

**City of Kingston
Special Council Meeting**

Minutes

19 May 2008

Minutes of the Special Meeting of the Kingston City Council held at 1230 Nepean Highway, Cheltenham, on Monday 19 May 2008 at 8.25pm.

Present: Cr Bill Nixon OAM (Mayor)
Cr Greg Alabaster
Cr Arthur Athanasopoulos
Cr Justin McKeegan
Cr Topsy Petchey
Cr Rosemary West OAM
Cr John Ronke

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
Trevor McCullough, General Manager Community
Sustainability
Michael Petit-Manager Communications and Promotions
Paul D’Elia- Acting Governance Co-ordinator

Business will be 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 69 Kingston Road Concrete Recycling*
 - K70 Electricity Supply – Tender*
 - K71 Cr West – Notice of Motion (PLAN)*
- 4. Urgent Business**
- 5. Confidential Items in Camera**

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K 69 295 – 315 Kingston Road, Clarinda

Author: Jonathan Guttmann, Manager Strategic Planning

Approved By: Tony Rijs-General Manager Environmental Sustainability

Determination of this matter was deferred at the 28 April Ordinary Council Meeting (item K52)

Applicant:	Contour Consultants Australia Pty Ltd
Application No.	KP881/07
Location:	No. 295 - 315 Kingston Road, Clarinda
Melways Ref:	79A11
Proposal:	Use and Development of the land for the purpose of a Refuse Transfer Station in conjunction with a Materials Recycling Facility, the Display of Floodlit Business Identification Signs, Reduction in the Car Parking Requirements of Clause 52.06, Removal of Native Vegetation and Alteration of Access to a Road Zone.
Zoning:	Special Use Zone (Schedule No. 2)
Kingston Planning Scheme Ordinance Controls:	Clause 12.01 – Protection of Catchments, Waterways and Ground Water Clause 15.04 – Air Quality Clause 15.05 – Noise Abatement Clause 15.06 – Soil Contamination Clause 15.09 – Conservation of Native Flora and Fauna Clause 17.03 – Industry Clause 18.09 – Water supply, sewerage and drainage Clause 18.10 – Waste Management Clause 19.03 – Design and Built Form Clause 21.03 – Land Use Challenges for the New Millennium Clause 21.04 – Vision Clause 21.07 – Industrial Land Use Clause 21.10 – Non Urban Areas Clause 21.12 – Transport, Movement and Access Clause 22.03 – Sandbelt Open Space Policy Clause 22.04 - South East Non Urban Area Policy Clause 22.15 - Outdoor Advertising Signage Policy Clause 37.01- Special Use Zone (Schedule 2) Clause 52.05: Advertising Signs Clause 52.06: Car Parking Clause 52.29: Land Adjacent to a Road Zone (Category 1) Clause 57: Metropolitan Green Wedge Land Clause 65.01: Decision Guidelines Clause 66.02: Referrals

Background

Council previously resolved as a matter of Urgent Business at its Ordinary Council Meeting on the 17th December, 2007 as follows:

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'That Council resolve to write to the Minister for Planning pursuant to Section 97C of the Planning and Environment Act 1987, requesting that the Minister for Planning decide Planning Permit Application KP881/07, for a Materials Recycling and Refuse Transfer Facility at 293 – 315 Kingston Road, Clarinda'.

A letter was subsequently prepared to the Minister in accordance with the above resolution on the 24th December, 2007. At the time of finalising this report no response from the Minister had been received in relation to this request.

Council was subsequently notified in February, 2008, that the permit applicant had lodged with the VCAT an Application for Review against Council's Failure to Determine the Application. Council is now aware that this matter has been scheduled for a hearing to commence on the 23rd June, 2008.

Accordingly this report ascertains the position that Council will take at the upcoming VCAT hearing.

Main Issue

The primary issues associated with the proposal, is whether or not the use of the land for materials recycling and a refuse transfer station should be pursued in the proposed location.

In forming a view in relation to the above question the following information is before Council to assist it with this consideration:

- § The provisions of the Kingston Planning Scheme.
- § Divergent views expressed by the permit applicant and segments of the surrounding community with respect to the appropriateness of the use.
- § The comments received by State Government Departments and Agencies either in a referral capacity or with a specific interest in the proposal.
- § Previous reports of Panels who have considered the implications associated with the proposed activities.

As indicated, this report seeks direction from Council in relation to how it wishes to advance its position in relation to the proposal and in so doing it is submitted that this consideration requires a careful balancing of all the above aspects.

Existing Conditions

The subject site is located on the north side of Kingston Road, Clarinda approximately 160 metres west of the intersection with Clayton Road. The site has existing abuttals with Victory Road to the north and Peace Road to the west. The subject land has a frontage to Kingston Road of 342.74 metres, a depth which varies between 535.79 metres and 541.51 metres and a frontage to Victory Road of approximately 406.92 metres. This provides the subject site with an overall area of 21.4 hectares leaving it as one of the more significant parcels of land within the municipality.

The application indicates that the *'subject land has over the last 15 years been utilised for sand extraction in accordance with Works Approval 506 and currently contains a series of sand extraction pits, mounds, water storage ponds and slime dams. Two*

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water storage ponds are located along the north boundary (victory Road) and the slime dams are located along the west boundary (Peace Road).

Sections of the site are bordered by bunds established in the early stages of the sand extraction use. These bunds are approximately 5 metres high (above natural surrounding ground level) with the working surface of the site currently at approximately 5-7 metres below the natural ground level surrounding the site’.

A vacant dwelling is located in the south-east corner of the site with frontage to Kingston Road’.

The application further describes the surrounding activities as follows:

‘Directly to the north of the site, across Victory Road are the Elder Street Landfill and the Baxter Tip [Now understood to be Transpacific Industries Tip].

Abutting the east boundary of the site are a range of urban and non-urban land uses, including an egg farm, market gardens and associated dwellings, a reception centre, warehousing and an accident and vehicle repair centre and concrete batching plant.

To the south of the site, across Kingston Road is the Heatherton Christian College, a Telstra substation and an indoor plant nursery, A number of market gardens are also located directly to the south and west of the subject site.’

Recent Site History

Beyond the context established in the previous section the following Planning considerations have been relevant over recent times in relation to the subject land.

Planning Permit Application KP184/04

This Planning Permit Application sought to undertake essentially the same land uses proposed as part of the current proposal. The application was ‘called in’ by the Minister for Planning who appointed an Advisory Committee to consider the Permit Application in conjunction with another proposal seeking to undertake similar activities. The Committee found that:

‘The Committee considers that the real and substantive purpose of the proposal is Material Recycling and any Refuse Transfer Station activity is, at best, ancillary as it is necessary adjunct to that primary use. Therefore the proposal is prohibited under Clause 57 Green Wedge provisions’.

As a consequence of this determination by the Advisory Committee the Minister for Planning wrote to Council notifying Council that he had refused the applications on the grounds that the proposal was prohibited.

The issue of whether or not the use of the land was prohibited relied on considerations of whether or not an association could be sufficiently demonstrated between materials recycling and a refuse transfer station. This matter was subsequently considered by a Panel considering an application by the same company seeking a permit in this

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instance in May 2007 as part of Planning Permit Application KP340/04. The panel in this instance determined that the required 'in conjunction' test was satisfied and the proposal could proceed.

The above application KP340/04 was subsequently considered by a Panel who provided recommendations to the Minister for Planning. Having considered the Panels Report the Minister for Planning resolved to grant a permit. The permit was subsequently issued by the Minister for Planning on the 31st October, 2007 with a condition requiring the use to cease by the 30th April, 2009.

It is understood that a permit is now sought by the Alex Fraser Group to essentially move its operation required to cease by 30th April, 2009, from its Dingley location to the subject land.

Proposal

The permit applicant has described the proposal as follows in its supporting 'Town Planning and Urban Context Report':

'The proposal is for the use and development of a refuse transfer station in conjunction with a materials recycling facility on land at 215 – 295 Kingston Road, Clarinda.

The site will accept construction and demolition and commercial and industrial waste. It is proposed that the transfer station and materials recycling facility will operate for a period of 25 years having regard to the expected continuation of landfill and quasi-industrial activity in the area'.

The proposal provides for vehicle access from Kingston Road via a formally created signalised entry treatment. The proposed roadway leading into the site will be surfaced with bitumen up to a proposed wheel wash bay area with crushed rock hard stand surface beyond this point on the internal road network.

The proposal will further provide the following:

- § Weigh bridge, wheel wash facility, water dousing bar and truck parking area located approximately 60 metres into the site.
- § A site office proximate to the entry of the site will be provided to allow for the monitoring of incoming and outgoing vehicles. It is understood that a total of 20 car spaces will be associated with this facility.
- § A public transfer tipping area is to be provided to provide for small vehicle loads of materials.
- § A maintenance workshop will be located in the central part of the site.
- § The separating and processing plant is to be located in the centre of the site.
- § A number of the existing water storage ponds are to be retained and the existing slimes will assist to form part of the '*product enhancement process*'.
- § The site will also be provided with a dedicated area for the sorting and recycling area where co-mingled waste can be sorted.
- § A proposed business identification sign is to be located within the proposed traffic island on Kingston Road. The sign is to be internally illuminated.

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§ The existing bunding around the subject land is proposed to be heavily planted with a range of native vegetation from grasses, shrubs to trees as depicted on the plans submitted.

A plan illustrating the manner in which the site is to be laid out is provided in Attachment 1 to this report.

The permit applicant has provided through its Town Planning Report a detailed description of the operation details of the proposed use. The information provided outlines the range of materials the facility will accept, the manner in which materials will be sorted and separated and as appropriate transferred from the site and the scale of the administrative aspects of the proposal. To accompany the proposal in the Town Planning Report and a detailed Site Management Plan has also been submitted with the application.

Planning Scheme Requirements:

Pursuant to Clause 37.01 (Schedule 2) of the Kingston Planning Scheme, a planning permit is required to use and develop land for both a Materials Recycling Facility and a Refuse Transfer Station.

In addition pursuant to Clause 37.01-4 a Planning Permit is required to construct a building or construct and carry out building and/or carry out works unless the schedule to the zone specifies otherwise. In this instance the schedule to the zone does not prescribe that a permit is not required for such activities.

A planning permit is also required pursuant to Clause 44.04-1 as a component of the subject land is covered by a Land Subject to Inundation Overlay.

In accordance with Clause 52.05 of the Scheme, a planning permit is required to display Business Identification signage.

A planning permit is also sought to reduce car parking requirements pursuant to Clause 52.06-1 of the Kingston Planning Scheme.

A planning permit is also required pursuant to Clause 52.17 to remove, destroy or lop native vegetation.

A planning permit is also required pursuant to Clause 52.29 to create or alter access to a Road Zone, Category 1.

In addition to the planning scheme controls identified on Page 1 of this report a number of the policies contained within the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF), including Council's Municipal Strategic Statement (MSS) are considered relevant in the consideration of this proposal. These include:

State Planning Policy Framework

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- § Clause 15.01 Protection of Catchments, Waterways and Groundwater
- § Clause 15.04 Air Quality
- § Clause 15.05 Noise Abatement
- § Clause 15.06 Soil contamination
- § Clause 15.09 Conservation of Native Flora and Fauna
- § Clause 17.03 Industry
- § Clause 18.09 Water supply, sewerage and drainage
- § Clause 18.10 Waste Management
- § Clause 19.03 Design and Built Form

Local Planning Policy Framework

- *Clause 21.03 Land Use Challenges for the New Millennium*
- Clause 21.04 Vision
- Clause 21.07 Industrial Land Use
- Clause 21.10 Non urban areas
- Clause 21.12 Transport, Movement and Access
- Clause 22.03 Sandbelt Open Space Policy
- Clause 22.04 South East Non Urban Area Policy
- Clause 22.15: Outdoor Advertising Signage Policy

Amendment to the Application before Notification

No amendments were made to the proposal prior to the advertising period.

Advertising

The proposal was advertised by sending notices to surrounding property owners and occupiers and notifying parties who had shown an interest in the previous application associated with the land. A notice on site was also maintained for fourteen (14) days. The application was also advertised through the public notice section of the relevant Leader Newspapers. Council records indicate the following was received in relation to the application:

- Eighteen (18) letters objecting to the proposal
- One (1) letter not objecting to the proposal
- One (1) letter providing neither support or opposition to the proposal
- An objection signed by approximately 136 parties opposing the proposal.

Councillors have previously been provided with a copy of the objections from all parties. Having reviewed the objections it is the view of Officers that many of the matters raised accord with the considerations of the Panel whom considered Planning Permit Application KP340/04 (Dingley), namely:

- Whether or not the proposal accords with Planning Policy
- Issues associated with potential Off-Site impacts
- Issues associated with buffer distances from sensitive uses
- Noise related considerations

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- Traffic and Car Parking Management

Referrals

Council has received a number of comments from State Government agencies / authorities who play a significant role in assisting Council to consider this proposal. The views of these agencies are briefly summarised below.

Melbourne Water

Melbourne Water does not object to the proposal subject to the inclusion of a number of conditions and footnotes on any planning permit issued.

EPA Victoria

The EPA has no objection to the issuing of a planning permit for the development subject to a number of conditions outlined in its referral response.

Given the expertise contained within the EPA to assist Council in determining such proposals and its ongoing role in monitoring the sites operations should the proposal proceed, it is felt appropriate that the following extract from the EPA's letter is highlighted:

'As you are aware EPA's submission to the 2005 Minster appointed Planning Panel outlined that EPA believed, subject to the incorporation of best practice environmental management, this site would be suitable for the development as a C&D recycling facility and waste transfer station. EPA still holds this view.

We note that the application appears to entail all the environmental controls put forward to the Planning Panel by Alex Fraser. Furthermore, in addition to those controls, full enclosure of the crushing plant to limit dust emissions is now proposed. We see this action as a constructive measure beyond contemporary industry Best Practice. It should give greater surety for dust and possible noise emission attenuation and further increase the likelihood that the operations will not have an adverse impact on sensitive land uses.'

Department of Sustainability and Environment

'The Department and Parks Victoria have considered the application and have no objection to this proposal provided the applicant does not carry out any activities that may impact on the outcomes stated in the Sandbelt Open Space Project Development Plan 1994.'

VicRoads

Council has received three letters from VicRoads in relation to this application the first dated 28th December, 2008, the second dated 27th February, 2008 and the third

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dated 31st March 2008. The most recent letter was sent directly to the VCAT which Council was copied into.

Following the above correspondence it is apparent that VicRoads have withdrawn their initial objection to the proposal subject to a number of detailed conditions regarding work to be undertaken regarding issues associated with accessing the subject land. It does however appear that following discussions between the permit applicants representatives and VicRoads, the proposal no longer seeks to provide for a fully signalised intersection on the sites Kingston Road frontage.

In addition to the above comments from State Government agencies / authorities, the following letters were submitted with the application:

Sustainability Victoria

A letter from Sustainability Victoria dated 17th September, 2007 to the State Department of Innovation, Industry and Regional Development was submitted which highlighted the importance of the proposal in relation to its ability to contribute to the Towards Zero Waste Strategy given its significant recycling role. The letter identifies that:

- § *The South Eastern region generates the majority of C&D Waste (53%) but currently only has 21% of the recycling capacity. Over 90% of the South East's capacity is provided by the Alex Fraser Group facility at Tootal Road, Dingley. The Dingley site is currently scheduled to close at the end of 2007 therefore creating a significant shortfall in recycling capacity in the South East.*
- § *Sustainability Victoria acknowledges that Alex Fraser Group's contribution to recycling of C&D waste has been, and continues to be, significant (e.g. 1.1 million tonnes of C&D waste recycled in 2005/06 or 18% of Victoria's total recycling) and we strongly support the company's expansion of activity in the SE.*
- § *I understand that Alex Fraser has prepared a new proposal for a purpose built, state of the art transfer station and recycling facility for a site in Kingston Road, Clarinda. I am advised that the new facility will feature an enclosed operating plant and leading edge dust monitoring systems. In May 2007 Sustainability Victoria allocated \$500,000 of funding under our Commercial and Industrial Resource Recovery Grants Program towards the establishment of this facility.*

EPA Victoria

The EPA provided a letter dated 17th September, 2007 to the Department of Innovation, Industry and Regional Development providing support for the activity proposed, the appropriateness of the proposal in relation to its location and the measures incorporated to manage the operations of the use.

Response to Grounds of Objection

In responding to the above grounds of objection, Officers wish to remind Council that in the instance of the current proposal a substantive assessment of many of the issues raised by the objectors has already occurred through the following planning processes:

- Advisory Committee and Panel Report consideration regarding Planning Permit Application KP184/04; and
- The Stage 1 and Stage 2 Panel Report(s) considering Planning Permit Application KP340/04.

In addition to the above, as identified earlier Council has also received substantial comment from referral agencies it relies upon to assist it with technical considerations on a number of the matters raised by objectors.

The existence of the above material has substantially assisted Council Officers in further consideration the proposal presently before Council.

1. Whether or not the proposal accords with Planning Policy

This matter is explored in a subsequent section of the policy content relevant to the proposal.

2. Issues associated with potential off-site impacts

The operational aspects associated with the proposed land use were considered in substantive detail previously with the Panels (KP340/04) having considered expert evidence that was subject to extensive cross-examination. Importantly this analysis related to the same company who is presently seeking a permit.

The following was reflected in the report by the Panel considering Planning Permit KP340/04:

- *‘Alex Fraser has made considerable progress in managing its dust emissions since 2004, and is recognised by EPA as employing best practice, however the Panel finds that insufficient attention has been paid to maintaining stockpile heights to an acceptable level (Pg 32)’.*
- *‘The EPA confirmed that as a result of the measures implemented by Alex Fraser the site uses best practice environmental management. However, because the site is closer to the residential zone than EPA would prefer, it recommends implementation of two additional measures, namely enclosing the crusher and sealing the road with a superior surfacing material. It is also recommended that real-time continuous monitoring of PM10 continues and if a permit is granted this monitoring should be included in the conditions (Pg 31)’.*
- *‘As Dr. Bellair based his assessments on measurements made before the dousing bar was installed, it is likely that the levels have been further reduced*

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and this provides the Panel with additional surety that Alex Fraser is operating well within acceptable limits (Pg 33)'.

- *'The Panel accepts the evidence that as long as ongoing control of emissions from the Alex Fraser's operations are maintained, the general community health risk posed by emissions of respirable crystalline silica is negligible (Pg 35)'.*
- *The Panel accepts that the results of analysis show that asbestos contamination at the site is low and Alex Fraser has procedures in place to reduce the risk of asbestos contaminated material being accepted (Pg 36)'.*
- *The Panel concludes that:*
 - *Based on expert assessments the air emission from the site are below intervention levels and not at a level that poses a health risk to nearby residents.*
 - *Alex Fraser has implemented best practice to reduce its off-site dust emissions with the notable exception that the stockpiles are above an acceptable height.*
 - *There are multiple sources of dust in the vicinity of the site and Alex Fraser's contribution to the overall levels appears to be relatively small (Pg 39)'.*

Although the proposal currently before Council relates to a different site the following is apparent:

- The proposed operator has continued to improve its operational practices to a point whereby they have clearly satisfied an expert Panel and the EPA and subsequently the Planning Minister that a permit could issue (subject to conditions) to allow the use to continue on a temporary basis.
- The operation proposed under the current proposal improves on the existing situation in Dingley by internalising the concrete recycling component of the use and instigating management techniques including the use of a dousing bar, real time dust monitoring and additional management procedures that produce a 'best operational practice' outcome.
- Concerns expressed by the Panel previously in relation to the heights of the stockpiles can be managed by permit condition and to a large degree will be overcome given the sites bunding and depressed nature of the locations where the stockpiling will be positioned.

Based on the above review of issues associated with potential off site amenity implications associated with the proposed use and the advice of the EPA, Council Officers do not believe that the application could be refused on such grounds.

3. Issues associated with buffer distances from sensitive uses

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Once again it is useful to consider the examination of the Panel who considered Planning Permit Application KP340/04 particularly given in this instance the existing operation was located much closer to Residentially Zoned land. The Panel in this instance stated:

- *Clause 52.10 does not specify a threshold distance for concrete crushing. However, after considering buffer distances for other similar activities in the Buffer Distance Guidelines, the EPA advised a buffer distance of 300 metres between the concrete crushing plant and residents would provide adequate amenity protection from adverse impacts (Pg 37).'*

Material submitted with the proposal indicates the concrete recycling facility would generally exceed 300 metres from any residential activity or the Heatherton Christian College. Irrespective of this spatial circumstance, what must be taken into account in considering this proposal as distinct from the previous application in Dingley is that:

- As mentioned in the previous section substantive consideration was given to the likely 'off site impacts' associated with the proposal which after all are the primary reason for establishing buffers.
- The crushing operation will be internalised and the site monitoring and management regime will exceed that presently occurring.
- The cross section information provided with the application reinforces that unlike the concrete batching plant located near the corner of Clayton and Victory Road which is highly visible, the proposal in this instance will at its maximum height still be 2 metres below the level of the existing bunds which are proposed to be landscaped.

Council further believe that had EPA Victoria held concerns regarding the buffer distances from the operation and nearby sensitive uses the proposal would not have received its conditional support.

For the above reasons it is not considered that the proposal could be opposed on the grounds of having insufficient buffer distances.

4. Noise related considerations

In considering issues associated with noise the proposal before Council is substantially different to that considered in Dingley and this is perhaps best evidenced through the recommendations of the Dingley Panel to utilise 'shipping containers' lined with acoustic foam to manage the noise exposure of a property in close proximity to that existing operation. For reasons identified above the circumstances presented on the subject land are substantially different to those which prevailed in Dingley.

One aspect which is however recommended through the EPA's permit conditions is to limit the noise limits to be in accordance with those specific under State Environment

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Protection Policy No N-1 as they relate to the control of noise from Commerce, Industry and Trade.

Beyond including such a condition should a Planning Permit issue considerations regarding noise were modelled under the proposed use. The conclusions of the Burton Acoustic Group Report (30th May, 2007) where as follows:

- *‘The location of the fixed plant and the increased bunding around the quarry perimeter serve to provide significant barrier attenuation. The effective noise level with the total site in operations and under winds favourable to propagation are well under the SEPP N-1 Noise Limits for operation between 7am and 6 pm Monday to Saturday.*

The recommended reduced levels of activity outside normal hours of operation are calculated to reduce the noise levels to the relevant Noise Limits during those periods.’

Council Officers believe that based on the information presented the use will operate within the prescribed noise levels and as recommended by the EPA relevant conditions can be included on the Planning Permit in relation to this matter.

5. Traffic and Car Parking Management

In relation to the issue of car parking provision, Council Officers support the view of the Traffic Report that 20 car spaces is sufficient to provide for staff and visitors to the facility. It is recognised that due to the substantive size of the site should a permit issue and the use proceed, additional areas could be allocated for such purposes if required.

The Traffic Report further identifies that the proposed use will generate an anticipated additional volume of 400 predominantly truck vehicle movements per day, with the peak operating periods generally being outside morning and afternoon community peaks.

Subsequent to this report being compiled it is understood that the traffic representative of the applicant has held discussions with VicRoads which has lead to VicRoads developing a list of conditions it wishes to impose on the Planning Permit to ensure the operational requirements of Kingston Road are maintained. It is understood that based on the applicant providing VicRoads with the additional information it will be able to determine the extent of works required on Kingston Road to maintain its operational capacity.

Preliminary Conference

No preliminary conference was held in relation to this proposal as Council resolved to request that the matter be called in and determined by the Minister for Planning.

Planning Assessment

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The following section will consider the application against the relevant sections of the State Planning Policy Framework, Local Planning Policy Framework (including the MSS), zoning objectives and Particular Provisions of the Kingston Planning Scheme.

State Planning Policy Framework

Clause 12.02: Better Management of Metropolitan Growth

Officers believe that in considering this policy the ‘threshold’ question is clearly whether or not the proposed use should be located in the non urban area. Officers are aware that the Minister has appointed a Panel to review Waste Management and Material Recycling Facility provisions in Planning Schemes, however this Panel is yet to report.

It is considered that the Panel who considered Planning Permit KP340/04 went some way to answering this question by recognising that greater merit existed in developing a ‘waste hub’ in Kingston, north of Heatherton Road. For this reason Officers believe that sufficient basis exists in State Policy to give considering to the proposed use premised on the basis that an immediate relationship remains with extractive industry and land filling operations. It is noted that these operations (extractive industry and land fill) were in fact identified ‘features’ of the South East Green Wedge identified through Policy 2.4 of Melbourne 2030.

Clause 12.04: A More Prosperous City

It is considered that the thrusts of this State Planning Policy would recognise that the proposed use given its ability to positively influence resource management warrant recognition.

Clause 12.07: A Greener City

As identified earlier in this report, Sustainability Victoria have identified this proposal as being most significant in relation to assisting in reducing the amount of waste sent directly to landfill. Beyond this obvious synergy with this policy the strategic location of the transfer and recycling facility (given its collocation with active landfill sites) requires consideration based on broader environmental consequences associated with transportation costs should such a relationship not exist. Further it is of relevance to consider the broader environmental cost given the regulatory/pricing system is still such that for the waste producer land filling remains a cheaper commercial option than recycling / reuse activities as proposed through the application. This proposal provides a most necessary and effective alternative to landfill strongly aligned with Government Towards Zero Waste Objectives.

Clause 15.01: Protection of Catchments, Waterways and Groundwater

The application states that no water discharge will occur on the site and an active effort will be made to collect and reuse water for the various activities proposed on the subject land.

Clause 15.04: Air Quality

In respect to this issue it has been covered in some detail in earlier sections of the report.

Clause 15.05: Noise Abatement

Discussion regarding this consideration has been included in an earlier section of this report.

Clause 15.09: Conservation of Native Flora and Fauna

It is submitted that should the proposal proceed it will make substantive improvements to the visible landscape values of the subject land based on the extent of landscaping proposed on the sites periphery.

Clause 17.03 Industry

The report has previously commented on issues raised by this SPP in relation compliance with EPA regulations around Buffers and Air Omissions.

Clause 18.09: Water Supply, Sewerage and Drainage

As previously stated the proposed development has been considered by Melbourne Water and the EPA who have both subject to conditions, supported the application receiving a Planning Permit.

Clause 19.03: Design and Built Form

The proposal has been submitted with an accompanying Landscape Plan. The plan clearly illustrates the significant extent of landscaping proposed along all site perimeters. The implementation of the landscape plan would provide for a substantially improved presentation to the site.

As previously identified the site plant and equipment associated with the proposal would essentially be hidden by the existing bund and as such would not be highly visible from the surrounding area. Thus the presentation of this proposal when compared with the prominence of other 'man made' structures in the immediate area will be substantially different.

Local Planning Policy Framework (including the MSS)

Clause 21.03: Land Use Challenges for the New Millennium

This section of Council's MSS highlights the diversity of activities which have and in the instance of land filling will continue for some time. It would appear that should the use proceed its existence be tied to the cessation of tipping activities in the immediate area thus allowing the primary policy influencing this location at that time to be affectively transitioned.

Clause 21.04: Vision

The relevance to this clause is a recognition that the site is located in the Non Urban Area.

Clause 21.10: Non Urban Areas

It is considered that an overarching direction arising through this policy is the transition phase still occurring in relation to extraction and land filling which is occurred within the immediate area. As such a key policy consideration arising is whether the proposed use could co-exist as proposed during this transitional period. For a number of environmental and transportation reasons the basis for this co-existence with a precinct that continues in the short to medium term to perform an active land filling role is considered to have planning benefit.

What is also clear through policy is irrespective of the nature of the uses to be advanced consideration should be given to incremental improvements to the visual landscape where opportunities are presented.

Clause 22.03: Sandbelt Open Space Project Policy

A key distinction associated with the subject land when compared which other areas proximate to the subject land is that it does not hold the status of being 'Core' Parkland. As such the land is not covered by a Public Acquisition Overlay for this purpose nor is it owned by a public authority and identified as land which is planned by a public authority to make a contribution to the 'core' parkland area. Council Officers therefore wish to clearly distinguish the planning policies applicable to the subject land from those identified for the site which the Delta Group sought to place a similar facility on which has been identified as 'Core' parkland further west along Kingston Road.

If it is accepted that the use of the land is of a temporary nature linked to the cessation of surrounding land filling activities, it would appear that opportunities now presented to landscape the bunds of the subject land are as a minimum a progressive step in addressing the intentions of this policy given the private nature of the land ownership.

Clause 22.04: South East Non Urban Policy

It is apparent that this policy was designed to apply through the South East Green Wedge and provide some guidance to decision making. The northern tip of the South East Green Wedge is however substantially different from those components through the Cities of Frankston, Dandenong and Casey. These differences are most predominantly reinforced through policy acknowledgements of activities including sand extraction and land filling which are identified preferred activities within the policy area in parts of Kingston.

It is considered that the physical presentation of the visible parts of the site will build strongly on policy objectives to improve the landscape presentation of the area and introduce an activity, which importantly does not generate a significant visual impact.

Clause 22.15: Outdoor Advertising Signage Policy

Insufficient detail has been provided with the application at this time to provide an opportunity for Council to consider the contents of the sign and as such it is recommended that permit conditions seek further detail of the proposed signage.

Zoning Provisions

Clause 37.01: Special Use Zone (Schedule 2)

The purpose of this schedule to the Special Use Zone is as follows:

- § To recognise or provide for the use and development of land for extractive industry.
- § To encourage interim use of the land compatible with the use and development of nearby land.
- § To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of land.

It is considered that the use of the land for materials recycling and a refuse transfer station responds appropriately to the second purpose identified above given its relationship with the surrounding land filling activities. Further the consideration of the activity as ‘interim’ can and in this instance should be linked to the cessation of ‘land filling activities’ in the immediate area.

In relation to the third purpose which is to ‘*minimise adverse impact on the use and development of land*’ much of this report has presented context from earlier Panel/Advisory Committee reports whereby this matter was considered in substantive detail. It is apparent that these earlier considerations and the subsequent advice from agencies including EPA Victoria is that the use of the land will not generate adverse amenity impacts on surrounding land.

In relation to issues of rehabilitation or ‘end use’ it is considered that this matter will be given more formal consideration as part of Council’s Northern Non Urban Area planning process.

Importantly Council Officers wish to draw a distinction between the zoning of the subject land and the land located south of Kingston/Heatherton Road located in the Green Wedge Zone. It is apparent that predominately in the southern area activities such as land filling have not and will not in the future be pursued with the intensity that has occurred in the area included in the Special Use Zone Schedule 2. As such it remains appropriate that this distinction in land zoning is recognised given the length of time activities are scheduled to remain. Further as Council has continuously advocated since the inception of the Green Wedge Protection measures, strategic work is required to be completed prior to considerations about alternate zoning approaches for this area.

Overlays

Clause 44.04: Land Subject to Inundation Overlay (LSIO):

Melbourne Water who is responsible for managing land within the LSIO area has subject to Planning Permit conditions provided support to the proposal.

Particular Provisions

Clause 52.05 – Advertising Signs:

As discussed it is considered that additional information is required through permit conditions in relation to the proposed advertising sign.

Clause 52.06 – Car Parking:

Comments in relation to car parking have been made in response to concerns expressed by objectors in a previous section to this report.

Clause 52.10 – Uses with Adverse Amenity Potential:

Comments in relation to appropriate buffers from the proposed use have been provided previously in the report in relation to concerns expressed by objectors.

Clause 52.17 – Native Vegetation:

The applicant has recently provided details as part of the application indicating the extent of vegetation to be removed through the proposal. In considering the application of Clause 52.17 it is of note that the landscape concept plan provided indicates a substantial concentration of new landscaping around the perimeter of the site. Further clarification should be sought through conditions within any permit which issues as to the amounts of the different trees proposed so a more effective assessment can be undertaken against the provisions of this clause.

Clause 52.29 – Land Adjacent to Road Zone, Category 1:

Comments in relation to access to the site have been dealt with in response earlier to objector concerns. It is noted that VicRoads have conditionally approved the proposal based on a Kingston Road access to the subject land.

Clause 57 – Metropolitan Green Wedge Land:

The Panel considering Planning Permit Application KP340/04 gave consideration in its deliberations to whether or not the requirement for a Materials Recycling Facility to be used in conjunction with a Refuse Transfer Station was met. The subsequent actions of the Planning Minister in issuing the permit illustrates that the critical ‘in conjunction’ with test was met. It is considered that the current proposal clearly illustrates both these purposes on the land in a manner which is substantially more formalised than the existing Dingley operation.

In relation to Clause 57 more broadly, it is apparent that its intended application is to land outside the Urban Growth Boundary. Having said this a significant part of Kingston’s Non Urban Area has been used for purposes including aviation, land

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filling and refuse transfer, however, none of these activities are identified in this provisions purpose. It is considered that these omissions in themselves illustrate the potential lack of clarity a 'generic' provision such as Clause 57 has in providing meaning to local and legitimised land use activities occurring in Kingston's Non Urban Area and ones which are identified by Melbourne 2030 as features of the South East Green Wedge. As such in this instance greater weight should be afforded to the still relevant differentiation between the Green Wedge Zone and Special Use Zone (Schedule 2) both used in the City of Kingston, however, for distinctly different purposes.

Draft Planning Work

At both a metropolitan and local level current planning work is being advanced which has some relevance to the short, medium and longer term direction of the area covered by the subject land.

Draft Metropolitan Waste and Resource Recovery Strategic Plan

This draft plan reinforces the following of relevance to the current proposal:

- § Construction and Demolition targets identified for 2013-2014 as part of the Towards Zero Waste strategy require a 15% increase from the 2008-2009 figures.
- § Some of the opportunities in the area of Construction and Demolition waste stream have been identified:
 - *Infrastructure is required to process increasing quantities of mixed C&D waste streams, particularly in the east and south-east areas of metropolitan Melbourne.*
 - *Locating new reprocessing facilities will depend on suitable and appropriately zoned land being available across the metropolitan area (pg 18)*
 - *Supporting and promoting new and improved infrastructure to process mixed C&D waste streams. New facilities in the east and south-east of the metropolitan area will be a priority (pg 18)*
- § The current Advisory Committee work in relation to reviewing the existing definitions for waste and recycling facilities and the appropriateness of land use controls was identified through the Plan. The Metropolitan Waste Management Group have identified that they play a role in developing an assessment matrix to assist in assessing proposals in accordance with a future revised set of planning provisions.
- § Council's draft Northern Non Urban Framework Planning work is identified in the plan.
- § The Plan identifies the following filling timelines for key sites identified in the City of Kingston:
 - TPI Clayton (Putrescible) post 2020
 - Clayton Regional Site 2017 closure
 - TPI Victory Road 2011 closure
 - TPI Carroll Road 2014 closure
 - TPI Heatherton post 2020

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The above draft Metropolitan Waste and Resource Recovery Strategic Plan provides an indication of the continual role of land filling in the Kingston area and the increased challenges associated with meeting Towards Zero Waste Objectives given not only are targets increasing but so is demand generated by metropolitan population increase.

Draft Northern Non urban Area Framework Plan

Council's draft Northern Non Urban Area Framework Plan examines the subject land and its surrounds in some detail. The Plan which was released prior to the draft Metropolitan Waste Management Plan also provides some indication as to the likely extent of ongoing land filling activities in the immediate area. The draft Northern Non Urban Framework plan identifies:

- § The interests which the owner of the subject land has continuously expressed in relation to operating a recycling facility from the subject land. And in regard to this the consideration reference to the existence of Planning Permit Application KP340/04 was discussed in the draft plan.
- § Opportunities in the longer term to create an 'employment zone' generally between Clayton Road and Old Dandenong Road, south of the Victory Road alignment in the identified 'Enterprise Sites Precinct'. The basis for encouraging this land use re-direction in the future is as follows:
 - To provide sufficient incentive for rehabilitation of much of the precinct.
 - A recognition that particularly to the east of the subject land at present a disparate range of predominantly urban activities occur and are likely to be entrenched until such time as a more strategic approach is able to be applied to the precinct.
- § Importantly also the draft Plan identifies the area located on the east side of Clayton Road as being suited in the future as a resource recovery precinct aligned with the areas historical land filling role.

Council Officers believe that a particularly important consideration regarding the subject land is the desired transition through the draft plan with respect to the longer term strategic location for resource recovery activities once land filling west of Clayton Road ceases in the non urban area.

In its submission to Council regarding the draft Northern Non Urban Framework Plan, representatives of the owner of the land stated:

'Our [Alex Fraser] experience as industry leaders has confirmed that the above site is not only highly suited to the proposed use, it is largely unique in terms of its locational and physical attributes. These enable a facility to be developed and operated without off site or environmental impacts.'

'Alex Fraser Group notes that its proposal for use of the land is in effect for a period that is coincidental to the expected landfill activity and will not prejudice alternate use of the land (if zoning and planning policy will permit) for employment uses in the manner contemplated by the draft policy'

Based on previous considerations regarding proposals of the nature proposed by this applicant and others it is considered that the subject land does present some significant advantages in accommodating such a proposal. In addition as identified through this report the Alex Fraser Group have identified the suitability of the operation being linked to the continuation of landfill activity in the immediate area which remains an important factor linked to the life of any future permit. When such activities cease it is considered that the medium to longer term transition sought through the draft Northern Non Urban Framework Plan can be accomplished.

General Comment

The considerations before Council in formulating a position in relation to this proposal are to a substantive degree assisted by the following:

- § The advice on the application by external agencies including Melbourne Water, DSE and VicRoads.
- § The views expressed by Sustainability Victoria and EPA Victoria illustrating in the first instance significant financial support for the proposal and in the instance of the EPA, a recognition of the 'Best Practice' status of the operation.
- § The considerations by the Panel considering Planning Permit Application KP340/04 which considered the merits of an existing proposal being operated by the same company in Tootals Road, Dingley. This deliberation involved an experienced Panel which heard a significant amount of evidence that was subject to rigorous examination throughout the course of this and earlier hearings.

In relation to the last point it is of relevance to consider the following extracts of the Panel's report which raise issues that should assist Council in considering the present matter:

With respect to categorising the Activity with State Policy:

'There is clear State policy support for recycling and to establish new facilities to serve Melbourne's south- east – the Tootal Road facility has an established role in the recycling network and planning policy supports the maintenance (and enhancement) of this capacity. There is policy support for the issue of a short-term permit to allow sufficient time to secure another site, for permits to be issued and to relocate the facility (Pg 3).'

In relation to Kingston's Non Urban Area the Panel noted:

'The Heatherton-Dingley non-urban area is far from a typical green wedge area, with sand resources and metropolitan landfills in the Heatherton-Dingley non-urban area identified as a key feature of the South Eastern Green Wedge (Pg 11).'

More broadly in relation to where such activities should be considered the Panel noted:

‘Unlike other parts of the Kingston non-urban area where sand extraction and landfill will be dominant activities for decades to come, extraction-filling cycle is well advanced in the subject site’s immediate environs (Pg 24)’.

‘It appears to the Panel that planning for a long-term ‘waste hub’ in the Kingston non-urban area has much greater merit than undermining long established planning strategies through industrialisation of green wedge land as a result of ad hoc permit decisions to meet the immediate need to maintain recycling facilities in the region. The Panel’s understanding of the area suggests that the land south of Heatherton Road where extraction and filling is nearing completion, is less suited to this function than areas to the north (Pg 57)’.

Based on the above comments, Officers believe the issue of whether or not the use could exist in non urban areas has been the subject of substantial consideration and what becomes most evident is that a relationship with continual extraction and filling operations is most important.

The Panel then sought to explore considerations regarding the challenges associated with finding sites for such proposals:

‘the Panel recognises that large sites for uses with potential for significant off-site impacts – such as concrete crushing – are not readily available, particularly if land zoned for industry is excluded due to cost or location relative to feedstock (Pg 18)’.

‘The Panel has found the Tootal Road facility currently fulfils an important role in the recycling network. Further, there is strong policy support for additional C&D materials recycling facilities to serve the south-eastern area of Melbourne but the cost of the large sites necessary to accommodate the use and the need to manage potential off-site impacts means it is difficult to find suitable sites in urban areas (Pg 24)’.

Beyond the above challenges it becomes important in the context of this application for Council to consider what site requirements would be useful in determining an appropriate location for such facilities. In addition to identifying an alignment with active land filling activities it is useful to consider what the Panel identified as constraints in relation to the existing Dingley site, the Panel commented:

‘The proposal’s [Dingley] visual noise and dust impacts on adjacent GWZ land would be very difficult to mitigate due to the site’s elevation and limited size (Pg 56)’.

The circumstance however under the proposal before Council mitigate directly against the above concerns raised by the Panel as a result of the following:

- § The subject land has an area exceeding 21 hectares which provides opportunities to provide substantial setbacks from all adjacent site interfaces.
- § The proposal would result in the siting of the facility within an extracted site surrounded by substantial landscaped perimeter bund walls. The significance

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of this is based on the sections provided as part of the proposal which clearly illustrate that the operations on the site would be affectively hidden from its surrounds.

- § The proposed recycling facility would become a fully internalised operation that would further reduce the ‘off site’ implications from that presently occurring.
- § The facility will be purpose built and will incorporate both infrastructure and management mechanisms to ensure amenity implications are mitigated.

In relation to the direct amenity implications associated with the proposed use these issues were substantively explored by the previous Panel consideration KP340/04 through Section 5 of its September 2007 report. In summation it found:

In relation to Dust - ‘The EPA confirmed that as a result of the measures implemented by Alex Fraser the site uses best practise environmental management. However, because the site is closer to the residential zone than EPA would prefer it recommends implementation of two additional measures, namely enclosing the crusher and sealing the road with a superior surfacing material (Pg 31)’

Alex Fraser has made considerable progress in managing its dust emissions since 2004, and is recognised by the EPA as employing best practice, however the Panel finds that insufficient attention has been paid to maintaining stockpile heights to an accepted level (as specified in the EPA PAN))Pg 32)’

In relation to Respirable Crystalline Silica (RCS) – ‘The Panel found that as long as ongoing control of emissions from the Alex Fraser’s operations are maintained, the general community health risk posed by emissions of respirable crystalline silica is negligible (Pg 35)’.

In relation to Asbestos Contamination – ‘The Panel accepts the results of the analysis shown that asbestos contamination at the site is low and Alex Fraser has procedures in place to reduce the risk of asbestos contaminated material being accepted (Pg 36)’.

In relation to Buffers – ‘Based on the above the Panel tends to accept that the Buffer distance should be the more conservative distance of 300 metres, as recommended by the EPA (Pg 38)’.

In relation to noise (recognising the different context in relation to proximity to residential areas under this proposal) – ‘The Applicant contended that anecdotal evidence about unacceptable levels in the residential zone is not supported by measurement. The Panel agrees (Pg 43)’.

‘The Panel accepts that the management regime now in place on the site [Dingley] is best practice in the industry and appears to exceed the rigor of practises adopted by some other uses in the area (PG 56)’.

In summary, although the context for the above comments relates to the Dingley proposal, it is submitted that the circumstances presented under the current proposal

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both in relation to the advantages of the location of the land and the attention given to the operation (ie dust monitoring, dousing facilities, internalising the recycling operations, site entry monitoring requirements) are again substantially improved from the existing operation in Dingley. In addition much has been learnt about the operation of this use through the Panel examinations and tailored conditions can be introduced to govern its operation.

Having sought to balance the concerns expressed by the objectors with the merits of the proposal, Officers believe that examining the proposal holistically necessarily requires a recognition of the not insignificant existing feedback received from the State Government and its related agencies supporting the proposal. This has included identifying the benefits of the proposal by both the State Government's agency responsible for facilitating waste initiatives (Sustainability Victoria) and the State agency responsible for regulating them, the EPA. It would now further appear based on the most recent draft policy document released by the State Government (Draft Metropolitan Waste and Recovery Resource Strategic Plan) that the importance of the proposal in addressing State policies is further reinforced.

These comments from the State Government have lead Officers to determine that this project should be viewed as one which delivers substantive environmental benefits which are significant at a metropolitan level and these benefits are delivered in a manner that has now been rigorously tested and is recognised as industry best practice. Beyond the rigorous critique of previous Panels, the Minister Planning in interpreting the policy content before him deemed it sufficiently appropriate to grant rather than refuse a Planning Permit, to allow the Dingley operation to continue and not immediately cease.

To conclude, Council Officers believe that significant attention at the upcoming Tribunal Hearing needs to be given to applicable permit conditions in particular ensuring that issues previously raised in relation to this operation are suitably addressed (ie dust monitoring regime, hours of operation, appropriate stockpile heights). In addition what is of critical importance is to ensure that the broadly accepted principal that this use should cease to exist once immediate land filling operations cease is rigorously enforced through a legally binding agreement. It is considered that by approaching the proposal in this way its role in Council's forward planning for the area is appropriately identified.

Recommendation:

That Council resolve to support the proposal, subject to the following conditions and any additional conditions or modifications, Council Officers deem to be relevant for consideration by the VCAT in relation to matter P481/2008 as draft Planning Permit conditions, following further discussions with the permit applicant:

1. Before the development and/or use 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 with the application but modified to show and/or include:
 - a) full details including location, size and method of floodlighting any signage proposed as part of the application;
 - b) full details are provided of all road pavement treatments through the subject site.
 - c) provision of a detailed construction staging plan.
 - d) a response to the Native Vegetation Management Framework which provides:
 - i) a plan showing and describing in detail all native vegetation proposed to be removed;
 - ii) details of how the proposed landscaping for the site suitably addresses any required offsets through the provision of an offset plan
 - iv) the offset plan must include details of the following:
 - means of calculating the offsets
 - locations where offsets will be provided
 - type of offsets to be provided
 - means of interim protection for newly established vegetation until established
 - methods of permanent protection for the offsets
 - persons responsible for implementing and monitoring the offset plans
 - time frames for implementing the offset plans
2. Before the development and/or use starts a suitable landscape plan for the whole site must be submitted to, and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plans must be developed substantially in accordance with the landscape concept plan received by Council on 2nd November, 2007, with the application but modified to show and/or include:

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- a) A planting schedule which is modified to accurately illustrate the amount of each of the indicated species to be planted on the subject land.
 - b) The incorporation of additional detail to illustrate that indigenous species of the region are being utilised to maximise biodiversity value.
 - c) The plan substantially enhanced so it is clear which species are proposed in which locations.
 - d) The use of Eucalyptus ovata to lower lying areas (base of bunds).
 - e) Details of the proposed maintenance regime (including mulching method) for the landscaping during its establishment.
3. The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 4. The use must cease and associated building signs removed 20 years from the date of issue of this permit.

Machinery

5. No plant or equipment used for crushing waste concrete, stone or masonry may be installed or used on the land other than the one mobile concrete crushing and screening machine described in the material lodged with the application.
6. No plant or equipment for blending products to produce products used in the construction industry may be installed on the land without the further written consent of the Responsible Authority,
7. The pug mill must be equipped with sufficient controls to prevent dust emissions and, without limiting the requirements of this condition:
 - Suitable shrouds must be installed on the pug mill to prevent dust emissions; and
 - A fabric filter dust collector must be fitted to the pug mill and maintained in good working order to prevent visible dust from being emitted, as required by the Environment Protection Authority Victoria (EPA) publication 628 June 1998 *'Environmental Guidelines for the Concrete Batching Industry'*.
8. The main concrete crusher must be equipped with sufficient controls and devices to prevent dust emissions.

Site and Environmental Management Plan

9. A Site and Environmental Management Plan must be lodged with the Responsible Authority for its approval. Once endorsed by the Responsible Authority, the SEMP will form part of this permit. The SEMP must be generally in accordance with the Site Management Plan and Environmental Plan submitted with the application but modified to show:
 - Specify that the height of stockpiles must not exceed a level of [To be determined] metres (AHD).

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- Require compliance with the procedures outlined in the Recycling Construction and Demolition Material: Guidance on Complying with the Occupational Health and Safety (Asbestos) Regulations 2003.
- 10. The use and development of the land must adhere to the requirements, recommendations, operating practices and procedures set out in the endorsed Site and Environmental Management Plan.
- 11. Notwithstanding anything to the contrary, the processes, plant and equipment and procedures conducted on the land in association with the materials recycling facility and refuse transfer station must be operated pursuant to best practice.
- 12. No polluted waters, including sullage waters or sediment laden waters from the land maybe discharged from the site.
- 13. A comprehensive traffic assessment must be undertaken five (5) years after the commencement of the use which examines any additional traffic mitigation works that may be required beyond those identified by VicRoads at the commencement of the use.

Conditions required by Vic Roads

- 14. Prior to endorsement of the plans and any works authorized by this permit, the applicant must arrange for a updated Traffic Impact Assessment Report (TIAR) to be prepared to the satisfaction of VicRoads. The report must include the following;
 - (a) For the critical design period (AM and PM peak), a pre and post-development traffic analysis to be provided to determine the impact by the development generated traffic on Kingston Road and the proposed access arrangement (eg. SIDRA and/or first-principles). The analysis should include an account of the actual measured gaps during the peak periods.
 - (b) An investigation into the feasibility and provision of two through stand-up lanes for Kingston Road, on both approaches to the Kingston Road/site access intersection, as well as a 4 lane two-way carriageway between the subject intersection and the Kingston Road/Clayton Rd signalised intersection.
 - (c) A road safety analysis on the proposed access arrangement, including available sight distance and the effects of queuing and delays.
 - (d) Swept paths for appropriate Austroads Design Vehicles that are expected to access the site must be provided to demonstrate that all necessary manoeuvres can be undertaken safely.
- 15. Prior to commencement of any use or any roadworks authorised by this permit the applicant must :

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- (a) Prepare functional layout plans for the unsignalised access arrangement on Kingston Road for the development to the satisfaction of VicRoads.
- (b) Subsequent to the approval of the functional layout plans, prepare detailed engineering plans for the roadworks along Kingston Road, to the satisfaction of VicRoads. Detailed design matters such as bus stop locations, median widths, DDA compliance, lane widths, drainage etc will be approved at this stage.
16. The applicant must engage VicRoads pre-qualified contractors to undertake all roadworks along Kingston Road.
17. Before the commencement of any roadworks authorised by this permit, the developer must
- i. Provide a bank guarantee (in the name of the developer/owner) without a termination date, to VicRoads for the estimated cost of works.
 - ii Provide evidence that the Contractor has a public liability insurance policy for at least \$10 million, effective for the duration of the works.
 - iii Provide VicRoads with the name, address, business and out-of-hours telephone numbers of the principal roadworks contractor.
18. Prior to the commencement of any roadworks in, on, under or over the Kingston Road reservation the applicant must have first applied for and received written consent from VicRoads for those works in accordance with Section 63 of the Road Management Act 2004.
19. Prior to the commencement of any roadworks along Kingston Road authorised by this permit the applicant must provide a payment to VicRoads of the pre-estimate certification audit fee.
20. Where the roadworks associated with the access arrangement to Kingston Road (including footpath and nature strip) lie within the property, the applicant must arrange for the plan of subdivision to show the land abutting the road, which is affected by the roadworks, labelled as "ROAD" which vests in the Roads Corporation upon certification of the plan of subdivision.
21. The applicant must pay the full cost of all roadworks, drainage, service relocations, public lighting and modifications, and any other costs associated with the development.
22. Prior to the commencement of any use authorised by this permit the applicant must complete all roadworks along Kingston Road in accordance with approved plans and to the satisfaction of VicRoads.

Conditions required by Melbourne Water

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23. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
24. No fill or building materials shall be dumped on Melbourne Water's land during or when construction is complete.
25. The applicant must arrange and fund any new fencing along the common boundary with Melbourne Water's drainage reserve to Melbourne Water's satisfaction.
26. Prior to the commencement of works, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

Conditions required by EPA Victoria

27. The proposal must comply with the '*Guide To Best Practice At Resource Recovery And Waste Transfer Facilities*' (Eco-Recycle Victoria, July 2004) and also adopt "Best Practice Measures" in preventing any adverse environmental impacts from the proposed transfer station, both during construction and ongoing operation.
28. To confirm that the proposal is consistent with the South Eastern Regional Waste Management Plan ("SERWMP"). Pursuant to section 50 RA(4) of the *Environment Protection Act 1970* ("the Act"), the proponent of any such application should not do anything that is inconsistent with the relevant Regional Waste Management Plan ("RWMP").
29. Litter control fencing or screens must be established and maintained adjacent the unloading area, waste disposal pit area and driveways to trap windblown litter which may be generated as a result of unsecured loads or the unloading of vehicles.
30. Management and operation of the transfer station must include collection of litter from outside the transfer station area including roads adjacent the facility. Suitable precautions, such as the installation and regular maintenance of a litter entrapment device, should be taken to ensure that litter is prevented from entering the stormwater drainage system.
31. Wastes must not be burnt at the premises.
32. Odour offensive to the senses of human beings must not be discharged beyond the boundaries of the site.
33. There must be no visible dust emissions beyond the boundaries of the site.
34. The premises must be managed in accordance with a Environment Improvement Plan ('EIP') to be approved by the responsible authority. The EIP must include detailed measures to implement Best Practice and must be

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revised after 12 months and thereafter revised and submitted to the responsible authority at a frequency of [*to be nominated by the responsibility authority*].

35. Noise emissions must comply with the noise limits specified in the *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N-1*.
36. There must be no discharge of wastewater or contaminated stormwater to the stormwater drainage system.
37. Only clean fill material as defined in EPA Publication No.448 "*Classification of Wastes*" must be used in the development of the site.
38. Waste oil and collection area must be roofed and banded in accordance with EPA Technical Guideline "*Bunding*" Publication No 347.

Dust

39. The use must be conducted and operated so that no visible dust emissions are detectable beyond the site's boundaries.
40. The maximum height of all operating areas and stockpiles of materials stored on site must not exceed [To be determined] metres (AHD).
41. If at any time the requirements or recommendations of the Site or Environmental Management Plans cannot be implemented for any period the uses must not operate for that period.
42. All roads, access ways and hard stand areas within the site where it is anticipated that heavy machinery will work must be formed and surfaced with asphalt, crushed rock or other suitable product to the satisfaction of the Responsible Authority.
43. All conveyance belts and other automated product transport device or contraption on the site must be shielded from the prevailing winds to the satisfaction of the Responsible Authority after consultation with EPA.
44. All waste material delivered to the site must be delivered directly to the appropriate stockpile, except that waste from households may be delivered to a location designated on the endorsed plan.
45. The main access way to the site must be fitted with a dousing bar and all incoming trucks must pass under the operating wetting bar.

Dust Measurement

46. The operator must continuously monitor (in real time) the levels of PM10 emitted from the land in the vicinity of the hardstand areas and concrete crushing machinery while the site is operating. The location of fixed PM10 monitors must be determined after consultation with the EPA and then

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maintained in good working order in the agreed locations. The monitoring system should include alarm to warn when dust conditions are unacceptable. The operation of the site must have regard to the information derived from PM IQ real-time monitoring.

47. The information collected by the measuring equipment must be provided to the Responsible Authority or EPA within 24 hours of a request for the data.
48. The operator must maintain a Davis or equivalent weather station, measuring wind speed and direction and ambient temperature, on the site in a location to the satisfaction of the Responsible Authority. The data from the weather station must be made available to the Responsible Authority and the EPA on request

Amenity

49. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
- Transport of materials, goods or commodities to or from the land.
 - Appearance of any building, works or materials.
 - Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil,
 - Presence of vermin.
 - In any other way.

Operating Hours

50. Except with the consent of the Responsible Authority, no plant and equipment may be operated on the site except between the following hours:

Monday to Friday	Between 6 am and 5 pm
Saturday	Between 6 am and 1 pm

The use must not operate on Christmas Day, Good Friday or Anzac Day.

51. No vehicles may enter the land from Victory Road.

Acoustic Requirements

52. The noise emissions from the site must comply with the *State Environment Protection Policy (Control of Noise from Commerce Industry and Trade)* No N-1. Compliance with SEPP N 1 noise limits must be confirmed by a report by an acoustics specialist if equipment and/or operating procedures change.
53. The following acoustic measures must be undertaken:
- Smart alarms which adjust the reversing beepers noise levels to take account of low background noise conditions must be used on all mobile machinery and vehicles. Alternatively, broadband type reversing beepers may be fitted to mobile equipment.

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- All mechanical equipment must be regularly maintained and must use industry standard mufflers.

Lighting

54. Where outdoor lighting is provided, it must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

Internal roads, car parking and loading bays

55. Before the use allowed by this permit starts, areas set aside for parking vehicles, loading bays, access lanes and paths as shown on the endorsed plans must be:

- Constructed to the satisfaction of the Responsible Authority.
- Properly formed to levels so that they can be used in accordance with the plans.
- Surfaced with a suitable all-weather material or substance to the satisfaction of the Responsible Authority.
- Drained and-maintained to the satisfaction of the Responsible Authority.
- Suitably marked to indicate each car space, loading bay and all access lanes and, if necessary, the directions in which vehicles are to travel to the satisfaction of the Responsible Authority.

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

57. All roads and vehicle access ways within the site are to be surfaced with suitable all-weather materials or substances to the satisfaction of the Responsible Authority and must then be maintained in good condition to the satisfaction of the Responsible Authority.

58. A sign(s) to the satisfaction of the Responsible Authority must be provided directing drivers to the area set aside for car parking and must be located and maintained to the satisfaction of the Responsible Authority.

Loading and unloading

59. The loading and unloading of goods to and from vehicles must only be carried out on the land.

60. Once the development and/or use has started it must be continued and completed to the satisfaction of the Responsible Authority.

61. Subject to any other provision in this permit relating to expiry, this permit will expire if one of the following circumstances applies:

- Both uses are not started within two years of the date of this permit; or
- The Refuse Transfer Station ceases to operate; or

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- The two uses permitted under this permit cease to have a genuine, close and continuing functional relationship with each other; or
- The development is not completed within two years of the commencement of the development.

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 but may not extend the permit beyond the time specified in Condition 4 of this permit.

Site Rehabilitation

62. On the expiry of this permit; all plant and equipment, stock piles and all site signage shall be removed from the land to the satisfaction of the responsible authority.

Footnote:

If further information is required in relation to Melbourne Water's conditions shown above, please contact Land Development on telephone 9235 2517 quoting Melbourne Water's Reference 148114.

The meeting was addressed by Carol Dawson on behalf of objectors. No person spoke on behalf of the applicant

Crs Athanasopoulos/Alabaster

That consideration of the item be deferred due to the calling in of the application by the Minister of Planning.

Carried

A Division was called.

For
Cr Athanasopoulos
Cr McKeegan
Cr Alabaster
Cr Ronke
Cr Petchey
Cr Nixon

Against
Cr West

The motion was **Carried**

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K70 Electricity Supply for Metered Sites Tender Evaluation - Strategic Purchasing Tender

Approved by: Paul Franklin – General Manager Corporate Services
Author: Bernard Byrden - Manager Finance

Purpose

To seek Council's acceptance of a contract for the supply of electricity and associated services for metered sites for the period 1 July 2008 to 30 June 2011.

Background

Our current contract for electricity is for three years and expires on the 30 June 2008, at which time Council will revert to standard pricing.

Kingston is one of over 270 Councils and other organisations, which undertook a group tender to gain the benefit of keener pricing for larger quantities of electricity supply. Strategic Purchasing were appointed as our agent to prepare documentation and evaluate tenders. Their detailed tender evaluation report (Tender Recommendation) is provided in the 'confidential' attachment to this report.

The contract is a schedule of rates contract, with fixed prices for each year or part thereof of the contract. Estimated energy quantities were provided in the contract documents.

Tender Period

Tenders were publicly advertised during March and April 2008 and closed on 16 April 2008.

Tender Evaluation Criteria

The Conditions of Tender indicated the following criteria would be used to evaluate the tenders.

- Compliance with Specification;
- Customer Focus/Account Management;
- Provision of Best Value to members;
- Provision of Green Power and options;
- Electronic data reports;
- Contract Conditions relating to "roll in" of new premises;
- Market Transfer initiatives;
- Experiences and capacity of the retailer

Tenders Received

Strategic Purchasing on behalf of its members has completed the Tender process. Three tenders were received, they were:

- AGL Sales Pty Ltd
- Origin Energy, and
- Simple Energy

Summary of Tenders Received

At the conclusion of the preliminary evaluation, AGL Sales Pty Ltd was considered to be the preferred tenderer. Refer Weighted Average Score per Appendix 3 of the confidential attachment. The preferred tenderer status was endorsed by the Tender Review Committee of Strategic Purchasing. Tenderers were informed about the preferred tenderer status and final negotiations were successfully completed on 30th April 2008.

The scoring matrix (attached) shows that AGL Sales Pty Ltd ranked higher than the other two tenderers in each evaluation criteria.

Details of the tender recommendations are provided in the confidential attachment to this report.

Council's annual electricity expenditure in 2008/09 is estimated to be \$600,000.

Green Energy Options

Council has previously nominated 10% of its electricity supply to be sourced from accredited green energy sources. Accredited green energy options are available under this contract. The price premium for 10% green energy is approximately \$40,000 per annum.

Advice has been sought from Council's Environmental Planning team on the most appropriate way forward for Council. It is suggested that Council should recognise the need to spend money on building and infrastructure upgrades now to effectively achieve energy and greenhouse gas savings into the future. Energy prices are forecast to rise 50-100% (in real terms) over the next 5 to 10 years. Should Council fail to make investment decisions now, relying on offset based reductions to greenhouse emissions, our existing energy bill will soon become an excessive and ongoing financial burden to the community.

Given that Council's recent audit (2000-01 was compared to 2006-07) of energy use and emissions found a 40% increase in energy usage and a 4.3% increase in emissions, it is important that we reconsider our approach to greenhouse issues. If Council continues to rely on purchasing green energy or carbon offsets to reduce our emissions, we will do little to curb the underlying growth in our energy usage and its substantial cost, whilst incurring an additional premium per unit of energy consumed (that is, the cost of the green energy or carbon offsets).

Best practice approaches to carbon management suggested by the EPA, focus on avoiding unnecessary emissions (e.g. behaviour change, turning off lights) and reducing necessary emissions (e.g. energy efficiency upgrades to assets) before looking to green energy and carbon offsets to reduce the remainder of emissions. The upfront capital investments required pay themselves off over time and in the context of rising energy prices are in fact increasingly viable economic investments, which have the added bonus of reducing emissions at the source, i.e. unnecessary energy use itself.

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On this basis it is recommended that Council does not purchase any element of green energy as a part of this contract, but rather direct the “savings” (approximately \$40,000) into energy reduction programs in Council buildings. These will include the priority action items identified via the building energy audits that are currently underway and due to be completed in September 2008.

Councillors are also asked to note that this may impact on Council’s ability to fully achieve the targets set under the ICLEI Cities for Climate Protection Program in the short term.

Recommendation

That Council:

1. Approve the tender prices for electricity supply for metered sites as submitted by AGL Sales Pty Ltd at an estimated annual cost of \$560,000 per annum.
2. Elects to take no green power and redirects the savings of approximately \$40,000 into energy reduction programs in Council Buildings.

Crs West/Alabaster

That Council approve the tender prices for electricity supply for metered sites as submitted by AGL Sales Pty Ltd at an estimated annual cost of \$560,000 per annum.

Carried

K 71 NOTICE OF MOTION - PLAN

Cr West has given notice to move the following motion:

Preamble: Considering

- the strong expressions of community support for a three-storey height limit for developments with a residential interface in this area at the PLAN consultation last week and in response to previous planning applications in this area;
- that three-storeys is a reasonable response to an application in this area and is consistent with other Council decisions;

that Council resolve to proceed through the PLAN process to apply a three-storey height limit to all prospective development sites with a residential interface in or adjacent to the Mentone Activity Centre east of the railway line and north of Balcombe Road

Officers Comment

1.0 Purpose

The Chief Executive Officer has requested that a brief report be provided in response to the Notice of Motion to be put by Councillor Rosemary West following its deferral at the April 28th, 2008 Ordinary Council Meeting.

2.0 Background

Notice of Motion

Cr West has given notice to move the following motion:

Preamble: Considering

- *the strong expressions of community support for a three-storey height limit for developments with a residential interface in this area at the PLAN consultation last week and in response to previous planning applications in this area;*
- *that three-storeys is a reasonable response to an application in this area and is consistent with other Council decisions;*

that Council resolve to proceed through the PLAN process to apply a three-storey height limit to all prospective development sites with a residential interface in or adjacent to the Mentone Activity Centre east of the railway line and north of Balcombe Road

PLAN Consultation and Feedback Process

As Council is aware the following forms of consultation have been undertaken for the PLAN project:

- § Preliminary Village Committee Briefings of the relevant Village Committees

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- § In centre 'display mornings' undertaken through April in Parkdale, Mentone, Cheltenham and Moorabbin
- § Focus Group discussions undertaken through April for Parkdale, Mentone, Cheltenham and Moorabbin
- § Public Meetings undertaken through April for Parkdale, Mentone, Cheltenham and Moorabbin

In addition feedback has been sought up to May 9th, 2008, through the following means:

- § The provision of on-line and hard copy surveys specific to Parkdale, Mentone, Cheltenham and Moorabbin Activity Centres.
- § The ability provided to individuals to provide direct submissions to Council.

Council Officers are presently analysing the feedback received in relation to these aspects of the consultation program.

Publicly reflected timelines

Throughout all the consultations identified above, Council has been reinforcing the following timelines for further advancing the outcomes of the PLAN work:

1. Council seeks community views on the draft PLAN – May 9
2. Council considers the community's views - May
3. Final PLAN prepared and recommended for Council adoption - June/July
4. Council to request Minister for Planning to introduce interim planning controls to guide built form and the height of new development. July/August
5. Interim Controls in Place late 2008 subject to approval by the Minister for Planning.

Council Officers note that feedback is presently being compiled from the submissions received and as such would be endeavouring to provide a detailed briefing to Councillors in early June on the information received before formally reporting to Council.

3.0 Comment

Council Officers believe for the following reasons the Notice of Motion should be deferred:

- § It is most premature to consider one aspect of this broader project ahead of the other considerations before Council and outside the timelines previously widely communicated.
- § Legal advice has been received which indicates that the Notice of Motion will not assist to advance the arguments which Council is advancing in

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considerations presently before the Tribunal on the site at 76 to 78 Balcombe Road, Mentone.

Recommendation

That the Notice of Motion be deferred at this time.

Cr West

That Council resolve to proceed through the P.L.A.N. process to apply a three-storey height limit to all prospective development sites with a residential interface in or adjacent to the Mentone Activity Centre east of the railway line and north of Balcombe Road.

The motion **lapsed** for the want of a seconder.

There being no further business, the meeting closed at 8.45pm.

ConfirmedHis Worship The Mayor 26 May 2008