning Scheme and the proposed Amendment C5 to the Port Phillip Planning Scheme.

   2.2 The proposed scale, height and mass of development that could be accommodated within the proposed Building Envelope Plan:

   - is totally inappropriate to the site and its established context having regard to the scale, grain and character of the local area.
   - would result in adverse amenity impacts far beyond the site boundaries; in particular, important public spaces (foreshore reserve, The Esplanade and Alfred Square) would be unreasonably overshadowed;
   - would diminish the heritage and character of the Esplanade Hotel, the site as a whole and the area generally;
   - would create an undesirable precedent in an area which is not an identified "growth" or "transition" area but which has an established and valued amenity and character.

- whilst there have been submissions in support of the proposed amendment, there has been more than an eight fold number of objections strongly opposing the amendment. Also, it is noted that the proposed amendment has attracted the highest number of objections that this Council has received to a development application.

3. Council recommends to the Minister for Planning and Local Government that he not use his executive powers to consider or approve a similar amendment proposal for the Esplanade Hotel site.

4. As the Planning Authority, the Council will establish a Working Group as follows:

Basis for Terms of Reference of Working Group:

The Working Group calls for public submissions to assist it in establishing an appropriate building envelope plan and design objectives for the Esplanade Hotel site having regard to the specific issues raised in the Review of Height and Development Controls Study , 1998 (prepared by Hansen Partnership and Brearly Middleton for Council) and other issues raised by submitters to date as follows:

- the impact on the foreshore and environs in terms of overshadowing (including protection of the promenade on the west side of the Esplanade) and viewlines;

- the relationship of new built form to the heritage building on the site and in the locality;

- the juxtaposition of bulk, mass and form to the streetscape;

- the overall identity and role of the area at the local and metropolitan level and whether the site is the place for a central city style form and treatment; and

- amenity impacts including traffic and parking, overshadowing, sensitivity of the residential interface to the rear of the site, visual bulk and micro climatic impacts.

Composition of Working Group:

Nominated Councillors and staff
Becton Corporation
Esplanade Alliance representative
Department of Infrastructure representative
Heritage Victoria/National Trust representative
Other community representative.

Process of Working Group:

The Working Group would determine a draft Building Envelope Plan and design objectives and invite public submissions in response to the draft material. The Working Group would consider submissions received and report to Council as the Planning Authority with the output of the process to be used in the Amendment C5 process.

Timeframe:

To be completed by April 1999.

DRAFT OPTIONS PAPER

If the Council resolves to abandon Amendment L68/C11, Council should give consideration to what process should follow to attempt to reach a conclusion with the owner and the community on an acceptable land use and development framework for the Esplanade Hotel site that would facilitate a development that would make a positive contribution to the site and its area.

The important considerations that should be encompassed in any additional process include:

- The need to ensure that the Council, the owner and all submitters to Amendment L68/C11 have the opportunity to input into any further process.

- That Council's existing planning framework and proposed planning policies, Heritage Overlay controls, Design and Development Overlay controls and design guidelines contained in Amendments C5/C14 - and the consultant's documents that provide the strategic basis for the proposed Heritage Overlay and Design and Development controls - are taken into consideration.

- That the Council remains as the planning authority for the process with any independent advice taken into consideration.

The possible options in terms of a further process to determine an acceptable planning framework for the Esplanade Hotel site include:

OPTION	POSITIVES	NEGATIVES
1. REFER SUBMISSIONS RECEIVED TO INDEPENDENT PANEL	All parties have the opportunity to be heard. Panel reports to Council and the Minister. Council should maintain its role as the planning authority.	Continue to entertain a proposal which is totally unacceptable to Council and a significant number of submitters (more than 5,000) and contrary to existing and proposed Council planning policies and controls. Waste of resources.
2. ABANDON WITH NO SUGESSTED FURTHER PROCESS	Clear statement that current and proposed planning policies and controls provide the only planning framework for the site from the Council's perspective.	Submissions have indicated a range of views on possible development outcomes for the site. Proposed Design and Development Overlay control allows for the

OPTION	POSITIVES	NEGATIVES
		owner to make a permit application to vary the preferred maximum building height of 18 metres for the site. Further analysis of issues required to mediate different points of view. Becton seeks Ministerial intervention in which case the Council would no longer be the Planning Authority. Possibility of no Panel process where Council and community can present.
3. ABANDON WITH A SUGGESTED FURTHER PROCESS EITHER: ***A) ADVISORY COMMITTEE ESTABLISHED UNDER THE P&EACT*** ***B) PUBLIC PROCESS TO DETERMINE APPROPRIATE BUILDING ENVELOPE PLAN AND DESIGN OBJECTIVES***	Clear statement that the current proposal for the site is unacceptable and is rejected outright but with an indication of a possible process to determine what an appropriate planning framework for the site would be taking into account: • the need to ensure that the Council, the owner and all submitters to Amendment L68/C11 have the opportunity to input into any further process; • that Council's existing planning framework and proposed planning policies, Heritage Overlay controls, Design and Development Overlay controls and design guidelines contained in Amendments C5/C14 - and the consultant's documents that provide the strategic basis for	Discussions would be required with DOI/the Minister to resolve the logistics of providing possible expert independent advice (eg with agreement, could be from the Minister's Panel member pool or an agreed eminent person). Need to ensure that the Council maintains its planning authority status with any such further process. Based on assumption that Becton will agree to a further process rather than waiting until they are able to lodge a planning permit application to vary the preferred building height and setback controls for the site. Option A) would run the risk of Council no longer being the planning authority for the site

OPTION	POSITIVES	NEGATIVES
	the proposed Heritage Overlay and Design and Development controls - are taken into consideration; and • that the Council remains as the planning authority for the process with any independent advice taken into consideration. Option B) would therefore be the preferred option.	