

Minutes

Ordinary Council Meeting

Monday, 11th December 2023

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**City of Kingston
Ordinary Council Meeting**

Minutes

11 December 2023

The meeting commenced at 7.05pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

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

In Attendance: Peter Bean, Chief Executive Officer
Jonathan Guttmann, General Manager Planning and Place
Dan Hogan, General Manager Customer and Corporate Support
Samantha Krull, General Manager Infrastructure and Open Space
Bernard Rohan, Chief Financial Officer
Kate Waters, Acting General Manager Community Strengthening
Alfred Carnovale, Manager City Development
Kelly Shacklock, Manager Governance, Risk and Integrity
Patrick O’Gorman, Governance Officer
Gabrielle Pattenden, Governance Officer

1. Apologies

There were no apologies submitted to the meeting.

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Staikos

Seconded: Cr Davies

That the Minutes of the Ordinary Council Meeting held on 20 November 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. Delegates' Reports

Nil

Councillor Statements

Cr Staikos acknowledged the recent passing of Mavis Hutter and the significant contributions she has made to the Kingston community. Council extends its condolences to Mrs Hutter's family.

Cr Saab:

- Acknowledged the work of Council staff in ensuring the success of the recent Carols by Kingston event.
- Provided an overview of the final meeting of the South East Councils Climate Change Alliance (SECCCA) for the year and congratulated Cr Hill on his appointment as Deputy Chair.
- Acknowledged the rollout of the Bins for Blokes initiative by Continence Foundation of Australia.
- Recognised the upcoming 40th Anniversary of the Circolo Pensionati Italiani di Oakleigh e Clayton and acknowledged their work in the community.

Cr Oxley congratulated the Bonbeach Bluejays who recently played their first game under newly installed lights.

Presentation of Awards

Nil

6. Question Time

Question time was held at 7.21pm.

Note: Some questions have been edited and/or the preamble removed for the purpose of complying with the Governance Rules.

Cr Oxley left the meeting at 7:33pm.

Cr Oxley returned to the meeting at 7:35pm.

Cr Hill left the meeting at 7:39pm.

Cr Cochrane left the meeting at 7:40pm.

Cr Hill returned to the meeting at 7:40pm.

Cr Cochrane returned to the meeting at 7:42pm.

Daniel asked,

“Will the Council consider opening the Waves Leisure Centre Swimming Pool Section at 05:00 as a special membership and or general entry for a period of time to test marketing of such a vital asset to the community?”

The General Manager Infrastructure and Open Space provided the following response:

“The current design of Waves does not allow for designated areas to open in isolation from other facility spaces, as such the entire facility would need to consider an earlier opening. This would require additional staff resources in reception, pool operations and the gym. Consultation to measure demand and impact on membership products and access would also be required. To date, there have been little to no enquiries or requests for a change to the hours of operation. As part of the new facility development, we will be undertaking operational modelling, including opening hours, and Waves will be part of that review.”

Sascha asked,

“Question 1: What is the total amount of accumulated surplus (revenue generated over years, less expenses) currently held by Council?”

Question 2: Which section(s) of the Local Government Act 2020 provide the council power to use ratepayer generated revenue (or any moneys) to take a public stance on Federal political issues?”

The Chief Finance Officer provided the following response:

“Question 1: For the 2022/23 financial year, the reported surplus was \$32.7 million. Please note that the surplus is inclusive of items such as capital grants and contributions where the revenue to council is utilised in the delivery of the capital works program and not as operating expenditure. The reported accumulated surplus across the history of the City of Kingston was \$1.5 billion, which is shown on the balance sheet and has been built up over a number of years and contributed to the \$3 billion total asset base of Council.

Question 2: Under Section 9(f) of the Local Government Act 2020, A Council must in the performance of its role give effect to the overarching governance principles. These principles include (f) collaboration with other Councils and Governments and statutory bodies is to be sought. More broadly, under Section 10 of the Local Government Act 2020 the ‘General power’ of Council includes the power to do all things necessary or convenient to be done in connection with the performance of its role.”

Graeme asked,

“Is it fair to say that the residents of Kingston are paying most (69.9%) of their actual huge rate bills mainly to keep you and the 1071 full time and part time servants of Kingston Council employed in a job and superannuated?”

The Chief Finance Officer provided the following response:

“Total revenue from rates and charges included in the 2023/24 budget is \$166.9 million. The revenue from rates significantly contributes to funding the delivery of Council Services and the Capital Works Program. The break-down of Council’s budgeted service costs in 2023/24 is shown across pages 25-44 of the budget document and the capital works program is shown on page 51. This information is accessible on the Council website.”

Roslyn asked,

“In your financial report ending 30 June 2023 – note 6, point 6.2 it is stated that the land under all, or some roads in Kingston Council and is listed as an asset of Kingston council. In the budget it is worth \$486,924,000. Can Kingston council prove it has legal title to this land under our roads? Where is the title?”

The Chief Finance Officer provided the following response:

“Subject to any Native Title, land in Victoria is usually divided between Crown Land in the right of the State and private land. Crown land can be either reserved or unreserved. Parts of Crown land can be reserved for the purpose of roads. Crown roads remain the property of the Crown and local roads are usually managed by the local councils (as per the Road Management Act 2004 (Vic)). Further, private land sold by the Crown can be subdivided. These subdivisions may create roads. Roads subdivided from private land prior to 1988 could remain in the names of old owners/developers or be in the name of councils, but in or around 1988 / 1989 changes to the Subdivision and local government legislation provided that roads and public highways could vest in municipal Councils. The ownership of land under roads therefore effectively relates to the classification and operational responsibility of the related local road assets. Titled ownership is not the requirement for accounting standards in preparing annual reports – the land under roads is deemed to be controlled.”

Deborah asked,

“Much has been written on the topic of your walking and Cycling Plan proposed in the agenda for Kingston’s 20 minute city. Why is Council so heavily invested in changing people’s behaviour around the way they move in their neighbourhood? Can Council assure its residents that it will not bring in 30km an hour zones?”

The General Manager Infrastructure and Open Space provided the following response:

“The Walking and Cycling Plan focuses on enhancing Kingston’s accessibility for walking and cycling, recognising that these modes often constitute the final part of people’s journeys. Other modes of travelling such as vehicle trips are also considered when designing walking and cycling improvement projects. As part of Council’s traffic and transport operation we work with the community to improve the experience for road users with different levels of mobility and to address the needs of the broader community through a balanced approach. There is currently no plan to introduce 30km/h speed limits in Kingston. Any potential speed reduction would involve engagement with the community and other relevant stakeholders such as the Police, emergency services and the Department of Transport and Planning to ensure practicality and enforceability.”

Elena asked,

“Can all of the questions please be entered into the minutes directly as they are written on the forms which you get from the public and/or as they appear written online, even if you are unable to answer them completely on the night please?”

The General Manager Customer and Corporate Support provided the following response,

“Any submissions to Public Question Time within the Council Meeting agenda must comply with the rules and limitations as set out within Council’s Governance Rules, which are available online. Currently, most submissions are not in accordance with the Rules, and are therefore often excluded or modified in order to comply. Preambles, statements and assertions are routinely ruled out of order, and many submissions

exceed the limit of two questions per person only. The minutes of a Council meeting are guided by our Governance Rules, recording some things, but not all things, that occur within a Council meeting. Council minutes are not intended to act as a record of public question submissions - particularly of those parts and questions not read out or responded to. Therefore, Council will not include Public Question submissions verbatim into the Minutes of Council Meetings."

Julia asked,

"Can you please tell me how much Kingston Council spent – all spending – towards promoting the 'YES' campaign at the recent Voice referendum? Please quantify in detailed dollar terms all that spending and energy which was put into that 'YES' campaign?"

The General Manager Community Strengthening provided the following response,

"Council did not undertake any activities to promote the 'YES' campaign. At the Council Meeting in January 2023, Council resolved to provide opportunities to raise awareness and inform the community about the referendum which included information sessions and the provision of printed and online information. Councillors recognised that Council should not tell the community how to vote but rather provide opportunities for them to make an informed decision when they vote."

Wandzia asked,

"Can you please fix the audio quality and sound in the public gallery area so that people who have made the effort to come can hear."

The General Manager Customer and Corporate Support provided the following response

"We will look into this issue again and take any reasonable steps to try and improve the sound level and quality for you."

Deborah asked,

"In the Walking and Cycling Plan 2023-2028 Programs and Projects Appendix 1 you write "Monitoring of pedestrian and cycle use across the networks is important in understanding trends in use. Council will investigate ways to better monitor walking and cycling patterns." Can you explain how you will monitor walkers and cyclists please? What kind of technology are you going to use to do this?"

The General Manager Infrastructure and Open Space provided the following response:

The methodology used to collect data for cyclists is through permanent bicycle counters which consist of induction loops located on key cycle routes. These are common throughout Melbourne. They are detectors that count the bicycles only and are not able to identify individuals. They are similar to the loops located at traffic signals. Pedestrian numbers are obtained using pedestrian counters or physical counts. All methodology used does not enable individuals to be identified.

Tony asked,

"Mentone retail precinct is rundown, has a number of vacant shops and parts of it are an eyesore. The Mentone Renaissance project did very little to make the area vibrant or rejuvenate it. What is council's economic department doing about this, and when will Council improve this retail strip?"

The General Manager Planning and Place provided the following response

“When considering the level of expenditure across other Kingston Shopping Centres, the Mentone Shopping Centre has received substantial funding over recent years through contributions made by Council to the Level Crossing Removal Works to create the Heritage Bridge to Balcombe Road and Station Gardens and to create new public spaces around Florence Street in Mentone. The Council is also planning to undertake further works in mid-2024 to provide for the replacement of the footpath on Como Parade West, which will assist in enhancing the streetscape in this location. Council will continue to work with new businesses who seek to invest in Mentone, and has also been seeking to work to remove graffiti and dumped rubbish in the area.”

Michael asked,

“Regarding future Council hosted Australia Day events including citizenship on the 26th January, will Kingston Council “consult” with the “Sortition Foundation” selected group of 225 which the Council created with this “entity” in 2023? How will Kingston Council consult with 159,908 Kingston Residents about this?”

The General Manager Community Strengthening provided the following response,

“At the Council Meeting on 20 November 2023, Council resolved to endorse Council officers to undertake further community consultation to gather insights and perspectives from key stakeholders and the community, which will inform future recommendations relating to facilitating the January Citizenship Ceremony. Council officers are yet to prepare this consultation plan but it will likely include a range of engagement strategies and tools to enable a wide range of community input. When it is prepared, it will be presented to Councillors in early 2024.”

Lynne asked,

“Question 1: Is it not true that Kingston Council is not legally able to impose its own taxation upon the people?”

Question 2: Can you quote the legal standing article that gives your corporation – Kingston Council – which is a business, this right?”

The Chief Finance Officer provided the following response:

“Question 1: It is not true. Council can legally levy rates to raise revenue.

Question 2: Council is constituted through the Local Government Act 2020, as set out within Division 2. Rates are levied in accordance with the Local Government Act 1989. The legislation is available online.”

Yvette asked,

“To the CEO:

Question 1: Have you, and/or those under you, had any discussion with anyone about eventually replacing the function of traffic inspectors currently employed by Kingston Council with “monitors” or smart city surveillance technology or other plan?

Question 2: Have you and/or those under you had discussions with anyone or are aware of any future plans by Kingston Council to track and collect data on the movement of cars and people through number plate recognition and facial recognition technology?”

The General Manager Planning and Place provided the following response:

“Question 1: No

Question 2: No”

Rose asked,

“Council is raising rate charges for the 23/24 year by the maximum amount possible limited by the government cap, which is 3.5%. Residents are currently experiencing a very severe cost of living crisis cause by the collapse of the economy due to imposed COVID restrictions and the numerous rate rises in the 2023 year. How does that square with your published rate increase in the 23/24 Budget from .001697 for general rate (IV (22/23 yr) to .00176611 yr (23/24 yr), which is a rise of 4.4%?”

The Chief Finance Officer provided the following response:

“The City of Kingston’s revenue from rates increased in 2023/24 in compliance with the 3.5 per cent rate cap set by the State Government. Council's compliance with the rate cap was independently reported on by the Essential Services Commission on 23 November 2023 and is available on the ESC website. The change in the rate in the dollar will be different to the revenue raised from rates as the rate in the dollar is also affected by changes in the property values assessed by the Valuer-General.”

Larisa asked

“Question 1: Is the City of Kingston and its Mayor aligned with in any way or a member of, or a member of, or considering becoming a member of the Global Covenant of Mayors for Climate and Energy?

Question 2: Is the City of Kingston aligned with or a member of, or considering becoming a member of the ICLEI- Local Governments for Sustainability, also known as ICLEI Oceania whose Melbourne Office is at 8/225 Bourke Street, Melbourne VIC 3000?”

The General Manager Planning and Place provided the following response:

“Question 1: No.

Question 2: The Council is not a member of the ICLEI – Local Governments for Sustainability or ICLEI Oceania.”

Robert asked,

“Council has engaged sortition.org, linked to the Sortition Foundation, to assist in assembling a citizen assembly. Sortition Foundation are alleged to be aligned with UK group Extinction Rebellion who hold extremist positions and solutions on climate action upon humans.

Question 1: Why did Council outsource the selection of residents to this group outside Australia?

Question 2: How are these selected people being used in your decision making and consultation processes at Council?”

The General Manager Customer and Corporate Support provided the following response,

“In early 2023 we invited the community to put in expressions of interest to participate in a 220-member Representative Community Panel. A Community Panel is a democratic tool used all over the world. It brings together a randomly selected group of people who broadly represent the entire community to discuss a range of topics and projects, which is how it is used in Kingston. Council at times relies on community engagement to help inform their decisions and resolutions. Sortition was the preferred tenderer through our standard procurement process. Their role was for only the recruitment of a Representative Community Panel.”

Anna asked,

“Please declare what the individual colours and symbols of the LGBTQ flag, that Council intends to fly in Kingston, represent?”

The General Manager Community Strengthening provided the following response,

“There are several versions of the Rainbow flag that recognise the different groups that make up the LGBTIQ+ community. Council has resolved to fly a Rainbow flag during the Midsummer Festival and on IDAHOBIT day. The most commonly flown Rainbow flags will be the original Rainbow Pride Flag and the Intersex-Inclusive Progress Pride Flag. The colours of the original Rainbow Pride flag represent red (for life), orange (for healing), yellow (for sunlight), green (for nature), indigo (for art/harmony), and violet (for spirit). The Intersex-Inclusive Progress Pride Flag includes the colours of the original Rainbow Flag with five stripes in a chevron design added. The additional colours represent black and brown stripes to represent people of colour, and pink, blue and white stripes to represent the trans community. A yellow triangle and purple circle is also included to represent the intersex community. The colours were chosen as they are viewed as free from gender and the circle is described as "unbroken and unornamented, symbolizing wholeness and completeness.

7. Planning and Place Reports

7.1 Town Planning Application Decisions - November 2023

Moved: Cr Staikos

Seconded: Cr Hill

That the report be noted.

CARRIED

Procedural Motion

Moved: Cr Oxley

Seconded: Cr Staikos

That the order of business be altered to consider item 7.3 before item 7.2.

CARRIED

7.3 KP-2018/690/A - Lot 1 Centre Road, Oakleigh South

It is recorded that Mick Meyer spoke on behalf of the applicant.

Moved: Cr Staikos

Seconded: Cr Bearsley

That Council determine to support the proposal and issue an amended planning permit for buildings and works associated with the car park and front fence and the construction of business identification signage at Lot 1 Centre Road, Oakleigh South, 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 and three copies must be provided. The plans must be substantially in accordance with the plans prepared by Demaine Partnership Pty Ltd, Drawing No's. TPS003, TPS005 inclusive, TP005 to TP009 to TP015 inclusive. TP601 to TP605 inclusive, dated May 2023 and Landscape concept plan Drawing No. CD01 Issue C, dated 06.11.2023 prepared by Crafter + Mogford Golf Strategies, but modified to show:
 - a) A landscape plan in accordance with the advertised Landscape concept plan drawing No. CD01 Issue C, dated 06.11.2023 prepared by Crafter + Mogford Golf Strategies, amended to the satisfaction of the Responsible Authority to show:
 - i. A table listing the genus and species of the retained vegetation consistent with the vegetation highlighted for retention in the advertised landscape plan.
 - ii. A survey, including, botanical names of all existing trees to be retained or removed on the site including tree protection zones for trees to be retained calculated in accordance with AS4970-2009.
 - iii. Notes regarding site preparation, including the removal of all weeds,

- proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
- iv. A notation on the plan to refer to the endorsed tree management plan for tree protection measures.
 - b) A notation on the Ground Level Plans to refer to the endorsed Tree Management Plan for tree protection measures;
 - c) Any changes as required by Condition 3;
 - d) An alternative evergreen native tree species to be planted at a minimum height of 2 metres along the rear boundary to the satisfaction of the Responsible Authority;
 - e) Deleted.
 - f) The pedestrian walk path abutting the southern boundary of the carpark is to be connected with the western entrance to the building to the satisfaction of the Responsible Authority;
 - g) Deleted.
 - h) Deleted.
 - i) A notation on plans advising accessible and shared car parking spaces implemented in accordance with AS/NZS 2890.6.
 - j) Installation of directional signage installed in accordance with AS 1742.1 for the one-way circulation to the car park.
 - k) Pedestrian crossing signage installed at the painted zebra crossing point in the car park.

Endorsed Plans

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

Tree Management Plan

- 3. Concurrent with the endorsement of plans, a tree management plan that includes the trees and vegetation proximate to the carpark and shown as retained on the advertised and endorsed landscape plans, prepared by a suitably qualified arborist in accordance with AS4970-2009, must be submitted to and be endorsed by the Responsible Authority and incorporating:
 - a) A tree management plan (written report) must provide details of:
 - i) Any pruning to be undertaken in accordance with AS4373-2007.
 - ii) Proposed footings and construction methods for any buildings or structures within the tree protection zone nominated on the tree protection plan.
 - iii) How excavation impacts, including soil level changes, on trees to be retained will be managed.
 - iv) How the canopy of trees nominated on the tree protection plan will be protected.
 - v) Any other measures required to demonstrate the successful ongoing retention and viability post-construction of any trees nominated on the tree protection plan.

- vi) Stages of development at which inspections are required to ensure tree protection measures are adhered to, must be specified.
- vii) Maintenance of the area(s) within the Tree Protection Zone in accordance with AS4970-2009.
- b) A tree protection plan (scale drawing) must provide details of:
 - i) The tree protection zone and structural root zone, calculated in accordance with AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties where the tree protection zone falls partially within the subject site.
 - ii) Tree protection fencing, or ground protection where required, provided in accordance with AS4970-2009.
 - iii) A notation to refer to the tree management plan.
- 4. All protection measures identified in the tree management plan must be implemented, and development works undertaken on the land must be undertaken in accordance with the tree management plan, to the satisfaction of the Responsible Authority.
- 5. Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the tree management plan must be submitted to the Responsible Authority.

Infrastructure

- 6. Property boundary and footpath levels must not be altered without the prior written consent from the Responsible Authority.
- 7. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
- 8. All reinstatements and vehicle crossings must be constructed to the satisfaction of the Responsible Authority.
- 9. All redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of the Responsible Authority.
- 10. All front and side fences must be contained wholly within the title property boundaries of the subject land.

General Amenity

- 11. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
 - i) Transport of materials, goods or commodities to or from the land.
 - ii) Appearance of any building, works or materials.
 - iii) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - iv) Presence of vermin.
 - v) Any other way.
- 12. The development of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard any nuisance shall be assessed in accordance with the Australian Standards AS1055 and AS2107 relating to the measurement of Environmental Noise and recommended sound levels.

13. The loading and unloading of goods to and from vehicles must only be carried out on the land.
14. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
15. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the Responsible Authority's satisfaction.

Landscaping

16. Before occupation of the development hereby permitted, 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.

Drainage

17. Stormwater drainage of the site must be provided so as to prevent any overflows onto adjacent properties and no stormwater runoff from the site must be discharged to Council drainage system.

Car Parking and Access

18. Before occupation of the development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
 - i) Constructed to the satisfaction of the Responsible Authority.
 - ii) Properly formed to such levels that they can be used in accordance with the plans.
 - iii) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.
 - iv) Drained to the satisfaction of the Responsible Authority.
 - v) Line-marked to indicate each car space, all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.
 - vi) In accordance with any Council adopted guidelines for the construction of car parks.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

19. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
20. Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
21. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.

Signage

22. The location and details of the sign(s) as shown on the endorsed plans must not

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be altered without the prior written consent of the Responsible Authority.

23. The intensity of the light on the sign(s) must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area all to the satisfaction of the Responsible Authority.
24. The sign(s) shown on the endorsed plans must be constructed to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.

Lighting

25. The car park luminaires must be baffled and operate in accordance with the specifications provided by HIGHLUX Pty Ltd in their written advice dated 2 November 2023, unless otherwise agreed to in writing by the Responsible Authority.

Completion of Works

26. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Permit Expiry

27. 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: Prior to the commencement of the development or use, you are required to obtain the necessary building permit.

THIS PERMIT HAS BEEN AMENDED PURSUANT TO SECTION 72 OF THE PLANNING AND ENVIRONMENT ACT 1987 AS FOLLOWS:

Amendment	Date of Amendment	Description of Amendment	Responsible Authority
A	xx December 2023	<ul style="list-style-type: none">• Amended plans to show reconfigured car park and layout, new greenspace, new gates, piers and fencing, signage and removal of additional trees.• Conditions 1(e), (g) and (h) deleted.• Wording of condition 1(a) and 3(a)(i) varied.• Condition 3(b) substituted.• Conditions 1(a)(ii), (l), (j), (k), 3(vi), 3(vii), and 25 added and conditions re-numbered	Kingston City Council

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		thereafter.	
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CARRIED

7.2 KP-2022/744 - 1144 Nepean Highway, Highett

It is recorded that Robyn Gardener spoke on behalf of objectors.

It is recorded that Rob McKendrick spoke on behalf of the applicant.

Moved: Cr Hill

Seconded: Cr Staikos

That Council determine to support the proposal and issue a Notice of Decision to Grant a Permit to develop the land for dwellings and food and drink premises, use the land for a food and drink premises, alter access to a road in a Transport Zone 2, removal of Easement E-2 (Lot S4 of PS743468C) and associated works generally in accordance with the submitted plans at 1144 Nepean Highway, Highett (Lot S4 on PS743468C) 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 prepared by Malcolm Elliott Pty Ltd, Drawing Number TP000 to TP514, Revision A, dated 09.05.2023, but modified to show:
 - a) The deletion of one (1) level from Building 3, being either Level 1 or Level 2, reducing the overall number of storeys to seven (7) whilst maintaining compliance with Standard D18 (Accessibility) and D29 (Natural Ventilation).
 - b) The reconfiguration and reduction in the floor area of Building 3 – the upper three levels being Level 5, Level 6 and Level 7 (or subsequent renumbered levels), generally to reduce the cantilevered / projecting walls which create unreasonable visual bulk to the satisfaction of the Responsible Authority.
 - c) The reconfiguration and reduction in the floor area of Building 4 – Level 6 generally to reduce the cantilevered / projecting walls which create unreasonable visual bulk to the satisfaction of the Responsible Authority.
 - d) The façade materials on the North Elevation of Building 3 reconsidered to provide improved integration with the balance of the building.
 - e) The façade materials on the East and West Elevations of Building 3 reconsidered to better integrate the Formliner material (F6) into the overall building.
 - f) The reallocation of car parking within the basement to demonstrate compliance with Clause 52.06 (Car Parking) associated with the Food and Drink Premises use. The car parking provided for the Food and Drink Premise within the Basement must be accessible to the public.
 - g) A Plan of Subdivision (Easement Removal).
 - h) The inclusion of a 'Short-Stay Loading Bay / Delivery Bay' within the Remington Drive road reserve.
 - i) A Lighting Plan showing the location of appropriately located baffled

- external lighting, positioned to effectively illuminate all shared areas in accordance with Standard D9 (Safety).
- j) Demonstrate compliance with Standard D14 (Building Setback) relating to overlooking into adjoining habitable room windows of 1142 Nepean Highway from Building 3.
 - k) Demonstrate compliance with Standard D15 (Internal Views) from any balcony that provides a view to a lower-level dwelling.
 - l) Uniformity with the commitments and any changes identified within the Acoustic Report, required under condition 16 of this permit, shown on the plans, including notations relating to glazing, roof construction and external wall construction requirements.
 - m) Appropriately designed and positioned adjustable wind break screening (i.e. café roller blinds or similar) installed within the outdoor seating area of the Building 1 - Ground Floor Food and Drink Premises.
 - n) Compliance with Standard D18 (Accessibility) ensuring a minimum 50% of dwelling meets the accessibility requirement.
 - o) The allocation of car parking within the Basement levels.
 - p) The Basement Plans TP101 and TP102 to provide detailed drawings (including sectional diagrams) of all in-basement externally accessible storage (full sized and over-bonnet) indicating the location of each type of storage, dimensions and minimum areas.
 - q) The allocation of external accessible storage within the Basement.
 - r) Each building to provide a continuation of the internal stairs to the roof top, providing pedestrian access to the roof, with the inclusion of a service deck, providing access to the roof mounted services.
 - s) Compliance with Standard D26 (Functional Layout) with Dwelling Type ST.02 and 2B.04 revised to provide minimum bedroom dimensions.
 - t) Boundary fencing nominated including details of height and materiality.
 - u) Tree Protection Fencing in accordance with the Vegetation Management conditions of this permit.
 - v) A Green Travel Plan in accordance with Clause 15.01-2L (Environmentally Sustainable Development).
 - w) Roof Plan to notate the solar systems on each building in accordance with the Sustainable Management Plan.
 - x) A revised Sustainable Management Plan reflecting the alterations to Building 3, with all relevant commitments identified within the Sustainable Management Plan/Green Travel Plan, required under condition 12 of this permit, shown on plans
 - y) The provision of an amended Landscape Plan set in accordance with the submitted Landscape Plan Set prepared by CDA Design Group Pty Ltd (*Date: 18.05.2023 Rev., V6*), with such plans to be prepared by a suitably qualified landscape professional to the satisfaction of the Responsible Authority and incorporating:
 - i. A survey, including, botanical names of all existing street trees to be retained or removed on the site's nature strip along Remington Drive including Tree Protection Zones for trees to be retained calculated in

accordance with AS4970-2009.

- ii. Raised garden beds containing canopy trees to be constructed to provide a minimum internal soil depth of 800mm.
- iii. Balcony planters to be provided within balconies that have a surface area equal to or greater than 20 square metres as per Table 1 below, with minimum 500mm soil depth and minimum internal width of 400mm:

<i>Balcony Area</i>	<i>Minimum Planter Area</i>
20-30 square metres	3 square metres
31-40 square metres	4 square metres
41+ square metres	5 square metres

Table 1: Minimum balcony planter area

- iv. Canopy tree cover to provide a minimum area of 1397 square metres canopy coverage at maturity.
- v. One (1) Type C tree to be planted within deep soil with a surface area no less than 121 square meters with a minimum dimension of 6.5 meters.

OR

Two (2) Type B trees to be planted within deep soil with a surface area no less than 49 square meters per tree with a minimum dimension of 4.5 meters.

- vi. All *Pyrus calleryana* 'Capital' (Capital Callery Pear) located along the north and west boundaries to be substituted with native canopy trees capable of reaching the minimum mature size of 8 metres in height and 5 metres in width.
- vii. Fifteen (15) *Pyrus calleryana* 'Chanticleer' (Chanticleer Pear) to be substituted with native canopy trees capable of reaching the minimum mature size of 12 metres in height and 6 metres in width.
- viii. Six (6) *Pyrus calleryana* 'Fronzam Frontier' (Ornamental Pear) to be substituted with native canopy trees capable of reaching the minimum mature size of 10 metres in height and 4 metres in width.
- ix. Thirteen (13) *Callistemon viminalis* 'Harkness' (Bottlebrush) to be substituted with native canopy trees capable of reaching the minimum mature size of 8 metres in height and 4 metres in width.
- x. Two (2) canopy trees capable of reaching the minimum mature dimensions of 3 metres in and 2.5 metres in width to be located southwest of the Business Lounge and south-east of the Kitchen within the Rooftop Terrace of Building 3.
- xi. Typical sectional diagram(s) of balcony planters illustrating and notating materials, media profile, drainage and dimensions.
- xii. Notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.

- xiii. Tree Protection Fencing in accordance with the condition below.
- z) Apartment G.07 redesigned to remove any snorkel windows for the proposed bedroom(s).
- aa) Apartments 1.11 and 1.12 consolidated to become a four-bedroom apartment without snorkel windows. This condition does not apply if the entire level is removed as part of Condition 1(a).
- bb) Apartments 2.11 and 2.12 consolidated to become a four-bedroom apartment without snorkel windows. This condition does not apply if the entire level is removed as part of Condition 1(a).

Endorsed Plans

- 2. The development and/or use as shown on the endorsed plans must not be altered without the prior 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.
- 4. The endorsed plan of subdivision (easement removal) must not be altered or modified without the consent in writing of the Responsible Authority.

Vegetation Management

- 5. Tree Protection Fencing is to be established around the Pyrus calleryana 'Capital' (Capital Callery Pear) street trees to be retained prior to demolition and maintained until all works on site are complete.
 - a) The fencing is to be a 1.8-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.
 - b) The fencing is to encompass the entire nature strip with each end 2 metres from the base of the tree.
 - c) Tree Protection Fencing to be illustrated to scale and labelled on the Landscape Plans and Ground Floor Plans.

Drainage and Water Sensitive Urban Design

- 6. 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" to Council satisfaction.
 - b) The stormwater management (drainage) strategy must include a report with MUSIC modelling results 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 in line with previously accepted Stormwater Management Strategy prepared by DPM Pty Ltd under KP-2014/31/A to the satisfaction of the Responsible Authority.
 - c) The water sensitive urban design treatments as per conditions 6a & 6b

- 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.
 - e) The detailed stormwater management (drainage) plans must address the requirement to prevent flooding of the proposed basement carparks from surface water during 1% AEP storm event. The concrete surface level on the basement apex to be set 300mm above the water level in the roadway to the satisfaction of the Council.
7. 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 calculated as per Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management" and accepted by Council.
 - c) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.
8. A groundwater assessment report (GAR) must be prepared by a qualified hydro-geologist to assess any possible impacts the proposed development has on the ground water table, surrounding land and buildings to the satisfaction of Responsible Authority. Should the findings of the submitted GAR demonstrate that the site is likely to experience issues associated with ground water management, a ground water management plan (GMP) must be submitted to and approved by the responsible authority.
9. The basement structure must be designed to respond to the findings of the GAR and GMP required under condition 8 and constructed to the satisfaction of the responsible authority in accordance with the following:
- a) the basement must be a fully-tanked dry basement with no ground water including agricultural (AG) drain collection or disposal into stormwater system and with an allowance made for any hydrostatic pressures in accordance with Council's "Basements and Deep Building Construction Policy 2014" and "Basements and Deep Building Construction Guidelines 2014",
- or
- b) in the event it is demonstrated that a fully tanked dry basement cannot be achieved or if a wet basement system is proposed, no groundwater including AG drain from the site shall be discharged into the stormwater system. Council does not accept any groundwater (including AG drain) into the stormwater system. Sub-surface water (groundwater) is the responsibility of the property owner to dispose of on site or reach an

agreement with the local sewer authority.

10. In any case where the basement design and construction, as required by Conditions 8 & 9 of this permit, does not accord with the plan(s) approved under this permit, the endorsed plan(s) must be amended to the satisfaction and with the written consent of the Responsible Authority.

Environmental Audit Overlay

11. Prior to the commencement of works (other than works required to comply with this condition), the owner of the land must provide to the satisfaction of the responsible authority:
 - a) A preliminary risk screen assessment statement in accordance with the *Environment Protection Act 2017* must be issued stating that an environmental audit is not required for the use or the proposed use; or
 - b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use or proposed use; or
 - c) A certificate of environmental audit must be issued for the land in accordance with Part IXD of the *Environment Protection Act 1970*; or
 - d) A statement of environmental audit must be issued for the land in accordance with Part IXD of the *Environment Protection Act 1970* stating that the environmental conditions of the land are suitable for the use or proposed use.

Sustainable Management Plan

12. Concurrent with the endorsement of plans required by condition 1 of this permit, an amended Sustainable Management Plan (SMP) that outlines proposed sustainable design initiatives must be submitted to and approved by the Responsible Authority. The amended Sustainable Management Plan must be generally in accordance with the SMP prepared by ADP Consulting Pty Ltd, Project Number MEL3259, Revision 4, dated 10 May 2023 and incorporate the following sustainable design commitments (but not limited to):
 - a) The BESS assessment to be published in the BESS tool, removing the draft status of the report.
 - b) Inclusion of the common areas such as the pool, gym, upper floor cinema. Kitchen and lounge within the non-residential section of the BESS tool.
 - c) Energy Heating & Cooling Systems – Residential
 - i. Amend the report to indicate a reverse cycle heating and cooling system to meet a 3-star minimum heating and 3-star minimum cooling (not within 1 or 2 stars of the best available) to each unit to reflect what has been entered into BESS assessment.
 - d) Energy 4.2 Renewable energy systems – Solar
 - i. Roof plans need to indicate the proposed 20kWp solar photovoltaic system to each building.
 - e) IEQ 2.3 Ventilation - Non-Residential
 - i. A commitment in the report to providing ventilation systems that are designed and monitored to allow an increase in outdoor air available to regular use areas and maintain a maximum CO2 concentration reflecting values entered in IEQ 2.3 Ventilation - Non-Residential

BESS credit.

13. The amended BESS assessment must maintain the proposed 70% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS to demonstrate best practice in sustainable design.
14. 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.
15. Prior to the occupation of any building approved under this permit, written confirmation from the author of the endorsed SMP is to be submitted to and approved by the Responsible Authority detailing that all of the required measures specified in the SMP have been implemented, to the satisfaction of the Responsible Authority.

Acoustic Treatments

16. Concurrent with the endorsement of plans required under Condition 1 of this permit, Acoustic Report, prepared by Acoustic Logic Pty Ltd, Project Number 20230237.1, Revision 1, dated 30.03.2023 (or subsequent revisions) must be endorsed and form part of the planning permit. The Acoustic Report may be amended subject to the written consent of the responsible authority.
17. Prior to the occupation of any building approved under this permit, written confirmation from the author of the endorsed Acoustic Report is to be submitted to and approved by the Responsible Authority detailing that all of the required measures specified in the Acoustic Report relating to glazing, roof construction and external wall construction requirements have been implemented, to the satisfaction of the Responsible Authority.

Construction Management

18. 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 CMP must be prepared in accordance with the City of Kingston Construction Management Policy and Construction Management Guidelines. The CMP 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.

Pedestrian Management

19. Concurrent with the endorsement of plans required by condition 1 of this permit, the Pedestrian Management Plan prepared by TTM Consulting (Vic) Pty Ltd, Revision 2, dated 11.05.2023 (or subsequent revisions) must be endorsed and

form part of the planning permit. The pedestrian management plan may be amended subject to the written consent of the responsible authority.

Waste Management

20. The Waste Management Plan, prepared by TTM Consulting (Vic) Pty Ltd, Revision 2, dated 11.05.2023. (or subsequent revisions) is to be endorsed and will then form part of the permit.
21. The WMP must be implemented to the satisfaction of the Responsible Authority. The WMP must not be modified unless without the written consent of the Responsible Authority.

Lighting Plan

22. Concurrent with the endorsement of plans required by condition 1 of this permit, a Lighting Plan, prepared to the satisfaction of the Responsible Authority, must be submitted to, and approved by the Responsible Authority. Exterior lighting must be installed in such positions as to effectively illuminate all shared areas. Such lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

Car Share Facilities

23. Prior to the occupation of the development, the owner or owners' corporation must enter into an agreement with a Car Share Service to provide a minimum of one (1) car share parking space within Remington Drive, all to the satisfaction of the Responsible Authority. A copy of the agreement must be provided to the Responsible Authority for their records.
24. The car share space must be always maintained and available for use for the parking of car share vehicles and must not be used for any other purpose unless otherwise approved in writing by the Responsible Authority.

Infrastructure and Road Works

25. Any relocation of pits/power poles or other services affected by this development must be relocated to the satisfaction of the relevant servicing authority and the Responsible Authority, at the cost of the owner/developer.
26. Property boundary and footpath levels must not be altered without the prior written consent form the Responsible Authority.
27. Any reinstatements and new/modified vehicle crossings must be constructed to the satisfaction of the Responsible Authority.
28. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
29. Any redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of the Responsible Authority.
30. Alterations to the Remington Drive road reserve must be undertaken and constructed in accordance with Council standards and be to the satisfaction of the Responsible Authority.
31. Any on-street car parking spaces must be line-marked in accordance with Council standards.

Department of Transport and Planning

32. Before the development starts, excluding demolition, excavation, piling, and site preparation works, amended plans must be submitted to and approved by the Responsible Authority to the satisfaction of the Head Transport for Victoria. The

plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- a) an updated bus stop and all associated infrastructure for the north bound bus stop on Nepean Highway near Remington Drive
 - b) a new shelter, barrier kerb and line markings if required
 - c) the bus stop clear of any street furniture and obstacles
 - d) a design compliant with the Disability Discrimination Act 1992 (Cth);
 - e) appropriate footpaths to connect to the bus stop as required.
33. Unless otherwise agreed in writing with the Head Transport Victoria, prior to the occupation of the development, all works outlined on the endorsed plans for the updated bus stop, must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria.

Use Conditions

34. The approved use of the site for a Food and Drink Premises excludes the Use of a Bar or Hotel.
- a) Unless with the prior written consent of the Responsible Authority, the Food and Drink Premises must only operate between the following hours:
 - b) Monday – Friday 7.00am – 10.00pm
 - c) Saturday 7:00am – 10:00pm
 - d) Sunday 7:00am – 6:00pm
35. Deliveries and Dispatch associated with the Food and Drink Premises use must only occur within the operating hours above.

General amenity conditions

36. 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.
37. Ventilation to the car park must not pose a nuisance on residential dwellings.
38. Service units, including air conditioning/heating units, where incorporated, must not be located where they will be highly visible from any public area to the satisfaction of the Responsible Authority, and if located on the roof of a building, suitable screening and baffling must be provided to the satisfaction of the Responsible Authority.
39. 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

40. Prior to the occupation of the 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.
41. 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

(except where that landscaping is on public land) to the satisfaction of the Responsible Authority.

Expiry

42. 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.
 - c) The plan of subdivision (easement removal) is not certified within two (2) years from the date of this permit.
 - d) The plan of subdivision (easement removal) is not registered within five (5) years of the date of certification.

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: Any buildings and works (including eaves) to be located within an easement requires separate consent from Council and/or the relevant service authority. This will need to be obtained prior to the issue of a building permit.

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 applicant/owner must provide a copy of this planning permit and any endorsed plans to any external contractor to ensure that all trees to be retained on site are protected during any works.

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

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 & 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.

Note: The amended Environment Protection Act 2017 came into effect on 1 July 2021. The amended Environment Protection Act 2017 imposes new duties on individuals and/or businesses undertaking the activity permitted by this permit. If your business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, you must understand those risks and take action to minimise them as far as reasonably practicable.

Note: As part of Kingston's Social and Affordable Housing Strategy July 2020 Council encourages a permit holder and/or owner to voluntarily commit to the Homes for Homes Limited program (ACN 143 151 544, ABN 26 143 151 544)

Cr Eden left the meeting at 8:15pm.

Cr Eden returned to the meeting at 8:17pm.

CARRIED

7.4 Response to Resolution - Biodiversity Assessment of Golf Courses in the Kingston Municipality

Moved: Cr Staikos

Seconded: Cr Saab

That Council:

1. Receive this response to the resolution on 9 December 2019; and
2. Note the further work being progressed by officers as outlined at Section 5 of this report.

CARRIED

7.5 Mordialloc and Aspendale Level Crossing Removal Project: Adoption - Final Urban Design Framework

Moved: Cr Cochrane

Seconded: Cr Bearsley

That Council:

1. Note the community feedback on the Mordialloc and Aspendale Level Crossing Removal – Draft Urban Design Framework;
2. Adopt the Mordialloc and Aspendale Level Crossing Removal – Urban Design Framework and actively reinforce the importance of the quality design, public safety and climate responsive outcomes sought through the project;
3. Write to the Minister for Transport Infrastructure and Chief Executive Officer of the Level Crossing Removal Project to:
 - 3.1. Inform them of the adoption of the final Urban Design Framework and to reinforce the importance of the 'key design ideas' developed following extensive community engagement;
 - 3.2. Request the urgent provision of traffic modelling data to address ongoing

and unresolved community concerns that the LXP project will result in increased congestion in Mordialloc as a direct consequence of the proposed closure of Bear Street;

- 3.3. Request a meeting with senior officers within the Department of Transport and Planning to understand their position on the traffic modelling undertaken by LXP and their preferred option for the improvement of the roundabout at the McDonald Street and Main Street intersection; and
4. Endorse the Mordialloc/Aspendale LXP Advocacy Strategy proposal included in the confidential attachment.

CARRIED unanimously

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

7.6 Adoption of Kingston Green Wedge Management Plan 2023 & Planning Scheme Amendment C220king

Moved: Cr Staikos

Seconded: Cr Davies

That Council:

1. Receive the community feedback received in relation the draft Kingston Green Wedge Management Plan 2023 provided at Appendix 1;
2. Adopt the Kingston Green Wedge Management Plan 2023 provided at Appendix 3;
3. That officers be empowered to correct any inaccuracies or errors in the maps, appendices or figures in the KGWMP, including the inclusion in the plan of the adopted Chain of Parks Master Plan adopted in 2020.
4. Seek authorisation from the Minister for Planning to prepare Amendment C220king to the Kingston Planning Scheme generally in accordance with the draft ordinance provided at Appendix 4 and subject to any necessary changes as result of feedback from the Department of Transport and Planning and further built form analysis;
5. Subject to authorisation being granted by the Minister for Planning, Council as Planning Authority, place Amendment C220king on public exhibition pursuant to Section 19 of the *Planning and Environment Act 1987*; and
6. Note that a further report will be brought back to Council at the conclusion of the public exhibition of Amendment C220king that considers and responds to the submissions received and provides further direction in relation to the Planning Scheme Amendment.

CARRIED unanimously

7.7 Amendment C215king - Consideration of Planning Panel Report

Moved: Cr Hill

Seconded: Cr Davies

That Council:

1. Receive the Planning Panel report considering Amendment C215king;
2. Adopt Amendment C215king to the Kingston Planning Scheme with changes to address the Panel recommendations;
3. Submit Amendment C215king to the Minister for Planning for approval; and
4. Notify submitters to Amendment C215king of the above resolutions.

CARRIED

A Division was Called:

DIVISION:

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

AGAINST: Crs Eden, Howe, Hua and Oxley (4)

CARRIED

7.8 Community Led Climate Action - Council's Role and Next Steps

Moved: Cr Staikos

Seconded: Cr Saab

That Council:

1. Note the work being undertaken by officers to explore and identify:
 - Council's role and objectives in facilitating community led climate action to deliver the objectives of the Climate and Ecological Emergency Response Plan (CEERP);
 - The process to be undertaken by Council to elicit expressions of interest from registered groups to deliver community led climate action;
 - The extent of financial support Council may seek to provide to a registered group focussed on the delivery of community led climate action; and
 - The governance framework required to support and enable the establishment of a partnership or Memorandum of Understanding between Council and a registered group focussed on community led climate action;
2. Undertake further due diligence to ensure Local Government Act 2020 and Co-operatives National Law Application Act requirements are met; and
3. Note that a further report will be brought to Council outlining a preferred approach aimed at supporting community led climate action, governance considerations and an estimate of any financial commitment required.

Amendment

Moved: Cr Eden

That the motion be adopted with the addition of the following point 4:

4. That any funds provided to any organisation or entity be on the basis that it will not be used for election purposes, self-promotion or the promotion of private businesses owned or connected with the group's board or management team.

The Amendment was accepted by the Mover and Seconder

The Substantive Motion was put and CARRIED

The Resolution reads as follows:

Moved: Cr Staikos

Seconded: Cr Saab

That Council:

1. Note the work being undertaken by officers to explore and identify:
 - Council's role and objectives in facilitating community led climate action to deliver the objectives of the Climate and Ecological Emergency Response Plan (CEERP);
 - The process to be undertaken by Council to elicit expressions of interest from registered groups to deliver community led climate action;
 - The extent of financial support Council may seek to provide to a registered group focussed on the delivery of community led climate action; and
 - The governance framework required to support and enable the establishment of a partnership or Memorandum of Understanding between Council and a registered group focussed on community led climate action;
2. Undertake further due diligence to ensure Local Government Act 2020 and Co-operatives National Law Application Act requirements are met; and
3. Note that a further report will be brought to Council outlining a preferred approach aimed at supporting community led climate action, governance considerations and an estimate of any financial commitment required.
4. That any funds provided to any organisation or entity be on the basis that it will not be used for election purposes, self-promotion or the promotion of private businesses owned or connected with the group's board or management team.

Cr Oxley left the meeting at 9:09pm.

CARRIED

7.9 Cat Confinement Order

Moved: Cr Staikos

Seconded: Cr Hill

That Council note the continuation of the current cat confinement order and that this matter be further reviewed as part of the next Domestic Animal Management Plan once the outcomes of work of the Commonwealth and State Government are known.

Cr Oxley returned to the meeting at 9:11pm.

Cr Oxley left the meeting at 9:12pm.

CARRIED

7.10 Dog Control Order

Moved: Cr Cochrane

Seconded: Cr Staikos

That Council:

1. Proceed to community consultation on the proposed changes to the dog control order that would limit the number of dogs allowed under a person's control at any one time to four (4) when off leash in a designated off leash area; and
2. Receive a further report following the completion of the consultation.

Cr Oxley returned to the meeting at 9:11pm.

Cr Eden left the meeting at 9:15pm.

Cr Eden returned to the meeting at 9:17pm.

CARRIED

7.11 Mandatory Desexing Order Review

Moved: Cr Cochrane

Seconded: Cr Staikos

That Council:

1. Approve the commencement of community consultation which:
 - a) Continues to specify that all cats are required to be desexed within 3 months of age; and
 - b) Modifies its existing Order pursuant to the provisions of the Domestic Animals Act to remove the requirement for dogs to be desexed;
2. Receive the results of the community consultation at the completion of the consultation.

Cr Davies left the meeting at 9.33pm.

CARRIED

6. Community Strengthening Reports

Nil

9. Infrastructure and Open Space Reports

Cr Howe left the meeting at 9:34pm and did not return.

9.1 Draft Play Your Way Strategy - Adoption and Consultation Findings

Moved: Cr Saab

Seconded: Cr Staikos

That Council:

1. Note the stakeholder and community feedback received during consultation activities; and
2. Adopt the draft Play Your Way Strategy 2023, as set out in Appendix 1.

CARRIED unanimously

9.2 Asset Management Policy Review

Moved: Cr Staikos

Seconded: Cr Saab

That Council adopt the Asset Management Policy 2024-2028.

CARRIED unanimously

9.3 CON-23/078 Sherwood Avenue Flood Mitigation, Bicentennial Park, Chelsea - Stage 2

Cr Cochrane left the meeting at 9:35pm.

Cr Davies returned to the meeting at 9.35pm.

Cr Hua left the meeting at 9:36pm.

Cr Hill left the meeting at 9:37pm.

Moved: Cr Bearsley

Seconded: Cr Davies

That Council:

1. Note the outcome of the tender assessment process for Contract No. 23/078 Sherwood Avenue Flood Mitigation Bicentennial Park, Chelsea Stage 2 as set out in confidential Appendix 1 attached to this report;
2. Award Contract No. 23/078 Sherwood Avenue Flood Mitigation Bicentennial Park, Chelsea Stage 2 for the fixed lump sum price of \$1,369,115.51 (exclusive of GST) to Entracon Construction Pty Ltd; and
3. Approve the allocation of a separate contingency of up to 10% of the contract sum and delegate authority to be the CEO or delegate to expend this allowance to ensure the successful completion of the project.

Cr Hua returned to the meeting at 9:39pm.

CARRIED unanimously

9.4 Response to Resolution - Notice of Motion No. 25/2023 - Chelsea Pedestrian Links

Cr Hill returned to the meeting at 9:41pm.

Moved: Cr Oxley

Seconded: Cr Eden

That Council:

1. Note the community concerns regarding pedestrian connectivity near Chelsea Station, the advocacy and discussions undertaken by Council officers with the Department of Transport and Planning (DTP) and feedback sought from the local community;
2. Continue to engage with Department of Transport and Planning to advocate for the pedestrian crossing to be implemented on Nepean Highway near the Chelsea Station entrance;
3. Review the overall pedestrian connectivity in the Chelsea Activity Centre as part of the Chelsea Structure Plan process; and
4. Prioritise the DDA access throughout the station precinct and ensure that the Chelsea Activity Centre is listed as a priority Activity Centre for a disability access audit as part of the audits to be undertaken as part of the Walking and Cycling Plan.

Cr Cochrane returned to the meeting at 9:47pm.

CARRIED unanimously

Procedural Motion

Moved: Cr Cochrane

Seconded: Cr Davies

That the meeting be extended for one hour until 11.00pm.

CARRIED

9.5 Landfill Services Contract Extension

Moved: Cr Staikos

Seconded: Cr Davies

That Council delegate authority to the Chief Executive Officer or delegate to exercise the first two year extension period with a second two year option also available of CON-19/123 Landfill Services, in line with approved budgets and subject to satisfactory performance.

CARRIED unanimously

7. Customer and Corporate Support Reports

10.1 Quick Response Grants

Moved: Cr Hill

Seconded: Cr Oxley

That Council:

1. Approve the following Quick Response Grant applications based on meeting the assessment criteria as outlined in the report:
 - Housing First - \$1500.00
 - Bonbeach Cricket Club - \$1500.00
 - Bayside Cricket Club - \$1500.00
 - St Andrews Parish Clayton South - \$1500.00
 - Kingston Billiards Senior Citizens Club - \$1000.00
 - Filipino-Australian Seniors Association Inc - \$1500.00
 - Cherrill Earls / Dragonfly Music Space - \$1404.00
2. Approve a further and late Quick Response Grant application submitted by Chelsea Bonbeach Train Station Group for \$850 to conduct a Community Connections Forum, on the basis that the application meets the eligibility and assessment criteria and noting the short Council Meeting cycle for December required an earlier closure of applications to be submitted.
3. Approve the Aiolos / St Bedes College application for an amount of \$1500.00 due to previous applications of this nature being approved by Council.

CARRIED unanimously

10.2 Election Period Policy

Moved: Cr Davies

Seconded: Cr Saab

That Council:

1. Pursuant to section 60(4) of the Local Government Act 2020, proceed with community consultation in relation to the proposed amendments to the Governance Rules contained in Appendices 1 & 2, specifically in relation to the Election Period Policy & the amendment to Rule 11 of Chapter 2 of the Governance Rules; and
2. Receive a report no later than the March 2024 Ordinary Council meeting receiving the results of the community consultation and consider adoption of the final Governance Rules.

CARRIED unanimously

10.3 Governance and Compliance Report

Moved: Cr Davies

Seconded: Cr Staikos

That Council:

1. Receive the Informal Meetings of Councillors Records as attached in Appendices 1 & 2;
2. Receive and note the Chief Executive Officer and General Manager Quarterly Expenses in Appendix 3; and
3. Appoint the following people to the Access and Equity Strategic Advisory Committee:
 - a) Emma Doble
 - b) Tess Law
 - c) Tim Lai
 - d) Dragan Tomic.

CARRIED unanimously

10.4 Operation Sandon Recommendations - Implementation Options

Moved: Cr Oxley

Seconded: Cr Staikos

That Council, in response to the recommendations pertaining to Council governance practices and processes from Operation Sandon:

1. Trial the following meeting procedure practices for a period of four months beginning January 2024 in respect to Council Meetings and Planning Committee Meetings;
 - a) no en-bloc voting, and
 - b) recording of all individual votes of a motion in the minutes;
2. Develop briefing and pre-meeting protocols for Council Meetings and Planning Committee meetings and for Councillor briefing sessions;
3. Develop practice notes relating to meeting procedure and application of Governance Rules;
4. Develop a training schedule that includes mandatory training as set out in the Local Government Act 2020 and a further refresher session, conflict of interest requirements, meeting procedure best practice and topics of integrity and leadership. Further that the training schedule be updated to align with any further requirements as set by the State Government; and
5. Receive a report at the May 2024 Ordinary Meeting of Council that details an assessment of the trial and includes any further developments from the Operation Sandon recommendations.

CARRIED

Amendment

Moved: Cr Hua

Seconded: Cr Bearsley

That the Motion be adopted subject to the removal of point 1a).

LOST

The Substantive Motion was put and CARRIED

10.5 Kingston Digital Marketing Plan

Moved: Cr Eden

Seconded: Cr Bearsley

That Council:

1. Note the work completed for Kingston Digital Marketing Plan, including recruitment of the Digital Marketing Coordinator;
2. Note the proposed future work schedule; and
3. Receive in May 2025 a report for discussion and consideration of the success and ongoing viability of the project.

CARRIED unanimously

10.6 Quarterly Advocacy Update

Moved: Cr Staikos

Seconded: Cr Hill

That Council receive the December 2023 Advocacy Update report.

CARRIED

81. Chief Finance Office Reports

11.1 Proposed Lease for the Chelsea Yacht Club Inc

Moved: Cr Oxley

Seconded: Cr Saab

That Council:

1. Gives public notice, in accordance with Section 115 of the Local Government Act 2020 and under Council's Community Engagement Policy, of its intention to grant a lease to the Chelsea Yacht Club Inc. for an initial term of seven (7) years plus two further terms of seven (7) years at an annual rental of \$3,618 p.a. plus GST for the premises on the Chelsea Foreshore as shown in this Report, and on the terms and conditions outlined in this Report, and to invite submissions on Council's intention.
2. In the event that submissions are received in response to the public notice, requiring Council's consideration, convene a sub-committee, comprising of the Mayor, Ward Councillor, Chief Finance Officer, Manager Property Services, and Team Leader-Property Services to hear any submissions and report back to Council.
3. In the event that no submissions are received that require Council's consideration, grant a lease to the Chelsea Yacht Club Inc. on the terms and conditions outlined in this Report.

CARRIED unanimously

11.2 Lease and Licence Policy

Moved: Cr Staikos

Seconded: Cr Bearsley

That consideration of this item be deferred until the January Ordinary Council Meeting.

CARRIED

Cr Cochrane left the meeting at 10:32pm.

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9. Notices of Motion

**12.1 Notice of Motion No. 31/2023 - Cr Staikos - Councillor Position
Descriptions and Key Performance Indicators**

Moved: Cr Staikos

Seconded: Cr Bearsley

That consideration of this item be deferred until the January Ordinary Council meeting.

CARRIED

**12.2 Notice of Motion No. 32/2023 - Cr Eden - Councillor Declarations of
Donations**

Moved: Cr Eden

Seconded: Cr Oxley

That Councillors be asked by the CEO to complete a statutory declaration declaring all donations that they received at or in connection to the 2020 Council election and since then.

Cr Hua left the meeting at 10:33pm and did not return.

Cr Cochrane returned to the meeting at 10:34pm.

LOST

A Division was Called:

DIVISION:

FOR: Crs Eden and Oxley (2)

AGAINST: Crs Bearsley, Davies, Hill and Saab (4)

ABSTAINED: Crs Staikos, Davey-Burns and Cochrane (3)

LOST

Extension of Time

Moved: Cr Staikos

Seconded: Cr Cochrane

That the meeting be extended for 45 minutes until 11.45pm.

CARRIED

12.3 Notice of Motion No. 33/2023 - Cr Saab - Le Page Masterplan and All Abilities Sports

Moved: Cr Saab

Seconded: Cr Davies

That Council ensures that the implementation of the Le Page Park Masterplan has a core focus of its delivery on the promotion of all abilities sports. Priorities of the masterplan implementation to include:

- the review of footpath connectivity across the reserve;
- ground allocation to have a stronger priority to support the success of all-abilities league of sports and the existing tenants; as well as
- any other elements as deemed necessary by Officers to move forward with Le Page Park being a destination for families and individuals for all-abilities sports and as an all-abilities sporting precinct.

CARRIED unanimously

12.4 Notice of Motion No. 34/2023 - Cr Davies - Councillor Attendance

Moved: Cr Davies

Seconded: Cr Saab

That:

1. Council Officers prepare a report to be tabled at the next Council meeting and to be published on the Council's website the attendance record of Councillors (over the entire current term), which sets out, where possible, each Councillor's attendance at:
 - a) Council meetings.
 - b) Councillor Information Sessions.
 - c) Council events (civic ceremonies, openings and other formal events).
 - d) Planning meetings in their ward.
 - e) Workshops and training sessions.
 - f) Advisory committees of which the relevant councillor is a member.
 - g) Invitations from community groups.
2. The report should note (where possible) whether the Councillor attended in person or via video link and if that Councillor attended via video link if their camera was turned on;
3. If Council's current records do not have this information, the tabled report is to note this; and
4. A report come to Council quarterly to note Councillor attendance at Council run meetings as outlined in dot point 1.

Amendment

Moved: Cr Oxley

Seconded: Cr Eden

That the motion be adopted with the addition of the following point 5:

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5. That Councillors be provided with the opportunity to advise why they did or did not attend the meetings.

LOST

A Division was Called:

DIVISION:

FOR: Crs Bearsley, Cochrane, Eden and Oxley (4)

AGAINST: Crs Davies and Saab (2)

ABSTAINED: Crs Staikos, Davey-Burns and Hill (3)

LOST

Cr Cochrane left the meeting at 11:22pm.

Procedural Motion

Moved: Cr Eden

Seconded: Cr Oxley

That the item be deferred for a period of three months in order to avoid a waste of officer time and to allow Councillors to familiarise themselves with existing minutes that are already published and made available to all Councillors.

Cr Hill left the meeting at 11:27pm.

Cr Hill returned to the meeting at 11:29pm.

LOST

Procedural Motion

Moved: Cr Staikos

Seconded: Cr Cochrane

That the meeting be extended for 30 minutes until 12.15pm.

CARRIED

Amendment

Moved: Cr Eden

Seconded: Cr Oxley

That the motion be adopted with the addition of the following:

That the report includes:

5. Details of events paid for by Council, that Councillors and/or their partners have attended, including interstate travel, and where the Councillors have reported back to the community on the benefits of attending such events.

LOST

A Division was Called:

DIVISION:

FOR: Crs Eden and Oxley (2)

AGAINST: Crs Staikos, Davies, Hill and Saab (4)

ABSTAINED: Crs Davey-Burns, Bearsley and Cochrane (3)

LOST

6. Whether or not reports have been made of bullying to the CEO, other officers or a relevant agency which could impact upon a Councillor choosing to attend in person or online.

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LOST

A Division was Called:

DIVISION:

FOR: Crs Eden and Oxley (2)

AGAINST: Crs Staikos and Davies (2)

ABSTAINED: Crs Davey-Burns, Bearsley, Cochrane, Hill and Saab (5)

LOST

Note: It was requested by Cr Saab and agreed to by the Chairperson that each part of the Amendment be put to the vote separately.

Procedural Motion

Moved: Cr Saab

Cr Davies

That the Amendment be put to the vote.

The Amendment was put and CARRIED

Note: The Mover and Seconder removed part 1.g) Invitations from community groups from the Substantive Motion.

The Substantive Motion was put and CARRIED

Note: The meeting was adjourned by the Chairperson for a period of two minutes at 11.36pm.

The resolution reads as follows:

Moved: Cr Davies

Seconded: Cr Saab

That:

1. Council Officers prepare a report to be tabled at the next Council meeting and to be published on the Council's website the attendance record of Councillors (over the entire current term), which sets out, where possible, each Councillor's attendance at:
 - a) Council meetings.
 - b) Councillor Information Sessions.
 - c) Council events (civic ceremonies, openings and other formal events).
 - d) Planning meetings in their ward.
 - e) Workshops and training sessions.
 - f) Advisory committees of which the relevant councillor is a member.
2. The report should note (where possible) whether the Councillor attended in person or via video link and if that Councillor attended via video link if their camera was turned on;
3. If Council's current records do not have this information, the tabled report is to note this; and
4. A report come to Council quarterly to note Councillor attendance at Council run meetings as outlined in dot point 1.

Cr Eden left the meeting at 12.01am.

Procedural Motion

Moved: Cr Staikos

Seconded: Cr Bearsley

That the meeting be extended by 30 minutes until 12.45am.

CARRIED

12.5 Notice of Motion No. 35/2023 - Cr Saab - Moorabbin Activity Centre

Moved: Cr Saab

Seconded: Cr Davies

That Council:

1. Write to the Minister for Planning and Member for Bentleigh expressing our support for Moorabbin being identified in the Victorian Government's Housing Statement and outlining the level of investment Council has made into Moorabbin including recently completed strategic work of the Moorabbin West Urban Design Framework and Moorabbin Eastern Edge Design Analysis.
2. Provide a commitment to working with the Department of Transport and Planning (DTP) and Victorian Planning Authority (VPA) to incorporate the outcomes and any required updates to the Moorabbin West Urban Design Framework and Moorabbin Eastern Edge Design Analysis into the Kingston Planning Scheme and update existing Schedule 3 to the Activity Centre Zone.
3. Reinforce the importance of the updated work in Moorabbin having a very high focus on urban design and public realm enhancements that Council will seek through redevelopment which may include:
 - a. Enhancements through east to west connections through the centre connecting up Activity Centre with the Moorabbin Reserve and Hospital/Tafe Precinct.
 - b. Opportunities to create an enhance public realm environment along Station Street to capitalise on the opportunities for streetscape activations.
 - c. Changes required to the arterial road network to further enhance traffic flow and the visual presentation of these high-profile parts of the Activity Centre.
 - d. Opportunities to also review the role performed by key streets including Tuck Street, Central Avenue with a view towards creating new areas for public meeting spaces and outdoor activations.
4. Seek a direct commitment from the Victorian Government to work with Council to provide support to further enable outcomes including wayfinding through the centre, enhancements to the arterial road network, creation of new community spaces, incorporation of public art, facilitating sustainable transport, providing affordable housing and strategic capital investment into the iconic Kingston City Hall and Kingston Arts Centre.

Cr Eden returned to the meeting at 12.02pm.

CARRIED

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10. Urgent Business

There were no items of urgent business.

11. Confidential Items

Moved: Cr Staikos

Seconded: Cr Cochrane

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:

14.1 Contractual Matter

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

- because it is private commercial information, being information provided by a business, commercial or financial undertaking (section 3(1)(g)), and
- This report has been identified as confidential due to the commercial nature of the information contained along with the current status of the project procurement.

CARRIED

The meeting was closed to members of the public at 12.13am.

Moved: Cr Saab

Seconded: Cr Davies

That the meeting be opened to members of the public.

CARRIED

The meeting was opened to members of the public at 12.19pm.

The meeting closed at 12.19pm.

Confirmed.....

The Mayor 29 January 2024