

**30 September 2003**

## **FLINDERS STREET OVERPASS SITE DEVELOPMENT**

**Division** City Projects Arts and Culture

**Presenter** Rob Adams, Director City Projects Arts and Culture

### **Purpose**

To advise the Committee of the financial implications of the proposed removal of the Flinders Street Overpass and redevelopment of the former Fishmarket Site.

### **Time Frame**

State Government is seeking confirmation of Council's position as soon as possible to enable the State Government to finalise negotiations with the preferred tenderer.

### **Finance**

The development is expected to be fully completed in 2006/07 and Council relinquishing the use of the site will result in a net revenue reduction of approximately \$0.6M - \$0.7M or approximately one half a percent (0.5%) in rates.

### **Legal**

The Memorandum of Understanding entered into in November 2002 between the State Government and Council should be amended to reflect the changes outlined in this report.

### **Sustainability**

#### **Connected and Accessible City**

One of the principal benefits of the redevelopment of the former Fishmarket site and removal of the Flinders Overpass is that it reconnects the city to the river. The Flinders Street Overpass has provided a physical and symbolic further barrier ensuring that the city ends at Flinders Street. The provision of a variety of activity on the former Fishmarket Site will activate that corner of the city significantly compared to its current role as a public carpark and impound facility.

## **Inclusive and Engaging City**

The former Fishmarket site redevelopment will include a variety of commercial and cultural activities with a strong connection through to that main park. It is anticipated that it will become a very active and vibrant sector of the city.

## **Innovative and Vital Business City**

The introduction of commercial and cultural activities will revitalise the south west corner of the city.

## **Environmentally Responsible City**

The recommended development includes a number of environmentally sustainable design elements. The re-design of the Flinders Street / King Street intersection will provide the opportunity to enhance public transport in that sector including the construction of tram superstops.

## **Recommendation**

That the Finance, Corporate Services and Governance Committee recommends that Council;

- note the current status of the former Fishmarket site, (“the Site”) redevelopment process as outlined in this report;
- work with the State Government to identify the site to which the Parking and Traffic Vehicle impound facility (“the towaway depot”) can be relocated;
- negotiate with the State Government to ensure that Council does not suffer a financial net loss for its involvement and cooperation under the Memorandum of Understanding entered into between the State Government and the Council in November 2002, other than in relation to:
  - the cost of transferring plant and equipment from the towaway depot to the new location for the towaway depot; and
  - forgoing the revenue it currently receives from the carpark located on the Site;
- by instrument of delegation sealed by the Council pursuant to section 98 (1) of the Local Government Act 1989 to delegate to the Chief Executive Officer, or the person from time to time acting in that position, its powers duties and functions to negotiate the terms of an amended Memorandum of Understanding between the State Government and the Council, (“the amended MOU”), reflecting the changes outlined in paragraphs 32.2 and 32.3 above; and
- authorise the Lord Mayor to execute the amended MOU.

### **Attachments:**

1. Memorandum of Understanding
2. Revised Memorandum of Understanding

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**Purpose**

1. To advise the committee of the financial implications of the proposed removal of the Flinders Street Overpass and redevelopment of the former Fishmarket Site, (“the Site”).

**Background**

2. In November 2002, the State Government and Council entered into a Memorandum of Understanding (MOU) with regard to the urban development of the Flinders Street West area. Part of the development included removal of the Flinders St overpass, construction of a replacement intersection and redevelopment of the Site. The financial objective of the project was to be cost neutral to both the State Government and the Council. That is, the “profit” from the development of the Site would cover the cost of removal of the overpass.
3. The project is an important initiative of Council and has for a number of years been a key strategy within City Plan for the rejuvenation of the Flinders Street West area and the reconnection of the City to the Yarra River. Council has been advocating the removal of the overpass to enhance development and recreate Flinders Street as a Boulevard, which now provides a key entry to the Docklands Precinct.
4. In the MOU between the State Government and MCC there was agreement that Council would not suffer a financial net loss in its involvement in the project.
5. Major Projects Victoria (MPV) has conducted an Expression of Interest and tender process. The tenders were reviewed by two expert panels ie Design and Amenity Panel and the Commercial Risk Panel, and a clear recommendation has been made to the Flinders Street West Urban Development Project Steering Committee.
6. MPV is negotiating with the preferred tenderer for the re-development of the Site.

**Government Relations**

7. The issue has been the subject of ongoing discussions between the State Government and Council. The proposed amended MOU should provide the means by which the project can proceed on mutually acceptable terms.

## Issues

8. State Government representatives met with Council officers on 9 September 2003. The representatives advised that significant changes in market conditions have arisen since the signing of the MOU with MCC, which have impacted on the financial offers contained in the tender submissions received to redevelop the site.
9. The Council officers were led to believe a significant shortfall exists between the financial offer included in the preferred tenderer bid and the cost of demolishing the overpass and redeveloping the intersection.
10. The terms of the tender allow the preferred tenderer a further 12 months to achieve financial close, that is, pre-sell apartments, arrange finance and the like. In the event that market conditions decline further between now and financial close, there is a risk that Council may be asked to contribute further to any shortfall arising from the cost of demolishing the overpass and redeveloping the intersection.
11. The State Government is seeking Council agreement to change the financial conditions contained in the MOU, in particular the part which provided that there would be no financial net loss to Council.
12. The key financial elements of the revised MOU are:
  - 12.1. The State Government meeting the cost of removing the Flinders Street overpass and constructing a new Flinders St / King St intersection;
  - 12.2. Council meeting the cost of relocating Council's vehicle towaway depot, which is currently located on part of the site; and
  - 12.3. Council not pursuing a claim against the State Government for compensation for the loss of rental and car parking revenue that Council currently derives from commercial car parking activities conducted on the site.
13. Council believes the revised MOU will need to be strengthened to protect its interests. Amendments would include:
  - 13.1. State Government to identify an alternative site for the vehicle impound centre; and
  - 13.2. Apart from the costs outlined in paragraphs 12.2 and 12.3, the revised Memorandum of Understanding providing that Council will not suffer a financial net loss for its involvement and cooperation under the Memorandum of Understanding, in particular with respect to the cost of removing the Flinders Street Overpass and constructing a new Flinders Street/Kings Street intersection.
14. The Government has passed the Melbourne (Flinders Street Land) Act 2003, ("the MFSL Act"). The MFSL Act has not yet come into force. It will come into force on the date it is proclaimed by the Governor-in-Council. If however the MFSL Act is not proclaimed before 30 June 2005, it will expire on that day.
15. Assuming the MFSL Act is proclaimed before 30 June 2005, then the Crown Land (Reserves) Act 1978 reservation will be revoked. The site will also be divested from Council, without compensation to Council. The Act will also deem the site as unalienated land of the Crown, and therefore available for development.

## Financial

16. Currently the site generates revenue in excess of \$1,000,000 each year in rent and fees for on-street car parking.
17. The Parking and Traffic vehicle impound facility is currently located at the site. This will need to be relocated at a once off cost of approximately \$20,000. A new site will also be required to be leased in the CBD at an estimated cost of \$100,000 per annum.
18. The site currently forms part of the investment portfolio and is valued at \$9.4M as a restricted asset (Crown Land), which represents 20% of the investment property portfolio. If the MFSL Act is proclaimed, Council is not entitled to compensation, and the Government has indicated it will not issue equivalent freehold titles for exchange. This will result in a net reduction of \$9.4M to the investment portfolio.
19. Once completed, the proposed development is estimated to provide to Council approximately \$665,000 in additional rate revenue (as provided by State Government representatives). This estimate appears reasonable based on the proposed site development
20. The development requires 70% presales to gain finance approval. If a smaller scale development is subsequently built the rate revenue will reduce.
21. MPV have calculated that there will be a potential uplift in the value of the properties abutting the development, which will lead to increased rate revenue. The uplift projections are questionable both in their validity and quantity. Firstly, even if it could be shown that adjoining properties benefited from the improved amenity of the area this would not give rise to a supplementary valuation. Nor could it be proved that any subsequent redevelopment of adjoining properties were wholly attributable to the development. Secondly, the uplift projections at 5-15% are entirely subjective. It would require substantive market evidence before Council should act upon it.
22. Removing the overpass and improvement in the amenities in the area could lead to further development work and supplementary income in the future. No additional revenue has been included from development in the period 2003-2007.
23. Should the proposal proceed the increase in rates from new assessments would result in an increase in service demands provided by Council.
24. Municipal costs of the development including community services, engineering services and parks and recreation are estimated to cost the City an additional \$200,000 per annum and come into effect from 2006/07.
25. The net year on year impact of the development is summarised in the following table:

<b>Former Fish Market Site - Net Revenue Shortfall</b>			
\$ 000's	2005	2006	2007
Lost Revenue	\$1,000	\$1,000	\$1,000
Vehicle Impound Moving Cost	\$20	\$0	\$0
New Site Lease Cost	\$100	\$100	\$100
Municipal Costs	\$0	\$0	\$200
<i>TOTAL Costs</i>	<i>\$1,120</i>	<i>\$1,100</i>	<i>\$1,300</i>
Rate Revenue Gain	\$215	\$449	\$665
<b>Net Loss</b>	<b>\$905</b>	<b>\$651</b>	<b>\$635</b>

26. The development is expected to be fully completed in 2006/07 and Council relinquishing the use of the site will result in a net revenue reduction of approximately \$0.6M - \$0.7M or approximately one half a percent (0.5%) in rates.

27. As Council had been aware of this project for some time the long term financial plan had factored in some of the above impacts. These included a reduction in rental and parking fee revenue of \$1.0M and an increase of rate revenue of \$0.200M from 2007/08. Now that more certainty over the financial impacts is available, the changed assumptions have been included in the long term plan.
28. The full effect on the Rate Determination Statement in the long term financial plan can be seen in the following table:

	2003/04	2004/05	2005/06	2006/07
<b>Budgeted Cumulative Surplus</b>	3,134	2,869	2,105	1,012
<b>Cumulative Net Adjustment</b>	-	(905)	(556)	(221)
<b>Revised Cumulative Surplus</b>	3,134	1,964	1,549	791

29. The end net effect is a reduction in the surplus of \$221,000 over the, this is because costs associated with the development were previously included in the last 2 years of the plan, whilst revenues were not recognised at all.
30. The present value of the net loss of revenue over periods of 20 years and 30 years is shown in the table below. Present Value has been calculated on the basis of a return of 4.95% (cash rate) and 8.3% (Investment fund hurdle rate). Capitalised Net Revenue Loss is based on the loss of fees/rent, new lease costs and the relocation costs (once off), offset by the increased rate revenue. Capitalised Gross Revenue Loss is based on the loss of fees/rent, new lease costs and the relocation costs (once off) and is not offset by additional rate revenue. The table below illustrates:

		20 Years	30 Years
Capitalised Net Revenue Loss	@ Cash Rate 4.95%	(\$11.907M)	(\$16.301M)
	@ Hurdle Rate 8.30%	(\$9.204M)	(\$11.257M)
Capitalised Gross Revenue Loss	@ Cash Rate 4.95%	(\$19.060M)	(\$26.226M)
	@ Hurdle Rate 8.30%	(\$14.652M)	(\$18.000M)

## Recommendation

31. That the Finance, Corporate Services and Governance Committee recommends that Council;
- 31.1. note the current status of the former Fishmarket site, (“the Site”) redevelopment process as outlined in this report;
- 31.2. work with the State Government to identify the site to which the Parking and Traffic Vehicle impound facility (“the towaway depot”) can be relocated;
- 31.3. negotiate with the State Government to ensure that Council does not suffer a financial net loss for its involvement and cooperation under the Memorandum of Understanding entered into between the State Government and the Council in November 2002, other than in relation to:
- 31.3.1. the cost of transferring plant and equipment from the towaway depot to the new location for the towaway depot; and
- 31.3.2. forgoing the revenue it currently receives from the carpark located on the Site;
- 31.4. by instrument of delegation sealed by the Council pursuant to section 98 (1) of the Local Government Act 1989 to delegate to the Chief Executive Officer, or the person from time to time acting in that position, its powers duties and functions to negotiate the terms of an amended Memorandum of Understanding between the State Government and the Council, (“the amended MOU”), reflecting the changes outlined in paragraphs 31.2 and 31.3 above; and
- 31.5. authorise the Lord Mayor to execute the amended MOU.

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE STATE GOVERNMENT OF VICTORIA  
AND  
THE MELBOURNE CITY COUNCIL**

**FLINDERS STREET WEST URBAN DEVELOPMENT  
A JOINT PROJECT BETWEEN THE STATE GOVERNMENT OF VICTORIA  
AND THE MELBOURNE CITY COUNCIL**

In recognition of the opportunity presented as a result of work undertaken co-operatively to develop the Yarra Precinct Plan, the State Government of Victoria and the Melbourne City Council agree to jointly undertake an urban rejuvenation project comprising:

1. development of a vision statement for the Flinders Street West Precinct;
2. opening up of the Flinders Street West Precinct including the former "Fishmarket site" (bounded by Flinders, King and Spencer Streets and Batman Park) for development by the private sector; and
3. demolition of the Flinders Street Overpass, contingent on the receipt of an acceptable development proposal for the former "Fishmarket site".

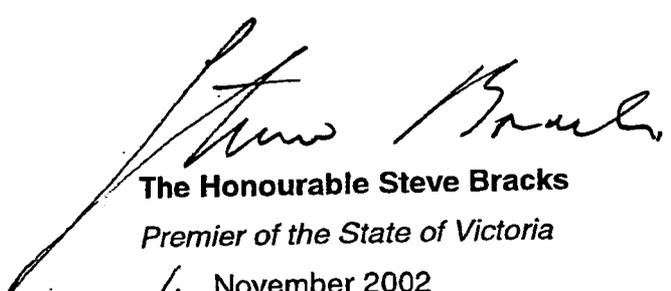
The State Government and the Council agree to co-operate in:

- (i) joint development of a vision for the precinct and a development envelope and conditions for the precinct, including the "Fishmarket site";
- (ii) effective management of the Expressions of Interest (EOI) and Request for Proposal (RFP) processes for development in the precinct and on the "Fishmarket" site in order to optimise economic, community and development outcomes;
- (iii) facilitation of the demolition of the Flinders Street Overpass, construction of a replacement intersection, and implementation of associated traffic and transport management including information programs for the public and transport users;
- (iv) development of a transport strategy for the Yarra Precinct including access to and from the south west part of the central city;
- (v) joint preparation and release of public announcements concerning the project; and
- (vi) agreement to a financial strategy to cover the cost of the project and impacts on council revenue, on the basis that Council will not suffer a financial net loss for its involvement and cooperation in the project.

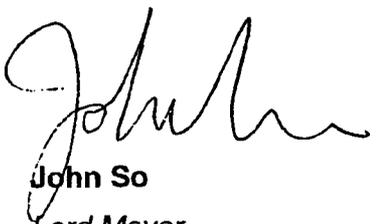
This memorandum may be modified or expanded by mutual determination of the parties (State Government of Victoria and Melbourne City Council).

Signed for and on behalf of  
the STATE GOVERNMENT OF VICTORIA by:

Signed for and on behalf of  
the MELBOURNE CITY COUNCIL by:

  
**The Honourable Steve Bracks**  
*Premier of the State of Victoria*

/ November 2002

  
**John So**  
*Lord Mayor*

/ November 2002

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- (iv) development of a transport strategy for the Yarra Precinct including access to and from the south west part of the central city;
- (v) joint preparation and release of public announcements concerning the project; and
- (vi) Agreement to a financial strategy that will deliver the project based on:
  - the State meeting the cost of removing the Flinders Street overpass and constructing a new Flinders St / King St intersection;
  - Council meeting the cost of relocating Council's vehicle towaway depot, which is currently located on part of the former Fishmarket site; and
  - Council not pursuing a claim against the State for compensation for the lose of car parking revenue that Council currently derives from commercial car parking activities conducted on the former Fishmarket site.

This memorandum may be modified or expanded by mutual determination of the parties (State Government of Victoria and Melbourne City Council).

Signed on the \_\_\_\_\_ day of \_\_\_\_\_ 2003 by:

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**STEVE BRACKS**  
**PREMIER**

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**JOHN SO**  
**LORD MAYOR**