

Minutes

Ordinary Council Meeting

Monday, 25th September 2023



City of
KINGSTON

community inspired leadership

**City of Kingston
Ordinary Council Meeting**

Minutes

25 September 2023

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The meeting commenced at 7.02pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

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

In Attendance: Peter Bean, Chief Executive Officer
Paul Marsden, Acting General Manager Planning and Place
Samantha Krull, General Manager Infrastructure and Open Space
Sally Jones, General Manager Community Strengthening
Bernard Rohan, Chief Financial Officer
Kelly Shacklock, Manager Governance, Risk and Integrity
Stephanie O’Gorman, Team Leader Council Governance
Ellie Lockard, Governance Officer
Alfred Carnovale, Manager City Development

1. Apologies

Apologies from Cr Bearsley and Cr Howe were submitted to the meeting.

Moved: Cr Davies

Seconded: Cr Hill

That the apologies from Cr Bearsley and Cr Howe be received.

CARRIED

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Staikos

Seconded: Cr Davies

That the Minutes of the Ordinary Council Meeting held on 28 August 2023 and the Special Council Meeting held on 11 September 2023 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

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6. Reports from Delegates Appointed by Council to Various Organisations

There were no delegates reports.

7. Question Time

Question Time was held at 7.30pm. Refer to page 7 of the Minutes.

8. Planning and Place Reports

8.1 Town Planning Application Decisions - August 2023

Moved: Cr Davies

Seconded: Cr Hill

That the report be noted.

CARRIED

**8.2 KP-2023/76 - The Wannarkladdin Wetlands (Lot 1 on Title Plan 409790A),
Bonbeach**

Moved: Cr Staikos

Seconded: Cr Davies

- 1.1 That Council determine to support the proposal and issue a planning permit for **the removal of native vegetation at The Wannarkladdin Wetlands (Lot 1 on Title Plan 409790A), Bonbeach VIC 3196**, subject to the following conditions:

Endorsed Plans

1. The extent of works (removal of native vegetation) as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Vegetation Removal

2. Prior to the commencement of any buildings and work, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.
3. In order to offset the permitted clearing of native vegetation in accordance with *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017), the permit holder must secure a minimum offset amount of 0.032 general habitat units. The species nominated for the offset must be located within the Port Phillip and Westernport Catchment Management boundary, or Kingston municipal area, with a minimum strategic biodiversity score of at least 0.340.
4. Prior to the removal of any native vegetation, evidence must be provided that the offset, required by condition 3 has been secured, to the satisfaction of the Responsible Authority. This must be evidenced by:
 - a. An established first party offset site including a security agreement signed by both parties, and a management plan detailing the ten (10) year

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management actions and ongoing management of the site; and/or

- b. Credit extract(s) 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 permit.

5. Within thirty (30) days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Environment, Land, Water and Planning, Port Phillip regional office.
6. Should the offset include a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of ten (10) consecutive years. After the tenth (10th) year, the landowner must provide a report at the reasonable request of a statutory authority.
7. Within six (6) months of the conclusion of the permitted clearing of native vegetation pursuant to this permit, the offset requirements may be reconciled with the written agreement of the Responsible Authority and the Department of Environment, Land, Water and Planning.
8. Prior to the commencement of any buildings and works, a native vegetation protection fence must be erected around the perimeter of the area of native vegetation to be removed on site. The protection fence must be constructed of chain mesh, or similar to the satisfaction of the Responsible Authority.
9. The native vegetation protection fence must remain in place until all works are completed, to the satisfaction of the Responsible Authority.
10. Except with the written consent of the Responsible Authority, within the area of native vegetation to be retained and any associated tree protection zone, the following are prohibited:
 - a. Vehicular or pedestrian access.
 - b. Trenching or soil excavation.
 - c. Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products.
 - d. Entry and exit pits for underground services.
 - e. Any other actions, works or activities that may result in adverse impacts to native vegetation that is to be retained.

Permit Expiry

11. 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 works (removal of native vegetation) is not started within two (2) years from the date of permit issue.
 - The works (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*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

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- Note:** The Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.
- Note:** Prior to the commencement of works, you are required to obtain any necessary building permit(s), where relevant.
- Note:** The permit holder must provide a copy of this planning permit to any appointed building surveyor. It is the responsibility of the permit holder and building surveyor to ensure that all works approved by any building permit is consistent with the planning permit, including extent of native vegetation to be removed.
- Note:** The permit holder must provide a copy of this planning permit and any endorsed plans to any external contractor(s) to ensure that all vegetation (including native vegetation) to be retained on site are protected during any works.
- Note:** Before removing / pruning any vegetation (including native vegetation) from the site, the permit holder or any contractor engaged should consult Council's vegetation management officer to verify if a Local Laws permit is required for the removal of such vegetation.
- 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

8.3 Urban Forest Strategy - For Adoption

Moved: Cr Hill

Seconded: Cr Staikos

That Council:

1. Note the results of the public consultation on the draft Urban Forest Strategy.
2. Note the changes to the Urban Forest Strategy as a result of the public consultation.
3. Adopt the final Kingston Urban Forest Strategy (Appendix 2).

Amendment

Moved: Cr Oxley

That Council:

1. Note the results of the public consultation on the draft Urban Forest Strategy.
2. Note the changes to the Urban Forest Strategy as a result of the public consultation.
3. Adopt the final Kingston Urban Forest Strategy (Appendix 2).
4. Receive an implementation status report in 12 months' time.

The Amendment was accepted by the Mover and Seconder of the Substantive

Motion as an alteration to the Substantive Motion.

The Motion was CARRIED

8.4 Prioritising Stormwater Treatment & Reuse Projects at Council Reserves

Moved: Cr Staikos

Seconded: Cr Davey-Burns

That Council:

1. Note the Council reserves that are prioritised for installing stormwater treatment and reuse projects.
2. Approve the withdrawal of \$80,000 from Council's Stormwater Quality Reserve Fund (being the account holding the stormwater quality in-lieu contributions paid by developers) for the purpose of progressing the detail design and investigations of stormwater treatment and reuse projects, with the project at G. R. Bricker Reserve in Moorabbin being the highest priority.
3. Note that an updated version of Kingston's stormwater quality in-lieu contributions policy will be prepared for future Council endorsement.

CARRIED

Question Time

Daniel Byrne of Moorabbin asked,

Will the council consider changing or trailing the Waves Swimming Pool Health Club opening times to 5am Mon-Fri and 6am Sat? Possibly over daylight savings or at end of daylight savings when peoples bodies are already adjusted to the one hour difference and can utilise that time to their autumn/winter fitness goals and go home to organise their private lives. The Waves Health Centre is in a prime position to market its facilities. Thank you for your time.

General Manager Infrastructure & Open Space provided the following response,

Thank you for your question. We have experienced very little demand or requests to alter the hours of operation at Waves. In addition, the design of the building does not allow direct access to the gym (Health Club) to accommodate before hours entry for this area specifically. Given this, the entire facility would need to be opened earlier. This would require additional staff resources in reception, pool operations as well as the gym. As part of the new aquatic and leisure facility development in Mordialloc, we will be undertaking operational modelling including opening hours, and Waves will be part of this process as well

Rosemary West of Edithvale asked:

Question 1:

Why has Council apparently dropped the three for one rule for tree replacement for all practical purposes, reducing it to a mere advocacy item for major transport projects and residential or industrial developments? (Pp. 57, 84, UFS)

Question 2:

As the State Government has removed Council's powers to determine major transport residential and economic projects, does this mean Council is no longer committed to implementing this part of its Climate Change and Ecological Emergency resolution?

The Acting General Manager Planning and Place provided the following response,

Thank you for your questions Ms West.

In relation Question 1, Council has sought to give statutory weight to the 'three for one' tree replacement requirement through its adopted Housing Strategy and Neighbourhood Character Study. At its Special Council Meeting on 14 August 2023 Council adopted Planning Scheme Amendment C203 which seeks to implement the Housing Strategy and Neighbourhood Character Study. The Amendment includes the introduction of local planning policy content at Clause 15.01 requiring the consideration of three replacement trees for every tree removed. Council is currently awaiting the Minister for Planning's approval of the Amendment. In relation Question 2, Council's advocacy to State Government in relation the Suburban Rail Loop Project and Level Crossing Removal Projects has sought the provision of three replacement trees for every tree removed. Most recently this has occurred through Council's adopted Parkdale Urban Design Framework and design advocacy in relation the Suburban Rail Loop Project in 2021. Council's implementation of its Housing Strategy and Neighbourhood Character Study through Amendment C203 seeks to introduce new policy content in the Kingston Planning Scheme requiring consideration of three replacement trees for every tree removed. If approved by the Minister for Planning, this would apply to new development across Kingston.

May asked,

In a frequently asked questions on Victoria State Government, Naming Authorities must use these rules which are based on National Standard. They help ensure that places are named in a standardised way, to avoid confusion, errors and discrimination. This is vital for assisting emergency services and ensuring public safety. So the 'Naming Authorities' comes from (SDGs) United Nations Sustainable Development Goals. So here's no democratic decision by residents. There is no aboriginal elders advice. Is this orders from WEF (World Economic Forum, Yes or No? Yes, it creates confusion. Yes it creates discrimination. Yes it creates errors. Yes it creates public danger. Yes its spending tax money on something not essential. Yes its not democratic. Yes there is no Aboriginal (original) involvement. Yes you just follow WEF orders.

The Chief Finance Officer provided the following response,

No. In naming places and streets Council complies with Geographic Names Victoria naming rules and Council's Naming of Places Policy. This provides a framework to ensure that Council follows a consistent, fair and equitable process when investigating and determining naming proposals for features and localities within the City of Kingston.

Tim asked,

In your last response you said that sea level was rising every year at 3.3mm from 1993 – 2023, 30years times 3.9mm is 99cm. I live in Melbourne for forty years and sea levels are the same at lowest and highest tide. Can you please prove the 1m rise in sea level in Melbourne beaches without relying on second information, just for evidence by photos and sending to residents and some links and websites?

The Action General Manager Planning and Place provided the following response,

The CSIRO has documented satellite measurements of global sea level which have been made since late 1992. This data has shown a more-or-less steady increase in Global Mean Sea Level (GMSL) of around 2.8 – 3.6 mm per year over that period.

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Mark asked,

When Councillors read questions/answers can you please read more loudly and use higher volume microphone. We can't hear you – not in the public gallery, not on Zoom. P.S. If it's too difficult for you, we can read by ourselves better.

The Chief Executive Officer provided the following response,

We are more than happy to read the answers out and we will make our best endeavours to read them out as loudly as we can.

Mary asked

Before declaring climate and ecological emergency could you please show us that humans emissions of carbon dioxide caused global warming? P.S. this is a fundamental problem of global warming narrative.

The Acting Manager Planning and Place provided the following response,

In January 2020 Kingston declared a Climate and Ecological Emergency. Council subsequently adopted its Climate and Ecological Emergency Response Plan in July 2021. Victoria's Climate Science Report (2019) describes a set of climate projections featuring high-resolution climate change simulations developed by CSIRO's Climate Science Centre (CSC). These projections describe in detail how the regional climate of Victoria is likely to respond to global warming with different scenarios of human induced greenhouse gas emissions.

John asked,

What is a net zero? If we will have net zero, in other words if we don't release carbon dioxide we wouldn't eat because when we eat we convert carbon dioxide compounds that goes into our body and the rest you get rid of. We breathe in 0.4% of carbon dioxide and breathe out 4%. That's how we get rid of carbon dioxide, so if we'll have net zero you'll have to drop dead. The Acting General Manager Planning and Place provided the following response, 'Net zero emissions' can be defined as achieving an overall balance between greenhouse gas emissions produced and greenhouse gas emissions taken out of the atmosphere. The City of Kingston has adopted a target of Net Zero organisational emissions by 2025.

Svetlana asked,

I got the Kingston Council letter and on the envelope I see 'Bunurong Country' – I think you mean 'Melbourne'. I have lived in Melbourne for over 30 years and am surprised to see that Council has renamed the address without informing the community and residents of this change. I'm asking Kingston Council – are you going to do the same here in Melbourne? Creating confusion and spending (wasting) money on useless renaming?

The Chief Finance Officer provided the following response,

The reference to Bunurong Country on Council's envelopes was introduced by Council in mid-2021 – Council has not changed the name of the City of Kingston but has simply added an additional line of information to our envelopes to acknowledge the area's traditional owners and raise general community awareness. Council is strongly committed to Reconciliation as articulated in Council's Reconciliation Action Plan. In naming places Council complies with Geographic Names Victoria naming rules and Council's Naming of Places Policy. Consultation is a key component in the process of naming and renaming features and localities. Where Council is a naming authority, it is required to consult in accordance with the Naming Rules.

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Wandzia asked,

In its 2023/24 Budget, Kingston Council is spending \$100,000 on ‘Smart City Initiative – Foreshore Parking Sensors’. Are these ‘sensors’ in fact camera surveillance with facial and number plate recognition? Where is this surveillance data being processed? Is this data being processed by an Australian based company or is the data being outsourced processed in China or some other foreign country?”

General Manager Infrastructure & Open Space provided the following response,
The sensors are not cameras for number plate recognition. They are only to provide an indication of parking bays available in the carpark. No data is recorded.

Cr Cochrane left the meeting at 7.30pm.

Cr Hill left the meeting at 7:34pm.

Cr Cochrane returned to the meeting at 7.35pm.

Cr Hill returned to the meeting at 7:37pm.

9. Community Strengthening Reports

9.1 Commercial Use of Council Land applications - November 2023 - December 2024

Moved: Cr Hill

Seconded: Cr Staikos

That Council:

1. Note the three applications for single day Commercial events:
 - The Fifth Makers Market – Bicentennial Park, Chelsea
 - Picnic in the Park – George Woods Reserve, Mordialloc
 - Smalltown – Keys Road Reserve, Moorabbin
2. Endorse the application for the Mordialloc Summer Carnival to be held at Peter Scullin Reserve, Mordialloc from Tuesday 26 December 2023 – Sunday 28 January 2024

Cr Eden left the meeting at 7:42pm

CARRIED

9.2 Reconciliation Action Plan Progress Report 2

Moved: Cr Davey-Burns

Seconded: Cr Davies

That Council:

1. Note the achievements of the Reconciliation Action Plan 2022-2024 implementation from January to June 2023.
2. Endorse extending the Innovate Reconciliation Action Plan 2022-2024 for an additional 12 months.

Cr Eden returned to the meeting at 07:45pm

CARRIED

10. Infrastructure and Open Space Reports

10.1 Contract Award CON 23/081 - Public Toilet Cleaning Services

Moved: Cr Davey-Burns

Seconded: Cr Staikos

That Council:

1. Award Contract CON 23/081 – Public Toilet Cleaning Services to Alpha Corporate Property Services to a maximum contract value of \$2,576,611.80 (GST exclusive) for a period of four (4) years plus the two (2) years extension options, inclusive of both Lump Sum and Schedule of Rates components in accordance with their tendered rates; and
2. Authorise the Chief Executive Officer, or delegated authority, to execute the two (2), one (1) year optional contract extensions subject to satisfactory performance.

CARRIED

10.2 Contract Award CON 23/082 - BBQ & Picnic Amenities Cleaning Services

Moved: Cr Staikos

Seconded: Cr Davies

That Council:

1. Award Contract CON 23/082 BBQ & Picnic Amenities Cleaning Services to Alpha Corporate Property Services to a maximum contract value of \$916,238.16 excl GST for a period of four (4) years, inclusive of the two (2) one (1) year extension options, and inclusive of both Lump Sum and Schedule of Rates components; and
2. Authorise the Chief Executive Officer, or delegated authority, to execute the two (2), one (1) year optional contract extensions subject to satisfactory performance.

CARRIED

11. Customer and Corporate Support Reports

11.1 CEO and General Manager Quarterly Expenses

Moved: Cr Staikos

Seconded: Cr Hill

That Council receive the report.

CARRIED

11.2 Advocacy Update

Moved: Cr Davies

Seconded: Cr Cochrane

That Council receive the September 2023 Advocacy Update report.

CARRIED

11.3 Quick Response Grants

Moved: Cr Davies

Seconded: Cr Staikos

That Council approve the following Quick Response Grant applications:

- Unified Filipino Elderly Association Inc. - \$1500.00
- Bayside Community Information and Support Service Inc - \$550.00
- Multicultural Nature Guides Victoria Inc. - \$1500.00
- Mordialloc Bowls Club Inc. - \$1250.00
- Heatherton Football Netball Club - \$1500.00
- Mentone Public Library - \$1500.00
- Mordialloc College Alumni Association Inc. - \$1500.00

That Council not approve the following Quick Response Grant application:

- Clarinda Seniors Social Group

CARRIED

11.4 Governance Rules

Moved: Cr Staikos

Seconded: Cr Davies

That Council, having considered feedback from community consultation, adopt the Governance Rules as amended (refer Appendix 1), which will take effect from 26 September 2023.

Note: Cr Oxley requested through the Chairperson and was granted an extension of time to speak on the matter.

CARRIED

11.5 Kingston Performance Report, Quarter Four, April to June 2023

Moved: Cr Staikos

Seconded: Cr Hill

That Council note the status and commentary of the actions and strategic indicators for Quarter Four (April to June 2023).

CARRIED

11.6 Governance and Compliance Report

Moved: Cr Davies

Seconded: Cr Cochrane

That Council:

1. Receive the Informal Meetings of Councillors Records as attached in Appendix 1
2. Receive the Minutes of the Audit & Risk Committee meeting that was held on 17 August 2023 as attached in Appendix 2.
3. Revoke the following five policies:
 - Deputy Mayor Position Policy
 - Use of Office Based Meeting Rooms Policy
 - Smokefree Environment in Council Owned and Managed Buildings Policy
 - Maintenance of Private Roads Policy
 - Naming of Streets Policy
4. Approve an additional contingency amount of up to \$217,000 (exclusive of GST) to complete Contract 21/055 – Kinross Avenue, Keith Avenue & Montrose Avenue, Edithvale Drainage Construction and Road Reconstruction

CARRIED

12. Chief Finance Office Reports

12.1 Adoption of the Annual Statements to 30 June 2023

Moved: Cr Davey-Burns

Seconded: Cr Cochrane

That Council:

1. Note the recommendation from Council's Audit & Risk Committee;
2. Adopt the 2022/23 Annual Performance Statement and Annual Financial Report (Annual Financial Statements) as Council's "in principle" statements for 2022/23;
3. Authorise Cr Saab (Mayor), Cr Hill (Deputy Mayor), and Peter Bean (Chief Executive Officer) to sign the final:
 - 3.1. 2022/23 Annual Financial Statements;
 - 3.2. 2022/23 Performance Statement
4. Authorise Cr Saab (Mayor) and Peter Bean (Chief Executive Officer) to sign the Governance and Management Checklist.

CARRIED

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12.2 2022/23 Budget Outcome

Moved: Cr Hill

Seconded: Cr Staikos

That Council approve the Capital Budget carryover of \$16 million from financial year 2022/23 to 2023/24, noting that this amount is:

1. \$3.1 million above the existing approved budget
2. recommended to be funded from:
 - unspent capital funding from 2022/23 of \$12.9 million
 - 2022/23 Surplus \$1.5 million
 - Reserve drawdown \$1.2 million
 - Capital Reserve \$0.4 million.

CARRIED

13. Notices of Motion

13.1 Notice of Motion No. 26/2023 - Cr Howe - Beauty Spot Sculpture

Moved: Cr Saab

Seconded: Cr Davies

That Council does not proceed with the sculpture selection at the beauty spot, proceeding to review and select an alternative sculpture from submissions immediately, as the industrial sculpture is completely inappropriate with no connection to the coastal culture and landscape.

Procedural Motion

Moved: Cr Oxley

Seconded: Cr Hua

That this item be deferred to a future Ordinary Council Meeting.

LOST

A Division was Called:

DIVISION:

FOR: Crs Eden, Hua and Oxley (3)

AGAINST: Crs Staikos, Cochrane, Davies, Hill and Saab (5)

ABSTAINED: Crs Davey-Burns (1)

LOST

The Substantive Motion was put and LOST

A Division was Called:

DIVISION:

FOR: Nil (0)

AGAINST: Crs Staikos, Davey-Burns, Cochrane, Davies, Hill and Saab (6)

ABSTAINED: Crs Eden, Hua and Oxley (3)

LOST

14. Urgent Business

There were no items of urgent business.

15. Confidential Items

Moved: Cr Staikos

Seconded: Cr Hua

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 Kingston Heritage Review - Stage 1 Findings

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

- because it is land use planning information, being information that if prematurely released is likely to encourage speculation in land values (section 3(1)(c)), and
- the explanation as to why the specified ground/s applies is due to the report's discussion of heritage significant properties within Kingston..

15.2 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, and because it is private commercial information, being information provided by a business, commercial or financial undertaking (section 3(1)(a) and (g)), and
- This report relates to a property transaction and includes sensitive information regarding the value of the property in question.

Confidential Appendices

9.1 Commercial Use of Council Land applications - November 2023 - December 2024

Appendix 1, Commercial Event EOI 2023/24 - Mordialloc Summer Carnival Proposal

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

CARRIED

The meeting was closed to members of the public at 8.33pm.

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Procedural Motion

Moved: Cr Staikos

Seconded: Cr Hua

That the meeting be opened to members of the public.

The meeting was opened to members of the public at 9.25pm.

The meeting closed at 9.25pm.

Confirmed.....

The Mayor 23 October 2023