

**City of Kingston
Ordinary Council Meeting**

Agenda

22 December 2008

Notice is given that an Ordinary Meeting of Kingston City Council will be held at 7.00pm at the Cheltenham Office, 1230 Nepean Highway, Cheltenham, on Monday, 22 December 2008.

1. Apologies

2. Confirmation of Minutes of Previous Meetings

Minutes of Ordinary Council Meeting 22 November 2008.

Minutes of Special (Statutory) Council Meeting 4 December 2008.

Minutes of Special Council Meeting 15 December 2008.

3. Declaration by Councillors or Officers of any Interest or Conflict of Interest

4. Petitions

5. Presentation of Awards

Presentation of certificates of appreciation to:

- ICLEA Oceania and the Department of the Environment, Water, Heritage and the Arts – Milestone 5 in the Cities for Climate Protection ® Australia Program

6. Reports from Village Committees

There were no Village Committee meetings in the December cycle.

7. Reports from Delegates Appointed by Council to Various Organisations

8. Environmental Sustainability Reports

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K 199	Status Report on Planning Application No. KP173/07 – Vehicle Store, Removal of Native Vegetation and Creation of Access at 810-834 Springvale Road, Braeside	Page 15
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11. Notices of Motion

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12. Question Time

13. Urgent Business

14. Items in Camera

Organisational Development and Governance Reports

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K 197 Town Planning Application Decisions – November 2008

Approved By: Tony Rijs-General Manager, Environmental Sustainability

Author: Ian Nice – Manager, Planning

Attached for information is the report of Town Planning Decisions for the month of November 2008.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	75	76
Notice of Decision	6	6
Refusal to Grant a Permit	7	7
Other - Withdrawn (3) - Prohibited () - Permit not required (4) - Lapsed (3)	10	11
Total	98	100

(NB: Percentage figures have been rounded)

Recommendation

That the report be noted.

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Planning Decisions November 2008						
APPL. No.	PROPERTY ADDRESS	APPL DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT Decision
KP1/08	54 - 56 OAKES AVENUE CLAYTON SOUTH, VIC 3168	2-Jan-08	27-Nov-08	24 DWELLINGS	Withdrawn	
KP1010/08	38 ACACIA AVENUE MENTONE, VIC 3194	3-Nov-08	26-Nov-08	2 LOT SUBDIVISION	Permit Issued	
KP1012/07	95-99 EDITHVALE RD EDITHVALE, VIC 3196	21-Dec-07	11-Nov-08	FIFTY DWELLINGS	Permit Issued	
KP1012/08	3 SPOONBILL PLACE WATERWAYS, VIC 3195	7-Nov-08	17-Nov-08	DWELLING	Permit Issued	
KP1028/07	13 TENNYSON AVE CLAYTON SOUTH, VIC 3169	24-Dec-07	10-Nov-08	2 DWELLINGS	Permit Issued	
KP1031/08	10 MITTA AVENUE WATERWAYS, VIC 3195	14-Nov-08	26-Nov-08	DWELLING	Permit Issued	
KP107/07-A	JETTY 194, COCOS COURT PATTERSON LAKES, VIC 3197	12-Oct-07	6-Nov-08	REPLACE JETTY	Permit Issued	
KP133/08	8 WILLIAMS ST MENTONE, VIC 3194	25-Jan-08	12-Nov-08	2 DWELLINGS	Permit Issued	
KP147/08	3 NEWRY ST CHELTENHAM, VIC 3192	31-Jan-08	26-Nov-08	2 DWELLINGS	Permit Issued	
KP169/08	490 STATION STREET CARRUM, VIC 3197	7-Feb-08	26-Nov-08	FOUR (4) DWELLINGS	Permit Issued	
KP191/08	18 MAURY RD CHELSEA, VIC 3196	18-Feb-08	26-Nov-08	3 DWELLINGS	Permit Refused	
KP216/08	1/12 CATHERINE AVE CHELSEA, VIC 3196	25-Feb-08	17-Nov-08	ALTS & ADDS - DWELLING	Permit Issued	
KP228/08	2 MENTONE PARADE MENTONE, VIC 3194	29-Feb-08	27-Nov-08	BUILDINGS & WORKS	Permit Refused	
KP249/08	48 WALKERS RD CARRUM, VIC 3197	5-Mar-08	6-Nov-08	2 DWELLINGS	Permit Issued	
KP251/08	5 TROY ST BONBEACH, VIC 3196	5-Mar-08	10-Nov-08	3 DWELLINGS	Permit Issued	

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KP256/08	81-83 CAVANAGH ST CHELTENHAM, VIC 3192	6-Mar-08	26-Nov-08	BUILDINGS & WORKS	Permit Issued
KP275/08	10 TRADEWINDS LANE PATTERSON LAKES, VIC 3197	13-Mar-08	19-Nov-08	SECTION 24A PLAN	Withdrawn
KP284/08	21 AONACH ST CLAYTON SOUTH, VIC 3169	17-Mar-08	12-Nov-08	2 DWELLINGS	Permit Issued
KP285/08	39 WORTHING RD MOORABBIN, VIC 3189	28-Mar-08	11-Nov-08	3 DWELLINGS	Permit Refused
KP301/08	5 LUNTAR RD OAKLEIGH SOUTH, VIC 3167	25-Mar-08	26-Nov-08	2 DWELLINGS	Permit Issued
KP313/08	1/45 BAXTER AVE CHELSEA, VIC 3196	26-Mar-08	5-Nov-08	1 DWELLING	Permit Not Required
KP335/08	1/57-59 GOLDEN AVE CHELSEA, VIC 3196	3-Apr-08	11-Nov-08	12 DWELLINGS	Permit Refused
KP369/08	8 HELENA ST CLAYTON SOUTH, VIC 3169	16-Apr-08	27-Nov-08	2 DWELLINGS	Permit Issued
KP377/08	15 BREEZE ST BONBEACH, VIC 3196	17-Apr-08	20-Nov-08	2 DWELLINGS	Permit Issued
KP380/08	5 FLETCHER ST MOORABBIN, VIC 3189	21-Apr-08	27-Nov-08	2 DWELLINGS	Notice of Decision
KP387/08	5 BAYLISS CT CHELTENHAM, VIC 3192	22-Apr-08	19-Nov-08	2 DWELLINGS	Notice of Decision
KP414/08	38 CLAY ST MOORABBIN, VIC 3189	29-Apr-08	26-Nov-08	3 DWELLINGS	Permit Refused
KP484/08	65 BROADWAY BONBEACH, VIC 3196	27-May-08	11-Nov-08	4 DWELLINGS	Notice of Decision
KP486/08	112 DEVON STREET CHELTENHAM, VIC 3192	23-May-08	17-Nov-08	3 DWELLINGS	Permit Refused
KP553/08	4 BRANAGAN DRIVE ASPENDALE GARDENS, VIC 3195	5-Jun-08	18-Nov-08	HOME OCCUPATION	Permit Issued
KP558/08	19 FOLLETT ROAD CHELTENHAM, VIC 3192	12-Jun-08	6-Nov-08	MIXED USE DEVELOPMENT	Permit Issued
KP564/08	681-685 HEATHERTON ROAD CLAYTON SOUTH, VIC 3169	13-Jun-08	17-Nov-08	BUILDINGS & WORKS	Permit Issued

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KP571/08	2 GRACIE AVENUE EDITHVALE, VIC 3196	6-Jun-08	10-Nov-08	11 LOT SUBDIVISION	Permit Issued	
KP574/08	72 FRASER AVENUE EDITHVALE, VIC 3196	17-Jun-08	18-Nov-08	3 DWELLINGS	Permit Issued	
KP575/08	27-29 NEPEAN HIGHWAY MENTONE, VIC 3194	17-Jun-08	20-Nov-08	ADVERTISING SIGNAGE	Permit Issued	
KP582/08	6 BARILLA ROAD MOORABBIN, VIC 3189	17-Jun-08	5-Nov-08	2 DWELLINGS	Notice of Decision	
KP615/08	1422 CENTRE ROAD CLAYTON SOUTH, VIC 3169	25-Jun-08	11-Nov-08	8 DWELLINGS	Notice of Decision	
KP616/08	18 FOAM STREET ASPENDALE, VIC 3195	26-Jun-08	26-Nov-08	2 DWELLINGS	Permit Issued	
KP648/08	2 DIXON STREET MENTONE, VIC 3194	11-Jul-08	26-Nov-08	2 DWELLINGS	Permit Issued	
KP672/08	103 WARREN ROAD PARKDALE, VIC 3195	17-Jul-08	3-Nov-08	2 DWELLINGS	Permit Issued	
KP679/08	49 EMBANKMENT GROVE CHELSEA, VIC 3196	21-Jul-08	26-Nov-08	2 DWELLINGS	Permit Issued	
KP686/08	4/93 WELLS ROAD CHELSEA HEIGHTS, VIC 3196	22-Jul-08	3-Nov-08	DOG DAY CARE	Permit Issued	
KP690/05	SHOP/397 NEPEAN HWY CHELSEA, VIC 3196	29-Sep-05	24-Nov-08	3 DWELLINGS	Permit Issued	
KP700/08	1/35 CEDRIC STREET MORDIALLOC, VIC 3195	25-Jul-08	12-Nov-08	ALTERATIONS & ADDITIONS	Notice of Decision	
KP725/08	1/9 BEACH AVENUE MORDIALLOC, VIC 3195	4-Aug-08	11-Nov-08	BUILDINGS & WORKS	Permit Lapsed	
KP743/07	58A BROADWAY BONBEACH, VIC 3196	21-Sep-07	10-Nov-08	2 DWELLINGS	Permit Issued	
KP760/08	598-618 MAIN STREET MORDIALLOC, VIC 3195	11-Aug-08	5-Nov-08	BUILDINGS & WORKS	Permit Issued	
KP766/08	4 AVON STREET MOORABBIN, VIC 3189	12-Aug-08	21-Nov-08	2 DWELLINGS	Permit Issued	

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KP769/08	972-988 NEPEAN HIGHWAY MOORABBIN, VIC 3189	12-Aug-08	25-Nov-08	BUILDINGS & WORKS	Permit Issued
KP773/08	100-116 HOWARD ROAD DINGLEY VILLAGE, VIC 3172	15-Aug-08	11-Nov-08	BUILDINGS & WORKS	Permit Lapsed
KP779/08	113 PATTY STREET MENTONE, VIC 3194	13-Aug-08	3-Nov-08	ALTERATIONS & ADDITIONS	Permit Issued
KP788/08	MCLEOD ROAD PATTERSON LAKES, VIC 3197	19-Aug-08	3-Nov-08	REMOVE EASEMENT	Permit Issued
KP791/08	174 WELLS ROAD ASPENDALE GARDENS, VIC 3195	20-Aug-08	25-Nov-08	ADVERTISING SIGNAGE	Permit Lapsed
KP815/08	18 KAREELA STREET MORDIALLOC, VIC 3195	29-Aug-08	25-Nov-08	CARETAKER FACILITY	Permit Issued
KP817/08	15 MCKAY STREET PARKDALE, VIC 3195	29-Aug-08	26-Nov-08	2 DWELLINGS	Permit Issued
KP820/08	541 MAIN STREET MORDIALLOC, VIC 3195	1-Sep-08	26-Nov-08	ADVERTISING SIGNAGE	Permit Issued
KP821/04 -A	1/18-22 INDEPENDENCE ST MOORABBIN, VIC 3189	31-Oct-08	18-Nov-08	ALTERATIONS & ADDITIONS	Permit Issued
KP841/08	50-56 MALCOLM ROAD BRAESIDE, VIC 3195	9-Sep-08	25-Nov-08	BUILDINGS & WORKS	Permit Issued
KP846/08	4/686 NEPEAN HIGHWAY CARRUM, VIC 3197	10-Sep-08	11-Nov-08	ALTERATIONS & ADDITIONS	Permit Issued
KP848/08	68-74 COMO PARADE WEST MENTONE, VIC 3194	11-Sep-08	26-Nov-08	BUILDINGS & WORKS	Permit Issued
KP849/07	8 FRASER AVE EDITHVALE, VIC 3196	23-Oct-07	21-Nov-08	4 DWELLINGS	Permit Refused
KP851/08	16 BETHELL AVENUE PARKDALE, VIC 3195	12-Sep-08	13-Nov-08	FENCE	Withdrawn
KP858/08	424 WARRIGAL ROAD HEATHERTON, VIC 3202	15-Sep-08	12-Nov-08	SIGNAGE	Permit Issued

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KP860/08	4 BISCOP ROAD MOORABBIN, VIC 3189	16-Sep-08	20-Nov-08	2 LOT SUBDIVISION	Permit Issued	
KP873/08	1 BAKER AVENUE EDITHVALE, VIC 3196	18-Sep-08	20-Nov-08	FENCE	Permit Issued	
KP883/08	277-278 STATION STREET CHELSEA, VIC 3196	22-Sep-08	18-Nov-08	5 LOT SUBDIVISION	Permit Issued	
KP884/08	1/1 ALBERT STREET MORDIALLOC, VIC 3195	22-Sep-08	20-Nov-08	2 LOT SUBDIVISION	Permit Issued	
KP885/08	5 TAYLOR AVENUE ASPENDALE, VIC 3195	24-Sep-08	3-Nov-08	2 LOT SUBDIVISION	Permit Issued	
KP887/08	45/47 COCHRANES ROAD MOORABBIN, VIC 3189	24-Sep-08	20-Nov-08	CHANGE OF USE	Permit Issued	
KP897/08	83-93 CANTERBURY ROAD BRAESIDE, VIC 3195	29-Sep-08	17-Nov-08	OFFICE/FACTORY/WA REHOUSE	Permit Issued	
KP900/08	52 CEDRIC STREET MORDIALLOC, VIC 3195	30-Sep-08	11-Nov-08	ALTERATIONS & ADDITIONS	Permit Issued	
KP902/08	25 FRASER AVENUE EDITHVALE, VIC 3196	25-Sep-08	6-Nov-08	2 LOT SUBDIVISION	Permit Issued	
KP916/08	20 TILLER LANE PATTERSON LAKES, VIC 3197	2-Oct-08	11-Nov-08	ALTERATIONS & ADDITIONS	Permit Issued	
KP92/08	10 SHEARMAN CRES MENTONE, VIC 3194	21-Jan-08	12-Nov-08	ALTERATIONS & ADDITIONS	Permit Not Required	
KP920/08	120 COMO PARADE WEST PARKDALE, VIC 3195	1-Oct-08	10-Nov-08	3 LOT SUBDIVISION	Permit Issued	
KP921/08	4 STAYNER GROVE MOORABBIN, VIC 3189	1-Oct-08	12-Nov-08	2 LOT SUBDIVISION	Permit Issued	
KP924/08	52 WETLAND DRIVE PATTERSON LAKES, VIC 3197	2-Oct-08	20-Nov-08	1 DWELLING	Permit Issued	
KP926/08	57 WATERSIDE DRIVE WATERWAYS, VIC 3195	3-Oct-08	3-Nov-08	1 DWELLING	Permit Issued	

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KP927/08	11/598-618 MAIN STREET MORDIALLOC, VIC 3195	3-Oct-08	5-Nov-08	BUILDINGS & WORKS	Permit Issued
KP928/08	19 PRINCETOWN DRIVE WATERWAYS, VIC 3195	6-Oct-08	3-Nov-08	1 DWELLING	Permit Issued
KP930/08	37A SPRINGS ROAD CLAYTON SOUTH, VIC 3169	6-Oct-08	17-Nov-08	LIQUOR LICENCE	Permit Issued
KP932/08	2/33 SCOTCH PARADE BONBEACH, VIC 3196	6-Oct-08	12-Nov-08	ALTERATIONS & ADDITIONS	Permit Issued
KP938/08	101-103 COLLINS STREET MENTONE, VIC 3194	8-Oct-08	27-Nov-08	BUILDINGS & WORKS	Permit Issued
KP945/08	54 BROADWAY BONBEACH, VIC 3196	13-Oct-08	26-Nov-08	3 LOT SUBDIVISION	Permit Issued
KP947/08	150-170 OLD DANDENONG ROAD HEATHERTON, VIC 3202	13-Oct-08	11-Nov-08	ADVERTISING SIGNS	Permit Not Required
KP948/08	84 EDITHVALE ROAD EDITHVALE, VIC 3196	9-Oct-08	12-Nov-08	2 LOT SUBDIVISION	Permit Issued
KP949/08	9 ALBANY CRESCENT ASPENDALE, VIC 3195	9-Oct-08	25-Nov-08	2 LOT SUBDIVISION	Permit Issued
KP955/08	1/52 PLUMMER ROAD MENTONE, VIC 3194	16-Oct-08	17-Nov-08	FENCE	Permit Issued
KP956/08	3 LAKE KING CIRCLE WATERWAYS, VIC 3195	16-Oct-08	3-Nov-08	DWELLING	Permit Issued
KP958/08	8 KING SOUND CLOSE WATERWAYS, VIC 3195	16-Oct-08	6-Nov-08	DWELLING	Permit Issued
KP965/08	1/30 BLACKWOOD AVENUE MENTONE, VIC 3194	20-Oct-08	20-Nov-08	FENCE	Permit Not Required
KP974/08	15 MITTA AVENUE WATERWAYS, VIC 3195	22-Oct-08	10-Nov-08	DWELLING	Permit Issued
KP975/08	60 SPRINGS ROAD CLARINDA, VIC 3169	22-Oct-08	26-Nov-08	DWELLING	Permit Issued

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KP981/08	13 WATERSIDE DRIVE WATERWAYS, VIC 3195	24-Oct-08	12-Nov-08	DWELLING	Permit Issued	
KP985/08	6 MITTA AVENUE WATERWAYS, VIC 3195	27-Oct-08	27-Nov-08	DWELLING	Permit Issued	
KP987/08	3 BULOKE LANE WATERWAYS, VIC 3195	27-Oct-08	17-Nov-08	DWELLING	Permit Issued	
KP997/08	17 SHEPPARD STREET MOORABBIN, VIC 3189	30-Oct-08	25-Nov-08	2 LOT SUBDIVISION	Permit Issued	
KP999/08	11 BOWMAN STREET ASPENDALE, VIC 3195	30-Oct-08	17-Nov-08	2 LOT SUBDIVISION	Permit Issued	

K 198

Regional & Local Community Infrastructure Program

Approved by: Tony Rijs, General Manager Environmental Sustainability

Author: Nigel Brown – Team Leader Leisure & Culture

1. Purpose

This report has been prepared to inform Councillors of the guidelines for the new Regional and Local Community Infrastructure Program (RLCIP) 2008-09, which has recently been established by the Federal Government. Its primary purpose is to help local councils invest in much needed community infrastructure and help to stimulate additional growth and economic activity across Australia. The RLCIP Program is part of the Australian Government's economic recovery plan, which is seeking to address the global economic crisis and mitigate its impacts on the Australian economy.

In addition to the information on the Program guidelines, the report sets out a series of suggested priorities for consideration by Council for both the RLCIP local and strategic funding streams and seeks the approval to submit these to the Department of Infrastructure, Transport, Regional Development and Local Government by the deadlines set out within the body of this report.

2. Background

In light of the challenging global economic climate, the Federal Government has recently announced a series of measures to help mitigate the impact of the crisis on the Australian economy and to help stimulate economic activity across the Country. As part of this package of measures, the Government has established the new Regional and Local Community Infrastructure Program (RLCIP), which will utilise a one-off \$300 million funding allocation during 2008-09, to help local Council's bring forward proposals for much needed community infrastructure as well as stimulating local economic growth and activity.

The RLCIP is split into distinct funding "streams". These are:-

- Regional and Local Community Infrastructure Program – Local Award
- Regional and Local Community Infrastructure Program – Strategic Projects

Details of the guidelines for each funding stream are set out below:-

(i) Regional and Local Community Infrastructure Program – Local Award

This stream will provide \$250 million funding for community infrastructure projects as a one off grant during 2008-09. The funding will be spread across all Australian local councils, on a formula basis which assesses relative need, population and projected growth.

Based on the RLCIP formula, Kingston Council's award has been set at **\$488,000**.

The funding will be provided directly to the Council as a one-off payment during early 2009. This is conditional on the Council providing details of the projects that it intends to fund from the local award to the Department of Infrastructure, Transport, Regional Development and Local Government by no later than **30 January 2009**. Following this, Councils will be expected to enter into a funding agreement and guarantee that all RLCIP funding will be expended by **30 September 2009**.

The RLCIP funding can be used to support community infrastructure projects, including new construction and major renovations or refurbishments of assets, such as:-

- social and cultural infrastructure (e.g. art spaces, gardens);
- recreational facilities (e.g. swimming pools, sports stadiums);
- tourism infrastructure (e.g. walkways, tourism information centres);
- children, youth and seniors facilities (e.g. playgroup centres, senior citizens' centres);
- access facilities (e.g. boat ramps, footbridges); and
- environmental initiatives (e.g. drain and sewerage upgrades, recycling plants)

Funding can be used for:

- construction or fit-out;
- preparatory work such as necessary engineering and geotechnical studies;
- land surveys and site investigations; and
- project management costs.

(ii) Regional and Local Community Infrastructure Program – Strategic Projects

In addition to the local award element of the RLCIP Program, the Australian Government is making a further \$50 million available during 2008-09 for a limited number of large strategic projects. This project must require a minimum Commonwealth contribution of \$2 million. Projects which have partnership funding in place and can demonstrate partnership working are identified as a preference for Federal Government.

Successful projects will be allocated funding on a nationally competitive basis and will again be assessed by the Department of Infrastructure, Transport, Regional Development and Local Government along the following timetable:-

- Submission of completed application form and all supporting information/evidence is required by **4pm (AEDST) on 23 December 2008**.
- The Minister for Infrastructure, Transport, Regional Development and Local Government expects to announce successful projects by **February 2009**.
- A funding agreement is expected to be signed with four weeks of the above announcement. This Funding Agreement would be a legally enforceable document, setting out the obligations of both the Council and Federal Government and would define targets, outcomes and project milestones which, if not delivered, could result in repayment of grant.
- Project construction must commence within six months of the Funding Agreement (contract) being signed.

Local councils, or groups of councils, are eligible to apply for funds under RLCIP - Strategic Projects. There is, however, a limit of one application per Council or group of Councils.

3. Issues

In view of the above funding guidelines, together with the tight timetables involved with the delivery of the 2008/09 RLCIP program, there is now a need for Council to consider and agree its priorities for both of the funding streams.

Given the reasons for the RLCIP development, it is clear from the guidance that the Federal Government want to support projects that:-

- have community support, e.g. can demonstrate positive consultation results,
- can demonstrate strategic fit with Council priorities and strategies,
- can make an significant local environmental impact , e.g. water conservation, increased use of renewables, etc.,
- can be delivered quickly, i.e. can be financially completed by 30th September 2009,
- have the potential to support the local economy, e.g. by supporting local contractors and/or by specifying local products/suppliers,
- and, especially for the Strategic Projects stream, can demonstrate partnership and joint funding.

In view of this set of imperatives, officers have met, identified the following of potential projects which meet the funding criteria:

• Moorabbin Bowls Club New Artificial Surface	\$150,000
• Kingston Hall Upgrade	\$100,000
• Doug Denyer Reserve Water Initiative	\$120,000
• Chelsea Hall Upgrade	\$78,000
• Waves Leisure Centre – Outdoor Exercise Equipment	<u>\$40,000</u>
	<u>\$488,000</u>

With regards to the potential candidates for the Council's bid under the RLCIP Strategic Project stream it is suggested that an application be lodged for the implementation of the Regional Soccer Strategy.

Given the relatively small level of funding available for the strategic projects stream, the minimum grant threshold of \$2 million and the competitive nature of the process, it is likely that there will be a relatively small number of large projects approved under this initial round of the Program. In order to stand the greatest chance of success, projects will need to be high profile, partnership based and demonstrate regional significance, rather than just local impact.

4. Triple Bottom Line Checklist

- Environmental – the RLCIP is likely to have several positive environmental impacts, ranging from image enhancement of the City to effective water conservation management. Where available, environmentally sustainable products will be specified within contracts, helping to improve the Council’s overall environmental performance.

- Social - the Program will have significant community benefits for the City. For example, projects funded through the RLCIP will invest in the community infrastructure of the municipality and will help to generate improved social outcomes, e.g. greater levels of social cohesion and inclusion. In addition, the Council will utilise the RLCIP program funding to support the safeguarding and creation of local employment across Victoria, by maximising the use of Australian made materials and contractors in the delivery of community infrastructure projects.

- Financial – the RLCIP will provide at least \$488,000 in external grant funding for the Council to assist it in its efforts to renew community infrastructure across the City. This funding, spent together with the Council’s own capital resources, will help to create levels of added value and extend the scope of priority Council projects.

5. Summary and Conclusion

This report has been prepared to inform Councillors of the guidelines for the new Regional and Local Community Infrastructure Program (RLCIP) 2008-09, which has been established by the Federal Government to help local councils invest in much needed community infrastructure and help to stimulate additional growth and economic activity across Australia. The report outlines eligible expenditure and clarifies the arrangements for submitting information to the Department of Infrastructure, Transport, Regional Development and Local Government.

In addition to the information on the Program guidelines, the report also outlines a series of recommended priority projects for both the RLCIP Local Award and Strategic Project funding streams and seeks the approval of Council to submit these to the Department of Infrastructure, Transport, Regional Development and Local Government by the deadlines set out in the RLCIP guidelines.

6. Recommendation

That Council resolve to:-

1. Submit the following projects for funding under the Regional and Local Community Infrastructure Program 2008:
 - Moorabbin Bowls Club New Artificial Surface;
 - Kingston Hall Upgrade;
 - Doug Denyer Reserve Water Initiative;
 - Chelsea Hall Upgrade; and
 - Waves Leisure Centre – Outdoor Exercise Equipment,
2. Authorise officers to submit the application for funding for the Regional Soccer Strategy – Kingston Heath Upgrade under the Strategic Projects' element of the Regional and Local Community Infrastructure Program 2008-09.

**K 199 Status Report on Planning Application No. KP173/07 – Vehicle Store,
Removal of Native Vegetation and Creation of Access, at 810-834
Springvale Road, Braeside**

Author: Ian Nice, Manager Planning

Approved by: Tony Rijs, General Manager Environmental Sustainability

1. Purpose

The purpose of this report is to provide Council with a status report on Planning Application No. KP173/07, for the development and use the site at 810-834 Springvale Road, Braeside, for a vehicle store, the removal of native vegetation and creation of access to a road in a road zone, category 1.

A Notice of Decision to Grant a Permit for the proposal was issued under delegation on the 13 August 2008.

Since the issue of this Notice, two (2) Appeals have been received by the VCAT, one against Council's decision to grant a permit by the Defenders of the Green Wedge and the other by the Keysborough Property Investment P/L, against conditions contained in a permit.

The Appeal date has been set, with the Appeal listed for hearing on 5 February 2009.

<p>2. Recommendation</p>

<p>That this item be noted and received.</p>
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Delegate Report

APPLICANT	JMA Architect
ADDRESS OF LAND	No. 810 - 834 (Lots 1 & 2 on PS 343110E)
PROPOSAL	Use and Development of a vehicle store (bus depot), removal of native trees and creation of new access from a Road Zone Category 1
PLANNING OFFICER	Girija Shrestha
REFERENCE NO.	KP173/07
DECISION DATE BY	10th November, 2007
STATUTORY DAYS	304 days @11th July, 2008
CONSIDERED PLAN REFERENCES/DATE RECEIVED	7th August 2007

1.0 KEY ISSUES

- 1.1 The main issues arising from this proposal relate to:
- Traffic considerations
 - Amenity impact
 - Vegetation/landscaping considerations

2.0 SITE & SURROUNDS

- 2.1 The subject site comprises 40.71 hectare allotment (approx.) on the west side of Springvale Road. It currently contains Gardenworld – a retail plant nursery, and several smaller landscaping and gardening businesses, located in two main building fronting Springvale Road. The site also contains established vegetation. There appears to be no restrictions listed on the Certificate of Title.
- 2.2 The surrounding area typically comprises large sites used for bulky goods retail, including Pots Galore and JV Marine World. The local area also includes the Croatian Club, the Lighthouse Christian Centre and Freccia Azzurra Club. To west of subject site are playing fields associated with Mentone Grammar School, and Braeside Park which is 312 hectares of natural parkland. To the east, across Springvale Road is ‘The Keys,’ a residential estate comprising a mix of single and two storey dwellings. To the north, is the Croatian Catholic Church which is a contemporary single storey building with extensive car parking at its rear. To the south is vacant land followed by the large building housing JV Marine World.

3.0 PROPOSAL

- 3.1 It is proposed to construct buildings and works and to use the site for a vehicle store (bus depot) which incorporates refuelling, washing, maintenance and operational facilities. The proposal also incorporates the removal of native vegetation and a new access to a Road Zone 1.
- 3.2 Further details of the proposal include:

Bus Depot:

The main activity to occur onsite is the parking of buses owned by the Grenda Transit Corporation. A total of 60 bus park spaces, each being 3.2 metres in width by 12.75 metres in length, are proposed.

Refuelling, Washing and Repair Facilities:

As part of the bus depot, refuelling, washing and repairs facilities are to be provided.

The *refuel facility* entails an area of 200 square metres which is to be located along the eastern boundary of the subject site, next to the fuel tanks.

The *washing facility* is to be south of the refuel facility. The frequency to which the buses are washed will depend on how much water is collected on site. Recycled water is used to wash the buses. The bus repair facility is 679 square metres in floor area and is to be located directly south of the bus park spaces. This facility is to provide for minor vehicular repairs and maintenance support for the buses that park on-site. The facility consists of 4 work bays, each 4.5 metres in width, 19.85 metres in length and 4.5 metres in height, together with a work area, store, tyre store and lockers. The facility will be used for light repairs such as tyre changing, oil changing and minor mechanical repairs only. The structure itself has a length of 26.07 metres and width of 19.85 metres. Access into work bays is via four power operated roller shutter doors, each with a powder-coat finish, located on both the north and south facades. Walls are made from precast concrete panels, and a steel clad exit door is located on the north, south and west frontages for workers to enter and exit the building. The roof is to be sloped at a 3 degree angle, which culminates at a maximum height of 7.48 metres along the north frontage and is constructed out of zinalume trimdeck.

Operational Accommodation/Driver Amenity Facilities

Abutting the bus repairs facilities is accommodation for the bus driver and daily operational facilities. This facility has a floor area of 396 square metres and comprises a control room, lunch room, quiet room, training and induction rooms, lockers with male and female toilets and showers. The facility is to be constructed predominately of tinted glazing in natural anodised aluminium frame and aluminium sun protection louvers. A canopy constructed of colorbond is to be constructed above the main entrance and around the north frontage. The structure is to have a roof slanted at 3 degrees, which rises to a maximum height of 5.78 metres on its south frontage and constructed out of zinalume trimdeck.

Employees

The proposal accommodates 56 employees of which 50 staff members will be bus drivers. The remaining 6 staff members will assist with the operation of the bus depot.

Vehicle and Bicycle Parking

A total of 78 car parking spaces are to be provided for the staff which include both bus drivers and non-bus drivers, and are located to the south of the depot building. The proposal also includes 10 bicycle parking spaces to encourage employees to cycle to work.

§ Vehicle access provided from Springvale Road.

Landscaping

The proposal entails the removal of native vegetation.

4.0 RELEVANT HISTORY

- 4.1 A number of Planning Permits have been issued for this site, including:
- Planning Permit KP146/07 was issued on 4th April, 2007 for the use the land with an on-premises, liquor licence;
 - Planning Permit Nos KP642/05 and KP671/04 were issued on 4th October, 2005, and 4th October, 2004 respectively, for the erection of the advertising signage;
 - Planning Permit No. KP322/05 was issued on 17th May 2005 for the re-subdivision of the land into two (2) lots; and
 - Planning Permit No.KP97/337 was issued on 13th June 1997, to construct a glass house in association with the existing retail plant nursery on the site.

5.0 ADVERTISING

- 5.1 The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Three (3) objections and fifty-four (54) letters of support to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Appropriateness to the zoning
- Loss of amenity
- Tree removal

6.0 PRELIMINARY CONFERENCE

- 6.1 A preliminary conference was held on 24th October, 2007, with the relevant Planning Officer, the applicant and all (3) objectors in attendance. The above-mentioned issues were discussed at length.

The above concerns were unable to be resolved at the conference, and the objections still stand.

7.0 REFERRALS

- 7.1 The following internal and/or external referral departments were notified:
- Council's Traffic Department

- Council's Development Approvals Engineer
- Council's Vegetation Management Officer
- Council's Strategic Planning
- Park Victoria
- DSE
- VicRoads
- Melbourne Water

7.2 The above-mentioned referral authorities had no objection to the proposal, subject to conditions being included on any permit issued.

8.0 RELEVANT POLICIES

State Planning Policy Framework (SPPF)

8.1

- Clause 17 Economic Development

Local Planning Policy Framework (LPPF)

8.2

- Clause 21.10 (Non Urban Areas)
- Clause 22.04 (Southeast Non Urban Area Policy)

Zoning

8.3 The site is located in the following Zone:

- Clause 35.04 (Green Wedge Zone)

Pursuant to Clause 34.04 a Planning Permit is required to construct a building or construct or carry out works and to use this site for the vehicle storage.

Overlays

8.4 There are no overlay controls that apply to this site.

Particular Provisions

8.5 The following Clauses are applicable to this application:

- Clause 52.06 (Car Parking)

General Provisions

8.6 Clause 65: Decision Guidelines

9.0 PLANNING CONSIDERATIONS:

Land-use Issues

9.1 It is considered that the proposed development generally complies with, and satisfies the State and Local Planning Policy Framework guidelines.

9.2 It is considered that the proposed development satisfies the purpose of the zone, and relevant schedule requirements.

Traffic Issues

- 9.6 Clause 52.06 (Car Parking) provision seeks to ensure that adequate car parking spaces are provided with a new use and development. There is no specific car parking ratio specified for a bus depot, however, there is for a store which encompasses the term 'vehicle store.' Clause 52 of the Kinston Planning Scheme specifies that for a store, 10% of the site area should be set aside for car spaces and access lanes but not driveways.
- 9.7 TraffixGroup had conducted an empirical assessment on the number of car spaces requirement and it has been demonstrated that the compliance with the provision is achieved. The maximum demand for the car parking spaces were 224 and two hundred forty four (244) car parking has been provided for this site. Further, after receiving comments from Council's Traffic department, the amended plan (GRP08812-02 dated 16th October 2007) provides a total of 274 spaces allowing for 244 spaces for use by Gardenworld on weekends.
- 9.8 Some of the concerns raised by Council's Traffic Engineer such as car spaces accessed from the roundabout, layout of the pedestrian crossings near the roundabout, closing off the northern car park access etc. have been amended or justified in plans submitted on 18th July 2008. Council's Traffic Engineer is happy with the amendments made on it. The remaining comments would be as part of any permit conditions, should a permit be issued.

Vegetation Issues

- 9.9 The proposed site contains a number of native trees. The construction of proposed bus depot would require removal of trees. As mentioned, the comments from Department of Sustainability and Environment (DSE), there has been little opportunity to avoid vegetation loss and very little opportunity to minimise loss. Of the 14 indigenous trees present on site, 13 are to be removed. Many of these are medium to large and old trees. In accordance with the recommendations provided by Net-gain Assessment from Ecology Partners, the loss of these trees should be offset by requiring the generation of 0.008 habitat hectares of Heathy Woodland EVC and the recruitment of 397 new Heath Woodland species, or the protection of 10 existing trees from Heathy Woodland and the recruitment of 172 new species to complement the EVC.
- 9.10 The applicant is working on the net gain requirement to accommodate its requirements. A condition requiring the submission of an Offset Management Plan must be included as a condition on any permit issued.

10.0 RESPONSE TO OBJECTORS CONCERNS

The following comments are made with regard to the objector's grounds:

Green Wedge Zone and Appropriateness of bus depot:

MSS and no support for Bus Depot

The Clause 21.10 -1 (Municipal Strategic Statement) of Kingston Planning Scheme mentions about the use of non urban areas that *“The future management of Kingston’s non urban areas is one of the largest challenges facing the City. It is important that land use outcomes in the non urban area are solved through structure planning, and are not driven by short term economic expediency but seek to achieve sustainable use and development outcomes.”*

Further, the Clause 22.04 (South East Non Urban Area Policy) has put forward a strategic and structured approach to the management of the Kingston’s non urban areas. The particular proposed development is within geographic strategies for the Keysborough non urban area framework. This framework mentions about the “urban related” where the proposed development located, that *“some further opportunities for the establishment of low density ‘urban related’ uses, siting and design of new buildings to maximize east – west views, be of a low profile and provide sufficient setbacks to reduce visual impact”*. The proposal is rear of the Gardenworld and will provided with some landscaping for screening purposes. The design of this new building to be a low profile form in nature.

It is also necessary to consider that the Tribunal comments in respect to the MSS in connection to the JV Marine v Kingston CC/Dingley Village Neighbourhood Centre Inc (VCAT 549, 29 January 2007), which refers to the southern lot to this proposal, at No. 856 - 878 Springvale Road, Keysborough. The permit was granted by VCAT for the use and development of land for the purpose of fishing education; fishing related recreational uses; boat sales; boat accessories /boat hardware sales; repairs/servicing of boats, marine/outdoor related retailing and eating facilities The VCAT decision states:

In the Tribunal's view, although the subject land is located within the broader "non-urban area", the reality is that the immediate locality has the character of an urban area located at the interface with a non urban area. Within this context it is not surprising that the local policy recognises that there are differences between the character of the area within which the subject land lies and the broader non urban area and accordingly identifies it as one which presents a "planning opportunity" for the establishment of "urban related uses".

Green Wedge Zone and support for the proposal

The land is located within a Green Wedge Zone 3 and is outside the Urban Growth Boundary.

Within the Green Wedge Zone 3, the “Table of uses” identifies that a “Vehicle store” is a section 2 use. A use not listed in the “Table uses” is also a section 2, if it is not listed in section 3 as “Prohibited Use.”

Under clause 57.01-1, a use listed in the “Table to Clause 57.01-1 is prohibited unless a condition is opposite the use is satisfied. The Table prohibits a “Warehouse” use. However, a “Vehicle store” is excluded from the prohibition and is therefore permissible subject to the grant of a planning permit.

The proposal for “Vehicle Store” is a discretionary use within the zone and needs to be assessed on its merits. Considering the characteristics of the immediate area which does not contribute to the Green Wedge, as much as some other areas, it responds positively to the local circumstances. In addition, the site is currently used as a serving area to Gardenworld and comprises a single storey dwelling for use by the site manager. The past uses would make it difficult to revert the site into uses for agriculture, environmental, historic, landscape, recreational and tourism opportunities which are land uses sought in the Green Wedge Zone.

Whether proposed driver amenities, the workshop and refuel facility can be classed as ancillary uses?

Council sought advice from the Council’s Lawyers as to whether the proposed driver amenities, the workshop and refuelling can be classed as ancillary uses. As stated in response by Maddocks (Council’s solicitor), the proposed driver amenities falls within the category of an ancillary use. The following reasons were given:

The written submission provided with the application describes the activities proposed as part of the application. The submission includes the following details:

- the land is proposed to be “essentially used for overnight bus parking to service a number of nearby bus routes from the site”
- some “light repairs will be undertaken in the workshop;
- the main workshop is located in Dandenong;
- the driver amenities” building will contain: male and female toilets and showers; locker room; lunch room; driver’s quiet room (an alternative lunch room); and internet access room
- control and logistics room to monitor bus movements;
- a training room for new staff;
- a room to provide one on one occupational health and safety training;
- a refuelling area; and
- a bus bay area.

All the services proposed in the “Driver amenities” building are for the *exclusive use by the staff and will not available to the public.*

An ancillary use is not a ‘separate use’ in planning term: *Mollica v Shire of Bulla* (1992) 9 AATR 157.

Relationship between ancillary and primary uses determined in following way in *Pacific Seven Pty Ltd v Knox City Council* (1993) 11 AATR 325:

It has always been recognised that land may be used for more than one use. Land can also be used for more than one activity. However, not all activities constitute separate uses in their own right. Sometimes activities will be ancillary or incidental to the primary use of the property, in which case they will not constitute a separate use but are considered to be part and parcel of the primary use. Whilst these are commonly termed

“ancillary uses,’ the word “use” in this context is a misnomer. They are really activities which are an ancillary part of the primary use.

Further it states on two types of ancillary uses:

The first is where the ancillary activity is quite different to the activities constituting the primary use of the property, but are a necessary adjunct to the primary use. A common example given is the sixth floor of Myers in Melbourne which as devoted to office, yet the offices are ancillary ti the primary use of the premises of a shop. In such cases there must exist a close association between the principal and ancillary uses. Thus, so long as the office of a business or industry deals with the administration of that business or industry, then it will not be classified as a separate office use but as part of the use constituted by the business or industry. But if other administrative work entirely unrelated to the business or industry in question is carried out, then that aspect of the office activity would cease to be ancillary to the primary use and would become a separate use in its own right which would need to comply with the planning scheme.

The second type of ancillary use are those types of activities which grow out of or develop from the primary use and are intended to enhance it. The most common example in recent years has been the sale of convenience goods by petrol stations.

In the present case, the application raises issues that fall with in the first type of an ancillary use. Therefore, the connection between the primary use (vehicle store) and the secondary use (workshop and driver amenities) requires careful consideration.

It is contained as ancillary use because, firstly, the building contains the activities which are directly and closely associated with the use of the land for a “Vehicle store,” such as the change room, showers, lunch room etc. which are all activities and functions that are appropriately categorised as ancillary to the “Vehicle store” use. Secondly, these facilities will only be available for the use by the bus drivers, which supports the use of this building as being ancillary.

Loss of amenity

The western side of the proposed development abuts the Mentone Grammer Playing fields. The proposed development may affect the privacy and generate some noise to the objector’s property. The requirement of an acoustic fence and screen planting along the site’s western property boundary should be a condition, any permit issued.

Tree removal

The tree removal in the area has been discussed in “vegetation issues” section and would be conditioned requiring the submission of an offset management plan should a permit be issued.

11.0 CONCLUSION:

- 8.1 The proposed use and development is considered appropriate for the site as evidenced by:
- The design and siting of the proposed development to be compatible with the surrounding area;
 - The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
 - The proposal satisfies the requirements of the Kingston Planning Scheme, including the SPPF, MSS, Zoning controls and Particular Provisions.

It is considered that the objectors' concerns have been addressed where appropriate, and on balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

12.0 RECOMMENDATION:

That:

- A) a Notice of Decision to Grant a Permit be issued to develop and use this site for a vehicle store, the removal of native vegetation and to create an access to a road in a Road Zone, Category 1, subject to the following conditions:-
1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 7th August, 2007, and 18th July, 2008, but modified to show:
 - a) the provision of suitable screening plants along the site's west (side) property boundary which includes a schedule of plants detailing the quantity, name of plants, height and location;
 - b) the provision of materials / colours samples and schedule detailing all external materials, colours and finishes of the proposed building, including its rear and side elevations;
 - c) the surface material of all driveways/accessways and car parking spaces nominated in an all weather concrete seal coat;
 - d) the provision of a new 2 m high acoustic screen fence along the site's west (side) property boundary in accordance with a design and specifications prepared by a suitably qualified acoustic engineer;.
 - e) the provision of the actual location of the existing open stormwater drain at the site's west rear property boundary and any modifications required to the proposed car park layout undertaken so as to not affect the drain in any way;

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- f) a notation stating: “The open stormwater drain located at the rear of the property must be protected all times during construction”.
 - g) the existing 22.01m easement located at the rear of the site;
 - h) all new car parking areas sealed and drained and line marked;
 - i) the provision of 274 car parking spaces with dimensions and access aisles in accordance with the requirements of the Kingston Planning Scheme or a variation consistent with AS2890.1; and
 - j) the provision of zebra crossings nominated as being constructed to VicRoads standards.
2. Prior to the use commencing the landowner/developer must prepare and implement an Offset Management Plan for the provision of any native vegetation offsets and net gains associated with the removal of native vegetation approved under this permit to the satisfaction of the responsible authority.
 3. Before the use hereby permitted commences the new acoustic fence required under Condition 1 d) of this permit must be constructed and maintained to Council’s satisfaction, at the permit holder’s full cost.
 4. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 5. Conditions required by Vic Roads:**
- a. Prior to endorsement of the plans and any works authorised by this permit, the applicant must arrange for an update Traffic Impact Assessment Report to be prepared to the satisfaction of VicRoads and Department of Transport. The report must include analysis of the on-road bus priority treatments along Springvale Road and recommend mitigating works required to maintain or improve the existing level of service for bus operations.
 - b. Prior to endorsement of the plans and any works authorised by this permit the applicant must;
 - ii) Prepare functional layout plans for the access arrangements on Springvale Road to manage the traffic flow, to the satisfaction of VicRoads and Department of Transport. The plan must include, but not be limited to, the following;
 - Left-turn deceleration lanes at the proposed access point.
 - A new right-turn lane at the existing signalised T-intersection of Springvale Road and Keylana Drive to provide right-turn movements into the development site.
 - On-road bus priority treatments on Springvale Road south approach.
 - All existing bus stops and locations, any proposed bus shelters/walkways and Disability Discrimination Act 1992 (DDA) compliant.

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- Access path and paved surfaces in line with the entrance and exit points of the bus with a minimum width of 1.2 metres.
- iii) Subsequent to the approval of the functional layout plans, prepare detailed engineering plans for the roadworks along Springvale Road, to the satisfaction of VicRoads and Department of Transport; and
- iv) Prepare a traffic signal layout plans for the intersection of Springvale Road and the Northern boundary access and linking of the main access of Gardenworld to the existing signalised T-intersection of Springvale Road and Keylana Drive including public lighting and proposed signal phasing, to the satisfaction of VicRoads.
- c. A Road Safety Audit report must be prepared by an independent VicRoads pre-qualified Road Safety Auditor in accordance with Austroads-Road Safety Audit (Second Edition, 2002) for the review of the detailed for review of the detailed engineering plans.
- d. When a Road Safety Audit identifies any matters that have not been addressed in the detailed engineering plans, they must be addressed and plans amended to the satisfaction of VicRoads.
- e. Before the commencement of any roadworks along Springvale Road authorised by this permit, the developer must
 - ii) Provide a bank guarantee (in the name of the developer/owner) without a termination date to VicRoads for the estimated cost of works.
 - iii) Provide a payment to VicRoads of the pre-estimate certification audit fee.
 - iv) Provide evidence that the Contractor has a public liability insurance policy for at least \$10 million, effective for the duration of the works.
 - v) Provide VicRoads with the name, address, business and out-of-hours telephone numbers of the principal roadworks contractor.
- f. Prior to gaining approval from VicRoads to undertake any roadworks along Springvale Road the applicant must arrange a payment to VicRoads for the predetermined cost of 10 years traffic signal maintenance.
- g. The applicant must engage VicRoads pre-qualified contractors (pre-qualified at the appropriate level or as otherwise approved) to undertake all roadworks along Springvale Road.
- h. Where the roadworks, including footpath and nature strip, lie within private property along Springvale Road, a widening of the road reserve will be required, at no cost to VicRoads. The developer must engage a licensed surveyor to prepare a Plan of Subdivision showing the affected land labelled "ROAD," which is to be vested in the Roads Corporation upon certification of the Plan of Subdivision, without any encumbrances. Subsequent to the registration of the plan, the applicant must ensure that the original Certificates of the Title that issue in the name of the Roads Corporation, are forwarded via registered post to: VicRoads-Property Services Department, 60 Denmark Street KEW, 3101.

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- i. Prior to the commencement of any roadworks in, on, under or over the Springvale Road reservation the applicant must have first applied for the received written consent from VicRoads for those works in accordance with Section 63 of the Road Management Act 2004.
 - j. The applicant must pay the full cost of all roadworks, traffic signals installation, any bus stops/shelters upgrades or relocations, drainage, service relocations, public lighting and any other costs associated with the subject development.
 - k. Prior to the commencement of any use authorised by this permit the applicant must complete all roadworks, signal works and bus stops/shelters in accordance with approved plans and to the satisfaction of VicRoads and Department of Transport.
 - l. The applicant must take all reasonable steps to ensure that disruption to bus operations along Springvale Road is kept to a minimum during the Construction period. Any foreseen disruption to bus operations must be communicated, with mitigating measures, to the Director of Public Transport and Bus Operators one (1) prior to commencement of works affecting bus operations.
- 6. Conditions required by Melbourne Water**
- a. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
7. The development of the site must be provided with stormwater mitigation works which will entail the detention of stormwater on site and/or the use water sensitive urban design principles (including re-use) to reduce stormwater run-off quantity and quality and improve discharge quality. Discussion with Councils Development Approvals Engineer is advised prior to a design being submitted. The stormwater system must be constructed in accordance with the approved drainage plan and maintained to the satisfaction of the Responsible Authority.
8. Before the development hereby permitted commences, a drainage plan showing the stormwater discharge from the development to the nominated point must be submitted to the Responsible Authority for approval. The plan must be prepared by a qualified person and show all drainage works to the nominated point. The plan must also show all existing and proposed features that may have impact on the drainage (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc).
9. Stormwater drainage of the site must be provided so as to prevent any overflows onto adjacent properties and be in accordance with the approved drainage plan.
10. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
- a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.

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11. Construction on the site must be restricted to the following times:
Monday to Friday 7:00am to 7:00pm
Saturday 9:00am to 6:00pm
Or otherwise as approved by the Responsible Authority in writing.
12. The development hereby permitted must not be occupied until all buildings and works and the conditions of this permit have been complied with, unless with the further consent of the Responsible Authority.
13. The development hereby permitted must not be occupied until all landscaping works as shown on the endorsed plans are completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
14. The garden areas shown on the endorsed plan and schedule shall only be used as gardens and shall be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any plant be removed or destroyed it may be required to be replaced by a plant of similar size and variety.
15. The development of the site must not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard the emission of noise must comply with the provisions of the Environment Protection Authority.
16. Outdoor lighting must be provided, designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
17. Convenient taps or fixed sprinkler system must be provided to the satisfaction of the Responsible Authority capable of watering all communal and private lawns and landscaped areas, including turf block visitor car parking where provided.
18. Prior to the development being occupied, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a) Constructed to the satisfaction of the Responsible Authority.
 - b) Properly formed to such levels that they can be used in accordance with the plans.
 - c) Surfaced with an all-weather, coloured concrete, seal-coat to the satisfaction of the Responsible Authority.
 - d) Drained to the satisfaction of the Responsible Authority.
 - e) Line-marked to indicate each car space, all access lanes and, if necessary, the directions in which vehicles are to travel to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

19. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any

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- proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.
20. The area designated on the endorsed plan for the purpose of loading and unloading of goods from vehicles shall be made available for such use and shall not be used for any other purpose.
 21. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
 22. Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
 23. Vehicles under the control of the operator of the use or the operator's staff must not be parked on the nearby roads.
 24. The car parking provided on the land must always be made available for use by persons employed on or visiting the subject premises to the satisfaction of the Responsible Authority and no measure restricting access by such persons to the car park may be taken without the prior permission of the Responsible Authority.
 25. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the satisfaction of the Responsible Authority.
 26. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
 27. No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
 28. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
 29. Storm water drainage of the site must be constructed in accordance with specifications approved by Council.
 30. No bins or other rubbish receptacles may be placed or allowed to remain in view of the public, and no receptacle shall emit any smells.
 31. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Expiry of permit:

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In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

- The development and use are not started before "[insert date]" (date to be two (2) years from date of permit issue).
- The development is not completed before "[insert date]" (date to be four (4) years from date of permit issue).

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

NOTE 2: Prior to commencement of the development you are required to obtain the necessary Building Permit.

NOTE 3: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

NOTE 4: The Council's Planning Inspector must be advised in writing of the completion of the landscaping so that a site inspection can be carried out. A further inspection will be carried out six (6) months after completion of the landscaping to ensure that the landscaping has been adequately maintained.

Girija Shrestha
Statutory Planner

Date

Peter Connell
Team Leader – Commercial and Industrial Development

Date

I have checked the above officer's report. I agree with the recommendation and advise that as Council Delegate, I have determined to:-

ü Grant the application subject to the conditions specified in this report (Permit).

Ian Nice
Council Delegate

Date

In summary the view of the Advisory Committee with respect to policy can be summarised by its comments on Page 30:

‘There is strong policy predisposition in favour of recycling and the Kingston non-urban area may well have a long-term role in this aspect of the waste management sector. We accept Sustainability Victoria advice that the AFG [Alex Fraser Group] recycling operations are a vital element of the recycling network serving south-eastern Melbourne and there is a need to not only maintain but expand the capacity to recycle C&D waste. We also maintain the view of other panels considering materials recycling in Kingston’s non-urban are that:

- *Minimising transport costs is a key factor in the viability of recycling activities and the diversion of feedstock from alternative landfill destinations requires the recycling location to be at the least as accessible as landfill; and*
- *This area is well located in terms of both securing source C&D material from established areas and to provide an alternative to disposal at nearby landfill destinations.*

The clear waste policy support for the Application is an important consideration that supports the grant of a permit but must be balanced with other planning objectives’.

Beyond the above comments of the Advisory Committee it is evident also that the Council Plan through Planned Outcome No. 2 supports the diversion of waste from landfill and the associated recycling initiatives. In the strategy in the Council Plan titled *‘Promote environmentally sustainable practises’* a specific ongoing action is to *‘minimise waste to landfill through Waste Education and Recycling Strategies’*.

It is understood that the former Council’s intention is however, not to seek to preclude all recycling in association with land filling activities. Rather it was to limit the potential development and use of the non urban area for concrete recycling due to concerns held relating to the generation of negative ‘off site’ implications associated with this activity. The highlighting of a single form of recycling (concrete) is significant as it reduces the potential of perceived inconsistencies between the expressed policy intentions at a State and Local level relating to recycling and Council’s targeted area of concern.

The advice provided in the following section which evaluates the options available to Council thus specifically considers the use of the land for ‘concrete recycling’.

4. Options

In exploring this issue further it is necessary for Council to understand how the Planning Scheme works to differentiate ‘Materials Recycling’ in the Schedule 2 to the Special Use Zone as opposed to the Green Wedge Zone. Presently under Schedule 2 to the Special Use Zone a Planning Permit is required for Materials Recycling, however, unlike the Green

Wedge Zone a specific condition on the permissibility of that use is not applied. Under the Green Wedge Zone a Planning Permit may be sought for a Materials Recycling Facility provided the following specific conditions are met:

A Materials Recycling facility:

- *Must be used in conjunction with Refuse disposal or Refuse transfer station.*
- *Must not include the collection, dismantling, storing, recycling or selling of used or scrap construction and demolition materials.*

Given in the specific instance under investigation the feed (concrete) required to provide for recycling endeavours is a consequence of construction or demolition activities this use is therefore prohibited in a Green Wedge Zone.

The following three (3) options are considered those which Council has either requested Officers explore (Option 1 and 2) or a third option that could achieve the objective sought by Council.

Option 1 – Changing the schedule to the Special Use 2 Zone

Council could through the initiation of a Planning Scheme Amendment seek from the Minister for Planning authorisation to exhibit an Amendment introducing the same prohibition in relation to Materials Recycling as that which exists in the Green Wedge Zone (as above). This would however have the consequence of preventing any ability for recycling associated with construction and demolition materials.

Council Officers believe that such an outcome with such stringent prohibitions would act to fundamentally undermine a most important relationship between land filling activities and the process of minimising waste which is able to be recycled thus limiting the reliance on landfill. This issue is particularly significant as unless a strong correlation exists between the location of refuse disposal and the location where recyclables can be sorted and potentially recycled no effective financial incentive exists to do anything other than put all construction and demolition waste into landfill.

Option 3 described below provides Council with an alternate means however, of retaining the Schedule 2 to the Special Use Zone but precluding explicitly ‘concrete recycling’ from Kingston’s Non Urban Area.

Option 2 – Rezoning land to Green Wedge Zone

This option is a direct response to the second item of urgent business raised by Council at its meeting on the 24th November, 2008, identified at the start of this report and relates specifically to rezoning all land located in the Special Use Zone 2 to Green Wedge Zone to prevent further ‘concrete recycling’ activities. As identified above it is correct that seeking

to commence a rezoning to include all Non Urban land in Kingston in the Green Wedge Zone would if successful prevent ‘concrete recycling’.

For the following reasons, however, this is not considered appropriate:

1. For the reasons identified in Option 1, such an outcome would eliminate the opportunity to provide for legitimate forms of construction and demolition recycling which are reliant on an immediate relationship with refuse disposal (landfill).
2. Given the predominance of land filling activities in the area covered by the schedule 2 to the Special Use Zone and its likely continuance for several more years such an amendment would likely draw significant opposition from State Government agencies advocating for recycling initiatives as well as refuse disposal operators who have or may seek approvals for non concrete related recycling opportunities where detrimental amenity implications are unable to be substantiated. Thus substantiating such an Amendment would be more difficult.
3. Introducing the Green Wedge Zone would be entirely inconsistent with the report presented to Council on the 25th August, 2008, whereby the former Council adopted the Northern Non Urban Area Framework Plan which envisaged a number of potential future zoning responses over land covered by the schedule 2 to the Special Use Zone that differed from the Green Wedge Zone. The implementation of the Framework Plan could through tailored and existing Victorian Planning Provision zones achieve the same objective in removing the potential for concrete recycling to occur whilst not compromising the outcomes of the Framework Plan.

Option 3 – Seeking a modification to the Victorian Planning Provisions to specifically define ‘Concrete Recycling’

At present the use of land for the purpose of recycling concrete is defined more broadly under the Victorian Planning Provisions as ‘Materials Recycling’ which is ‘*land used to collect, dismantle, store, recycle, or sell, used or scrap materials*’. Based on the matters raised by Council relating to ‘concrete crushing facilities’, it would be optimal for this activity to be formally defined in the Victorian Planning Provisions (Planning Scheme). By defining this use it would allow Council to seek an Amendment to insert the use ‘concrete recycling’ into the existing Schedule 2 to the Special Use Zone through a Planning Scheme Amendment to formally prohibit this activity.

The advantage of seeking to create a definition directly related to the activity Council wishes to prohibit, is that the creation of such a definition and its subsequent use in specific areas (zones) will not be seen as outcome which precludes in entirety other construction

and demolition related recycling activities associated with refuse disposal and transfer. Thus the likelihood of Council pursuing and achieving its objective through the Planning Scheme Amendment process is substantially greater than directly challenging State Policy and the presently enjoyed rights of operators to seek a permit to establish recycling operations in conjunction with refuse disposal and transfer.

It is considered that if the Planning Scheme can provide specific definitions for uses such as Abattoir, Brothel and Gambling Premises whereby a planning desire exists to encourage and discourage these uses in certain locations, the same principal can be legitimately applied to concrete recycling, on the basis that the implications of its use is materially different than other forms of construction and demolition materials recycling.

Preferred Option

Of the above options it is proposed that Option 3 be pursued in order to remove the ability to pursue concrete recycling in Kingston's non urban area given it is understood that this is the Council's intent.

5. Conclusion

This report has responded to items raised by the former Council in relation to what opportunities were available to prevent the approval of additional concrete recycling facilities in the non urban area. As identified through the report, all the available options will result in a Planning Scheme Amendment that requires approval from the Minister for Planning. It is considered that given the issue of concern raised by the former Council relates specifically to a particular land use (concrete recycling) the option chosen should specifically target this area of concern. Under this scenario (Option 3 above) it is considered that the alignment between the objective Council is seeking and State Policy is far greater than seeking to preclude more broadly recycling activities in conjunction with refuse disposal or transfer in a manner similar to that outlined in the Green Wedge Zone.

If this Council is of view that it wishes to prevent concrete recycling within Kingston's Non Urban Area it should request as step 1 the Minister create a definition for 'concrete recycling' and incorporate it into the Victorian Planning Provisions. If step 1 is successful as step 2 Council should subsequently seek authorisation from the Minister for Planning to list 'concrete recycling' as a Section 3 – Prohibited Use in all Schedules to the Special Use Zone.

6. Recommendation

That should Councillors be of the view they wish to seek to prevent concrete recycling in Kingston's Non Urban Area, the following recommendation be supported:

That Council resolve to:

1. Write to the Minister for Planning seeking the Minister undertake an Amendment to the Victorian Planning Provisions to define 'Concrete Recycling' and that this amendment be undertaken by the Minister pursuant to Section 20 (4) of the Planning and Environment Act.

2. That should the Minister for Planning create a definition for 'Concrete Recycling' Council authorise the commencement of a Planning Scheme Amendment which would include the use of the land for 'Concrete Recycling' as a Section 3 – Prohibited use in all schedules to the Special Use Zone contained in the Kingston Planning Scheme.

**City of Kingston
Ordinary Council Meeting**

Agenda

22 December 2008

Part B-Internal Committees	2008/09 Appointee
Fine Food, Wine and Music by the Bay Festival	Crs Bauer, Brownlees and Ronke
Access and Equity Committee	Mayor
World Globe to Globe Festival Committee	Cr Peulich and Mayor (Sub)
Kingston Harvest Festival Committee	Cr Bauer and Cr Ronke (Sub)
Australia Day Committee	Crs Brownlees and Bauer
Municipal Emergency Planning Committee	Cr Ronke
Friends of Manatuto Committee	Crs Ronke and Staikos with Cr West (Sub)
Kingston Youth Festival	Crs Peulich and Staikos
Kingston Youth Advisory Committee	Crs Peulich and Staikos
Historical Societies Network	Crs Brownlees and West with Cr Dundas (Sub)
Arts and Culture Reference Group	Crs Peulich and Shewan
L F Payne Hall Usage Committee	Crs Bauer, Ronke and Shewan
Positive Ageing Steering Group	Cr Brownlees
Kingston Charitable Trust Community Grants Panel	Mayor and Cr West with Cr Ronke (Sub)

Additionally, Cr West has also expressed interest in attending and representing Council (as opposed to being a formal Council appointee) on the following bodies:

- MAV's Melbourne 2030 Working Group; and
- ICLEI

4. Triple Bottom Line Checklist

- Environmental – Not applicable.
- Social - Not applicable.
- Financial - Not applicable.

5. Recommendation

That Council resolve that Councillors be appointed to the Committees and Organisations for 2008/09 as detailed in the report.

K 202

Appointment of Audit Committee Chairman

Approved by: John Nevins, Chief Executive Officer

Author: Paul Franklin, General Manager Corporate Services

The Audit Committee operates in accordance with a Charter and is an independent advisory committee to Council. The primary objective of the Audit Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risk, maintaining a reliable system of internal controls and facilitating the organisations ethical development.

The Audit Committee is established to assist the coordination of relevant activities of management, the internal audit function and the external auditor to facilitate achieving overall organisational objectives in an efficient and effective manner. Membership of the Committee is comprised of five members – two Councillors and three external independent persons.

The external members are:

Mr Ray Liggett (Chair);
Mr Hugh Parkes; and
Mr Claude Baxter.

Messers Liggett and Parkes have indicated a willingness to continue on this committee, while Mr Baxter has indicated that he intends to resign having taken a full time position of employment.

It is intended that this position be filled following a public expression of interest process to be conducted in January/February 2009.

Recommendation

That:

1. Mr Ray Liggett be appointed as Chair of the Audit Committee for a term to expire in March 2012; and
2. Mr Hugh Parkes be appointed as a member of the Audit Committee for a term to expire in March 2012.

*Attach:
Confidential Resumes of Messrs Liggett and Parkes*

11. Notices of Motion

K 203 Cr West: Prohibiting Cement Crushers in the Green Wedge

Preamble

That in the light of

- The strong opposition to factories and concrete crushers in the green wedge expressed by the vast majority of the submissions and personal representations made by community members and small green wedge land-holders during Council's community consultations for the Northern Non Urban Area Framework Plan;
- Council's four previous decisions to refuse applications for concrete crushers in the northern green wedge (including two almost identical application by Alex Fraser for their Clarinda site), backed by decisions by Planning Ministers to refuse two applications (including the first Alex Fraser Clarinda application) and to set an 18 month sunset clause for the Alex Fraser Dingley operation;
- The amendment of the Green Wedge Zone provisions in 2006 by State Government to prohibit Construction and Demolitions Materials Recycling (including concrete crushing) from the Green Wedge Zone;
- Council's failure to rezone our at risk SUZ2 zoned land in the green wedge to Green Wedge Zone, which would have provided protection against further concrete crusher applications;
- Planning Minister Madden's decision to approve Alex Fraser's latest Clarinda application this year; and
- The absence of any adequate protection against further concrete crusher applications in Council's adopted Non Urban Area Framework Plan or in the current Kingston Planning Scheme, which leaves Council with no credible grounds on which to refuse such an application, or if we did, with no grounds for expecting VCAT or the Planning Minister to uphold our decision if it was appealed by the applicant.

I move that:

Motion

Council work with the State Government:

- **to amend the Special Use Zone Schedule 2 to prohibit concrete crushers from the green wedge, or if that proves impractical,**
- **to request the Minister to authorise a planning Scheme Amendment to rezone Kingston's SUZ2 land in the green wedge to Green Wedge Zone.**

**City of Kingston
Special Council Meeting**

Minutes

15 December 2008

A Special Meeting of the Kingston City Council was held at 8.30pm at 1230 Nepean Highway Cheltenham on Monday 15 December 2008.

Business was as follows:

1. **Apologies**
2. **Declaration by Councillors or Officers of any interest or conflict of interest in any items on the Notice Paper, pursuant to Section 79 Local Government Act 1989.**
3. **Reports by Officers**
 - K 197 Consider an appeal against the Ministerial decision regarding the proposed 'Concrete Crusher' facility: Planning Permit Application KP881/07, 295-315 Kingston Road, Clarinda**
4. **Urgent Business**
5. **Confidential Items in Camera**

**City of Kingston
Special Council Meeting**

Minutes

15 December 2008

Minutes of the Special Meeting of the Kingston City Council held at 1230 Nepean Highway Cheltenham, on Monday 15 December 2008 at 8.39pm.

Present: Cr Arthur Athanasopoulos (Mayor)
Cr Donna Bauer
Cr Ron Brownlees
Cr Lewis Dundas
Cr Paul Peulich
Cr John Ronke
Cr Trevor Shewan
Cr Steve Staikos
Cr Rosemary West OAM

In Attendance: John Nevins – Chief Executive Officer
Paul Franklin – General Manager Corporate Services
Tony Rijs – General Manager Environmental Sustainability
Elaine Sowerby – General Manager Organisational Development and Governance
Rob Crispin, Acting General Manager Community Sustainability
Mike Petit – Manager Communications and Promotions
Jason Stubbs – Manager Governance and Performance Planning
Michael Fry – Team Leader Council Business

In accordance with the provisions of section 89(4A) of the Local Government Act 1989, the Council gave such public notice as was practicable to provide. It was noted that the urgent or extraordinary circumstances which prevented Council from providing at least seven days public notice of the Special Council Meeting was due to the receipt that afternoon of expert legal advice identifying a legal basis for, together with advice that, due to time limitations, Council had until 16 December to lodge an appeal to the Supreme Court in relation to the matter.

1. Apologies

Nil.

2. Declaration by Councillors or Officers of any interest or conflict of interest in any items on the Notice Paper, pursuant to Section 79 Local Government Act 1989.

Nil.

Adjournment

Crs Brownlees/Staikos

That the meeting be adjourned to a time not before 9.00pm.

Carried

**City of Kingston
Special Council Meeting**

Minutes

15 December 2008

The meeting adjourned at 8.41pm.

Resumption

The meeting resumed at 10.50pm with all Councillors in attendance.

3. Reports by Officers

K 197 Consider an appeal against the Ministerial decision regarding the proposed 'Concrete Crusher' facility: Planning Permit Application KP881/07, 295-315 Kingston Road, Clarinda

Crs Brownlees/West

That the Council authorise the administration to initiate legal proceedings by lodging an appeal in the Supreme Court against the decision taken by the Governor-in-Council with respect to the 'Concrete Crusher' facility: Planning Permit Application KP881/07, 295-315 Kingston Road, Clarinda (also known as the Alex Fraser site).

Carried

4. Urgent Business

Nil.

5. Confidential Items in Camera

Nil.

There being no further business, the meeting closed at. 10.55pm

Confirmed.....His Worship The Mayor 22 December 2008.