

**City of Kingston  
Special Council Meeting**

**Minutes**

**10 June 2008**

Minutes of the Special Meeting of the Kingston City Council held at 1230 Nepean Highway, Cheltenham, on Tuesday 10 June 2008 at 7.35pm.

**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  
Michael Fry- Team Leader Council Business

*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.**

Cr West declared an interest in the item and stated that the nature of the interest is that she is the Co-ordinator of the Green Wedge Coalition.

3. **Reports by Officers**

*K82 295 – 315 Kingston Road, Clarinda*

4. **Urgent Business**
5. **Confidential Items in Camera**

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**K82 295 – 315 Kingston Road, Clarinda**

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**Author:** Jonathan Guttman - Manager Strategic Planning

**Approved by:** Tony Rijs – General Manager Environmental Sustainability

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**1. Purpose:**

This report provides Council with an update as to the progress of this matter. In addition the report informs Council of recent decision by the Minister for Planning to ‘call in’ Planning Permit Application KP881/07 from the VCAT and refer the proceeding to Governor in Council for determination.

The report subsequently seeks a resolution from Council in relation to whether or not it wishes to support the Planning Permit Application KP881/07.

**2. Background:**

The following provides a chronology of recent events in relation to this matter.

• **28 April 2008**

A report prepared by Council Officers was listed on the agenda of the Ordinary Council Meeting held on this day. Council resolved to defer consideration of the report presented.

• **15 May 2008**

The Planning Minister the Hon Justin Madden MLC wrote to the Mayor informing Council that he had determined to call in the matter from the VCAT and refer to the proceeding to the Governor in Council for determination.

A copy of the correspondence from the Minister is provided at Attachment 1 to this report.

• **19 May 2008**

This matter was listed for consideration at a Special Council Meeting on this date. Council resolved at the meeting:

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

• **30 May 2008**

Council received advice from Department of Planning and Community Development (Planning Panels Victoria) that a Directions Hearing had been set for 10 June at 2pm at Planning Panels Victoria, Level 1, 8 Nicholson Street, East Melbourne. In addition the correspondence indicated that *“The VCAT review was set down for hearing in the week commencing the 23 June, 2008 and the Advisory Committee proposes to maintain those hearing dates. Dates for the public hearings will be confirmed after the Directions Hearing”*.

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A copy of this letter is included as Attachment 2 to this report.

**Terms of Reference for Advisory Committee**

Since being informed by the Minister for Planning on 15 May 2008 of his decision to refer this matter to Governor in Council for determination, Council Officers have consistently been seeking to obtain the Terms of Reference for the Advisory Committee. It is understood that one of the primary reasons for Council deferring making a decision at the above mentioned Special Council Meeting on the 19 May 2008 was that Council wanted to obtain the Terms of Reference prior to further considering this matter.

At the time of concluding this report for circulation to Council, Council Officers had not yet received the Terms of Reference for the Advisory Committee.

**3. Conclusion:**

It is apparent that the correspondence from Planning Panels Victoria has indicated an expectation that following a scheduled directions hearing on 10 June, 2008, a formal public hearing will follow shortly thereafter subject to the outcomes of the Directions Hearing. For this reason it is considered prudent that Council now seek to resolve how it wishes to respond to the merits of the Planning Permit Application KP881/07. Council Officers have instructed its advocate to raise at the directions hearing on 10 June, 2008, the potential for Council to potentially need to further review the manner in which it approaches the Advisory Committee depending on the contents of the Terms of Reference, which as identified remain unknown at the time of completing this report.

**Recommendation:**

That Council note the contents of this report and resolve on the position it wishes to advance in relation to the merits of Planning Permit Application KP881/07.

**Crs Athanasopoulos/Alabaster**

1. The proposal is contrary to the purpose of Metropolitan Green Wedge land as set out in Clause 57.
2. The proposal is prohibited as it does not comply with the 'in conjunction with' requirements of clause 57 in that:

- there is really only one use proposed. The refuse transfer station is at best 'ancillary' to the materials recycling proposal; or in the alternative if there is more than one use then:

there is no essential functional relationship between the materials recycling activities and the refuse transfer activities; and

there is unlikely to be any essential ongoing functional relationship between the concrete crushing (materials recycling) and the refuse transfer station.

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3. The proposal is not supported by and the proposal does not support any of the purposes of the Special Use Zone – Schedule 2 of the Kingston Planning Scheme (**Scheme**);
4. The proposal is detrimental to the short and long term amenity of the area in that:
  - a. The proposal does not establish a sufficient or any rehabilitation plan for the site leading to a permanent blight on the surrounding area;
  - b. The proposal will either constantly or intermittently cause a nuisance by dust (including through dust entering residential air conditioning and evaporative cooling systems), fine particles, noise and other emissions from the site to nearby residential and community properties;
  - c. The proposal will result in a large number of heavy vehicle movements to and from the area;
5. The proposal will frustrate the achievement of the purposes of the Sandbelt Open Space Policy at clause 22.03 of the Scheme;
6. The proposal is contrary to the policy at clause 22.04 (South East Non Urban Area Policy) of the Scheme;
7. The proposal does not identify an appropriate after use having regard to clause 22.03 of the Scheme.
8. The proposal makes no contribution to and will delay the rehabilitation of the land and hinder its long term development and use.
9. The proposal will undermine the preparation of a Green Wedge Management Plan and is contrary to Council's draft Northern Non Urban Area Framework Plan.
10. The proposal is contrary to orderly planning.
11. The proposal is sufficiently similar to a proposal considered by an Advisory Committee such that it should be refused as a repeat appeal or application.
12. The proposed industry use should be located in an industry zone.

**Carried**

A Division was called

For

Cr Bill Nixon

Cr Greg Alabaster

Cr Arthur Athanasopoulos

Cr Justin McKeegan

Cr Topsy Petchey

Cr Rosemary West

Cr John Ronke

Against

Nil

The motion was put and **CARRIED**

There being no further business, the meeting closed at 7.38pm.

**Confirmed** .....**His Worship The Mayor 23 June 2008**