

**City of Kingston
Ordinary Council Meeting**

Minutes

2 February 2009

Notice is given that an Ordinary Meeting of Kingston City Council was held at 7.00pm at the Cheltenham Office, 1230 Nepean Highway, Cheltenham, on Monday, 2 February 2009.

- 1. Apologies**
- 2. Confirmation of Minutes of Previous Meetings**
Minutes of Ordinary Council Meeting 22 December 2008.
- 3. Declaration by Councillors or Officers of any Conflict of Interest**
- 4. Petitions**
There are no petitions.
- 5. Presentation of Awards**
There are no presentations.
- 6. Reports from Village Committees**
There were no Village Committee meetings in January.
- 7. Reports from Delegates Appointed by Council to Various Organisations**
- 8. Question Time**
- 9. Environmental Sustainability Reports**
 - L 1 Town Planning Application Decisions – December 2008 Page 4
 - L 2 Planning Application KP188/08 – 71 Church Road, Carrum Page 11
 - L 3 Planning Application KP 667/08 – 11 Bath Street, Chelsea Page 28
- 10. Organisational Development and Governance Reports**
 - L 4 Constitutional Recognition of Local Government Page 45
 - L 5 Quarterly Reports to Council Plan Page 49
- 11. Corporate Services Reports**
 - L 6 Parks and Gardens Works Depot Accommodation Page 53
- 12. Notices of Motion**
 - L 7 Notice of Motion – Cr Rosemary West: Chicquita Park Page 55
 - L 8 Notice of Motion – Cr Trevor Shewan: Jet Skis Page 59
- 13. Urgent Business** Page 60
- 14. Items in Camera**

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Minutes of the Ordinary Meeting of the Kingston City Council held at the Cheltenham Office at 1230 Nepean Highway, Cheltenham, on Monday, 2 November 2008 at 7.08pm.

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

In Attendance: John Nevins – Chief Executive Officer
Paul Franklin – General Manager Corporate Services
Tony Rijs – General Manager Environmental Sustainability
Elaine Sowerby – General Manager Organisational Development and Governance
Mauro Bolin – General Manager Community Sustainability
Michael Petit – Manager Communications and Promotions
Michael Fry – Team Leader Council Business

1. Apologies

Cr Ronke.

Crs Staikos/Peulich

That the apology from Cr Ronke be received, and leave of absence from this meeting be granted.

Carried

2. Confirmation of Minutes of Previous Meeting

Crs Brownlees/Dundas

That the minutes of the Ordinary Council Meeting held on 22 December 2008 be confirmed.

Carried

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

Cr Bauer declared an interest in agenda item L 8, *Notice of Motion – Cr Shewan: Jet Skis.*
Cr West declared an interest in agenda item L 8, *Notice of Motion – Cr Shewan: Jet Skis.*

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The Mayor, Cr Athanasopoulos, declared an interest in agenda item L 8, *Notice of Motion – Cr Shewan: Jet Skis*.

Cr Dundas declared an interest in agenda item L 7, *Notice of Motion – Cr West: Chicquita Park*.

4. Petitions

There were no petitions presented.

5. Presentation of Awards

There were no presentations.

6. Reports from Village Committees

There were no Village Committee meetings in the December cycle.

7. Reports from Delegates Appointed by Council to Various Organisations

There were no delegates' reports.

8. Question Time

The Mayor advised that question time would be held at 7.30pm. There were no questions from members of the public.

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9. Environmental Sustainability Reports

L 1 Town Planning Application Decisions – December 2008

Approved By: Tony Rijs – General Manager, Environmental Sustainability

Author: Ian Nice – Manager, Planning

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

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	72	78
Notice of Decision	11	12
Refusal to Grant a Permit	4	4
Other - Withdrawn (3) - Prohibited () - Permit not required (4) - Lapsed (3)	5	6
Total	92	100

(NB: Percentage figures have been rounded)

Recommendation

That the report be noted.

Crs Staikos/Ronke

That the report be noted.

Carried

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Planning Decisions December 2008						
APPL. No.	PROPERTY ADDRESS	APPL DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT DECISION
KP1003/07 -A	6 DAHMEN ST CARRUM, VIC 3197	7-Oct-08	16-Dec-08	AMENDMENT	Permit Issued	
KP1004/08	335 STATION STREET CHELSEA, VIC 3196	3-Nov-08	8-Dec-08	ADVERTISING SIGN	Permit Issued	
KP1005/08	2/20 BONDI ROAD BONBEACH, VIC 3196	3-Nov-08	23-Dec-08	REMOVAL OF S173	Permit Lapsed	
KP1016/08	268 WELLS ROAD CHELSEA HEIGHTS,	10-Nov-08	4-Dec-08	SIGNAGE	Permit Issued	
KP1029/08	4 SPOONBILL PLACE WATERWAYS, VIC 3195	14-Nov-08	3-Dec-08	DWELLING	Permit Issued	
KP1042/08	38 MACGREGOR STREET PARKDALE, VIC 3195	18-Nov-08	24-Dec-08	ALTS & ADDS	Permit Issued	
KP1047/08	32 RAE AVENUE EDITHVALE, VIC 3196	14-Nov-08	22-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP1048/08	544 STATION STREET CARRUM, VIC 3197	19-Nov-08	8-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP1049/08	98 DEVON STREET CHELTENHAM, VIC 3192	17-Nov-08	12-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP1058/08	38 JELLS ROAD CHELTENHAM, VIC 3192	24-Nov-08	12-Dec-08	ALTS & ADDS	Permit Issued	
KP1064/08	17/97 BROADWAY BONBEACH, VIC 3196	27-Nov-08	16-Dec-08	ALTS & ADDS	Permit Not Required	
KP1070/08	8 MITTA AVENUE WATERWAYS, VIC 3195	2-Dec-08	10-Dec-08	DWELLING	Permit Not Required	
KP1071/08	19 LAKE KING CIRCLE WATERWAYS, VIC 3195	2-Dec-08	15-Dec-08	DWELLING	Permit Not Required	
KP1072/08	121 DEVON STREET CHELTENHAM, VIC 3192	1-Dec-08	10-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP1074/08	4 HENRY STREET HIGHETT, VIC 3190	1-Dec-08	10-Dec-08	2 LOT SUBDIVISION	Permit Issued	

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KP1079/08	127 ALBERT STREET MORDIALLOC, VIC 3195	2-Dec-08	23-Dec-08	ALTS & ADDS	Permit Issued
KP1099/08	59 ISLAND POINT AVENUE WATERWAYS, VIC 3195	9-Dec-08	12-Dec-08	DWELLING	Permit Issued
KP1128/08	16 PORTLAND PLACE WATERWAYS, VIC 3195	19-Dec-08	31-Dec-08	DWELLING	Permit Issued
KP132/08	23 WARRIGAL RD MENTONE, VIC 3194	25-Jan-08	2-Dec-08	2 DWELLINGS	Permit Issued
KP166/08	195 - 196 STATION STREET EDITHVALE, VIC 3196	6-Feb-08	19-Dec-08	14 DWELLINGS	Permit Issued
KP191/08	18 MAURY RD CHELSEA, VIC 3196	18-Feb-08	22-Dec-08	3 DWELLINGS	Permit Lapsed
KP308/08	67 - 69 MCLEOD ROAD CARRUM, VIC 3197	31-Mar-08	11-Dec-08	5 DWELLINGS - SBO	Notice of Decision
KP314/07-A	662 SOUTH ROAD MOORABBIN, VIC 3189	27-Oct-08	3-Dec-08	WAREHOUSE	Permit Issued
KP318/08	38 MOUNT VIEW ST ASPENDALE, VIC 3195	31-Mar-08	2-Dec-08	2 DWELLINGS	Permit Issued
KP329/08	2 EVAN ST PARKDALE, VIC 3195	2-Apr-08	1-Dec-08	2 DWELLINGS	Permit Issued
KP336/08	122B PARKERS RD PARKDALE, VIC 3195	8-Apr-08	2-Dec-08	3 DWELLINGS - SBO	Notice of Decision
KP359/08	6 DAWN ST HIGHETT, VIC 3190	11-Apr-08	23-Dec-08	4 DWELLINGS	Notice of Decision
KP381/07-A	4/7-9 NAPLES RD MENTONE, VIC 3194	26-Oct-07	22-Dec-08	ALTS & ADDS	Permit Issued
KP387/08	5 BAYLISS CT CHELTENHAM, VIC 3192	22-Apr-08	17-Dec-08	2 DWELLINGS	Permit Issued
KP442/08	198 OLD DANDENONG RD HEATHERTON, VIC 3202	9-May-08	4-Dec-08	BUILDINGS & WORKS	Permit Issued
KP463/08	7-11 SHEPPARD STREET MOORABBIN, VIC 3189	19-May-08	9-Dec-08	CHANGE OF USE	Notice of Decision
KP469/08	5 MAURY ROAD CHELSEA, VIC 3196	21-May-08	24-Dec-08	10 DWELLINGS	Notice of Decision

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KP472/08	326 HIGETT ROAD HIGETT, VIC 3190	21-May-08	11-Dec-08	LIQUOR LICENCE	Permit Issued	
KP481/08	80 MCLEOD ROAD CARRUM, VIC 3197	22-May-08	10-Dec-08	3 DWELLING	Permit Issued	
KP484/08	65 BROADWAY BONBEACH, VIC 3196	27-May-08	10-Dec-08	4 DWELLINGS	Permit Issued	
KP516/08	9 BLACKWOOD AVENUE MENTONE, VIC 3194	29-May-08	2-Dec-08	2 DWELLINGS	Permit Issued	
KP522/08	18-20 MAURY ROAD CHELSEA, VIC 3196	30-May-08	3-Dec-08	2 DWELLINGS	Permit Issued	
KP561/08	28 CRAWFORD ROAD CLARINDA, VIC 3169	11-May-08	3-Dec-08	2 DWELLINGS	Permit Issued	
KP567/08	14 WARREN ROAD MORDIALLOC, VIC 3195	16-Jun-08	3-Dec-08	2 DWELLINGS	Permit Issued	
KP568/08	1/14 BALCOMBE ROAD MENTONE, VIC 3194	16-Jun-08	22-Dec-08	SIGNAGE	Permit Issued	
KP590/08	10 SHENFIELD AVENUE BONBEACH, VIC 3196	19-Jun-08	18-Dec-08	8 DWELLINGS	Permit Refusal	
KP591/08	25 MOORE AVENUE CLAYTON SOUTH, VIC 3169	20-Jun-08	22-Dec-08	2 DWELLINGS	Permit Issued	
KP619/08	1/11 HALL MARK ROAD MORDIALLOC, VIC 3195	27-Jun-08	24-Dec-08	CHANGE OF USE	Notice of Decsion	
KP627/08	230 CHARMAN ROAD CHELTENHAM, VIC 3192	2-Jul-08	22-Dec-08	DWELLING	Permit Lapsed	
KP643/08	162 COCHRANES ROAD MOORABBIN, VIC 3189	9-Jul-08	19-Dec-08	CHANGE OF USE	Permit Issued	
KP665/08	584 MAIN STREET MORDIALLOC, VIC 3195	16-Jul-08	12-Dec-08	RESTAURANT	Notice of Decsion	
KP670/08	10 ARUNTA CRESCENT CLARINDA, VIC 3169	17-Jul-08	3-Dec-08	2 DWELLINGS	Permit Issued	
KP691/08	206 BALCOMBE ROAD MENTONE, VIC 3194	23-Jul-08	17-Dec-08	5 DWELLINGS	Notice of Decsion	

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KP700/08	1/35 CEDRIC STREET MORDIALLOC, VIC 3195	25-Jul-08	16-Dec-08	ALTS & ADDS	Permit Issued	
KP705/08	1/43 BEACH ROAD MENTONE, VIC 3194	28-Jul-08	4-Dec-08	ALTS & ADDS	Permit Issued	
KP707/08	2-6 INDEPENDENCE STREET MOORABBIN, VIC 3189	28-Jul-08	9-Dec-08	2 WAREHOUSES	Permit Issued	
KP717/08	3 SPRINGS ROAD CLAYTON SOUTH, VIC 3169	1-Aug-08	15-Dec-08	9 DWELLINGS	Notice of Decision	
KP718/08	41 VICTORIA STREET PARKDALE, VIC 3195	1-Aug-08	24-Dec-08	LIQUOR LICENCE	Permit Issued	
KP719/08	27 RAE AVENUE EDITHVALE, VIC 3196	1-Aug-08	22-Dec-08	2 DWELLINGS	Permit Issued	
KP723/07	18 PERRY ST MOORABBIN, VIC 3189	14-Sep-07	3-Dec-08	3 DWELLINGS	Notice of Decision	
KP729/08	1/1 MARINA GROVE BONBEACH, VIC 3196	6-Aug-08	23-Dec-08	2 DWELLINGS	Permit Issued	
KP730/08	4 WALKER STREET BRAESIDE, VIC 3195	6-Aug-08	10-Dec-08	BUILDINGS AND WORKS	Permit Issued	
KP738/08	4 DIMAR CRT, DINGLEY VILLAGE VIC 3172	7-Aug-08	1-Dec-08	SIGNAGE	Permit Issued	
KP767/08	17 RAYHUR STREET CLAYTON SOUTH, VIC 3169	12-Aug-08	16-Dec-08	2 DWELLINGS	Permit Issued	
KP783/08	161 PARK ROAD CHELTENHAM, VIC 3192	18-Aug-08	8-Dec-08	VETERINARY CLINIC	Permit Issued	
KP804/08	1239 NEPEAN HIGHWAY CHELTENHAM, VIC 3192	26-Aug-08	23-Dec-08	CAR WASH	Permit Issued	
KP814/08	31 FRIENDSHIP SQUARE CHELTENHAM, VIC 3192	28-Aug-08	29-Dec-08	2 DWELLINGS	Permit Lapsed	
KP831/08	16 SHOWERS AVENUE CHELSEA, VIC 3196	3-Sep-08	4-Dec-08	2 LOT SUBDIVISION	Permit Issued	

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KP842/08	31A ANTIBES STREET PARKDALE, VIC 3195	9-Sep-08	15-Dec-08	ALTS & ADDS	Permit Refusal
KP845/08	22 COBHAM STREET CHELTENHAM, VIC 3192	5-Sep-08	31-Dec-08	2 LOT SUBDIVISION	Permit Issued
KP850/08	202 BOURKE ROAD CLARINDA, VIC 3169	12-Sep-08	10-Dec-08	ALTS & ADDS	Permit Issued
KP852/05-A	541 MAIN ST MORDIALLOC, VIC 3195	5-Dec-08	16-Dec-08	AMENDMENT	Permit Issued
KP853/08	322 NEPEAN HIGHWAY PARKDALE, VIC 3195	11-Sep-08	16-Dec-08	2 LOT SUBDIVISION	Permit Issued
KP859/08	18 SCHOONER BAY DRIVE PATTERSON LAKES, VIC	15-Sep-08	2-Dec-08	BUILDINGS & WORKS	Permit Issued
KP866/08	35 PATTY STREET MENTONE, VIC 3194	17-Sep-08	3-Dec-08	ALTS & ADDS	Permit Issued
KP878/08	10 FLINDERS STREET MENTONE, VIC 3194	23-Sep-08	24-Dec-08	5 DWELLINGS	Permit Lapsed
KP881/07	275-315 KINGSTON ROAD CLARINDA, VIC 3169	2-Nov-07	5-Dec-08	REFUSE TRANSFER STATION	Permit Issued
KP881/08	97-103 MCDONALD STREET MORDIALLOC, VIC 3195	22-Sep-08	15-Dec-08	19 LOT SUBDIVISION	Permit Issued
KP892/08	6/80 FAIRBANK ROAD CLAYTON SOUTH, VIC 3169	26-Sep-08	22-Dec-08	MOTOR VEHICLE SALES	Permit Issued
KP904/07	17 COLLOCOTT ST MORDIALLOC, VIC 3195	13-Nov-07	8-Dec-08	13 DWELLINGS	Permit Issued
KP908/08	10 BEACH PARK RESERVE MORDIALLOC, VIC 3195	1-Oct-08	16-Dec-08	SIGNAGE	Permit Issued
KP910/08	86-102 WHITESIDE ROAD CLAYTON SOUTH, VIC 3169	1-Oct-08	2-Dec-08	BUILDINGS & WORKS	Permit Issued
KP925/08	21 MILLS ROAD BRAESIDE, VIC 3195	3-Oct-08	31-Dec-08	2 LOT SUBDIVISION	Permit Issued

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KP931/08	316-332 KINGSTON ROAD CLARINDA, VIC 3169	6-Oct-08	30-Dec-08	BUILDINGS & WORKS	Permit Issued	
KP934/08	446-450 WARRIGAL ROAD HEATHERTON, VIC 3202	7-Oct-08	19-Dec-08	BUILDINGS & WORKS	Permit Issued	
KP937/08	41/1486-1550 CENTRE ROAD CLAYTON SOUTH, VIC	8-Oct-08	5-Dec-08	SIGNAGE	Permit Issued	
KP943/08	58-64 NEPEAN HIGHWAY MENTONE, VIC 3194	10-Oct-08	3-Dec-08	REMOVAL OF EASEMENT	Permit Issued	
KP944/08	10 WANNAN STREET HIGHETT, VIC 3190	13-Oct-08	17-Dec-08	CHANGE OF USE	Permit Issued	
KP946/08	25 RAYHUR STREET CLAYTON SOUTH, VIC 3169	9-Oct-08	22-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP953/07	18 JEAN ST CHELTENHAM, VIC 3192	30-Nov-07	3-Dec-08	2 DWELLINGS	Permit Issued	
KP960/08	16 CHARLES STREET CHELTENHAM, VIC 3192	14-Oct-08	16-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP964/08	10 NOWRA STREET MOORABBIN, VIC 3189	20-Oct-08	3-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP966/08	47 EDITHVALE ROAD EDITHVALE, VIC 3196	21-Oct-08	23-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP967/08	72 TURNER ROAD HIGHETT, VIC 3190	21-Oct-08	24-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP98/240- A	2 BAPAUME AVENUE EDITHVALE, VIC 3196	25-Jun-08	12-Dec-08	AMENDMENT	Permit Lapsed	
KP984/08	30 CLAY STREET MOORABBIN, VIC 3189	27-Oct-08	15-Dec-08	3 DWELLINGS	Notice of Decsion	
KP986/08	41 HOUSTON STREET MENTONE, VIC 3194	27-Oct-08	10-Dec-08	2 LOT SUBDIVISION	Permit Issued	
KP990/08	7 OCEAN LANE PATTERSON LAKES, VIC 3197	28-Oct-08	1-Dec-08	1 DWELLING	Permit Issued	

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**Planning Application KP188/08 – 71 Church Road,
Carrum**

APPLICANT:	Hua Gao
ADDRESS OF LAND:	No.71 (Lot 20 on PS054916) Church Road, Carrum
Melway Ref:	99E9 & 97F9
PROPOSAL	Three (3) dwellings
CONTACT OFFICER:	Girija Shrestha
FILE NO:	KP188/08
ZONING:	Residential 3
KINGSTON PLANNING SCHEME ORDINANCE CONTROLS:	<p><u>State Planning Policy Framework</u> Clause 12: Metropolitan Development Clause 14: Settlement Clause 16.02: Housing – Medium Density Housing</p> <p><u>Local Planning Policy Framework</u> Clause 21.05 MSS – Residential Land Use Clause 22.11: Residential Development Policy Clause 32.06: Residential 3 Zone & Schedule Clause 55: Two or More Dwellings on a Lot & Residential Buildings Clause 65: Decision Guidelines</p>
RESIDENTIAL POLICY AREA:	Incremental Change
AVERAGE LOT SIZE:	289.05 square metres
AVERAGE PROPOSED LOT SIZE:	317.4 square metres
NEIGHBOURHOOD CHARACTER AREA:	Area 81
DECISION BY:	27 September, 2008
NETT DAYS:	188 days @ 15 January, 2009

Development Assessment Table

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
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Private Open Space	Incremental Housing Change requirements – Schedule to the Residential 3 Zone: 40m ² , located to the side / rear of the dwelling, achieving a minimum dimension of 5 metres for a 2 bedroom dwelling with convenient access from a living room. An additional 20m ² is required for each additional bedroom, which achieves a minimum dimension of 3 metres.	Dwelling 1 – 106m ² of which 51m ² is secluded private open space Dwelling 2 – 60m ² of which all is secluded private open space Dwelling 3 – 48.8m ² of which all is secluded private open space	As per the Schedule to the Residential 3 Zone for Incremental Housing Change Areas
Car Parking	Two (2) spaces for each 3 bedroom dwelling.	Dwelling 1 – three (3) car spaces – two (2) in double garage and one (1) in tandem Dwelling 2 – two (2) car spaces in double garage Dwelling 3 – two (2) car spaces in double carport	Adequate car parking for future residents and visitors
Dwelling Setback to Street	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.	Dwelling 1 – 9 metres	As per ResCode
Site Coverage	Incremental Housing Change requirements – Schedule to the Residential 1 Zone: Maximum 50%	Site coverage is 41.5%	As per the Schedule to the Residential 3 Zone for Incremental Housing Change Areas

EXISTING CONDITIONS:

The subject site is located on the north-eastern side of Church Road, in Carrum. It is rectangular in shape with a frontage width of 15.24 metres, and a maximum depth of 62.48 metres, resulting in an overall area of 952.2m². The site has a fall of approximately 0.8 metres at the rear of the land. Vehicle access to the site is via a single width crossover located on the north-west side of the Church Road property frontage.

The subject site contains a number of established trees, the majority of which are within the sites frontage setback.

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The site is currently occupied by a single storey brick dwelling with a pitched roof, and associated outbuildings.

This section of street consists predominantly of detached, single storey, brick and dwellings, with a scattering of weatherboard dwellings and including multi-dwelling development. There is no predominant fencing style in the neighbourhood.

The site is encumbered by a 2.44 metre wide sewerage and drainage easement along the site's north-eastern (rear) and the rear portion of the north-western property boundaries.

PROPOSAL IN DETAIL:

It is proposed to demolish the existing dwelling, and construct two (2) double storey dwellings and one (1) single storey dwelling on the land.

Key elements of the proposal are as follows:

Dwelling	Floor Area (excluding garage / verandah)	Private Open Space	No. of Bedrooms	Car Parking Spaces
1	182.7m ²	Dwelling 1 – 106m ² of which 51m ² is secluded private open space	3	Three (3) car spaces- two (2) in double garage & one (1) in tandem
2	135.1m ²	Dwelling 2 – 60m ² of which all is secluded private open space	3	Dwelling 2 – two (2) car spaces in double garage
3	113m ²	Dwelling 3 – 48.8m ² of which all is secluded private open space	2	Dwelling 2 – two (2) car spaces in double carport

Building Materials and colours have been nominated as:

Roof:	Colorbond sheeting (dark grey)
Walls:	Ground rendered masonry (mid grey) & first floor hardi plank cladding (off white)
Garage doors	Panel lift
Windows:	Off white
Driveways:	Concrete
Front fencing:	None
Boundary fences:	Timber paling with lattice extension

The proposal would result in site coverage of 41.5%, and a site permeability of 33.8%.

Average lot sizes for the development are proposed at 317.4 square metres.

It is noted that an existing street tree to the south-east of the site will require removal to facilitate the proposal.

TITLE DETAILS

The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the title.

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

An application pursuant to Section 50 of the Planning and Environment Act 1987 was received on 29th May 2008. The amendment includes:

- Minor modifications in accordance with Council's request for further information dated 13th March 2008.

Council decided to approve the amendment.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Two (2) objections to the proposal were received. It is noted that one (1) of the objections represents three (3) of the neighbouring properties.

The grounds of concern may be summarised as follows:

- Less landscaping opportunities and loss of significant trees
- Overlooking
- Colours and materials
- Rear setback and visual bulk

PRELIMINARY CONFERENCE

A preliminary conference was held on the 29th October 2008 where the above issues were discussed, however no resolutions were reached and as a result, no objections have been withdrawn.

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

No amendments made.

PLANNING SCHEME PROVISIONS

A planning permit is required to develop land for two dwellings or more, pursuant to Clause 32.06-4 of the Kingston Planning Scheme (the Scheme). In addition, according to ResCode at Clause 55 and the decision guidelines at Clause 65 of the Scheme, Council must consider the State Planning Policy Framework (Clause 16) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement of the Scheme.

Other

The land is located in an 'Incremental Change Area' as identified by the Residential Land Use Framework Plan that forms part of the Municipal Strategic Statement.

REFERRAL

The application was referred to the following internal departments within Council (where appropriate amended applications have been re-referred):

- Development Engineer
- Vegetation Management Officer
- Co-ordinator Tree Operations

Council's Development Engineer has advised of no objection, subject to the inclusion of a number of conditions on any permit issued.

Council's Vegetation Management Officer has advised of no objection, subject to the inclusion of a number of conditions on any permit issued.

Council's Co-ordinator Tree Operations has advised of the cost required for the removal of the street tree. A condition of permit can address this.

Discussion

Kingston Planning Scheme Provisions:

Clause 12: Metropolitan Development

This section of the scheme provides specific objectives and strategies for Metropolitan Melbourne, including the following:

Clause 12.01 A more compact city seeks to:

- § Facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.
- § Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport.

Clause 12.05 A great place to be – seeks to create urban environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity, including:

- § Promotion of good urban design to make the environment more liveable and attractive.
- § Recognition and protection of cultural identity, neighbourhood character and sense of place.
- § Improvement of community safety and encouragement of neighbourhood design that makes people feel safe.
- § Protection of heritage places and values.
- § Promotion of excellent neighbourhood design to create attractive, walkable and diverse communities.
- § Improvement of the quality and distribution of open space and ensuring the long term protection of open space.
- § Improvement of the environmental health of the bays and their catchments.

Clause 12.06 A fairer city – seeks to increase the supply of well located and affordable housing by:

- § Encouraging a significant proportion of new development, including development activity centres and strategic redevelopment sites, to be affordable for households on low to moderate incomes.
- § Facilitate a mix of private, affordable and social housing in Transit Cities Projects.
- § Ensuring the redevelopment and renewal of public housing stock better meets community needs.

Clause 12.07 A greener city – seeks to minimise impacts on the environment to create a sustainable path for future growth and development by:

- § Ensuring that water resources are managed in a sustainable way.
- § Reduce the amount of waste generated and encourage increased reuse and recycling of waste materials.
- § Contribute to national and international efforts to reduce energy usage and greenhouse gas emission.
- § Reduce the impact of stormwater on bays and catchments.

Clause 12.08 Better transport links seeks to:

- § Manage the road system to achieve integration, choice and balance by developing an efficient and safe road network and making the most of existing infrastructure.
- § Give more priority to walking and cycling in planning urban development and in managing the road systems and neighbourhoods.

It is considered that this application meets these objectives.

Clause 14.01: Planning for Urban Settlement

This section of the Scheme seeks facilitate the orderly development of urban areas. It is considered that this application meets these objectives.

Clause 14.01-2: Planning for Urban Settlement - General Implementation

This section of the Scheme seeks to ensure that the consolidation of residential and employment activities is encouraged within existing urban areas and designated growth areas, and that development in existing residential areas should be respectful of neighbourhood character, and that higher land use densities and mixed use developments

should be encouraged near railway stations, major bus terminals, transport interchanges and tram and principal bus routes.

It is considered that this application meets these objectives.

Clause 16.02: Housing - Medium Density Housing

It is the objective of the State Planning Policy Framework to encourage the development of well-designed medium-density housing which:

- § Respects the character of the neighbourhood.
- § Improves housing choice.
- § Makes better use of existing infrastructure.
- § Improve energy efficiency of housing.

It is considered that this application clearly meets these objectives.

Clause 21.05 MSS - Residential Land use

Incremental Housing Change Area

The type of housing change anticipated in these areas will take the form of extensions to existing houses, new single dwellings or the equivalent of new two dwelling developments on average sized lots. The existing single dwelling character of these areas is to be retained.

Average dwelling size within this area has been calculated to be 289.05 square metres. The subject site has a total area of 952.2 square metres allowing each proposed lot to have an average size of 317.4 square metres. Consequently, the principle and intensity of the proposed development is considered acceptable within an area of incremental change.

The objectives of the Municipal Strategic Statement (as relevant to this application) include:

- **Objective 1:** To provide a wide range of housing types across the municipality to increase housing diversity and cater for the changing needs of current and future populations, taking account of the differential capacity of local areas in Kingston to accommodate different types and rates of housing change.
- **Objective 2:** To ensure new residential development respects neighbourhood character and is site responsive, and that medium density dwellings are of the highest design quality.
- **Objective 3:** To preserve and enhance well landscaped/vegetated environments and protect identified significant vegetation.
- **Objective 4:** To promote more environmentally sustainable forms of residential development.
- **Objective 5:** To manage the interface between residential development and adjoining or nearby sensitive/strategic land uses.
- **Objective 6:** To ensure residential development does not exceed known physical infrastructure capacities.

Relevant strategies to achieve these objectives (as relevant to this application) include:

- Promote lower density housing in established suburban areas that do not have direct access to activity/transport nodes and “encourage” only incremental change in housing density (*incremental housing change areas*). Such areas will retain their predominantly single dwelling character and incremental change will occur in the form of single dwellings or the equivalent of dual occupancy developments on average sized lots.
- Promote new residential development which is of a high standard, responds to the local context and positively contributes to the character and identity of the local neighbourhood.
- Promote new residential development which provides a high standard of amenity and quality of life for future occupants.
- Encourage the retention of existing vegetation wherever possible.
- Improve landscape character by accommodating appropriate landscaping within new residential developments.
- Ensure that the planning, design, siting and construction of new residential development responds to best practice environmental design guidelines for energy efficiency, waste and recycling, and stormwater management.
- Promote medium density housing development in close proximity to public transport facilities, particularly train stations.
- Ensure the siting and design of new residential development sensitively responds to interfaces with environmentally sensitive areas, including the foreshore.
- Ensure that where medium and higher density residential areas are proposed adjacent to lower density residential areas, the design of such development takes proper account of its potential amenity impacts.
- Ensure that the siting and design of new residential development is consistent with Urban Stormwater Best Practice Environmental Management Guidelines and that new development contributes to the maintenance and upgrade of local drainage infrastructure as required, where such new development will impact on the capacity of such infrastructure.
- Require the provision of car parking to satisfy the anticipated demand having regard to average car ownership levels in the area, the environmental capacity of the local street network and the proximity of public transport and nearby on and off street car parking.
- Ensure that all new medium density housing provides adequate private open space that is appropriately landscaped.

It is considered that the proposed development is consistent with the relevant objectives of Council’s Municipal Strategic Statement as outlined above. The proposal creates an adequate standard of amenity for the future occupants of each dwelling, as well as for occupants of existing dwellings in the immediate area. It is considered that the development will have minimal impact on the existing streetscape character, and the broader local neighbourhood character.

Clause 22.11 - Residential Development Policy

The proposal has been assessed against the objectives and policy of the Residential Development Policy. It is considered that the proposal satisfactorily meets these requirements. There are however some areas of non-compliance which are as follows:

- Single dwelling and dual occupancy developments are encouraged within Incremental Housing Change areas, however, it is proposed to construct three (3) dwellings on the land.
- The development proposes a double storey dwelling towards the middle of the site, which is generally discouraged under Council Policy.

Clause 32.06: Residential 3 Zone

The purpose of the Residential 3 zone includes the provision of residential development at a range of densities with a variety of dwellings to meet the housing needs of all households. A planning permit is required for the development of 2 or more dwellings.

Schedule

The proposal meets the additional requirements listed in the Schedule to the Residential 3 zone, with the exception of a minor variation to the private open space requirement, which will be discussed further later in this report.

Clause 55: Rescode

The proposal has been assessed against the objectives and standards of Clause 55 (ResCode) of the Kingston Planning Scheme. It is considered that the proposal satisfactorily meets the requirements of Rescode. There are however some areas of non-compliance which are as follows:

Clause 55.02 - Neighbourhood Character & Infrastructure

Standard B1 Neighbourhood Character - The site is located within Character Area No.81 of Council's Neighbourhood Character Guidelines (revised February 2003). Within this area, the following characteristics are considered to make "major" contributions to the streetscape:

- *Roof shape*: simple hipped, complex hipped, simple gabled, complex gabled and combination.
- *Materials*: tiled rooves of various colour and materials, and weatherboard or rendered mainly white or pastel walls.

With respect to roof shape, the proposed 20° pitch provided on each roof is considered appropriate. However, some portions of the dwellings are provided with the flat roof, which would contradict this policy. Therefore, it is recommended to reduce flat roof form to the dwellings, especially at the streetscape, the garage of dwelling 1 should be hipped or gabled roof (even just as a façade), which can be conditioned, if any permit issued.

With regard to materials, the proposed colorbond rooves with part rendered part cladding external walls is considered appropriate and consistent with the streetscape and the major characteristics highlighted above.

Overall, the development is well articulated, and presents well to abutting properties. The upper level of dwellings 1 and 2 has been adequately recessed in from the lower (ground) level. The development is considered to be consistent with the streetscape and the broader neighbourhood character.

Standard B2 Residential Policy - As highlighted earlier in this report, there are two minor objectives/policy requirements of Clause 22.11 Residential Development Policy that the proposal does not comply with.

Firstly, while single dwelling and dual occupancy developments are encouraged within Incremental Housing Change areas, the development proposes to construct three (3) dwellings on the land. This is considered acceptable as the subject site is larger than other allotments in street at 952.2 square metres. The average lot sizes in the surrounding area are 289.05 square metres and the proposed development exceeds this figure by proposing an average lot size of 317.4 square metres for each proposed dwelling. The proposed development also achieves a high level of compliance with Rescode without having an unreasonable impact on the amenity of adjoining properties.

Secondly, development proposes a double storey dwelling towards the middle of the site, which is generally discouraged under Council Policy. However, as noted above, both of the proposed double storey dwellings would have upper level elements that are somewhat recessed in from the lower level and overall, have been designed and articulated so that they will not appear bulky when viewed from the street or abutting properties.

Clause 55.03 - Site Layout and Building Massing

Standard B13 Landscaping –there are a number of existing established trees located on this site, and at least four (4) trees are proposed for retention, although Council’s VMO has noted there are no trees worthy of retention on site. There is adequate room within the development, particularly within open space areas, to provide for the planting of new trees with spreading crowns. Council’s Vegetation Management Officer (VMO) requires the submission of a landscape plan as part of any approval issued showing provision of canopy trees within the development site.

Standard B15 Parking location - Each dwelling would be provided with two car parking spaces. However, one car space for dwelling 3 is not provided with an appropriate reversing area, and can not be provided due to the width of the site. The garage for dwelling 2 will need to be converted to a lesser length car port which can be put as a permit condition, if any permit issued.

Clause 55.04 - Amenity Impacts

Standard B18 Walls on Boundaries – the south-eastern wall of garage 1 would be located directly on the common boundary, and would have an average height of 3.22 metres. The south-eastern wall of garage/carport 2, and south-eastern walls of dwelling 3 would also be located directly on the common boundary and would have an average height greater than 3 metres. Pursuant to Standard B18 boundary walls should not exceed an average of 3 metres height. A condition of permit can require that these walls be decreased to an average height of 3 metres.

Clause 55.05 - On-Site Amenity and Facilities

Standard B28 Private Open Space – the private open space to the rear of dwelling 1 has a width of 4.8 metres, whereas the Residential 3 Zone schedule requires a width of 5 metres. Given that this dwelling will have a total of 51m² to the rear of the dwelling plus additional open space of about 55m² in the front setback area, it is reasonable to waive the 0.2 metre variation.

Clause 65: Decision Guidelines

This clause of the Planning Scheme sets out other matters which must be given regard to before deciding on an application.

It is considered that the proposed development meets the requirements as set out in this Clause of the Planning Scheme.

Neighbourhood Character Area Guidelines (Incorporated Document):

The land is located within Area 81 of the Neighbourhood Character Guidelines. The proposal is not considered to raise any issues of non-compliance with these guidelines.

Designing Contextual Housing Guidelines – April 2003 (Reference Document):

The Designing Contextual Housing Guidelines supplement the Kingston Neighbourhood Character Guidelines, Residential Development Policy and ResCode provisions and offer a range of design techniques and suggestions to assist with residential design which is responsive to local character. It is considered that the proposed development does not raise any issues of non-compliance with these guidelines.

Response to Grounds of Objection

The following comments are made on the grounds for objection:

- *Less landscaping opportunities and loss of significant trees*
Councils' Vegetation Management Officer does not consider that there are any trees worth of retention on site. There is adequate room within the new development, particularly within open space areas, to provide for the planting of new trees with spreading crowns.
- *Overlooking*

The upper level windows of dwellings 1 and 2 have been appropriately treated and designed, and it is considered that the proposed dwellings should not result in any unreasonable overlooking of abutting properties.

- *Colours and materials*

As noted previously in this report, the proposed colorbond rooves with part rendered part cladding external walls is considered appropriate and consistent with the streetscape.

- *Rear setback and visual bulk*

As highlighted earlier in this report, the dwellings have been adequately articulated and designed to blend in with the existing dwelling on the land and the streetscape, and overall, the new dwellings would be consistent with the broader neighbourhood character. The 1.8 metre setback of dwelling 3 from the rear boundary is considered appropriate and ResCode compliant.

- *Traffic issues*

The development provides two (2) on-site car parking spaces per dwelling, which is consistent with Rescode requirements and is considered adequate for this development. It is furthermore considered that the local road network can adequately cope with any additional traffic generated by the proposal.

General Comment

The proposed development is considered appropriate for the site as evidenced by:

- The design and siting of the proposed development to be compatible with the surrounding area;
- The development exceeds the average lot size of the surrounding area (289.05 square metres) by providing an average lot size of 317.4 square metres for the proposed development.
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS, Residential Development Policy, Residential 3 zoning and the Schedule to the zone, Clause 55 – Two or more dwellings on a lot and Residential Buildings and the Neighbourhood Character Area Guidelines and the Designing Contextual Housing Guidelines.

On balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

Recommendation

That a Notice of Decision to Grant a Permit for the development of this site for three (3) dwellings be issued, subject following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible

Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council, but modified to show:

- a. the provision of an improved landscape plan in accordance with the submitted development plan and the City of Kingston Landscape Plan checklist, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
 - i. an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
 - ii. the delineation of all the garden beds, paved and grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
 - iii. all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent canopy width and labelled with botanical name, height and whether the tree is to be retained or removed;
 - iv. a range of plant types from ground covers to large shrubs and trees;
 - v. adequate planting densities (i.e.: plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi. the provision of one (1) suitable medium sized (at maturity) canopy trees within the front setback of the property and one (1) small (at maturity) tree within the secluded open space area of each dwelling with species chosen to be approved by the Responsible Authority;
 - vii. sustainable lawn areas and plant species taking current water restrictions into consideration;
 - viii. all trees provided at a minimum of 2 metres high at time of planting;
 - ix. medium to large shrubs and trees to be provided in pot sizes of 200mm; and
 - x. the provision of notes regarding site preparation including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
- b. inclusion of pitched roof to dwelling 1's garage;
- c. the driveway constructed as outlined in Condition 3 of this permit;
- d. the south-eastern common boundary walls of garage 1 and 2, and dwelling 3, nominated with as a height of not more than 3 metres;
- e. the driveway/accessway at the north-west side of garage/car port for dwelling 2 reduced in width, with the additional areas created provided as landscaping with a maximum 1.5m width landscape area tapering to 700mm along the site's north west property boundary;

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- f. the provision of a 6.0m long X 5.5m wide carport in lieu of double garage for the dwelling 2;
 - g. the existing street tree nominated as being removed;
 - h. the provision of a water tank clearly nominated for each dwelling; and
 - i. the provision of a full colour schedule (including samples) for all external elevations of the proposed dwellings.
2. The development and/or use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 3. The driveway to Unit 1 is to be constructed on a porous material and must be laid on existing grade with no excavation greater than 100mm. All roots unearthed less than 25mm in diameter are to be cut cleanly with a sharp saw or secateurs. All roots greater than 25mm diameter can only be cut under supervision from Council's Vegetation Management Officers.
 4. Prior to the occupation of the dwellings hereby permitted, the new fences proposed along the north-western, north-eastern and south-eastern common boundaries must be erected to Council's satisfaction, at the applicant/owners cost.
 5. Prior to the removal of the tree from the site's Church Road nature strip the Developer/Owner must pay to Council a compensation, removal and replacement fee (\$1069.00) (including GST) for the removal of this existing tree. The removal of this tree must be undertaken by Council, and the Developer/Owner must advise Council when this tree is required to be removed.
 6. Before occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
 7. Before occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
 8. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration system or bioretention system, rainwater tanks connected for reuse and a detention system.
 9. Before the development commences, a Stormwater Management Plan showing the stormwater works to the nominated point of discharge must be prepared to the satisfaction of the Responsible Authority. The Stormwater Management Plan must be prepared by a qualified person and show all details of the proposed stormwater works including all existing and proposed features that may have impact (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary, surface levels, etc.).

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10. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
11. Construction on the site must be restricted to the following times:
 - a. Monday to Friday 7:00am to 7:00pm; and
 - b. Saturday 9:00am to 6:00pm.Or otherwise as approved by the Responsible Authority in writing.
12. Before the occupation of the dwellings hereby permitted starts, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must be reinstated to the satisfaction of the Responsible Authority.
13. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.
14. Convenient taps or fixed sprinkler system must be provided to the satisfaction of the Responsible Authority capable of watering all communal and private land and landscaped areas, including turf block visitor car parking where provided.
15. A street number of 100mm minimum height and contrasting in colour to its background, must be fixed at the front boundary of the property and as near as practicable to, or on the letterboxes with such numbering to be in accordance with Council's Street Numbering Policy. Separate unit numbers of 75mm minimum height must be placed adjacent to the front entrance of each dwelling. Such numbers must be clearly legible from the access driveway.
16. Prior to the occupation of the dwellings hereby approved, all boundary fences must be repaired and/or replaced as necessary to the satisfaction of the Responsible Authority, at the cost of the applicant/owner. All fencing and boundary wall finishing are to be at the whole cost of the applicant/owner.
17. Exterior lights must be installed in such positions as to effectively illuminate all pathway and porch areas. Such lighting must be controlled by a time clock or sensor unit, and must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
18. Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.
 - c. Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.
 - d. Drained and maintained to the satisfaction of the Responsible Authority.Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

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19. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
20. All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.
21. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
22. External clothes drying facilities must be provided for each dwelling.
23. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
24. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
 - The development and use are not started before two (2) years from the date of this permit.
 - The development is not completed within two (2) years from the commencement of works.

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

Note: It is noted that the development includes a storage shed to be built over an easement. Separate consent from Council and the relevant service authority is required to build over the easement and will need to be obtained prior to the issue of a building permit.

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

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

Note: Before removing/pruning any vegetation from the site, the applicant or any contractor engaged to remove vegetation, should consult Council's Vegetation Management Officer to verify if a Local Law Permit is required for the removal of such vegetation.

The meeting was addressed by Margaret Flynn on behalf of the objectors.

Crs Shewan/West

That a Notice of Refusal to Grant a Permit be issued on four grounds:

1. The proposal would have an adverse affect on the amenity of an established residential neighbourhood.
2. The proposal constitutes an over-development of the site.

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3. The proposal exhibits excessive bulk and mass.
4. The proposal does not satisfy all of the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives, Clause 55.05-4 Private Space Objective and Clause 55.06-1 Design Detail.

Carried

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Development Assessment Table

Criteria	ResCode Requirement	Proposed Development Provision	Clause 22.11- Residential Policy Requirement
Private Open Space	<p>The ResCode requirement for private open space can be achieved in one of the following ways:</p> <ul style="list-style-type: none"> • An area of 40m², with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling with a minimum area of 25m², a minimum dimension of 3 metres and convenient access from a living room; • <i>A balcony of 8m² with a minimum width of 1.6 metres and convenient access from a living room;</i> • A roof top area of 10m² with a minimum width of 2 metres and convenient access from a living room 	<p>Dwelling 1 – Balcony area of 10m² with a minimum width of 2.2 metres. Dwelling 2 – Balcony area of 10m² with a minimum width of 2.2 metres. Dwelling 3 – Balcony area of 10m² with a minimum width of 2.05 metres Dwelling 4– Balcony area of 10m² with a minimum width of 2.0metres Dwelling 5– Balcony area of 10m² with a minimum width of 3.0metres. Dwelling 6 – Balcony area of 10m² with a minimum width of 2.3 metres. Dwelling 7 – Balcony area of 10m² with a minimum width of 2.0 metres Dwelling 8 – Balcony area of 10m² with a minimum width of 2.5 metres</p> <p>All dwellings are provided with direct access from the living areas to these balconies</p>	As per Rescode
Car Parking	One (1) space for each 1 and 2 bedroom dwelling	The proposal responds with single car spaces for each single and two bedroom dwelling.	Adequate car parking for future residents and visitors. The site is located in close proximity to the Chelsea Station, bus routes and adjacent to a large public car parking area.

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Dwelling Setback to Street	The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.	The site is located between a proposed car park (under construction) along the south east boundary and the Chelsea Historical Museum on the north west boundary. The museum has a setback to Bath Street of 3.0m. The site has an articulated building setback, which varies from 5.2m along the north west boundary line to 9.8m along the south east boundary line.	As per ResCode
Site Coverage	ResCode states that a new development <i>should</i> achieve maximum site coverage of 60%, however this figure may be varied depending on neighbourhood character, the design of the development and other matters such as storm water runoff.	Site coverage of 77.5% is proposed.	Increased site coverage is considered appropriate given that the neighbourhood character of the area is defined by residential and commercial uses.

EXISTING CONDITIONS:

The subject site is located within a Business 1 Zone on the north-eastern side of Bath Street, in Chelsea. The land is rectangular in shape with a frontage width of 15.27 metres, a maximum depth of 32.82 metres, resulting in an overall area of 504.1m². The site is essentially flat. Vehicle access to the site is via a single width crossover located on the north-west side of the Bath Street property frontage.

The subject site does not contain any significant vegetation.

The site is currently occupied by single storey brick veneer dwelling with a gable roof.

Land abutting the site is described as follows:

- *North-west*: two allotments with frontage to The Strand, one containing a mixed use shop/apartment style development and the other the Chelsea Courthouse.
- *North-east*: a small paved car park strip with a right-of-way and the rear of Nepean Highway commercial properties further north-east.
- *South-east*: vacant allotment proposed to be developed as a car park associated with Safeway.
- *West (opposite)*: a dental, naturopathic and chiropractic clinic and residential development further south-west.

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The site is located on the periphery of the Chelsea Activity Centre, and is within close proximity of the Chelsea Foreshore.

PROPOSAL IN DETAIL:

It is proposed to demolish the existing dwelling and construct eight (8) dwellings in a double storey apartment style building with basement.

Key elements of the proposal are as follows:

Dwelling	Floor Area (excluding garage / verandah)	Private Open Space	No. of Bedrooms	Car Parking Spaces
1-5	Between 70.6m ² & 78m ²	Balcony between 10m ² & 16m ²	Dwelling 1 would have 1 bedroom, dwellings 2-5 (inclusive) 2 bedrooms	One (1) basement car parking space
6-8	Between 70.6m ² & 78m ²	Balcony between 13 m ² & 10m ²	2 bedrooms	One(1) basement car parking space

Building Materials and colours have been nominated as:

Roof:	Metal deck roofing
Walls:	Rendered concrete panels, cement sheet cladding, lightweight Styrofoam cladding in natural stone and surf mist
Garage doors	Perforated metal
Windows:	Anodised aluminium frames (grey)
Driveways:	Pebble mix and concrete
Front fencing:	None
Boundary fences:	Timber paling

The proposal would result in site coverage of 77.5%, and a site permeability of 12.1%.

TITLE DETAILS

The applicant has completed a restrictive covenant declaration form declaring that there is a restrictive covenant on the title but that the application proposed does not breach this covenant. A Section 173 agreement has been entered into on this site and it is agreed that this agreement is not breached by the proposed development for the following reasons:

- § The restriction refers to the two (2) dwelling development of the site approved under KP936/06 and its subsequent subdivision approved under KP409/07. It appears that the development/ subdivision were never acted upon.

AMENDMENT TO THE APPLICATION BEFORE NOTIFICATION

An application pursuant to Section 50 of the Planning and Environment Act 1987 was received on 18th September 2008. The amendment includes:

- Minor modifications and notations to the plans in accordance with Council's request for further Information dated 14th August 2008.

Council decided to approve the amendment.

ADVERTISING

The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. Five (5) objections to the proposal were received.

The grounds of concern may be summarised as follows:

- Loss of privacy
- Neighbourhood character and abuttal to Chelsea Courthouse
- Overdevelopment
- Lack of car parking spaces
- Impact on local traffic in an already congested area
- Non-compliance with Building Code of Australia for access and ventilation
- Environmental impact
- Lack of Traffic Assessment accompanying the proposal

PRELIMINARY CONFERENCE

A preliminary conference was held on 13th November 2008 with the relevant Planning Officer, Ward Councillor, the applicant and one (1) objector in attendance. The above-mentioned issues were discussed at length.

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

AMENDMENT TO THE APPLICATION AFTER NOTIFICATION AND RE-NOTIFICATION

No amendments made.

PLANNING SCHEME PROVISIONS

The site is located in Business 1 Zone and subject to a Design and Development Overlays, Schedules 1 and 7 (DDO1 and DDO7).

BUSINESS 1 ZONE

In accordance with the provisions of this zone, a planning permit is required to use the site for residential purposes. A planning permit is also required to construct a building or construct or carry out works.

A residential development comprising less than four (4) storeys must be assessed against Clause 55 Rescode of the Scheme; in addition to the State Planning Policy Framework, the Local Planning Policy Framework (LPPF) including the Municipal Strategic Statement and the decision guidelines of Clause 65 (general amenity) of the Scheme.

DESIGN DEVELOPMENT OVERLAY

A permit is required to construct a building or construct or carry out works. Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay. This does not apply if a schedule to this overlay specifically states that a permit is not required

SCHEDULE 1- URBAN COASTAL HEIGHT CONTROL

The following requirements must be met before a permit can be granted:

- A building must not be greater than 2 storeys in height (which may include a basement car park with a maximum height of 1.2 metres above natural ground level).

A permit cannot be granted to construct a building or to construct or carry out works, which is not in accordance with the above requirement.

SCHEDULE 7- URBAN COASTAL FORESHORE SETBACK CONTROL AREA

A permit must not be granted to construct a building or construct or carry out a works within 4.5 metres of the foreshore reserve boundary.

PARTICULAR PROVISION

Clause 52.06 specifies what number of car spaces should be provided for a new use, requiring two (2) car spaces per dwelling. To comply with this Clause, sixteen (16) car spaces must be provided on site. The development provides eight (8) car spaces only and therefore a permit is required to reduce the requirements of this Clause.

REFERRAL

The application was referred to the following internal departments within Council (where appropriate amended applications have been re-referred):

- Council's Development Engineer who advised of no objection, subject to the inclusion of a number of conditions on any permit issued.
- Council's Vegetation Management Officer who advised of no objection, to the proposal.

- Council's Strategic Planner had no objections and encouraged as many windows as possible over the new Safeway car park for passive surveillance.
- Council's Traffic Engineer, who verbally advised of no in principle objection to the development, but recommended minor changes to the design and layout to ensure the functionality of the basement parking. These changes can be achieved via permit conditions.

Discussion

Kingston Planning Scheme Provisions:

Clause 12: Metropolitan Development

This section of the scheme provides specific objectives and strategies for Metropolitan Melbourne, including the following:

Clause 12.01 A more compact city seeks to:

- § Facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.
- § Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport.

Clause 12.05 A great place to be – seeks to create urban environments that are of better quality, safer and more functional, provide more open space and an easily recognisable sense of place and cultural identity, including:

- § Promotion of good urban design to make the environment more liveable and attractive.
- § Recognition and protection of cultural identity, neighbourhood character and sense of place.
- § Improvement of community safety and encouragement of neighbourhood design that makes people feel safe.
- § Protection of heritage places and values.
- § Promotion of excellent neighbourhood design to create attractive, walkable and diverse communities.
- § Improvement of the quality and distribution of open space and ensuring the long term protection of open space.
- § Improvement of the environmental health of the bays and their catchments.

Clause 12.06 A fairer city – seeks to increase the supply of well located and affordable housing by:

- § Encouraging a significant proportion of new development, including development activity centres and strategic redevelopment sites, to be affordable for households on low to moderate incomes.
- § Facilitate a mix of private, affordable and social housing in Transit Cities Projects.
- § Ensuring the redevelopment and renewal of public housing stock better meets community needs.

Clause 12.07 A greener city – seeks to minimise impacts on the environment to create a sustainable path for future growth and development by:

- § Ensuring that water resources are managed in a sustainable way.
- § Reduce the amount of waste generated and encourage increased reuse and recycling of waste materials.
- § Contribute to national and international efforts to reduce energy usage and greenhouse gas emission.
- § Reduce the impact of stormwater on bays and catchments.

Clause 12.08 Better transport links seeks to:

- § Manage the road system to achieve integration, choice and balance by developing an efficient and safe road network and making the most of existing infrastructure.
- § Give more priority to walking and cycling in planning urban development and in managing the road systems and neighbourhoods.

It is considered that this application meets these objectives.

Clause 14.01: Planning for Urban Settlement

This section of the Scheme seeks facilitate the orderly development of urban areas. It is considered that this application meets these objectives.

Clause 14.01-2: Planning for Urban Settlement - General Implementation

This section of the Scheme seeks to ensure that the consolidation of residential and employment activities is encouraged within existing urban areas and designated growth areas, and that development in existing residential areas should be respectful of neighbourhood character, and that higher land use densities and mixed use developments should be encouraged near railway stations, major bus terminals, transport interchanges and tram and principal bus routes.

It is considered that this application meets these objectives.

Clause 16.02: Housing - Medium Density Housing

It is the objective of the State Planning Policy Framework to encourage the development of well-designed medium-density housing which:

- § Respects the character of the neighbourhood.
- § Improves housing choice.
- § Makes better use of existing infrastructure.
- § Improve energy efficiency of housing.

It is considered that this application clearly meets these objectives.

Clause 21.05 MSS - Residential Land use

The site and all abutting land is located on the periphery of a major activity centre and is zoned Business 1.

The objectives of the Municipal Strategic Statement (as relevant to this application) include:

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- **Objective 1:** To provide a wide range of housing types across the municipality to increase housing diversity and cater for the changing needs of current and future populations, taking account of the differential capacity of local areas in Kingston to accommodate different types and rates of housing change.
- **Objective 2:** To ensure new residential development respects neighbourhood character and is site responsive, and that medium density dwellings are of the highest design quality.
- **Objective 3:** To preserve and enhance well landscaped/vegetated environments and protect identified significant vegetation.
- **Objective 4:** To promote more environmentally sustainable forms of residential development.
- **Objective 5:** To manage the interface between residential development and adjoining or nearby sensitive/strategic land uses.
- **Objective 6:** To ensure residential development does not exceed known physical infrastructure capacities.

Relevant strategies to achieve these objectives (as relevant to this application) include:

- Promote increased housing diversity in residential areas that are within convenient walking distance of public transport and activity nodes (*increased housing diversity areas*). Such areas will accommodate a variety of medium density housing types and layouts at increased residential densities, responding to the established but evolving neighbourhood character.
- Promote new residential development which is of a high standard, responds to the local context and positively contributes to the character and identity of the local neighbourhood.
- Promote new residential development which provides a high standard of amenity and quality of life for future occupants.
- Encourage the retention of existing vegetation wherever possible.
- Improve landscape character by accommodating appropriate landscaping within new residential developments.
- Ensure that the planning, design, siting and construction of new residential development responds to best practice environmental design guidelines for energy efficiency, waste and recycling, and stormwater management.
- Promote medium density housing development in close proximity to public transport facilities, particularly train stations.
- Ensure the siting and design of new residential development sensitively responds to interfaces with environmentally sensitive areas, including the foreshore.
- Ensure that where medium and higher density residential areas are proposed adjacent to lower density residential areas, the design of such development takes proper account of its potential amenity impacts.
- Ensure that the siting and design of new residential development is consistent with Urban Stormwater Best Practice Environmental Management Guidelines and that new development contributes to the maintenance and upgrade of local drainage

infrastructure as required, where such new development will impact on the capacity of such infrastructure.

- Require the provision of car parking to satisfy the anticipated demand having regard to average car ownership levels in the area, the environmental capacity of the local street network and the proximity of public transport and nearby on and off street car parking.
- Ensure that all new medium density housing provides adequate private open space that is appropriately landscaped.

It is considered that the proposed development is consistent with the relevant objectives of Council's Municipal Strategic Statement as outlined above. The proposal creates an adequate standard of amenity for the future occupants of each dwelling, as well as for occupants of existing dwellings in the immediate area. It is considered that the development will have minimal impact on the existing streetscape character, and the broader local neighbourhood character.

Clause 22.11 - Residential Development Policy

The proposal has been assessed against the objectives and policy of the Residential Development Policy. It is considered that the proposal satisfactorily meets these requirements.

Clause 32.01: Business 1 Zone

The purpose of the Business 1 zone includes encouraging the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

Clause 42.02 – Design and Development Overlay

Schedule 1 – Urban Coastal Height Control Area

The design objectives of the *Urban Coastal Height Control Area* include:

- To ensure that new buildings, works, renovations and extensions are compatible with surrounding buildings and natural features, and sympathetic to the surrounding natural landscape and environment.
- To relate building heights, building bulk and setbacks to adjoining sites so that they are compatible with and enhance the appearance and character of the immediate locality.

It is considered that the proposed development satisfies the requirements of this overlay as the development proposed is not greater than 2 storeys in height, and the basement car park has a height less than 1.2 m above natural ground level.

Schedule 7- Urban Coastal Foreshore Setback Control Area

The design objectives of the Urban Coastal Foreshore Setback Control Area include:

- To protect and enhance the visual and aesthetic appearance of the foreshore area.

- To encourage new buildings and works which are sympathetic to the surrounding foreshore environment.

The site does not have direct abuttal to the Foreshore, and it is considered that the proposed development satisfies the requirements of this overlay.

Clause 55 (Rescode)

Standard B1- Neighbourhood Character

The surrounding area can be characterised as a mix of commercial and residential development. Whilst located within a Business 1 Zone, the land is on the periphery of commercial development, and is more suited to residential or mixed use developments. However, the sites proximity to a major activity centre and the foreshore, along with its abuttal to non-residential land use does lend the site to be used for a higher density form of development, such as that proposed. Much of the existing residential development in the area is double storey and brick (some rendered), with many newly constructed dwellings and multi-dwelling developments. Many of the dwellings are double storey, and designed to obtain the best possible views of Port Phillip Bay. Whilst the size of the site at 504.1m² is relatively modest, it is clearly able to accommodate the proposed dwellings. Furthermore, the building has been well articulated and adequately setback from the property boundaries. Overall, it is considered that the development is consistent with the streetscape and broader neighbourhood character, and represents an appropriate design solution for the site.

Standard B2- Residential Policy

At Clause 22.11-4 Residential Policy it is stated:

“Ensure the retention of heritage places identified and protected by the planning scheme by ensuring that the design and layout of new development on or adjoining sites of significance avoids unreasonable adverse impacts to the significance of the heritage place.”

The site abuts the Chelsea Courthouse, which is not only protected under Council’s Heritage Overlay, but is also registered on the Victorian Heritage Register. The Courthouse has frontage to The Strand, while the site has frontage to Bath Street. It is considered that the building form proposed would have minimal impact on the significance and integrity of the Courthouse building and land.

Standard B9- Energy Efficiency

The balconies to dwellings 2 and 6 in particular would receive poor access to northern sunlight, along with the main living rooms for dwellings 2, 4, 6 and 8. However, it is noted that each dwelling would receive good access to natural sunlight through other habitable rooms, and it is considered that the building has been designed to obtain northern sunlight wherever practical.

Standards 14, 15 and 16 – Accessways & Car Parking

The development provides one (1) undercover car space per one and two bed unit and therefore a total of eight (8) car spaces are provided on site. This provision complies with Rescode.

In terms of the proposed layout of the basement car park, Council's Traffic Engineers have recommended that a minimum distance of 6.15 metres be provided between the designated car spaces of Dwellings 2 and 3 and the stairwell and lift shaft enclosures, to ensure efficient vehicle manoeuvrability on site. This will be required as a condition of any planning permit granted.

Standard B16 of Rescode requires one (1) visitor car space to be provided per five (5) units and therefore 1 visitor space is required for development. Visitor car spaces have been provided informally to the rear of the site, via the laneway. To formalise this arrangement, a permit condition is recommended to require line-marking of each car spaces. Council's Traffic Engineers have advised that the visitor car parking spaces will need to be provided on an angle to allow access to and egress from these car spaces, while maintaining the one-way flow of traffic in the laneway.

As a planning permit is required for proposed use, the provisions for Clause 52.06 (car parking) must also be considered. Clause 52.06 (car parking) of the Scheme requires that at least two (2) car parking spaces should be provided for each dwelling although the development does not comply with this requirement, as only eight (8) spaces are provided.

It is considered acceptable to reduce the number of car spaces required by Clause 52.06 of the Scheme from sixteen (16) car spaces to eight (8) car spaces, given that the site is within close proximity of public transport, abuts the supermarket car park and some street parking is available in the area.

Standard 17- Amenity Impacts

The proposed boundary and frontage setbacks are all considered reasonable, particularly given the non-residential nature of abutting development. It is noted that south-eastern elevation has some windows providing surveillance over the proposed supermarket car park, however additional windows should be provided to increase this level of passive surveillance. A condition of any approval issued can require that first floor bedroom 1 and 2 windows of dwellings 6 and 8 be provided with larger transparent windows in lieu of the proposed glass bricks.

Clause 65: Decision Guidelines

This clause of the Planning Scheme sets out other matters which must be given regard to before deciding on an application.

It is considered that the proposed development meets the requirements as set out in this Clause of the Planning Scheme.

Neighbourhood Character Area Guidelines (Incorporated Document):

The land is located within Area 65 of the Neighbourhood Character Guidelines. The proposal is not considered to raise any issues of non-compliance with these guidelines.

Designing Contextual Housing Guidelines – April 2003 (Reference Document):

The Designing Contextual Housing Guidelines supplement the Kingston Neighbourhood Character Guidelines, Residential Development Policy and ResCode provisions and offer a range of design techniques and suggestions to assist with residential design which is responsive to local character. It is considered that the proposed development does not raise any issues of non-compliance with these guidelines.

Response to Grounds of Objection

The following comments are made in relation to the grounds of objection:

- *Loss of privacy*

It is considered that the development should not adversely impact on the privacy of any abutting properties given screening measures employed in the design to limit overlooking.

- *Neighbourhood character and abuttal to Chelsea Courthouse*

As outlined above, the proposal is considered to be consistent with the neighbourhood character, and should not compromise the heritage significance and integrity of the Courthouse.

- *Overdevelopment*

As outlined previously in this report, it is considered that the sites proximity to a major activity centre and the foreshore lend to this form of development. It is further considered that the development can be maintained on the site without adversely impacting on the amenity of the surrounding area.

- *Lack of car parking spaces*

As outlined previously in this report, it is considered that there is adequate provision made for on-site car parking. The site is also located within close proximity of public transport including the Chelsea Railway Station, shops and services. Further by locating increased housing densities within the Activity Centres, the need for private motorised transport is reduced.

- *Impact on local traffic in an already congested area*

It is noted that there is existing congestion experienced on surrounding streets, which is particularly due to the sites proximity to the Chelsea Activity Centre. However, it is considered that the surrounding road network would be able to accommodate any additional vehicle movements that are generated by the new dwellings.

- *Non-compliance with Building Code of Australia for access and ventilation*

Building Code requirements are not a relevant Town Planning Consideration and will be appropriately addressed at the Building Permit stage

- *Environmental issues*

It is considered that the proposal does not raise any such environmental issues.

- *Lack of Traffic Assessment accompanying the proposal*

It is not deemed necessary for the applicant to supply a Traffic Assessment in this instance. Council encourages higher density housing to be provided within or near Activity Centres given benefit afforded to future residents including proximity to public transport, shops and services.

General Comment

The proposed development is considered appropriate for the site as evidenced by:

- The design and siting of the proposed development to be compatible with the surrounding area;
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the MSS, Residential Development Policy, Business 1 Zoning, the Neighbourhood Character Area Guidelines and the Designing Contextual Housing Guidelines.

On balance and subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

Recommendation

That a Notice of Decision to Grant a Permit for the development of this site for eight (8) dwellings with a reduction in car parking requirements pursuant to clause 55.06 of the Kingston Planning Scheme be issued, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council, but modified to show:
 - a. The bedroom 1 and 2 windows on the south-eastern elevation of dwellings 6 and 8 increased in size and comprising transparent glass, to provide additional surveillance of the abutting car park.
 - b. The visitor parking spaces to be provided to the rear of the site, via the laneway, must be provided at an angle, to comply with the Australian/New Zealand Parking Facilities Part 1: Off-street Car Parking.
 - c. The visitor car parking spaces must be shown as line-marked.
 - d. The layout of the basement car park must be amended to allow a minimum distance of 6.15 metres between the car spaces for Dwellings 2 and 3 and the

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stairwell and lift shaft enclosures to comply with the Australian/New Zealand Parking Facilities Part 1: Off-street Car Parking.

2. The development and/or use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Before occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
4. Before occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
5. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any increase in runoff as a result of the approved development. The system must be maintained to the satisfaction of the Responsible Authority. Council's Development Engineer can advise on satisfactory options to achieve these desired outcomes which may include the use of an infiltration or bioretention system, rainwater tanks connected for reuse and a detention system.
6. Before the development commences, a Stormwater Management Plan showing the stormwater works to the nominated point of discharge must be prepared to the satisfaction of the Responsible Authority. The Stormwater Management Plan must be prepared by a qualified person and show all details of the proposed stormwater works including all existing and proposed features that may have impact (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.).
7. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
8. The levels at site boundary must not be altered.
9. Construction on the site must be restricted to the following times:
 - a. Monday to Friday 7:00am to 7:00pm; and
 - b. Saturday 9:00am to 6:00pm.Or otherwise as approved by the Responsible Authority in writing.
10. Before the occupation of the dwellings hereby permitted starts, or by such later date as is approved by the Responsible Authority in writing, the nature strip, kerb and channel, vehicle crossover and footpath must be reinstated to the satisfaction of the Responsible Authority.
11. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.

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12. Convenient taps or fixed sprinkler system must be provided to the satisfaction the Responsible Authority capable of watering all communal and private land and landscaped areas, including turf block visitor car parking where provided.
13. A street number of 100mm minimum height and contrasting in colour to its background, must be fixed at the front boundary of the property and as near as practicable to, or on the letterboxes with such numbering to be in accordance with Council's Street Numbering Policy. Separate unit numbers of 75mm minimum height must be placed adjacent to the front entrance of each dwelling. Such numbers must be clearly legible from the access driveway.
14. Prior to the occupation of the dwellings hereby approved, all boundary fences must be repaired and/or replaced as necessary to the satisfaction of the Responsible Authority, at the cost of the applicant/owner. All fencing and boundary wall finishing as required pursuant to conditions 1g), 1h) and 1i) of this permit are to be at the whole cost of the applicant/owner.
15. Exterior lights must be installed in such positions as to effectively illuminate all pathway and porch areas. Such lighting must be controlled by a time clock or sensor unit, and must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.
16. Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - a. Constructed to the satisfaction of the Responsible Authority.
 - b. Properly formed to such levels that they can be used in accordance with the plans.
 - c. Surfaced with an all-weather sealcoat /crushed rock /gravel /skeletal concrete turf block paving and planted with lawn to the satisfaction of the Responsible Authority.
 - d. Drained and maintained to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
17. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
18. All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.
19. Finished Floor Levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
20. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
21. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

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- The development and use are not started before two years of the date of this permit.
- The development is not completed before four years of the date of this permit.

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

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

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

Note: Before removing/pruning any vegetation from the site, the applicant or any contractor engaged to remove vegetation, should consult Council's Vegetation Management Officer to verify if a Local Law Permit is required for the removal of such vegetation.

The meeting was addressed by Ron Jacobs on behalf of objectors and Neil Fletcher, the applicant.

Crs Shewan/Bauer

That a Notice of Refusal to Grant a Permit be issued on five grounds:

1. The proposal would have an adverse affect on the amenity of an established residential neighbourhood.
2. The proposal constitutes an over-development of the site.
3. The proposal exhibits excessive bulk and mass.
4. The proposal does not satisfy all of the requirements of Clause 55 of the Kingston Planning Scheme (ResCode), in particular Clause 55.02-1 Neighbourhood Character Objectives, Clause 55.03-3 Site Coverage Objectives, Clause 55.03-4 Permeability Objectives, Clause 55.03-8 Landscaping Objectives, Clause 55.03-9 Access Objectives, Clause 55.05-10 Parking Location Objectives, Clause 55.04-1 Side and Rear Setbacks Objective and Clause 55.05-5 Solar Access to Open Space Objectives.
5. The proposal does not satisfy the provisions of Clause 52.06 (Car Parking) of the Kingston Planning scheme.

Carried

10. Organisational Development and Governance Reports

L 4 Constitutional Recognition for Local Government

Approved by: Elaine Sowerby, General Manager Organisational Development and Governance

Author: Michael Fry, Team Leader Council Business

1. Purpose

The purpose of this report is to provide an update on the Australian Local Government Association's Local Government Constitutional Summit, a Special National General Assembly, held in Melbourne on 9 – 11 December 2008.

This report also outlines the agreed position reached on constitutional recognition that reflects specified principles.

2. Background

The Australian Local Government Association ("ALGA") has sought recognition of local government in the Australian Constitution. To achieve this recognition, an amendment to the Australian Constitution is required. Constitutional amendments need to be sponsored by the Australian Government of the day, who will develop the form of words of the proposed amendment (or question) to be incorporated into a Parliamentary Bill.

If supported the question then is put to the people through a referendum within a period of 2 to 6 months. For a referendum to be successful a 'double majority' is required to be achieved, being firstly, a majority vote in the majority of the six States (the Territories do not count as states for this purpose), and, secondly, an overall majority of votes in the six States and two Territories. Two unsuccessful referendums for the Constitutional recognition of local government have been held on 8 November 1973 and 3 September 1988. In both cases the Federal Opposition opposed the amendment.

The Council, on 27 October 2008, resolved to support constitutional recognition for local government and that, given the timing of the Constitutional Summit, in the event no Councillors are able to attend the National Summit, noted that an officer will attend and report back to the Council.

3. Issues

Formal speakers to the Summit included senior members of the Federal Parliament, including the Attorney-General, the Local Government Minister, Federal Opposition Leader and Leader of the Nationals, together with constitutional experts and lawyers.

The intention of the Constitutional Summit was to provide local government with the opportunity to discuss constitutional recognition and, if possible, to reach a consensus on the preferred type of recognition.

The ALGA's Constitutional Summit was attended by approximately 380 delegates representing Councils from all parts of Australia. Given the timing of the Victorian local government general elections held on 29 November 2008, the Constitutional Summit, held from 9 to 11 December 2008, was under-represented by Victorian Councillors and delegates, both in terms of the proportion of numbers attending and delegate addresses to the Summit. The City of Kingston was represented on the first and third day of the Summit by an officer and was unrepresented on the second day.

Four options were put and discussed at the Constitutional Summit, as follows:

Option 1

Pure symbolic recognition of local government in the Constitution

Option 2

Recognising the institution of local government in the Australian Constitution.

Sub-options included whether provision for procedural fairness should apply before a local government area is amalgamated or a Council dismissed (i.e. due process).

Option 3

Protecting or strengthening the financial position of local government in the Australian Constitution.

Sub-options included being on the same constitutional footing as State Governments, allowing local government to levy taxation or specifying a portion of taxation to the sector.

Option 4

Giving the power to make laws with respect to local government to the commonwealth.

Sub-options included empowering the Australian Parliament to make laws with respect to local government or requiring the Australian Parliament to establish a system of local government.

Key themes running through the presentations of the formal speakers to the Summit were:

- to be cognisant of the reasons for the failure of the previous attempts at constitutional recognition.
- the importance of achieving across the board support effectively from all Federal and State Government parliamentarians (including major parties, minor parties and independents) in order to not have a 'no-case' presented to any referendum, which has been identified as a key failing in previous referendums.
- the Australian community and stakeholders need to be engaged early and often – particularly given the difficulties in achieving the double majority required for a successful referendum.
- Get the timing right, in terms of the Government electoral cycle and what other likely questions (constitutional amendments) will be put at the same time. Referendums are costly exercises and it is unlikely that a Government would conduct a referendum solely on the question of constitutional recognition of local government

During the delegate discussion sessions option 4, which was the most contentious option, was withdrawn and a drafting committee was appointed to frame a suitable position that would best achieve the sector's interests and primary objectives.

After listening to several eminent speakers from the main federal parties and a number of constitutional experts, and participating in four separate sessions of delegate discussion, the delegates resolved that:

“To ensure the quality of planning and delivery of services and infrastructure provided to all Australians, and the ongoing sustainability of local government, any constitutional amendment put to the people in a referendum by the Australian Parliament (which could include the insertion of a preamble, an amendment to the current provisions or the insertion of a new Chapter) should reflect the following principles:

- *The Australian people should be represented in the community by democratically elected and accountable local government representatives;*
- *The power of the Commonwealth to provide direct funding to local government should be explicitly recognised; and*
- *If a new preamble is proposed, it should ensure that local government is recognised as one of the components making up the modern Australian Federation.”*

A copy of the detailed Summit Declaration on the issue of Constitutional Recognition of Local Government is attached to this report.

The wording is an agreed position on constitutional recognition of local government, a statement of intent that reflects principles, rather than a form of words of a specific Constitutional amendment, which, in any event, would be drafted by the Federal Attorney-General's Department and Federal Office of Parliamentary Counsel.

4. Triple Bottom Line Checklist

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

In saying that the above TBL checklist is not applicable, with respect to the nature of this report, there would be an impact on the TBL checklist if constitutional recognition of local government is achieved, depending, of course, on the nature of that recognition.

5. Summary and Conclusion

The Constitutional Summit's resolution and declaration is one of many steps required to achieve constitutional recognition of the local government sector. The ALGA will utilise the Summit's resolution and declaration to form the basis for future discussions with the Australian government on steps to advance the constitutional recognition of local government.

6. Recommendation

That Council note the information contained in this report with respect to the outcome of the Constitutional Summit on Constitutional recognition of local government and the work to be undertaken by the ALGA in furthering this objective.

Crs Brownlees/Shewan

That the recommendation be adopted.

Carried

Attachments:

Summit Declaration on Constitutional Recognition of Local Government.

Outcome 2: Sustainable Environment

- Council adopted the recommendations to introduce a Planning Scheme Amendment for the Significant Tree and Vegetation Register and Amendment C93 has also been approved by the Minister for Planning
- As identified in Kingston’s Biodiversity Strategy, existing and potential wildlife corridors have been ascertained, two-year vegetation management targets for key inland sites have been prepared, and the community and school groups are being supported to maintain and enhance biodiversity
- The Coastal Management Plan has been finalised and adopted by Council; the plan has now been sent to the Minister for Environment and Climate Change and DSE
- Council formally adopted Kingston’s Priority Statement, through the Sustainability Accord in partnership with DSE, and has also been approved by DSE
- Nepean Highway landscape upgrade from Eel Race Road to Carrum Station work completed

Outcome 3: Community Wellbeing

- Strategy document for the Family Support Program has been completed and approved by the CEO; recommendations are being implemented
- Public consultation for the Social Gaming Policy has been completed; Planning scheme amendments adopted by Council in October
- Carols by Candlelight was held on 21st December and well attended by the community
- Developed and implemented community education forums to participants of the Family Support Program

Outcome 4: Prosperous Local Economy

- Published and distributed demographic profiles for Kingston’s main shopping areas
- Preliminary work undertaken for economic impact analysis and an alternative project was selected by CLG – outcome is that economic analysis no longer required

Outcome 5: Professional and Accountable Government

- People and Culture team have been involved in the development and preparation of events and initiatives relating to the launch of the new values and behaviours as part of the organisational culture “A Community Inspired Leadership”; commenced distribution of the bi-monthly Staff Newsletter in December; and All Staff meetings began in November
- The Consultative Committee Policy has been adopted; Committee elections have been held
- “Our Place” brand and website have been developed; Consultation with Council senior leadership group complete; Workshops delivered to staff in October 2008
- The Council elections were held on the 29th November. The Kingston website has been updated to include information about the results of the election, their respective swearing-in as Councillors and the election of Mayor for 2008/09.

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- A Councillor Induction program was designed and confirmed with new Councillors. Councillor Briefing Papers and a Councillor Information Folder were also prepared and presented to all Councillors following their swearing-in as Councillors. Security passes, parking permits and key contacts were provided to each Councillor. Briefing sessions for the incoming Councillors were held in early December, including briefings by the CEO, all General Managers, planning staff, Maddocks (Lawyers) and the VLGA.
- New Corporate Information Systems went live: Infor Health (November 2008) and Infor Local Laws (December 2008)
- Volunteers contributed more than 11,385 hours of service this quarter

The Quarterly Report to the Council Plan also notes triple bottom line indicators where a specific quarterly figure is available. The 2007/08 Annual Report (which has now been prepared and is available for public viewing) reports fully on these indicators.

B) Unexpected funding from Federal Government through its Regional & Local Community Infrastructure Local Award Program (RLCIP)

In November, the Federal Government announced Kingston had been awarded \$488,000 under the RLCIP funding criteria based on relative need, population, and projected growth. The program is part of the Federal Government's national economic recovery plan which is seeking to address the global economic crisis and mitigate its impact on the Australian economy. As a result, five preferred projects which Council believes meets the Government's criteria are:

- | | |
|--|-----------|
| • Moorabbin Bowls Club new artificial surface | \$150,000 |
| • Kingston City Hall foyer and external façade upgrade | \$100,000 |
| • Doug Denyer Reserve water initiative | \$120,000 |
| • LF Payne Chelsea Hall heating system upgrade | \$78,000 |
| • Waves Leisure Centre outdoor exercise equipment | \$40,000 |

Council will now proceed to submit details of its preferred projects to the Department of Infrastructure, Transport, Regional Development and Local Government by January 30, 2009. If approved, Council will then enter into a funding agreement and guarantee that all RLCIP funding will be expended by 30 September 2009.

In December, Council also authorised Council officers to submit an application totalling \$2.9 million for funding of a Regional Soccer Strategy at Kingston Heath under the \$50 million Strategic Projects' element of the Program.

4. Triple Bottom Line Checklist

- Environmental – not applicable
- Social - not applicable
- Financial – not applicable

5. Summary and Conclusion

As noted above and in the attached December Quarterly Report, significant progress is being made towards achieving the milestones identified in the Council Plan.

6. Recommendation

That Council resolve to note the Quarterly Report.

Crs Brownlees/Shewan

That the recommendation be adopted.

Carried

Attachment:

Quarterly Report to Council Plan December 2008 quarter

11. Corporate Services Report

L 6 Parks and Gardens Works Depot Accommodation

Approved by: Paul Franklin, General Manager Corporate Services

Author: Julian Harvey, Manager Property Services

1. Purpose

The purpose of this report is to advise Council of actions in securing alternate depot accommodation for the Parks and Gardens team to enable its relocation off the Moorabbin Golf Course site in Boundary Road and to seek approval for the CEO to enter into a lease on suitable terms and conditions, specified in the confidential attachment.

2. Background

Council has been advised that the Moorabbin Airport Corporation (MAC) is not willing to continue to provide a lease over the existing golf course and depot site in Boundary Road. Negotiations by the former Mayor, Bill Nixon, have provided for a short term extension to the existing lease of the “front nine” holes of the golf course which includes the depot, to 31 May 2009.

3. Issues

The timing of relocation from the existing depot site to enable vacant possession to be returned to MAC by 31 May 2009 is as follows:

Now – February	Lease formulation - approvals
March 1 –	Lease of new premises commences
1 March – 1 April	Building works – fit out
1 April – 15 April	Decant into new premises
15 April 2009 – 20 May 2009	Clean up old site
31 May 2009 –	Vacant Possession - hand over

Council officers have entered into preliminary discussions with the appointed agent for premises in Braeside. The premises are suited to Council’s needs and the search for suitable sites has revealed that space of the size and configuration required by Council is not freely available in the market. Council officers have suggested to the agent that Council may wish to take an option over the premises to secure the site whilst investigation and approvals are undertaken. The agent has advised that he has conveyed Council’s interest in the property and the owners are considering their position. The preliminary terms of a lease are detailed in the confidential attachment.

4. Summary and Conclusion

It is now clear that Council must locate alternate depot accommodation. Suitable premises have been identified and preliminary discussions have occurred to assess the suitability of a lease for the property. Council officers are currently seeking an option over the property to secure it from the market whilst negotiations and approvals are undertaken. In the event that a suitable commercial arrangement can be reached approval is sought for the Chief Executive Officer or delegate to enter into a lease within the parameters specified in the confidential attachment.

6. Recommendation

That Council notes the report and authorises the Chief Executive Officer or delegate to enter into a lease to enable the relocation of the Parks and Gardens Depot on terms and conditions within the parameters specified in the confidential attachment and to the satisfaction of Council's legal advisors.

Crs Brownlees/Bauer

That the recommendation be adopted.

Carried

Attachment:

Confidential Attachment X 1

12. Notices of Motion

L 7 Notice of Motion: Chicquita Park

Moved: Rosemary West

That officers require compliance with all planning provisions (including Planning Permit conditions and terms of the Section 173 Agreement) that are currently or in future breached by the developer;

That officers immediately require:

1. The tree protection fences that were required (S 173, PP) to have been maintained at the drip line of all significant trees on the site to be replaced and the piles of bricks, rubbish and building materials that were until recently still stacked around a number of the significant manna gums on the site to be removed;
2. The trees whose roots have been damaged by excavation in breach of the developer's arborist's report included in an earlier Construction Management Plan to be watered regularly over summer.
3. A Construction Management Plan (required by the S 173 & Planning Permit) to be submitted and approved before any further construction work proceeds on the site.
4. That the developer be required to comply with Planning Permit Clause 29, which requires that all future public open space be fully landscaped before any (more) of the houses are occupied.
5. That the developer be required to comply with the finishes (ie colors and materials) shown on the endorsed plans.

As well

6. That officers replace the manna gums that have died on the nature strip immediately with the trees propagated in the NRA Nursery and that these trees be regularly watered. If this is not immediately possible, that all of these trees be repotted into larger pots so they do not become root-bound.
7. That the concrete paths recently laid in breach of the approved Landscape Plan be dealt with as part of a re-negotiation of that Plan to improve the amenity of the Public Open Space for the community.
8. That other breaches be dealt with promptly and firmly.

Cr Dundas declared a conflict of interest in relation to this matter as he resides in an abutting property. Cr Dundas left the Chamber at 7.45pm and remained outside until after the vote was taken.

Cr West moved the following motion which was seconded by Cr Shewan:

That officers require compliance with all planning provisions (including Planning Permit conditions and terms of the Section 173 Agreement) that are currently or in future breached by the Chicquita Park developer;

“That officers immediately require:

1. The tree protection fences that are required (S 173, PP) to have been maintained at the drip line of all significant trees on the site (and have only recently been restored) are to be maintained for the duration of construction; the concrete placed around the base of Tree 51 is to be removed; and no further piles of bricks, rubbish or other building materials or rubbish are to be deposited within the TP fence-lines.
2. The trees (including Trees 17, 34, 40, 42) whose roots have been damaged by excavation in breach of the developer’s arborist’s report included in an earlier Construction Management Plan to be watered regularly over summer in accordance with officer advice.
3. A Construction Management Plan (required by the S 173 & Planning Permit) to be submitted and approved before any further construction work proceeds on the site.
4. That the developer be required to comply with Planning Permit Clause 29, which requires that all future public open space be fully landscaping before any (more) of the houses are occupied.
5. That the developer be required to comply with the finishes (ie colours and materials) shown on the endorsed plans where they are more sensitive and complementary to the parkland environment than the replacement materials and colours used.

As well

6. That officers replace the manna gums that have died on the nature strip in the Autumn planting season and that the trees propagated in the NRA Nursery be immediately repotted into larger pots so they do not become root-bound and can eventually be used for offset planting on the future public open space of Chicquita Park
7. That the concrete paths recently laid in breach of the approved Landscape Plan be dealt with as part of a re-negotiation of that Plan to improve the amenity of the Public Open Space for the community and that the community be involved in these negotiations.
8. That other breaches be dealt with promptly and firmly and that the developer be penalised for the above breaches and any further breaches.”

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Cr West foreshadowed an alternative motion in the event that paragraph 4 of her motion was put and lost.

The Chairperson put the motion in parts with paragraphs 1, 2, 3, 5, 6, 7, and 8 being carried and paragraph 4 being lost.

Cr West moved her foreshadowed motion, which was seconded by Cr Shewan, as follows:

- “4. That the developer be encouraged to hand over the responsibility and the financial wherewithal to Council for the landscaping of future open space on Chicquita Park as an alternative to compliance with Clause 29.

The resolution in its entirety reads as follows:

Crs West/Shewan

That officers immediately require:

1. The tree protection fences that are required (S 173, PP) to have been maintained at the drip line of all significant trees on the site (and have only recently been restored) are to be maintained for the duration of construction; the concrete placed around the base of Tree 51 is to be removed; and no further piles of bricks, rubbish or other building materials or rubbish are to be deposited within the TP fence-lines.
2. The trees (including Trees 17, 34, 40, 42) whose roots have been damaged by excavation in breach of the developer’s arborist’s report included in an earlier Construction Management Plan to be watered regularly over summer in accordance with officer advice.
3. A Construction Management Plan (required by the S 173 & Planning Permit) to be submitted and approved before any further construction work proceeds on the site.
4. That the developer be encouraged to hand over the responsibility and the financial wherewithal to Council for the landscaping of future open space on Chicquita Park as an alternative to compliance with Clause 29.
5. That the developer be required to comply with the finishes (ie colours and materials) shown on the endorsed plans where they are more sensitive and complementary to the parkland environment than the replacement materials and colours used.

As well

6. That officers replace the manna gums that have died on the nature strip in the Autumn planting season and that the trees propagated in the NRA Nursery be immediately repotted into larger pots so they do not become root-bound and can eventually be used for offset planting on the future public open space of Chicquita Park

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7. That the concrete paths recently laid in breach of the approved Landscape Plan be dealt with as part of a re-negotiation of that Plan to improve the amenity of the Public Open Space for the community and that the community be involved in these negotiations.
8. That other breaches be dealt with promptly and firmly and that the developer be penalised for the above breaches and any further breaches.

Carried

Cr Dundas returned to the Chamber at 8.30pm.

The Mayor, Cr Athanasopoulos, and Crs Bauer and West returned to the Chamber at 8.39pm, with the Mayor, Cr Athanasopoulos, resuming the Chair.

13. Urgent Business

Crs Peulich/Brownlees

That an item with respect to requesting the State Government to review its water safety strategy be considered as an item of Urgent Business

The motion was put and **carried**.

Crs Peulich/Brownlees

“The Kingston Council write to the State Government asking for a review of their water safety strategy which considers:

- The full funding of surf lifesavers to ensure that beaches are manned consistently to meet demand over the summer months.
- That those who are not as familiar with water safety, such as migrants, be targeted for water safety education.
- That a copy of the letter be sent State Members of Parliament in the municipality.”

The motion was put and **carried**.

14. Items in Camera

There were no items in camera

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

Confirmed His Worship, The Mayor 23 February 2009.