

Minutes

Council Meeting

Monday, 28th March 2022

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**City of Kingston
Council Meeting**

Minutes

28 March 2022

The meeting commenced at 7.00pm via the Zoom platform and live streamed.

Present: Cr Steve Staikos (Mayor)
Cr Jenna Davey-Burns (Deputy Mayor)
Cr Tamsin Bearsley
Cr Tim Cochrane
Cr Tracey Davies
Cr David Eden
Cr Chris Hill
Cr Cameron Howe
Cr George Hua
Cr Georgina Oxley
Cr Hadi Saab

In Attendance: Peter Bean, Chief Executive Officer
Jonathan Guttmann, General Manager Planning and Development
Samantha Krull, General Manager City Assets and Environment
Tony Ljaskevic, General Manager Corporate Services
Mark Patterson, Acting General Manager Community Sustainability
Phil De Losa, Manager Governance
Patrick O’Gorman, Governance Officer
Gabby Pattenden, Governance Officer
Lindsay Holland, Facilities Officer
Jaclyn Murdoch, Manager City Development

1. Apologies

There were no apologies submitted to the meeting.

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Saab

Seconded: Cr Bearsley

That the Minutes of the Council Meeting held on 28 February 2022 be confirmed.

CARRIED

3. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest

There were no Conflicts of Interest submitted to the meeting.

4. Petitions

Nil

5. Presentation of Awards

Nil

6. Reports from Delegates Appointed by Council to Various Organisations

Nil

7. Question Time

Moved: Cr Hua

Seconded: Cr Hill

That notwithstanding the requirement of the Governance Rules, answers be read out to all questions submitted online.

CARRIED

Question time was held at 7.02pm.

Noelene Hager asked,

“Would Council please consider installing an entry hand rails and ramp for the many very elderly residents that use Le Page Tennis Club for the monthly Kingston Heath Ladies Probus Meeting? Their safety is imperative. This request has been made many times over the last year, but to no avail. As a Community Club we take every possible care for their welfare, but cannot provide what is basically Council's direct responsibility and liability.”

The General Manager Community Sustainability provided the following response,

“Thank you Ms Hager for your question. Due to the gradient of the stairs at the main entrance, it is not possible to install a ramp at this location. We are, however, able to install hand rails. We will therefore proceed with the installation of hand rails using funds from Council's existing maintenance budget, with the works to be completed this financial year.”

En Bloc Resolution

Moved: Cr Cochrane

Seconded: Cr Davies

That the following items be resolved *en bloc* and that the recommendation in each item be adopted:

- 8.1 Town Planning Application Decisions - February 2022
- 8.5 Kingston Planning Scheme Review 2022
- 10.1 Regents Park Pavilion - Cost Planning
- 10.2 CON-21/065 Traffic and Transport Consultancy Services
- 10.5 Environment and Open Spaces Strategic Advisory Committee - Consultation Feedback on Terms of Reference
- 11.2 Informal Meetings of Councillors
- 11.4 Advisory Committees Revised Terms of Reference
- 11.5 CEO Employment and Remuneration Policy and KPIs

CARRIED

8. Planning and Development Reports

8.1 Town Planning Application Decisions - February 2022

RECOMMENDATION

That the report be noted.

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

8.2 KP-2021/154 - 379 Centre Dandenong Road, Heatherton

Moved: Cr Bearsley

Seconded: Cr Saab

That consideration of this item be deferred until the April Planning Committee or Council meeting.

CARRIED

8.3 KP-2016/578 - 448-450 Heatherton Road Clayton South

Moved: Cr Hua

Seconded: Cr Davies

That Council determine that Planning Permit KP-2016/578 be extended for a further two (2) years for commencement. The Permit should therefore be extended to allow the following:

- One of the stages of the development must commence by 17 April 2024; and
- Both stages of the development must be completed by 17 April 2026.

This request requires a decision by Council under the Instrument of Delegation S6 – Council to Member of Staff – Oct 2021 for the following reason:

- Conditions & Limitations – ‘*Planning permits two years old or more in Green Wedge or environmentally sensitive areas (i.e. foreshore, wetlands and natural resources environs) for works worth more than \$20,000 in value should be submitted to an Ordinary Council Meeting for decision before being renewed or endorsed if there is a material change*’. (ID 124098, Planning and Environment Act 1987, Provision s69(2), Power to extend time – page 52)

CARRIED

**8.4 KP-2021/510 - Carrum Surf Life Saving Club (15 Old Post Office Lane),
Carrum**

Moved: Cr Howe

Seconded: Cr Bearsley

That Council determine to support the proposal and issue a planning permit for the removal of native vegetation pursuant to Clause 52.17, at Carrum Surf Life Saving Club, 15 Old Post Office Lane, Carrum, subject to the following conditions:

Amended Plans

1. Before any permitted clearing of native vegetation 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 substantially in accordance with the application plans, submitted to Council on 29 November 2021, but modified to show:
 - a. The provision of a landscape plan in accordance with the submitted architectural plans, to be prepared by a suitably qualified landscape professional to the satisfaction of the Responsible Authority and incorporating:
 - i. a planting schedule of all proposed replacement vegetation for the vegetation to be removed that is not subject to the native vegetation assessment and offsets; and
 - ii. the location of the ground protection required by condition 4 below, accurately drawn to scale and labelled; and
 - b. The provision of a copy of the offset requirements evidence, as required by condition 6 of this planning permit.

Endorsed Plans

2. The vegetation removal as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Protection of Vegetation to be Retained

4. Before works start, ground protection consisting of a 50mm layer of mulch covered by a layer of 12mm thick plywood is to be installed in a 2 metre wide strip along the southern boundary of the site to the satisfaction of the Responsible Authority. The ground protection must remain in place until all works are completed.

Offset Requirements

5. Before any native vegetation is removed, evidence that the required offset of 0.005 general habitat units has been secured must be provided to the satisfaction of Responsible Authority. This evidence is to be the following:
 - Credit extract allocated to the permit from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this planning permit. Within thirty (30) days of endorsement of the offset

evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

Time Limits

6. In accordance with Section 68 of the *Planning and Environment Act 1987* (the Act), this permit will expire if one of the following circumstances applies:
 - a. The works are not started before two (2) years from date of this permit.
 - b. The works are not completed before four (4) years from the date of permit issue.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

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 permit is required for the removal of such vegetation.

Note: Any landscape plan prepared in accordance with conditions must comply with Council's Landscape Checklist.

Note: All buildings and works must be carried out in accordance with the approved cultural heritage management plan as required by the *Aboriginal Heritage Act 2006*. A copy of the approved cultural heritage management plan must be held on site during the construction activity.

CARRIED

8.5 Kingston Planning Scheme Review 2022

RECOMMENDATION

That Council:

1. Note the commencement of a review of the Kingston Planning Scheme.
2. Note a further report will be provided to Council seeking its direction to undertake consultation on the draft findings of the Planning Scheme Review.

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

8.6 Declaration of Mordialloc Special Charge Scheme

Moved: Cr Cochrane

Seconded: Cr Davey-Burns

That Council:

1. Declare the Mordialloc Special Charge Scheme (the Scheme) pursuant to section 163 of the Local Government Act 1989 for a Marketing and Business Development Fund for the Mordialloc Main Street Precinct for seven years commencing on 1 July 2022, for the purpose of defraying expenses of promotional, marketing, business development projects, events and activities and other incidental expenses associated with the encouragement of commerce in the Mordialloc Main Street Precinct, which Council considers is or will be of

special benefit to those persons required to pay the special charge, as follows:

- a. The Scheme be declared for a period of seven years commencing on 1 July 2022 and ending on 30 June 2029.
 - b. The Scheme be implemented by carrying out or enabling to be carried out activities helping achieve the purpose (“the function”).
 - c. The properties highlighted red on the plan attached to Appendix 2 of the Council Report title ‘Renewal of Mordialloc Traders Association Special Charge’ dated 22 November 2021 is the area for which the Special Charge applies.
 - d. The following be specified as the manner in which the Scheme so declared will be levied as determined by the Council:
 - i. 1st floor properties - \$230 per annum
 - ii. Ground Floor 0 – 300 square metres - \$450 per annum
 - iii. 301 – 1,000 square metres - \$725 per annum
 - iv. 1,001+ square metres - \$2,210 per annum
 - v. Properties above ground level with a floor area of less than 300 square meters will pay \$230 per annum. All other properties will pay the Special Charge based on the floor area
 - vi. Any property that changes from commercial or retail to residential use, will be removed from the Scheme. Likewise, any property that changes from residential to commercial or retail will be added to the Scheme.
 - e. The following be specified as the amount to be levied in the first year of the Scheme is \$59,550.00 and over the period of seven years is to be approximately \$416,850.00 given no changes in the properties as indicated in the criteria to be used as the basis for the Scheme.
2. Write to the owners and occupiers of properties within the Scheme advising them of the decision embodied in this resolution and associated appeal rights.
 3. Authorise the Chief Executive Officer or Delegate to enter into an Agreement with the Mordialloc Traders Association in relation to expenditure of the Special Charge proceeds.
 4. Authorise the Manager Finance and Corporate Performance to levy the Scheme in accordance with section 163(4) of the Local Government Act 1989.
 5. Refer to the letter from the Mordialloc Traders Association, attached as Appendix 3, motivating the declaration of the Scheme and the benefit this will deliver to traders.

CARRIED

9. **Community Sustainability Reports**

Nil

10. **City Assets and Environment Reports**

10.1 Regents Park Pavilion - Cost Planning

RECOMMENDATION

That Council:

1. Notes the Revised Cost Plan Estimate of \$7.57M to develop the planned pavilion at Regents Park, Aspendale has been determined following a design development process; and
2. Notes the planned pavilion development at Regents Park, Aspendale will proceed through the detailed design and required procurement processes, including the award of tender at a future Council Meeting.

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

10.2 CON-21/065 Traffic and Transport Consultancy Services

RECOMMENDATION

That Council:

1. Receive the information and note the outcome of the tender assessment process for Contract No. 21/065 Traffic and Transport Consultancy Services as set out in Appendix 1 (Confidential); and
2. Award the Contact No. 21/065 Traffic and Transport Consultancy Services to: Austraffic, BVY Traffic Survey, GTA/Stantec, HDS Australia Pty Ltd, One Mile Grid, Ratio, Sustainable Transport Surveys/SALT3, and Traffic Works as set out in Table 1 below.

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

10.3 Proposed Discontinuance and Sale of Road - Rear of 3/25 Donald Grove Chelsea

Moved: Cr Oxley

Seconded: Cr Saab

That Council:

1. Authorise and direct the Chief Executive Officer or delegate to publish a notice in accordance with Section 114 of the Local Government Act 2020 and under clause 3 of Schedule 10 of the Local Government Act 1989 (Vic) (The Act) and Council's Community Engagement Policy, of Council's intention to discontinue and sell Lot 1 TP965738W (subject land) to the adjoining owner of 3/25 Donald St Chelsea;
2. If no submissions are lodged in response to the public notice that require Council's consideration, authorise Chief Executive Officer or delegate to proceed to discontinue and sell the subject land for \$24,650 plus GST (if applicable) plus

costs associated with the sale in accordance with Council's 2017 Discontinuance and Sale of Roads, Rights of Way and Drainage Reserve Policy; and

3. If submissions are lodged in response to the public notice, have the submission(s) considered by a committee of Council comprising of the Mayor, Deputy Mayor and Councillor from Longbeach Ward, General Manager City Assets and Environment, Manager Property and Arts, and Team Leader Property Services.

CARRIED

10.4 Response to Notice of Motion No. 18/2021 - Cr. Howe - Kananook Creek and Road Reconstruction

Moved: Cr Howe

Seconded: Cr Hua

That:

1. Council receive a report no later than June 2022 responding to the endorsement of the bare site adjacent to the Emma Street footpath and footbridge for integration of a viewing area with landscaping, including:
 - a. Outlining opportunities to integrate the southern footpath with modern pavers, featuring at least two island bench seats made from natural timber within produced plans;
 - b. Fishing and viewing from an independently supported parallel boardwalk to the area is to be outlined in plans with educational and directional signage, including with a supporting render and any such approvals required shall be sought;
 - c. Proposes project timelines and community engagement processes; and
 - d. Refers the project to the 22/23 financial year budget process with costings.
2. Note that the report by EcoLogical study states: "None of the indigenous species are listed as threatened, or protected under the FFG Act protected flora list or EPBC Act list" that scored mostly low for habitat respectively 38, 38, 42, 33, 34, 31 and 30.
3. Apply for permits if required and remove non-significant, indigenous vegetation burnt by arson or dead that is to be replaced with indigenous vegetation, and continues to remove noxious and high threat weed infestations accounting for 54% of the species reported by EcoLogical to exist.
4. In the new road analysis replacing the 2017 study, highlight Eel Race Road as a priority to be considered in the 5 year program between Emma and Valetta streets, which rated as 6.2 in 2017 and was subject to remediation works in 2021.

Note: The Chairperson determined to allow this motion to be substituted by the following Motion:

10.4 Response to Notice of Motion No. 18/2021 - Cr. Howe - Kananook Creek and Road Reconstruction

Moved: Cr Howe

Seconded: Cr Bearsley

That Council:

1. Endorse that Officers manage the vegetation north of Kananook Creek along Eel Race Road between the corner of Valetta Street and the corner of Whatley Street in Carrum in accordance with the recommendations in the ecological assessment;
2. That Council progress all outcomes within the existing Budget as outlined in the officer report and that the viewing platform be referred to future budget processes for consideration.
3. Note the estimated cost of \$2.2M to reconstruct Eel Race Road and that based on the condition rating and road reconstruction priority assessments across the municipality, it is not planned for reconstruction in the next 5-10 years; and
4. Endorse that points a, b, c and d in Council resolution of Notice of Motion 18/2021 – Kananook Creek and Eel Race Road Reconstruction are unable to proceed based on the outcomes of the independent environmental consultant's vegetation quality assessment report and the review of the road reconstruction priority program as outlined in this report.

CARRIED

10.5 Environment and Open Spaces Strategic Advisory Committee - Consultation Feedback on Terms of Reference

RECOMMENDATION

That Council:

1. Adopt the Terms of Reference for the Environment and Open Spaces Strategic Advisory Committee; and
2. Endorse the recruitment of community members to the Environment and Open Spaces Strategic Advisory Committee.

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

11. Corporate Services Reports

11.1 Quick Response Grants

Moved: Cr Saab

Seconded: Cr Davey-Burns

That Council:

1. Approve the following Quick Response Grant applications:
 - CUCC Kings - \$1500.00
 - Parkdale Secondary College - \$1500.00
 - Edithvale Aspendale Football Netball Team - \$1500.00
2. Approve the following application due to its urgency:
 - Heatherton RAID - \$1500.00
3. Not approve the following application:
 - Red Chamber Chinese Opera Group

Cr Eden arrived at 7.22pm

CARRIED

11.2 Informal Meetings of Councillors

RECOMMENDATION

That Council receive the report.

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

11.3 Appointment of Members to Strategic Advisory Committees

Moved: Cr Howe

Seconded: Cr Davey-Burns

That:

1. Council appoint the following people to the following Strategic Advisory Committees:

1.	Access and Equity		
	Gulay Cevik	Leonard Cubitt	Dawn Eddington
	Karen Genoe	Anne Grigg	Barry Johnstone
	Vasiliky Kasidis	Violeta Lorenza	Viki Selimi
	Carol Quayle	Yeu Wen	Yuky Wei
	Julie Buick		
2.	Active Kingston		
	Joe Astbury	Antony Falkingham	Kelly Jones
	Darren McLeod	Phil O'Meara	Bree Vallance
3.	Arts & Cultural		
	Matt Harvey	Cat Hope	Jill Page
	Joey Santos		

4.	Business and Economic Development		
	Meirav Dulberg	Sean O'Malley	Natalie Wilson
	Karen Arvidsson	Michael Harrod	Michael Keam
	Angeline Achariya	Adrienne Fleming	Matt Nichols
5.	Youth		
	Niza Yong	Meesha Salaria	Aditri Vermula
	Mark Tchernych	Joel Crothers	Monineath Seang
	Isabella (Issy) Coldbeck	Raymond Dang	Zoi Spiliopoulou
	Joe Bonnyjose	Isabella (Bella) Barker	Raegnon Braganza
	Imke Pansegrouw	Hana Northey	Gowri Rajaram
	Cece Tsan	Max Timuska-Carr	Megan Odgers
	Ryley Walley		

2. Direct contact with visual art and sculpture professionals commences immediately to appoint at least one (1) to the Art and Cultural Committee.

CARRIED

11.4 Advisory Committees Revised Terms of Reference

RECOMMENDATION

That Council adopt the Terms of Reference contained in Appendix 1 for each of the following Advisory Committees:

- Access and Equity
- Active Kingston
- Arts and Cultural
- Business and Economic Development
- Community Safety
- Youth

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

11.5 CEO Employment and Remuneration Policy and KPIs

RECOMMENDATION

That Council:

1. Adopt the revised Chief Executive Officer Employment and Remuneration Policy contained in Appendix 1; and
2. Adopt the updated Chief Executive Officer Key Performance Indicators contained in Appendix 2 and that the CEO's Contract of Employment be altered accordingly.

Note: Refer to page 4 of the Minutes where this item was resolved *en bloc*

12. Notices of Motion

12.1 Notice of Motion No. 16/2022 - Cr Oxley - Transparency in Political Donations

Moved: Cr Oxley

Seconded: Cr Eden

That Council develop a voluntary donation disclosure form for Councillors to complete that requests Councillors disclose all donations from June 2020 to present; and is to be filled in within 30 days of receiving a new donation; and that whether or not the Councillor has completed this form, along with the form is made available on the Councillor profiles on the Council website.

LOST

A Division was Called:

DIVISION:

FOR: Crs Eden and Oxley (2)

AGAINST: Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill and Saab (7)

ABSTAINED: Crs Howe and Hua (2)

LOST

13. Urgent Business

There were no items of urgent business.

Procedural Motion

Moved: Cr Saab

Seconded: Cr Davey-Burns

1. That in accordance with Rule 19 of the Governance Rules, Council change the order of business to now consider item 14.1 – VCAT Matter in the meeting open to the public and not as a confidential item;
2. That Council determine, pursuant to Section 125 of the Local Government Act 2020, to make publicly available the report of item 14.1 – VCAT Matter (except for its appendices).

CARRIED

Cr Howe left the meeting at 7.47pm

14.1 VCAT Matter

Moved: Cr Staikos

Seconded: Cr Davies

That Council determine, pursuant to Section 125 of the Local Government Act 2020, to make publicly available:

1. The following aspects of the settlement between the City of Kingston and Cavendish
 - Cavendish agrees not to commence or permit the commencement of any development of the 2018 development plans for 54 Pier One Drive and 115A McLeod Road, Patterson Lakes for a period of two (2) years from 7 March 2022.
 - The City of Kingston agrees not to exercise whatever power it might have to revoke the 2018 development plans for 54 Pier One Drive & 115A McLeod Road, Patterson Lakes.
 - The City of Kingston agrees to withdraw its declaration proceeding known as VCAT Reference P1995/2019 and as a result pay the legal costs of Cavendish associated with the proceeding in the amount of \$60,000.
2. This report (except for its appendices).

CARRIED

14. Confidential Items

Moved: Cr Saab

Seconded: Cr Davies

That in accordance with section 66(1) and 66(2)(a) of the *Local Government Act 2020*, the meeting be closed to members of the public for the consideration of the following confidential items:

14.2 Property Matter

This agenda item is confidential information for the purposes of section 3(1) of the Local Government Act 2020 because:

- it is Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released (section 3(1)(a)), and
- the report contains information regarding a potential Compulsory Acquisition of Property that if made public would jeopardise the negotiation position of Council..

Confidential Appendices

11.3 Appointment of Members to Strategic Advisory Committees

Appendix 1, Advisory Committees Applications List March 2022

This appendix is confidential in accordance with the Local Government Act 2020, s3(1) as it relates to (s3(1)(f).

11.5 CEO Employment and Remuneration Policy and KPIs

Appendix 2, CEO Key Performance Indicators Quarterly Report 2022

This appendix is confidential in accordance with the Local Government Act 2020,

s3(1) as it relates to (s3(1)(f).

CARRIED

Cr Howe returned to the meeting at 7.57pm.

The meeting was closed to members of the public at 7.57pm.

Procedural Motion

Moved: Cr Saab

Seconded: Cr Bearsley

That the meeting be opened to members of the public.

CARRIED

The meeting was opened to members of the public at 8.10pm.

The meeting closed at 8.10pm.

Confirmed.....

The Mayor 26 April 2022