

Minutes

Ordinary Council Meeting

Monday, 26th September 2022

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**City of Kingston
Ordinary Council Meeting**

Minutes

26 September 2022

The meeting commenced at 7.07pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

Present: Cr Steve Staikos (Mayor)
Cr Jenna Davey-Burns (Deputy Mayor)
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: Samantha Krull, Acting Chief Executive Officer
Dan Hogan, General Manager Customer and Corporate Support
Sally Jones, General Manager Community Strengthening
Bernard Rohan, Chief Financial Officer
Charles Turner, Acting General Manager Infrastructure and Open Space
Paul Marsden, Acting General Manager Planning and Place
Jaclyn Murdoch, Manager City Development
Julian Harvey, Manager Property Services
Kelly Shacklock, Acting Manager Governance
Stephanie O’Gorman, Governance Officer
Patrick O’Gorman, Governance Officer
Lindsay Holland, Facilities Officer

1. Apologies

An apology from Cr Bearsley was submitted to the meeting.

Moved: Cr Oxley

Seconded: Cr Hua

That the apology from Cr Bearsley be received.

CARRIED

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Hill

Seconded: Cr Davies

That the Minutes of the Ordinary Council Meeting held on 22 August 2022 be confirmed.

CARRIED

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

There were no foreshadowed declarations of conflicts of interest.

4. Petitions

There were no petitions submitted.

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5. Presentation of Awards

There were no awards presented.

6. Reports from Delegates Appointed by Council to Various Organisations

There were no delegates reports presented.

7. Question Time

There were no questions submitted.

En Bloc Resolution

Moved: Cr Oxley

Seconded: Cr Cochrane

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

- 8.1 Town Planning Application Decisions August 2022
- 10.1 Hard Waste Collection Services Review
- 10.2 CON-22/045 - Roy Dore Tennis Pavilion - Contract Award
- 11.1 CEO and General Manager Quarterly Expenses
- 11.3 Advocacy Update - September 2022
- 11.4 Quick Response Grants
- 11.5 Appointment of Member to the Access and Equity Strategic Advisory Committee
- 11.6 Authorisation of Officers - Planning and Environment Act 1987
- 11.7 Informal Meetings of Councillors

CARRIED

8. Planning and Place Reports

8.1 Town Planning Application Decisions August 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-2022/18 - 368-370 South Road, Moorabbin

It is recorded that Michael Dunn spoke on behalf of the applicant.

Moved: Cr Saab

Seconded: Cr Davies

That Council determine to support the proposal and issue a Planning Permit for the construction of a five (5) storey mixed use building, containing two (2) shops, an office and ten (10) dwellings, and a reduction in the car parking requirements at 368-370 South Road, Moorabbin, subject to the following conditions:

Amended Plans

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. The plans must be substantially in accordance with the advertised plans prepared by Cornetta Partner Architects, Job No. 21-26, Revision B dated 8 April 2022, submitted to Council on 19 April 2022, but modified to show:
 - a) A longitudinal section of the driveway ramp showing gradients, levels, distances, with headroom clearances complying with AS2890.1:2004 and the flood proof apex.
 - b) A flood proof apex at a minimum of 150mm above the existing laneway invert level for the entire laneway frontage of the subject site.
 - c) A full colour palette, finishes and building materials schedule for all external elevations and driveways of the development.
 - d) Appropriate lighting to be provided at the residential entry point.
 - e) Improved visual presentation and the use of high quality materials and finishes to the external eastern elevation, utilising a variety of architectural features, form, height variation and materials.
 - f) Improved presentation of the external western elevation (i.e. varying materials and/or colours).
 - g) Bedrooms 2 and 3 in both Dwellings 7 and 10 designed to comply with Standard D28 of Clause 58.07-2 of the Kingston Planning Scheme.
 - h) Rooftop services screened and reduced in size and height.
 - i) The provision of an amended landscape plan in accordance with the submitted landscape plan prepared by MEMLA Pty Ltd (dated 24 March 2022), with such plans to be prepared by a suitably qualified landscape professional to the satisfaction of the Responsible Authority and incorporating:
 - i. Sectional details and specifications of the proposed retaining wall on Level 1.
 - j) All relevant commitments identified within the waste management plan, required under condition 5 of this permit, shown on the plans.
 - k) All relevant commitments identified within the sustainable management plan, required under condition 6 of this permit, shown on plans.
 - l) Uniformity with the commitments and any changes identified within the acoustic report, required under condition 9 of this permit, shown on the

plans.

Endorsed Plans

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

Drainage and Water Sensitive Urban Design

3. Unless with prior written consent of the Responsible Authority, before the development commences the following integrated stormwater management (drainage) documents must be prepared, by a suitably qualified person, to the satisfaction of the Responsible Authority:
 - a) Prior to submitting detailed engineering plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
 - b) The stormwater management (drainage) strategy must include a report with MUSIC modelling results or equivalent demonstrating water sensitive urban design treatments that achieve Victorian best practice objectives. These may include the use of an infiltration or bio-retention system, rainwater tanks connected for reuse, or other treatments to the satisfaction of the Responsible Authority.
 - c) The water sensitive urban design treatments as per conditions 3(a) and 3(b) above must be implemented on-site, unless an alternative agreement for stormwater quality in-lieu contribution is reached with the Responsible Authority.
 - d) Detailed stormwater management (drainage) plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge in line with approved stormwater management (drainage) strategy report. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.
4. Stormwater (drainage) works must be implemented in accordance with the approved stormwater management (drainage) plan and to the satisfaction of the Responsible Authority including the following:
 - a) All stormwater (drainage) works must be provided onsite so as to prevent overflows onto adjacent properties.
 - b) The implementation of stormwater (drainage) detention system which restricts stormwater discharge to the maximum allowable flowrate of 4.4 L/s.
 - c) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.

Waste Management Plan

5. The endorsed waste management plan (WMP) must be implemented to the satisfaction of the Responsible Authority. The waste management plan must not be modified unless with the written consent of the Responsible Authority.

Sustainable Management Plan

6. Prior to the endorsement of the plans required pursuant to condition 1 of this permit, an amended sustainable management plan (and amended plans as relevant) must be prepared by a suitably qualified professional and submitted to and approved by the Responsible Authority. The amended sustainable management plan (and revised plans as relevant) must address the following:
- a) Meet the minimum 50% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS.
 - b) Commit to providing fixtures, fittings and appliances (dishwashers and washing machines) as part of the building fit-out if they are to be included within the BESS assessment beyond “default”.
 - c) Indicate on plans a clear commitment to achieving a 6.5-star average.
 - d) A statement in report that indicates all the minimum efficiency commitments for all systems and appliances that reflect what is in the BESS assessment.
 - e) The electric vehicle provisions are to be indicated on both plans and the green travel plan.
 - f) For the non-visible flat roofs and exposed concrete driveway, specify high SRI paints and materials (SRI>50) to help mitigate the urban heat island effect.

Or to the satisfaction of the Responsible Authority.

7. Prior to the occupation of any building approved under this planning permit, written confirmation from the author(s) or similarly qualified person or company of the endorsed sustainable management plan is to be submitted to the Responsible Authority that all of the required measures specified in the sustainable management plan have been implemented.
8. All works must be undertaken in accordance with the endorsed sustainable management plan to the satisfaction of the responsible authority. No alterations to the sustainable management plan may occur without the written consent of the Responsible Authority.

Green Travel Plan

9. The provisions, recommendations and requirements of the endorsed green travel plan must be implemented and complied with to the satisfaction of the Responsible Authority. No alterations to the green travel plan may occur without the written consent of the Responsible Authority.

Acoustic Treatments

10. The recommendations of the endorsed acoustic report prepared by Watson Moss Growcott Acoustics (reference 12883-1jg, dated March 8 2022), must be implemented to the satisfaction of the Responsible Authority. The acoustic report must not be modified unless with the prior written consent of the Responsible Authority.

Construction Management

11. Prior to 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. The construction management plan must be prepared in accordance with the City of Kingston Construction Management Policy and Construction Management Guidelines. The construction management plan must specify and

deal with, but is not limited to, the following elements:

- a) Public safety, amenity and site security.
- b) Traffic management.
- c) Stakeholder management.
- d) Operating hours, noise and vibration controls.
- e) Air quality and dust management.
- f) Stormwater and sediment control.
- g) Waste and materials re-use.

When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with during the undertaking of all works.

Infrastructure and Road Works

12. Property boundary and footpath levels must not be altered without the prior written consent from the Responsible Authority.
13. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
14. All reinstatements must be constructed to the satisfaction of the Responsible Authority.
15. All front and side fences must be contained wholly within the title property boundaries of the subject land.

Site Assessment

16. Prior to the commencement of any buildings and works on the land, the applicant must carry out a preliminary site investigation and must:
 - a) Conduct a soil and groundwater sampling program.
 - b) Implement a grid based soil sampling array (as far as reasonably practicable in relation to the current site use).
 - c) Implement a groundwater assessment program, involving at a minimum, the installation of a single monitoring well in the southern area of the site.

The recommendations of the preliminary site investigation must be implemented to the satisfaction of the Responsible Authority.

General Amenity

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 externally-located heating and cooling units, exhaust fans and the like must not be located adjacent to bedroom windows on adjoining properties and must not be located where they will be highly visible from any public area to the satisfaction of the Responsible Authority.
19. All piping, 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.

Completion of Works

20. Prior to the occupation of development hereby permitted, all buildings and

works and the conditions of this permit must be complied with to the satisfaction of the Responsible Authority, unless with the further prior written consent of the Responsible Authority.

21. Prior to the occupation of the development hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. Thereafter, the landscaping shall be maintained to the satisfaction of the Responsible Authority.

Permit Expiry

22. This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:
- a) The development is not started within two (2) years of the issue date of this permit.
 - b) The development is not completed within four (4) years of the issue date of this permit.

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: Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

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: The allocation of street numbering and addressing of properties is vested in Council. Any reference to addressing or dwelling/unit/apartment and street numbers or street names on any endorsed plan is indicative only. The onus is on the permit applicant/land owner to contact Council's property data department to determine the official dwelling/unit/apartment street numbers, street name details and the like for the approved development.

If the permit applicant/land owner adopts the street numbering or addressing from the endorsed plans, or where advertising and/or sales transact (off the plan) prior to Council's official allocation of the street numbering and addressing, it will be viewed to be non-compliant with the guideline and standard applied (Australian/New Zealand Standard for Rural and Urban Addressing / AS/NZS 4819:2011).

Note: The owner(s), occupiers and visitors of the development allowed by this permit may not be eligible for Council resident or visitor parking permits.

CARRIED

8.3 KP-2008/1120/A - 92 Tootal Road, Dingley Village

Moved: Cr Hua

Seconded: Cr Davies

That Council determine to approve the extension of time (Section 69 of the P&E Act) request for Planning Permit KP-2008/1120/A at 92 Tootal Road, Dingley Village, until 7 December 2027.

CARRIED

8.4 KP-2022/248 - 23 - 41 Simpson Road Clayton South

Moved: Cr Hua

Seconded: Cr Davies

That Council determine to support the proposal and issue a Planning Permit and endorse plans to allow alterations and additions to an existing pistol club at No. 23 – 41 Simpsons Road Clayton South, subject to the following conditions:

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Before the development commences a risk management plan relating to landfill gas and contaminated waste is to be prepared and submitted to the Responsible Authority for approval.
3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
4. 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:
 - The development is not started before two (2) years from date of this permit.
 - The development is not completed before four (4) years from the date of permit issue.
 - The use is discontinued for a period of two (2) years.

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.

CARRIED

9. Community Strengthening Reports

There were no Community Strengthening Reports.

10. Infrastructure and Open Space Reports

10.1 Hard Waste Collection Services Review

RECOMMENDATION

That Council:

1. Receive the results of the community consultation regarding hard waste service options;
2. Endorse the introduction of a new booked hard waste service in the 2023/24 financial year for residential properties with a Council kerbside waste collection service, to provide two complimentary booked hard waste collections for each property at any time in a financial year; and
3. Endorse that the revised service commences on 1 July 2023 under a new service contract.

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

10.2 CON-22/045 - Roy Dore Tennis Pavilion - Contract Award

RECOMMENDATION

That Council:

1. Receive the information and outcomes of the tender evaluation process for Contract 22/045 – Roy Dore Tennis Pavilion project, as set out in the confidential appendices attached to this report;
2. Award Contract 22/45 – Roy Dore Tennis Pavilion construction for the final adjusted fixed lump sum price of \$1,911,102.85 (excl. GST) to Ausco Modular Pty Ltd; and
3. Approve the allocation of a contingency budget allocation, as set out in the attached confidential appendix and delegate authority to the CEO, or nominee, to expend this allowance to ensure the successful completion of the project.

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

11. Customer and Corporate Support Reports

11.1 CEO and General Manager Quarterly Expenses

RECOMMENDATION

That Council receive the report.

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

11.2 Motions for the Municipal Association of Victoria State Council Meeting

Moved: Cr Davey-Burns

Seconded: Cr Saab

That Council endorse the following motions to be submitted to the Municipal Association of Victoria for consideration at the State Council Meeting:

1. Local Government Culture Taskforce:

That the MAV:

- Notes that the Local Government Culture Project Insights Report concludes that, to address cultural challenges and Councillor conduct, and bring about long-term systemic cultural change, sector-wide ownership of next steps is required.
- Notes that the Local Government Culture Project Insights Report identified an opportunity for improving diversity and representation in local government, therefore greater advocacy and prioritisation sector wide of gender equality will contribute to long term cultural change.
- As a key component of cultural change, endorses the view that we, as Councillors, are accountable and responsible for creating a safe and healthy working environment, in the same way as all local government employees.
- Establishes a Local Government Culture Taskforce to achieve sector-wide ownership and agreement of the issues with respect to local government culture, and actions to address these issues; and that:
 - the Taskforce comprise representatives of the MAV, VLGA, ALGWA, LGPro, Gender Equality Advisory Committee (GEAC), Rural Councils Victoria (RCV) and other relevant local government stakeholders, including Councillors from the sector;
 - The Taskforce identify short-term recommendations to address issues of councillor conduct by early-2023, and circulate these to the sector for feedback;
 - the Taskforce develop medium to long-term recommendations for change ahead of the 2024 Victorian local government elections, and that these be circulated to the sector for feedback; and
- Writes to the Minister for Local Government to request that the Minister and Local Government Victoria work proactively in partnership with the MAV and the sector to respond to recommendations and continually improve the legislation and regulations governing Councils and Councillors to ensure:

- effective and timely dispute resolution processes, including standardised paths for breaches of a Council's Code of Conduct; and
- a sector-wide culture of creating safe and healthy workplaces for Councillors and Council staff.

2. Building Reform – Regulatory Impact / Sector Engagement

That the MAV urgently request the Victorian Government to:

- Release the Building Reform Expert Panel Report
- Release any regulatory impact / risk assessment(s) completed to support any changes envisaged to the Building Act and Building Regulations that would be likely to have an impact on the Local Government sector.
- Outline the Governments planned engagement strategy with the Local Government sector which provides for robust consideration and effective resolution of the following:
 - Implications with respect to the availability of securing sufficient qualified Building Surveyors and Building Inspectors to undertake any transferred functions across all Victorian Councils;
 - Ability of Councils to provide the additional technical and administrative functions within the constraints already imposed by the rate cap;
 - Availability of insurance cover to complete any regulatory functions that have been largely privatised since the deregulation of the Building Sector; and
 - The implications of any changes that would bring about a highly dispersed service model across the diverse Victorian Councils to effectively meet the servicing demands of the construction sector and its consumers.

CARRIED

11.3 Advocacy Update - September 2022

RECOMMENDATION

That Council receive the September Advocacy Update report.

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

11.4 Quick Response Grants

RECOMMENDATION

1. That Council approve the following Quick Response Grant applications:
 - Bolton Clark (Royal District Nursing Service) - \$500.00
 - Aspendale Senior Citizens (first application) - \$1500.00
 - Chelsea Heights Kindergarten - \$1352.89
 - Chelsea Community Church of Christ Inc - \$1000.00
2. That Council not approve the following Quick Response Grant application:
 - Aspendale Senior Citizens (second application) - \$1500.00
 - Anglo-Indian Australasian Association of Victoria Inc - \$1500.00

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

11.5 Appointment of Member to the Access and Equity Strategic Advisory Committee

RECOMMENDATION

That Council appoint Claire Emmanuel to the Access and Equity Strategic Advisory Committee.

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

11.6 Authorisation of Officers - Planning and Environment Act 1987

RECOMMENDATION

That:

1. In the exercise of the powers conferred by s147(4) of the *Planning and Environment Act 1987*, Kingston City Council resolves that the member of Council staff referred to in the instrument attached (refer to appendix) be appointed and authorised as set out in the instrument.
2. The instrument come into force immediately on resolution and remain in force until such time as the officer is no longer employed, contracted or otherwise engaged to undertake the duties on behalf of Kingston City Council, unless Council determines to vary or revoke it earlier.

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

11.7 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*.

11.8 Probity Review Implementation

Moved: Cr Oxley

Seconded: Cr Staikos

That Council receive the report and write to the Victorian Ombudsman advising of the completion of the probity review recommendations.

CARRIED

12. Chief Finance Office Reports

There were no Chief Finance Office Reports.

13. Notices of Motion

13.1 Notice of Motion No. 23/2022 - Cr Oxley - Edithvale Wetlands Pedestrian Path Flooding

Moved: Cr Oxley

Seconded: Cr Eden

That:

1. Council prioritise remedial works to improve the drainage issues along the Edithvale Road Wetlands Walking Path as outlined to the community in 2021.
2. Council advocate to the local member and candidates for support and funding to bring forward the planned raised boardwalk.
3. Council advocate to the relevant state bodies (where applicable) to improve the drainage conditions in the surrounding area of the wetlands and road.
4. Council review this item and urgently consider bringing this line item forward at the mid-year budget review.
5. The white path is to remain in place until other remedial measures are undertaken.

CARRIED

14. Urgent Business

There were no items of urgent business.

15. Confidential Items

Moved: Cr Saab

Seconded: Cr Davey-Burns

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:

15.1 Proposed Lease

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, and because it is private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage, and because it is confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) (section 3(1)(a), (g(ii)) and (h)), and
- The report contains confidential resolutions of Council and commercially sensitive information relating to lease negotiations that premature release may jeopardise the positions of Council and its tenant.

15.2 CEO Employment Matters

**City of Kingston
Ordinary Council Meeting**

Minutes

26 September 2022

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

- because it is personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs (section 3(1)(f)), and
- the explanation as to why the specified ground/s applies is that it deals with employment conditions between the Council and the Chief Executive Officer.

Confidential Appendices

10.2 CON-22/045 - Roy Dore Tennis Pavilion - Contract Award

Appendix 1, Tender Evaluation Scoring Matrix - Roy Dore Tennis Pavilion

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

10.2 CON-22/045 - Roy Dore Tennis Pavilion - Contract Award

Appendix 2, CON 22/045 - Cost Breakdown

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

11.5 Appointment of Member to the Access and Equity Strategic Advisory Committee

Appendix 1, Advisory Committee Interview Evaluation Sheet - Claire Emmanuel

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

Cr Howe left the meeting at 8:09pm.

Cr Eden left the meeting at 8:09pm.

CARRIED

The meeting was closed to members of the public at 8.09pm.

Procedural Motion

Moved: Cr Oxley

Seconded: Cr Saab

That the meeting be opened to members of the public.

CARRIED

The meeting was opened to members of the public at 8.23pm.

The meeting closed at 8.23pm.

Confirmed.....

The Mayor 24 October 2022