

Minutes

Planning Committee Meeting

Wednesday, 23rd August 2023

**City of Kingston
Planning Committee Meeting**

Minutes

23 August 2023

Table of Contents

1.	Apologies	3
2.	Confirmation of Minutes of Previous Meetings	3
3.	Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest	3
	<i>[Note that any Conflicts of Interest need to be formally declared at the start of the meeting and immediately prior to the item being considered – type and nature of interest is required to be disclosed – if disclosed in writing to the CEO prior to the meeting only the type of interest needs to be disclosed prior to the item being considered.]</i>	
4.	Planning and Place Reports.....	4
5.	Confidential Items	13

**City of Kingston
Planning Committee Meeting**

Minutes

23 August 2023

The meeting commenced at 7.04pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

Present: Cr Hadi Saab (Mayor)
Cr Chris Hill (Deputy Mayor)
Cr Jenna Davey-Burns
Cr Tracey Davies
Cr Cameron Howe (attended remotely)
Cr George Hua
Cr Steve Staikos

In Attendance: Jonathan Guttman, General Manager Planning and Place
Samantha Krull, General Manager Infrastructure and Open Space
Alfred Carnovale, Manager City Development
Stephanie O’Gorman, Acting Manager Governance Risk and Integrity
Ellie Lockard, Governance Officer
Gabrielle Pattenden, Governance Officer

1. Apologies

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

Moved: Cr Davies

Seconded: Cr Davey-Burns

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

CARRIED

2. Confirmation of Minutes of Previous Meetings

Moved: Cr Saab

Seconded: Cr Hua

That the Minutes of the Planning Committee Meeting held on 21 June 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. Planning and Place Reports

4.1 Town Planning Application Decisions - July 2023

Moved: Cr Saab

Seconded: Cr Davies

That the report be noted.

CARRIED

4.2 KP-2022/804 - Site to the rear of 118 - 146 Palm Beach Drive Patterson Lakes

It is recorded that Rik Price spoke on behalf of objectors.

It is recorded that Sarah Crute, Director – DEECA spoke on behalf of the applicant.

Moved: Cr Saab

Seconded: Cr Staikos

That the Planning Committee determine to support the proposal and issue a of Notice of Decision to Grant a Planning Permit for the use of land for informal outdoor recreation (shared user path) at the rear of 118 to 146 Palm Beach Drive, Patterson Lakes (Lot 1 on TP413076A and Crown Allotment 2069), subject to the following conditions:

Amended Plans

1. Before the development and/or use 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 an electronic copy must be provided. The plans must be substantially in accordance with the site plan titled 'Kananook Creek Proposed Shared Path Melbourne Water Pumping Station to No. 146 Palm Beach Drive', sheet 1-2, submitted to Council on 3 July 2023, but modified to show:
 - a) The location of tree protection measures illustrated to scale and labelled on the site plan as per the endorsed tree management plan.
 - b) Any changes as required by condition 3.
2. The 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 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 works to be undertaken as part of the proposed works, with details regarding how these works are to be undertaken in accordance with AS4373-2007.
 - ii. Any major intrusions into the tree protection zone (TPZ) and structural root zone (SRZ) of the protected trees in this position, with

- details regarding how the works in this position will be undertaken without adverse impact to the trees.
- iii. Any changes to the proposal required to avoid detrimental impact to the protected trees in this position.
- b) A tree protection plan (scale drawing) must provide details of:
- i. Any major intrusions to the onsite, street and neighboring trees in this position, with details of any changes required to ensure the trees are not adversely impacted.
 - ii. All pruning works to be undertaken as part of the proposed works. With notes clearly stating that Council-owned trees are only to be pruned by Council contractors or with their express permission, and that all pruning works are to be conducted by a qualified arborist in accordance with AS4373-2007.
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.

Melbourne Water requirements

6. Prior to commencement of works, a Build Over application must be submitted online for Melbourne Water's review and approval prior to finalising plans and for any construction of permanent or temporary structures, demolition of existing structures or tree removal within 5m of a Melbourne Water asset.

Details to include:

- No cut into "original" embankment.
- Show interface with existing paths and proposed paths.
- Cut and fill sections.
- The proposed path must be designed to carry heavy load vehicles for maintenance.
- A report detailing the works from a qualified dams engineer must demonstrate that proposed works do not have any structural impact on the levee bank.
- Any new landscaping within 5 metres of the asset will need to comply with Melbourne Water's Planting Guidelines.

For more information please refer to:

<https://www.melbournewater.com.au/building-and-works/work-or-build-near-our-assets-or-easements/utility-installation-guidelines>

7. Prior to the commencement of works a separate application to Melbourne Water must be made and approved of any new or modified storm water connection to Melbourne Water's drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.
8. No services are to be installed across any Melbourne Water Assets or within any easements or owned land that are in favour of Melbourne Water unless approval

in writing has been granted by Melbourne Water.

9. Updated final detailed design plans must be submitted to Melbourne Water for assessment.
10. Additional conditions may be requested by MW's assets and land management via application reference MWA-1293703.
11. Prior to commencement of works, a site meeting is to be arranged to establish protocols surrounding access for maintenance.
12. Prior to the commencement of the works, Council must enter into a shared pathway agreement with Melbourne Water's Property Team.
13. Due to the alignment of the shared pathway traversing near a driveway access to the Melbourne Water station;
 - a) Council acknowledges that they are responsible for the maintenance of the land behind the pump station as outlined in green on image 1 attached within Annexure 1 and the 2 metres both sides of the shared user pathway on the Melbourne Water land mentioned in this letter above. This maintenance change over must be captured within the Shared Pathway Annexure.
 - b) Council acknowledges that Melbourne Water requires unobstructed access to Melbourne Water land and pump station.
14. Melbourne Water is indemnified from any public liability claims arising from the proposed works.
15. The owner of installation of these structures is liable for any damage, injury or loss incurred in connection with the works on or near Melbourne Water's asset. Melbourne Water is indemnified from and against all losses, actions, claims, demands, costs and expenses in connection with these works (including your employees, contractors, agents and workers) and you will not make any claims against us in respect of any damage, injury or loss.
16. The proposed works may trigger approval requirements concerning environmental, biodiversity and cultural heritage controls. Accordingly, you are advised to consult with the following authorities and agencies: Department of Energy, Environment and Climate Action, Office of Aboriginal Affairs Victoria, Heritage Victoria and Municipal Council.
17. Final design plans must be submitted within 12 months from the date of the consent letter (6 July 2023), after which this approval will lapse, and Melbourne Water will reserve the right to either grant an extension of time or impose additional conditions.
18. Please note that Melbourne Water's consent to the proposal does not affect the rights of any other parties over the area in question.

Department of Energy, Environment and Climate Action requirements

19. The works are to be carried out generally in accordance with plans titled:
 - 'Seaford Wetland, Patterson Lakes Shared User Path Construction between Old Wells Road and Palm Beach Drive Functional Plan', n.d. rev A, prepared by Engineering Design Department, Kingston City Council, received via email dated 26/05/23 from Pim Hooijboer, Kingston City Council.
 - 'Kananook Creek Proposed Shared Path Melbourne Water Pumping

**City of Kingston
Planning Committee Meeting**

Minutes

23 August 2023

Station to No. 146 Palm Beach Drive', n.d., received via email dated 23/06/23 from Fleur Gascoyne, Kingston City Council.

- 'Tree Management and Protection Plan Shared-Use Path Upgrade and Extension Kananook Ck, Patterson Lakes' dated 2/02/23 report no. 10751.12023, prepared by Arboriculture Pty Ltd.
20. Any modification to the works proposed will require further approval by the Program Manager Land and Built Environment, Port Phillip Region, DEECA.
 21. Prior to works commencing, landowner consent from Melbourne Water for the shared user path on Melbourne Water land must be obtained.
 22. Indigenous vegetation must not be damaged or removed as a result of the works.
 23. Any clearing or construction activity associated with the works, should be carried out in accordance with the EPA Publication No. 275 *Construction Techniques for Sediment Pollution Control* (May 1991).
 24. The construction site must be managed in accordance with EPA Publication 1834: Civil construction, building and demolition guide (26 November 2020).
 25. Building materials, refuse and site run-off must be contained and controlled and not permitted to impact on or enter Eel Race Creek.
 26. All works must be completed, the site reinstated, and the works maintained to the satisfaction of Kingston City Council and Melbourne Water.
 27. Ongoing management and maintenance of the shared user path will be the responsibility of Kingston City Council.
 28. This consent will expire if the works are not completed within two years of the date of issue, unless an extension of time is applied for and granted by the Program Manager Land and Built Environment, Port Phillip Region, DEECA.

Permit Expiry

29. Once the use has started it must be continued and completed to the satisfaction of the Responsible Authority.
30. 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 use is not started before two (2) years from date of this permit.
 - The use is discontinued for a period of two (2) years.

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

Note: The property is subject to flooding from the Eel Race Creek. The applicable 1% Annual Exceedance Probability (AEP) flood level for the property, being the 1% probability in any one calendar year, is 2.5 metres to Australian Height Datum (AHD).

Note: The path and earthworks proposal are in proximity to the Patterson Lakes Drain, Eel Race Creek and Eel Race Levee Bank within Melbourne Water-owned land. Nearby assets include, the waterway, a 1,350mm diameter reinforced concrete pipeline and outlet structure/pump station.

Note: A shared pathway agreement may be required. It should be noted that at

**City of Kingston
Planning Committee Meeting**

Minutes

23 August 2023

various times the shared user pathway will need to be closed to allow Melbourne Water maintenance access to the pump station.

CARRIED

A Division was Called:

DIVISION:

FOR: Crs Staikos, Davey-Burns, Davies, Hill, Hua and Saab (6)

AGAINST: Cr Howe (1)

CARRIED

4.3 KP-2022/60/A - 71 Catherine Avenue, Chelsea

Cr Howe left the meeting at 7:34pm and did not return.

It is recorded that Russell King spoke on behalf of objectors.

Moved: Cr Staikos

Seconded: Cr Saab

That Council determine to support the proposal and issue a Notice of Decision to grant an amended planning permit **Error! No document variable supplied.** at No. 71 Catherine Avenue, Chelsea (Lot 70 on LP06752), subject to the following conditions:

Amended Plans

31. Before the use 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 an electronic copy must be provided. The plans must be substantially in accordance with the plans prepared by CohenLeigh Architects, Project No. 220102, Sheets 1 to 19 inclusive, Revision F, submitted to Council on 30 May 2022, but modified to show:
- a) The ground floor plan to include a survey of all existing trees on the site and within 3 metres of the site's boundaries, with the on-site vegetation to be clearly nominated as either retained or removed.
 - b) The location of tree protection measures illustrated to scale and labelled on the ground floor plan as per the endorsed tree management plan.
 - c) Any changes as required by condition 14 of this planning permit, which requires a tree management plan.
 - d) The proposed vehicle crossover to the north of the Beardsworth Avenue frontage kept separate from the neighbour's vehicle crossover to create a pedestrian refuge of no less than 1 metre wide.
 - e) Corner splays as per Clause 52.06-9 shown and complied with at each accessway.
 - f) A car parking space clearly dimensioned on the proposed driveway to the north of the site.
 - g) The current external material of No. 69 Catherine Avenue correctly identified on respective plans.

- h) Any flues, air purifiers, exhaust fans or the like that will manage dust from the workshop.

Endorsed Plans

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

Landscaping

- 33. Within six (6) months of the use commencing, a landscape plan in accordance with the submitted plans is to be submitted to council for endorsement. This landscape plan is to be to the satisfaction of the Responsible Authority and is to incorporate:
 - i. A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant with all plants chosen to be to the satisfaction of the Responsible Authority.
 - 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. A survey including botanical names, of all existing trees on neighbouring properties where the tree protection zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
 - iv. The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works.
 - v. A range of plant types from ground covers to large shrubs and trees, provided at adequate planting densities (e.g. plants 1 metre width at maturity planted 1 metre apart); with the species chosen to comprise of a minimum 50% coastal indigenous species by plant type and total quantities.
 - vi. A minimum of three (3) indigenous canopy trees capable of growing to minimum mature dimensions of 12 metres in height and 7 metres in width.
 - vii. A minimum of six (6) indigenous canopy trees capable of growing to minimum mature dimensions of 8 metres in height and 5 metres in width.
 - viii. Indigenous species capable of growing to a minimum 4 metres in height at maturity planted along the site's northern and southern boundaries.
 - ix. All trees provided at a minimum of 2 metres in height at time of planting, medium to large shrubs to be provided at a minimum pot size of 200mm.
 - x. The provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
- 34. Within six (6) months of the landscape plan being endorsed, landscaping works as shown on the endorsed landscape plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority including that any dead, diseased or damaged plants are to be replaced.

General Amenity

- 35. The amenity of the area must not be detrimentally affected by the 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.
36. 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.

Car Parking and Access

37. Before the use commences, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be constructed to the satisfaction of the Responsible Authority and be:
- i. Properly formed to such levels that they can be used in accordance with the plans.
 - ii. Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.
 - iii. Drained to the satisfaction of the Responsible Authority.
 - iv. 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.
 - v. In accordance with any Council adopted guidelines for the construction of car parks.
38. Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
39. 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.
40. 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 crossover.
41. The loading and unloading of goods to and from vehicles must only be carried out on the land.

Use

42. The use must operate only between the hours of:
- | | |
|-------------------|-----------------------|
| Monday to Friday: | 9.00am to 5.00pm; and |
| Saturday: | 9.00am to 1.00pm |
- Or otherwise as approved by the Responsible Authority in writing.
43. The maximum number of patrons on site at any one time must not exceed twenty-seven (27), unless otherwise approved by the Responsible Authority in writing.

Tree Management Plan

44. Concurrent with the endorsement of plans, a tree management plan 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. Tree protection measures that will be utilized to ensure all trees to be retained remain viable post-construction.
 - ii. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
 - b) A tree protection plan (scale drawing) must provide details of:
 - i. The tree protection zone and structural root zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the tree protection zone falls within the subject site.
 - ii. The location of tree protection measures to be utilised.
 - iii. A notation to refer to the tree management plan.
45. All protection measures identified in the endorsed 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.
46. 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.
47. Tree protection fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete and:
 - i. 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.
 - ii. The fencing is to encompass the entire nature strip with each end 3 metres from the base of the tree.

Stormwater Drainage

48. Stormwater drainage of the site must be provided so as to prevent any overflows onto adjacent properties and be directed to the nominated point of discharge.

Noise

49. The use 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.
50. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the *Environment Protection Act 2017* and the incorporated Noise Protocol (Publication 1826, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues).
51. Mechanical plant should not be located near adjacent existing dwellings, unless accompanied by an acoustic report showing noise protocol conformance, submitted for endorsement to the satisfaction of the Responsible Authority.
52. Uses shall be conducted in accordance with times set out in Environment Protection Regulations 2021, Part 5.3, Division 2, Clause 114, unless

accompanied by an acoustic report showing conformance with suitable acoustic benchmarks, submitted for endorsement to the satisfaction of the Responsible Authority.

53. The measures in the endorsed environmental noise assessment, prepared by Resonate, dated 11 April 2023, Revision E, must be implemented to the satisfaction of the Responsible Authority before the use can commence and the use shall be conducted in accordance with the measures identified in the report. The environmental noise assessment must not be modified, unless with the written consent of the Responsible Authority.

Infrastructure

54. Prior to the commencement of any development associated with the approved use, property boundary, footpath and vehicle crossover levels must be obtained from Council's roads and drains department with all levels raised to the satisfaction of the Responsible Authority.
55. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
56. All reinstatements and vehicle crossovers must be constructed to the satisfaction of the Responsible Authority.
57. Vehicle crossovers must be constructed to council's industrial strength specifications.
58. All front and side fences must be contained wholly within the title property boundaries of the subject land.
59. Any existing vehicular crossover 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 crossover must be fully constructed to the Responsible Authority's standard specification.

Permit Expiry

60. 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 use is not started before two (2) years from date of this permit.
 - The use is discontinued for a period of two (2) years.

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

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

CARRIED

4.4 KP-2021/845 - 71 Argus Street, Cheltenham

Moved: Cr Saab

Seconded: Cr Davies

That the Planning Committee determine to support the proposed secondary consent application and issue amended endorsed plans associated with Planning Permit KP-2021/845 at 71 Argus Street Cheltenham, which allowed the use of the land for an education centre (kindergarten) in accordance with the endorsed plans.

CARRIED

5. Confidential Items

Nil

The meeting closed at 7.54pm.

Confirmed.....

The Mayor 20 September 2023