



Special Council Meeting

Notice is given that a Special Meeting of the Kingston City Council will be held at 7.00pm on Wednesday 30 January 2013 at 1230 Nepean Highway, Cheltenham.

- 1 Apologies**
- 2 Disclosure by Councillors, Officers or Contractors of any Conflict of Interest**
- 3 Items of Business**

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Business will be as follows:

- 1. Apologies**
- 2. Disclosure by Councillors, Officers or Contractors of any Conflict of Interest**
- 3. Items of Business**

O 223 Notice of Motion (Rescission) No. 1 2013 – Cr West

Special Council Meeting

30 January 2013

Agenda Item No: O 223

NOTICE OF MOTION (RESCISSION) NO. 1/2013 – CR WEST

Re: Item 207 -Removal of Native Vegetation from Mordialloc Creek KP 134/2009 - Rescission

I move that the motion adopted by Council on 17 December for the removal of native vegetation from the banks of Mordialloc Creek be rescinded to allow time for Council to undertake an independent ecological investigation and to consult with Melbourne Water regarding whether some or all of the native vegetation to be removed by this resolution could be retained and incorporated into the wetland development proposed by Melbourne Water which I support along with most members of the community.

Cr Rosemary West
18 December 2012

Officer Comment

Background

A Planning Permit Application was received on the 6 March 2009, for the removal of native vegetation from Lot 4 Governor Road, Braeside. The removal of the vegetation is to enable the creation of a wetland; however the works associated with the creation of the wetland are exempt from requiring a Planning Permit. The application is for the removal of vegetation only.

The application, including the assessment of the ecological values of the site, was referred to relevant parties including the Department of Sustainability and Environment, and the Council's Parks team. At the time, the feedback from the referrals was that the site was considerably degraded and that there could be a "net gain" in native vegetation values provided there were appropriate conditions required as part of any permit granted for the removal of the vegetation. Following these initial referrals, there were considerable delays in progressing the application as officers waited on further information from the applicant.

Once the applicant sought to progress the application, officers prepared a report. That report recommended approval of the permit to remove native vegetation. On 17 December 2012 Council determined to issue a notice of decision to grant a permit with conditions.

Recently Officers engaged Jeff Yugovic, Senior Consultant Ecologist, from Biosis Pty Ltd. to review the Flora and Fauna Assessment prepared by Brett Lane and Associates dated 2008 and to inspect the designated study area. Jeff Yugovic's discussion and findings of this review are found in the attached document dated 14 January 2012.

The assessment found that, most likely due to the breaking of the drought in 2010, there have been changes to the native vegetation on the site. It is unusual to have such changes to a site that is the subject of a planning permit application. The changes are largely to do with the amount of time elapsed since the initial application, and the increased availability of water. Importantly, the review has demonstrated that, since the assessment by Brett Lane and Associates, there has been a substantial increase in the *quantity* and *quality* of native vegetation and the introduction of a previously unrecorded class of vegetation within the study area.

Planning Officers are of the view that the content of the Brett Lane and Associates assessment is likely to have been correct at the time of writing (with the assessment undertaken in December, 2008) however since that report four (4) years has elapsed, with significant changes to weather and site conditions.

Officer Advice

There has been a material change in the quality, quantity and significance in the native vegetation proposed to be removed from the subject site. Based upon this new evidence, it is Officers' view that, if a rescission motion is supported by Council, that a decision on the application be deferred until such time that:

- The applicant undertakes and submits an updated flora and fauna assessment (this should be done in the height of summer to ensure maximum growth of the native vegetation);
- The applicant amends the application to seek permission for the removal of any additional native vegetation proposed to be removed;
- The updated flora and fauna assessment is peer reviewed by a suitably qualified ecologist;
- The amended application be re-advertised with the updated flora and fauna report; and
- The amended application is referred to the relevant bodies.

Officers acknowledged that the significant time lapse and change in hydrological conditions has resulted in a substantial change in site circumstances and potentially the Officer's position on the planning application is also changed. While it is rare to have such a change in site conditions, if officers are faced with similar circumstance in the future, the practice will be to ensure that the applicant provides up to date information and that such proposals be re-reviewed by the relevant referral bodies prior to a recommendation or a decision being made.