



City of
KINGSTON

Ordinary Meeting of Council

Minutes

Monday 22 April 2013

The meeting commenced at 7.03pm

in the

Council Chamber

1230 Nepean Highway, Cheltenham

1.	Apologies	4
2.	Confirmation of Minutes of Previous Meetings	4
	Minutes of Ordinary Council Meeting of 25 March 2013	
3.	Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest	4
	<i>[Note that any Conflicts of Interest need to be formally declared at the start of the meeting and immediately prior to the item being considered – type and nature of interest is required to be disclosed – if disclosed in writing to the CEO prior to the meeting only the type of interest needs to be disclosed prior to the item being considered.]</i>	
4.	Petitions	5
	Asphalt Pavement Rejuvenation Works in Captain and Form Streets, Aspendale	
5.	Presentation of Awards	5
	Bill Fuller	
6.	Reports from Village Committees	5
7.	Reports from Delegates Appointed by Council to Various Organisations ...	7
8.	Question Time	20
9.	Environmental Sustainability Reports	
	P51 Town Planning Application Decisions – March 2013	8
	P52 KP624/2012 1305-1307 Nepean Highway, Cheltenham.....	8
	P53 KP597/2012 Dingley Bypass	16
	P54 Amendment C126 - Clayton South Precinct (Including Sigma Site)	21
	P55 Process Improvements for the Planning Application Process – Preliminary Conference Policy Review	21
10.	Community Sustainability Reports	
	P56 <i>This item has been removed</i>	
11.	Organisational Development & Governance Reports	
	P57 Adoption of Draft Council Plan 2013-17 (incorporating LivingKingston2035) for consultation process.....	22
	P58 Dingley Village Gateway Public Art Project.....	22
	P59 Assembly of Councillors Record	23
	P60 Ward Funds Expenditure Allocation.....	23
	P61 De-Accessioning Kingston City Hall Car Park Mural.....	24
12.	Corporate Services Reports	
	Nil	

**City of Kingston
Ordinary Council Meeting**

Minutes

22 April 2013

13.	Notices of Motion	
	P62 Notice of Motion – Cr Gledhill	25
	P63 Notice of Motion – Cr Peulich	25
	P64 Notice of Motion – Cr Peulich	26
	P65 Notice of Motion – Cr Peulich	27
14.	Urgent Business	
	14.1. Legal Advice- M+K (Macpherson +Kelley Lawyers)	28
	14.2. Agenda Item P30 – Declare not confidential	28
15.	Items in Camera – Confidential Items	29
	P65 Notice of Motion – Cr Peulich	
	P66 VCAT Appeal - Open Space Contribution	

**City of Kingston
Ordinary Council Meeting**

Minutes

22 April 2013

Present: Cr Ron Brownlees OAM (Mayor)
Cr Tamara Barth
Cr Tamsin Bearsley
Cr David Eden
Cr Geoff Gledhill
Cr Paul Peulich
Cr John Ronke
Cr Steve Staikos
Cr Rosemary West OAM

In Attendance: John Nevins - Chief Executive Officer
Mauro Bolin –General Manager Community Sustainability
Paul Franklin – General Manager Corporate Services
Rachel Hornsby - General Manager Environmental Sustainability
Anthony Basford – Acting General Manager Organisational Development & Governance
Ian Nice – Manager City Development
Kirsten Leiminger – Media Officer Communications and Public Affairs
Phil DeLosa – Program Leader Governance
Stephanie O’Gorman – Governance Officer

1. Apologies:

There were no apologies submitted to the meeting.

2. Confirmation of the Minutes of Previous Meetings

Moved: Cr Ronke

Seconded: Cr Gledhill

That the Minutes of Ordinary Council Meeting of 25 March 2013 be confirmed.

CARRIED

3. Foreshadowed Disclosure/s by Councillors, Officers or Contractors of any Conflict of Interest:

John Nevins, Chief Executive Officer, foreshadowed a conflict of interest in Item P65 – Notice of Motion – Cr Peulich.

4. Petitions

Asphalt Pavement Rejuvenation Works in Captain and Form Streets, Aspendale

Moved: Cr Bearsley

Seconded: Cr Ronke

That the petition be referred to the CEO for response.

CARRIED

5. Presentation of Awards

The Mayor presented a Certificate of Appreciation to Bill Fuller in recognition of his years of service to the community and his career achievements within Kingston.

6. Reports from Village Committees

Aspendale/Edithvale/Aspendale Gardens/Waterways Village Committee

Village Committee Motion

That Council undertake works to seal the track surface between Groves Street and Aspendale Life Saving Club in order to improve access. This is of particular importance for Emergency Services when responding to an incident.

Moved: Cr Bearsley

Seconded: Cr Eden

That the Village Committee be thanked for its recommendation and be advised that the path leading up to the Aspendale Life Saving Club has been enlarged to enable ambulance access in emergencies.

CARRIED

Chelsea/Chelsea Heights/Bonbeach Village Committee

Village Committee Motion

The Committee recommends that Council explore the option of placing a public toilet/exeloo within the vicinity of the Chelsea Station precinct as an urgent priority.

Moved: Cr Eden

Seconded: Cr Bearsley

That the Village Committee be thanked for their advice and informed that officers will continue to monitor the demand for a second public toilet in Chelsea when preparing future capital works programs.

CARRIED

Dingley/Heatherton Village Committee

Village Committee Motion

That Council provide the full course to receive a First Aid qualification to the broader community not just Village Committee members.

Moved: Cr Staikos

Seconded: Cr Barth

That the Village Committee be thanked for its suggestion and advised that Council can provide a list of accredited First Aid trainers.

CARRIED

Mentone/Parkdale Village Committee

Village Committee Motion

Regulations regarding dog access to Foreshore Reserves are more regularly enforced.

Moved: Cr Gledhill

Seconded: Cr West

That the Village Committee be thanked for its motion and be advised the Council will continue to patrol the foreshore reserve as outlined above and the appropriate officers meet with Ward Councillors to discuss this matter.

CARRIED

Village Committee Motion

Council to consider having dedicated 24 hour off leash dog areas on its foreshore reserve.

Moved: Cr Gledhill

Seconded: Cr West

That the Village Committee be thanked for its suggestion and advised that this matter has already been included for consideration in the new draft Council Plan for such an area.

CARRIED

7. Reports from Delegates Appointed by Council to Various Organisations

Moved: Cr Ronke

Seconded: Cr Peulich

That the following delegates' reports be received:

- Cr West reported on the Association of Bayside Municipalities Meeting.
- Cr Barth reported on the Metropolitan Waste Management Group Forum.
- Cr Staikos reported on the Victorian Local Governance Association.
- Cr West reported on the MAV Planning Advisory Committee Meeting.

CARRIED

8. Question Time

The Mayor advised that Question Time would take place at 8.00pm (refer to page 20 of the Minutes).

9. Environmental Sustainability Reports

P51 Town Planning Application Decisions – March 2013

Moved: CrPeulich

Seconded: Cr Eden

That the report be noted.

CARRIED

P52 KP624/2012 1305-1307 Nepean Highway, Cheltenham

It is recorded that Alistair McMillan spoke on behalf of the objectors in relation to this item.

It is recorded that Jason Barnfather spoke on behalf of the applicant in relation to this item.

Moved: Cr West

Seconded: Cr Staikos

That Council refuse the application to develop the land for the construction of nine (9) dwellings at No. 1305-1307 Nepean Highway, Cheltenham on the following grounds:

1. The proposal fails to provide adequate daylight to existing windows, not satisfying the objectives of Clause 55.04-3 – Daylight to Existing Windows, and Clause 55.04-4 - North Facing Windows, of the Kingston Planning Scheme.
2. The proposal would result in an unreasonable degree of massing and visual bulk presenting to the street and the adjoining property at No. 1/1309 Nepean Highway, Cheltenham, failing to satisfy the objective of Clause 55.02-1 – Neighbourhood Character, of the Kingston Planning Scheme.
3. The proposal does not provide adequate private open space for all dwellings, failing to satisfy the objective of Clause 55.05-4 – Private Open Space, of the Kingston Planning Scheme.
4. The proposal does not comply with Clause 22.11 of the Kingston Planning Scheme with regard to neighbourhood character.
5. The proposal is an over-development well in excess of what is required by Kingston's Residential Strategy.

LOST

Moved: Cr Gledhill

Seconded: Cr Bearsley

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit to develop the land for the construction of nine (9) dwellings at No. 1305-1307 Nepean Highway, Cheltenham (Lots 8 & 9 on LP004806), subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 6 December 2012 and 31 January 2013 (sheet 5), but modified to show:
 - a. the provision of a landscape plan and associated planting schedule for the site showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site, 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 garden beds, paving, 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 actual canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
 - iv) a range of plant types from ground covers to large shrubs and trees;
 - v) adequate planting densities (e.g.: plants with a mature width of 1 metre, planted at 1 metre intervals);
 - vi) the provision of four (4) suitable medium sized (at maturity) canopy trees within the front setback of the property and one (1) medium (at maturity) tree within the private 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 two (2) metres in height at time of planting;
 - ix) medium to large shrubs to be provided at a minimum pot size of 200mm;
 - x) the provision of notes on the landscape plan regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements; and

- xi) the provision of tree protection details in accordance with Conditions 3-5 (inclusive) of this Permit.
- b. the provision of minimum 2000 litre rainwater tanks for each dwelling nominated with water re-use for toilet flushing;
- c. any requirements of the Sustainable Design Assessment required by Condition 6 of this Permit;
- d. the provision of a west elevation of dwelling 3;
- e. separate east internal elevations of dwelling 8 and dwellings 1 and 2;
- f. the provision of bollards or alternative wheel stop measures adjacent to the front walls of dwellings where they are at the rear of vehicle reversing areas;
- g. the incorporation of passive solar shading devices to habitable room windows, appropriate to their respective orientation;
- h. the brick material provided to ground floor walls reduced in height (to align with the extent of the ground floor), to limit the appearance of bulk;
- i. the deletion of bedroom 1 and its ensuite and walk in robe, of dwelling 9, providing a break in first floor massing between dwellings 8 and 9;
- j. the east powder room walls of dwellings 3 and 5 shifted west, with turning circles provided to show adequate and efficient reversing areas for vehicles exiting garages 3 and 5. Any first floor overhang of the ground floor must provide a minimum of 2.1 metres head clearance;
- k. the surface material of all driveways / accessways and car parking spaces nominated in all-weather coloured concrete sealcoat, or similar;
- l. a delineated 1.2 metre wide pedestrian path within the shared driveway extending from the front boundary up to the garage of dwelling 7, delineated through either different materials or colour from the driveway pavement;
- m. eastern walls of dwellings 6 and 7 nominated as either on the boundary or within 150mm of the eastern boundary;
- n. the southern walls of dwelling 8 setback from the southern boundary in accordance with the requirements of Standard B20 of Clause 55 of the Kingston Planning Scheme;
- o. the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development; and
- p. the guttering pertaining to the walls on boundaries nominated as being contained wholly within the title property boundaries of the subject land.

Endorsed Plans

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Tree Protection

3. A Tree Protection Zone (TPZ) must be installed at a distance of 4 metres from the *Agonis flexuosa* (Willow leaf Myrtle) growing along the northern boundary and at a

distance of 2.5 metres from the *Syzygium paniculatum* (Magenta Cherry) growing at No. 1/1309 Nepean Highway, Cheltenham. The following must be observed within 4 metres of the Willow leaf Myrtle and 2.5 metres from the Magenta Cherry:

- a) the existing soil level must not be altered either by fill or excavation;
- b) the soil must not be compacted or the soil's drainage changed;
- c) no fuels, oils, chemicals, poisons, rubbish and other materials harmful to trees are to be stored or dispersed;
- d) no storage of equipment, machinery or material is to occur;
- e) open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used;
- f) tree roots must not be severed or injured; and
- g) machinery must not be used to remove any existing concrete, bricks or other materials.

without the further consent in writing of Council's Vegetation Management Officer.

4. Prior to the commencement of the development hereby permitted a Tree Protection Fence defined by a 1.2 metre high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting, must be erected 4 metre in a radius from the *Agonis flexuosa* (Willow leaf Myrtle) and 2.5 metres in a radius from the *Syzygium paniculatum* (Magenta Cherry). The above requirements in condition 3 must be observed within this area.
5. All tree pruning work must be in accordance with the Australian Standards AS4373 (2007) "Pruning of Amenity Trees" and be undertaken by a qualified and experienced Arborist.

Sustainable Development

6. Prior to the endorsement of plans pursuant to Condition 1, a Sustainable Design Assessment (SDA), prepared by a suitably qualified professional, that outlines proposed sustainable design initiatives must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit.

The **SDA** must incorporate consideration of the following sustainable design criteria:

- Indoor environment
- Energy efficiency
- Water resources
- Stormwater management
- Building materials
- Bicycle parking
- Waste Management
- Urban Ecology
- Innovation
- Ongoing building and site management

7. A STORM report (or similar) with STORM rating of at least 100% or equivalent with a reliability not less than 80%, to demonstrate that the development meets

Victoria's best practice stormwater targets pursuant to Clause 19.03-2 of the Kingston Planning Scheme. Achieving compliance with this condition must not conflict with other conditions contained within the permit.

Construction Management

8. Before the commencement of any buildings and works on the Land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but is not limited to, the following:
 - a. a detailed schedule of works including a full project timing;
 - b. a traffic management plan for the site, including when or whether any access points would be required to be blocked; an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services; and preferred routes for trucks delivering to the site;
 - c. the location for the parking of all construction vehicles and construction worker vehicles during construction;
 - d. delivery of materials including times for loading/unloading and unloading points; expected frequency; and details of where materials will be stored and how concrete pours would be managed;
 - e. proposed traffic management signage indicating any inconvenience generated by construction;
 - f. a fully detailed plan indicating where construction hoardings would be located;
 - g. a waste management plan including the containment of waste on site, disposal of waste, stormwater treatment and on-site facilities for vehicle washing;
 - h. containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside the site;
 - i. business operations on the site during construction;
 - j. site security;
 - k. public safety measures;
 - l. construction times, noise and vibration controls;
 - m. restoration of any Council assets removed and/or damaged during construction;
 - n. protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site);
 - o. remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site);

- p. an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - q. traffic management measures to comply with provisions of AS 17 42.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads; and
 - r. all contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.
9. Prior to the commencement of any buildings and works on the land, a pre construction site and immediate surrounds inspection and condition assessment of all road ways and footpaths abutting the development is to be submitted to and approved in writing by the Responsible Authority. This must occur in a media (photos/video) which is able to accurately illustrate the full condition of all potentially impacted assets prior to the construction commencing. In the event of damage during construction, such damage will be required to be repaired by the developer, at the developer's cost and to the satisfaction of the Responsible Authority.
10. During the construction, the following must occur:
- a. any stormwater discharged into the stormwater drainage system is to comply with EPA guidelines;
 - b. stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the premises enters the stormwater drainage system;
 - c. vehicle borne material must not accumulate on the roads abutting the site;
 - d. the cleaning of machinery and equipment must take place on site and not on adjacent footpaths, roads or parks;
 - e. all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly; and
 - f. all site operations must comply with the EPA Publication TG302/92 (including all revisions or replacement guidelines).

Drainage and Water Sensitive Urban Design (WSUD)

11. 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.

12. 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.).
13. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
14. Stormwater outflow from the development to the Council drainage system must be limited to the predevelopment level of outflow of the site.

Infrastructure and Road Works

15. Property boundary and footpath levels must not be altered without the prior written consent from Council's Roads and Drains Department.
16. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of Council's Roads and Drains Department.
17. All reinstatements and vehicle crossings must be constructed to the satisfaction of the Responsible Authority, with the vehicle crossing to be constructed to Council's industrial strength specifications.
18. All redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of Council's Roads and Drains Department.
19. The developer/owner must contact the Responsible Authority and VicRoads and arrange traffic management plans and WORKS ZONE for any works that may affect traffic (both vehicular and pedestrian) or parking in Nepean Highway or any of the surrounding streets. Works vehicles will not be able to stop in the street fronting the property if they cannot provide at least 3 metres clearance for other vehicles to pass or if parking restrictions already apply. The developer will be responsible for the costs of arranging a WORKS ZONE and reinstatement of parking restriction signs, to the satisfaction of the Responsible Authority.

Parking Construction

20. 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 in accordance with the endorsed plans under this permit or in an all weather coloured concrete seal-coat, 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.

Lighting

21. Exterior lighting must be installed in such positions as to effectively illuminate all communal areas. Such lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

General amenity conditions

22. The obscure glazing shown on the endorsed plans must be through frosted glass or similarly treated glass, and thereafter maintained to the satisfaction of the Responsible Authority. Adhesive film or the like that can be removed must not be used.
23. 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.
24. 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.
25. Service units, including air conditioning/heating units, must not be located where they will be visible from any public area, and must not be located near bedrooms of immediately adjacent existing dwellings.
26. Prior to the removal of the street tree from the Nepean Highway nature strip, payment must be made to Kingston City Council's customer service in accordance with Council's Street Tree Removal Procedures. The removal of these trees must be undertaken by Council at the expense of the Developer/Owner.

Completion

27. Prior to the occupation of any building approved under this permit, written confirmation from the author of the endorsed Sustainable Design Assessment is to be submitted to the Responsible Authority that all of the required measures specified in the SDA have been implemented.
28. Prior to the 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.
29. Prior to the 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.
30. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Time Limits

31. 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 is not started within two (2) years from the date of permit issue.
 - The development is not completed within four (4) years from the date of permit issue.
- In accordance with section 69 of the *Planning and Environment Act* 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.
-

Note: 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 any vegetation, should consult Council's Vegetation Management Officer to verify if a Local Laws Permits is required for the removal of such vegetation.

Note: The fee for removal of the street tree from the nature strip is **(\$364.70** including GST), payable to Kingston City Council's Customer Service Department - refer to cashier code "STRE". Customer Service will confirm payment to the Parks Department. The removal of the tree requires a minimum of 2 weeks notice from the Developer/Owner.

CARRIED

P53 KP597/2012 Dingley Bypass

It is recorded that Steven Brown from VicRoads spoke on behalf of the applicant in relation to this item.

Moved: Cr West

Seconded: Cr Barth

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit for the removal of native vegetation for the Dingley Bypass – from South Road, Moorabbin to Westall Road, Clayton South (Lot 1 on PS 546460T, Lot 2 on PS 405579F, Lot 1 on PS 204279E, Lot 1 on TP 434823H, Lot 1 on TP 339901G, Lot on TP512252E, Lot 1 on TP 339944M, Lot 1 on TP 143175B, Lot 2 on PS405579F, Lot 1 on TP 915416D, Lot 1 on TP 342263U, Lot 1 on TP 378976C, Lot 1 on TP 871607L, Lot 1 on TP 433657Q, Lot 1 on TP 215175C, Lot 1 on TP 628555N), subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 5 October 2012, but modified to show:
 - a. an amended 'Appendix A: Dingley Bypass Warrigal Road to Westall Road alignment – impact on native vegetation' to show the large patch of Damp Sands Herb-rich Woodland on the west side of Westall Road (Habitat Zone Fa) replaced with Swampy Woodland.
 - b. Ask VicRoads to prepare a plan and feasibility study for the Dingley arterial road to be elevated on pylons for up to 100 metres over the endangered woodland at Dingley; and**

Endorsed Plans

2. The vegetation removal, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority **unless the overall vegetation loss can be reduced by elevating the road according to Condition 1b in line with advice to be sought from Council's ecological consultant, in which case new plans are to be submitted to the satisfaction of the Responsible Authority.**

Conditions required by the Department of Sustainability & Environment (DSE)

3. Within 12 months of native vegetation removal, an Offset Plan must be submitted to and approved by the Department of Sustainability and Environment and the Responsible Authority.
4. Prior to native vegetation removal, an Environmental Management Plan must be submitted to and approved by the Responsible Authority. The Plan must include:
 - a. Measures to ensure that no significant adverse environmental impacts occur as a result of the construction and use;
 - b. The location of the construction area, no-go zones, access and storage/stockpile areas;
 - c. Measures of protection for native vegetation to be retained, such as tree protection fencing.

Completion of Works

5. Once the vegetation removal has started, it must be continued and completed, to the satisfaction of the Responsible Authority.

Time Limits

6. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
 - The removal of native vegetation is not started before two (2) years from date of this permit.

- The removal of native vegetation is not completed within four (4) years from the date of permit issue.

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

Amendment

Moved: Cr Peulich

Seconded: Cr Gledhill

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit for the removal of native vegetation for the Dingley Bypass – from South Road, Moorabbin to Westall Road, Clayton South (Lot 1 on PS 546460T, Lot 2 on PS 405579F, Lot 1 on PS 204279E, Lot 1 on TP 434823H, Lot 1 on TP 339901G, Lot on TP512252E, Lot 1 on TP 339944M, Lot 1 on TP 143175B, Lot 2 on PS405579F, Lot 1 on TP 915416D, Lot 1 on TP 342263U, Lot 1 on TP 378976C, Lot 1 on TP 871607L, Lot 1 on TP 433657Q, Lot 1 on TP 215175C, Lot 1 on TP 628555N), subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 5 October 2012, but modified to show:
 - a. an amended 'Appendix A: Dingley Bypass Warrigal Road to Westall Road alignment – impact on native vegetation' to show the large patch of Damp Sands Herb-rich Woodland on the west side of Westall Road (Habitat Zone Fa) replaced with Swampy Woodland.

Endorsed Plans

2. The vegetation removal, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.

Conditions required by the Department of Sustainability & Environment (DSE)

3. Within 12 months of native vegetation removal, an Offset Plan must be submitted to and approved by the Department of Sustainability and Environment and the Responsible Authority.
4. Prior to native vegetation removal, an Environmental Management Plan must be submitted to and approved by the Responsible Authority. The Plan must include:
 - a. Measures to ensure that no significant adverse environmental impacts occur as a result of the construction and use;
 - b. The location of the construction area, no-go zones, access and storage/stockpile areas;
 - c. Measures of protection for native vegetation to be retained, such as tree protection fencing.

Completion of Works

5. Once the vegetation removal has started, it must be continued and completed, to the satisfaction of the Responsible Authority.

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 - The removal of native vegetation is not started before two (2) years from date of this permit.
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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.

The Amendment was put and **CARRIED**

The Amendment became the Motion

The Motion was put and **CARRIED**

Question Time

Question 1

Shari Kissron Soly of Aspendale asked,

“As our property backs onto the beach, how does Council expect us to access the beach through vegetation and scaling a wall with babies, people with hip disabilities, those in wheelchairs; all of which applies to us. Where you direct us to is not accessible or safe. Is it Council’s objective to create hardship?”

The CEO provided the following response,

“Council has an objective to reduce the number of privately built structures encroaching on public land. However, the Council has allowed for residents backing onto the foreshore access to shared paths along the foreshore where people can access the beach. The basis of this approach is that paths are shared and not each property having its own track and steps to the beach.”

Question 2

Shari Kissron Soly of Aspendale asked,

“Where there are steps leading to the beach from the foreshore, how you can you accuse one set of foreshore encroachment and allow all others?”

The CEO provided the following response,

“Council recognises residents need access but Council’s approach is for shared paths and steps, not each property having its own. While there have been many illegal structures (encroachments) that have been removed there are steps for shared use that have been in part retained based on location and standard of build.”

P54 Amendment C126 - Clayton South Precinct (Including Sigma Site)

Moved: Cr Staikos

Seconded: Cr Peulich

That Council resolves:

1. To request the Minister for Planning to appoint a Planning Panel to consider Amendment C126 and
2. That Council Officers attend the Panel Hearing and demonstrate why the Amendment can be supported when assessed against the State and Local Planning Framework and the Kingston Planning Scheme.

CARRIED

P55 Process Improvements for the Planning Application Process – Preliminary Conference Policy Review

Moved: Cr Staikos

Seconded: Cr Ronke

That Council resolves to adopt the Planning Consultation Policy (attached as Appendix A) and that the policy be amended so that a preliminary conference be held upon the request of an objector (where there are fewer than three objectors).

Cr Peulich left the Council Chamber at 8.42pm.

Amendment

Moved: Cr West

That Council resolves to adopt the Planning Consultation Policy (attached as Appendix A) and that the policy be amended so that a preliminary conference be held upon the request of an objector (where there are fewer than three objectors) in which case there would not need to be a second planner in attendance.

The Amendment was accepted by the Mover and the Seconder

Moved: Cr Staikos

Seconded: Cr Ronke

That Council resolves to adopt the Planning Consultation Policy (attached as Appendix A) and that the policy be amended so that a preliminary conference be held upon the request of an objector (where there are fewer than three objectors) in which case there would not need to be a second planner in attendance.

CARRIED

Cr Peulich returned to the Council Chamber at 8.49pm.

Item P56 – This item was removed from the Agenda prior to the meeting.

10. Community Sustainability Reports

There were no Community Sustainability Reports.

11. Organisational Development & Governance Reports

P57 Adoption of Draft Council Plan 2013-17 (incorporating LivingKingston2035) for consultation process

Moved: Cr Eden

Seconded: Cr Peulich

That Council:

1. Adopt the draft Council Plan (including LivingKingston2035 commentary) in accordance with section 125 & 126 of the Act to commence a statutory section 223 community consultation process.
2. Hear presentations in support of any submissions received in relation to the draft Council Plan, made in accordance with Sections 223 of the Act, at a meeting of all Councillors to be held on Monday, 27 May 2013 at 6.00pm at 1230 Nepean Highway, Cheltenham.

CARRIED

P58 Dingley Village Gateway Public Art Project

Procedural Motion

Moved: Cr Peulich

Seconded: Cr

That the matter be deferred pending broader community consultation

The Motion **LAPSED** as there was no Seconder

Moved: Cr Staikos

Seconded: Cr Barth

That Council:

1. Approve the Public Art Advisory Panel's recommendation, "Tillage", as the public artwork to be installed as part of the Dingley Village Gateway Public Art Project at the roundabout at the intersection of Old Dandenong Road, Centre Dandenong Road and Tootal Road (one of the primary gateway entrances) Dingley Village.

2. That Council conduct public consultation with Dingley Village residents regarding the public artwork and landscaping plans into Dingley Village.
3. That a follow up report be considered by Council.

CARRIED

Cr Peulich requested it be noted that he voted against the Motion.

P59 Assembly of Councillors Record

Moved: Cr Staikos

Seconded: Cr Gledhill

That Council note the contents of this report for the public record.

CARRIED

P60 Ward Funds Expenditure Allocation

Moved: Cr Staikos

Seconded: Cr West

That Council:

1. Approve the expenditure of ward funds in accordance with the table of Councillor requests and including the following allocations:
 - Cr Staikos - \$500 to Kingston Residents Association
 - Cr Staikos - \$300 to Union of Australian Women Mordialloc

CARRIED

P61 De-Accessioning Kingston City Hall Car Park Mural

Moved: Cr Staikos

Seconded: Cr Peulich

That Council:

1. Approve the Public Art Advisory Panel's recommendation for the existing mural in the car park of Kingston City Hall, 985 Nepean Highway, Moorabbin to be de-accessioned; and
2. To reduce the cooling off period from six months to three months.

CARRIED

A Division was called

DIVISION

FOR: Crs Staikos, Ronke, Bearsley, Barth, Gledhill and Brownlees (6)
AGAINST: Cr Eden (1)
ABSTAINED: Crs Peulich and West (2)

CARRIED

Cr Ronke left the Council Chamber at 9.09pm.

12. Corporate Services Reports

There were no Corporate Services Reports.

13. Notices of Motion

P62 Notice of Motion – Cr Gledhill

Moved: Cr Gledhill

Seconded: Cr West

That Council

- Supports Sandringham College in its decision to make Beaumaris Campus a standalone year 7 - 12 school.
- Acknowledges that Sandringham College has undertaken extensive community consultation and has based its decision on the strong level of community demand for a year 7 - 12 school on that site
- Urges the Minister for Education to support the position as expressed by Sandringham College
- Write to the Minister in order to make him aware of Kingston Council's position on this matter.

Cr Ronke returned to the Council Chamber at 9.10pm.

CARRIED

P63 Notice of Motion – Cr Peulich

Moved: Cr Peulich

Seconded: Cr Barth

That Council remediates the Rowan Road/Spring Road council land promptly and makes appropriate budget preparations to facilitate the beautification and remediation of this land parcel including but not limited to:

- a. Making the parcel pedestrian accessible
- b. Removing the rust stained fencing
- c. Ceasing to use the land as a quasi transfer station
- d. Introducing new community uses such as equestrian, amphitheatre, sporting oval etc.

This may be facilitated through an EOI process and public consultation.

Procedural Motion

Moved: Cr Ronke

Seconded: Cr Bearsley

That the matter be deferred for discussion at a future CIS meeting.

CARRIED

A Division was called

DIVISION

FOR: Crs Staikos, Eden, Ronke, Bearsley, West, Gledhill and Brownlees (7)

AGAINST: Crs Peulich and Barth (2)

CARRIED

P64 Notice of Motion – Cr Peulich

Moved: Cr Peulich

Seconded: Cr Bearsley

That council commences a review of its Litter Prevention and Pickup functions and formally reports back to council no later than June 2013 with a report to be presented to the June 2013 Ordinary Council Meeting on how improvements can be made to beautify our city.

Procedural Motion

Moved: Cr Ronke

Seconded: Cr West

That the matter be deferred for discussion at a future CIS meeting.

Cr Barth left the Council Chamber at 9.31pm.

CARRIED

A Division was called

DIVISION

FOR: Crs Staikos, Eden, Ronke, Bearsley, West and Brownlees (6)

AGAINST: Crs Peulich and Gledhill (2)

CARRIED


P65 Notice of Motion – Cr Peulich

Cr Barth returned to the Council Chamber at 9.34pm.

The Chief Executive Officer, John Nevins declared a direct interest in Item P65 and left the Council Chamber prior to any discussion on the matter.

Moved: Cr Peulich

Seconded: Cr

1. That council institute an independent review of the bullying reports and investigation in light of concerns and complaints raised by a number of councillors and parties to the investigation including but not limited to the following:
 - The October 2012 Press Release issued during caretaker period which appears to release confidential information from the Interim Report

 - Lack of an adequate complaints process
 - Other issues of probity and compliance
2. That such an independent review be conducted at an arm's length from council in consultation with the Office of Local Government with a request made to the Office of Local Government to appoint an independent arbiter to oversee the review.
3. That advice be sought from WorkSafe in relation to the concerns and complaints raised.
4. That this review be completed by August 30 2013.

The Motion **LAPSED** as there was no Secunder

The Chief Executive Officer, John Nevins returned to the Council Chamber at 9.39pm.

14. Urgent Business

14.1. Legal Advice – M+K (Macpherson + Kelley Lawyers)

Moved: Cr Staikos

Seconded: Cr Ronke

That an item of urgent business be considered under confidential items in the part of the meeting closed to the public in relation to legal advice received from M+K (Macpherson + Kelley Lawyers) dated 16 April 2013.

CARRIED

A Division was called

DIVISION

FOR: Cr Staikos, Ronke, Bearsley, Barth, West, Gledhill and Brownlees (7)

AGAINST: Cr Peulich (1)

ABSTAINED: Cr Eden

CARRIED

14.2. Agenda Item P30 – Declare not confidential

Moved: Cr Gledhill

Seconded: Cr West

That an item of urgent business be considered in relation to Item P30, which was considered at the Special Meeting of Council on 18 March 2013.

CARRIED

Moved: Cr Gledhill

Seconded: Cr West

That Council resolves to make public the report and decision for Item P30 considered as a confidential item at a Special Council meeting on 18 March 2013.

CARRIED

15. Items in Camera – Confidential Items

Moved: Cr Ronke

Seconded: Cr Staikos

That in accordance with the provisions of section 89(2) of the Local Government Act 1989, the meeting be closed to members of the public for the consideration of the following confidential items:

- P66 VCAT Appeal - Open Space Contribution – as it is a matter that could prejudice Council or any person.
- Urgent Business – Item 14.1. Legal Advice from M+K (Macpherson+Kelley Lawyers) as it is legal advice.

Confidential Attachments:

- P65 Notice of Motion – Cr Peulich – as it is a matter that could prejudice Council or any person.

CARRIED

The meeting was closed to members of the public at 9.42pm.

During the closed part of the meeting the following resolution was carried:

Moved: Cr Staikos

Seconded: Cr Ronke

That:

1. Council expresses full confidence in Kingston CEO John Nevins, including his decision to make public the media release dated 24 October 2012 titled “Report Received in to Investigation into Councillor Bullying”.
2. The CEO is responsible for all matters at Council including the StopLine Investigation and subsequent decisions.
3. Council reaffirms the resolution of the meeting on 25 March 2013 titled StopLine Report, that Council accepts the substantive findings of the Report and that no further action be taken by officers on this matter.
4. Council accept the legal advice from M+K (Macpherson + Kelley Lawyers) that the CEO has acted in accordance with the Local Government Act regarding the above matters and that this advice be declared confidential in accordance with section 77(2)(b) and section 89(2)(f) (legal advice) of the Local Government Act.
5. That this resolution be made public.

CARRIED

City of Kingston
Ordinary Council Meeting

Minutes

22 April 2013

Moved: Cr Ronke

Seconded: Cr Staikos

That the meeting be opened to the public.

CARRIED

The meeting was opened to the public at 10.07pm.

The meeting closed at 10.08pm.

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Confirmed, His Worship the Mayor, 27 May 2013