

# Minutes

## Ordinary Council Meeting

**Monday, 26th June 2023**



**City of Kingston  
Ordinary Council Meeting**

**Minutes**

**26 June 2023**

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**City of Kingston  
Ordinary Council Meeting**

**Minutes**

**26 June 2023**

The meeting commenced at 7.19pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

**Present:** Cr Hadi Saab (Mayor)  
Cr Chris Hill (Deputy Mayor)  
Cr Tamsin Bearsley  
Cr Tim Cochrane  
Cr Jenna Davey-Burns  
Cr Tracey Davies  
Cr David Eden  
Cr Cameron Howe  
Cr George Hua  
Cr Georgina Oxley  
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  
Kate Waters, Acting General Manager Community Strengthening  
Bernard Rohan, Chief Financial Officer  
Paul Marsden, Manager City Strategy  
Jaclyn Murdoch, Manager City Development  
Kelly Shacklock, Acting Manager Governance  
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 22 May 2023 and the Special Council Meeting held on 8 June 2023 be confirmed.

**CARRIED**

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

Cr Howe foreshadowed a declaration of a conflict of interest in Item 8.4 - Planning Scheme Amendment C205king - Planning Panel Report.

Cr Oxley foreshadowed a declaration of a conflict of interest in Item 8.4 - Planning Scheme Amendment C205king - Planning Panel Report.

Cr Eden foreshadowed a declaration of a conflict of interest in Item 8.4 - Planning Scheme Amendment C205king - Planning Panel Report.

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**4. Petitions**

**4.1 Planning Application KP-2022/475 - 19-23 Central Avenue, Moorabbin**

**Moved: Cr Saab**

**Seconded: Cr Staikos**

That the petition be referred to the Chief Executive Officer for a response.

**CARRIED**

**5. Presentation of Awards**

The Mayor, Cr Saab acknowledged the contributions of former Labor leader Simon Crean following his recent passing.

**6. Reports from Delegates Appointed by Council to Various Organisations**

Nil

**7. Question Time**

Question time was held at 7.41pm. Refer to page 5 of the Minutes.

**En Bloc Resolution**

**Moved: Cr Davies**

**Seconded: Cr Davey-Burns**

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

- 9.1 Year 3 Health Plan Action Plan - Municipal Public Health and Wellbeing Plan 2021-25
- 10.1 Bonbeach Sports Reserve Pavilion Development - Update
- 10.2 Award of Contract - CON-23/034 Parkdale Yacht Club Carpark Construction
- 11.1 Informal Meetings of Councillors
- 11.2 CEO and General Manager Quarterly Expenses
- 11.3 Authorisation of Officers - Planning and Environment Act 1987
- 11.4 Appointment of Chair and Independent Members to the Audit and Risk Committee
- 11.5 Quick Response Grants
- 11.6 Advocacy Quarterly Update - June
- 11.7 Council Plan Year Three Annual Action Plan 2023-24 - Final
- 12.1 Springvalley Reimbursement
- 12.2 Proposed Lease of 640 Nepean Highway Carrum (Carrum Restaurant / Cafe)

**CARRIED**

**Question Time**

Question time was held at 7:41pm.

Cr Davies left the meeting at 7:46pm.

Cr Davies returned to the meeting at 7:48pm.

Cr Cochrane left the meeting at 7:48pm.

Cr Cochrane returned to the meeting at 7:52pm.

**Doug asked,**

*"How can rate payers have direct contact with the editors of Kingston Your City to produce their conversations without the Council blocking it?"*

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

*"Hi Doug, thanks for your question. Contact details are published within the front cover on the top left hand side of the magazine. This can start a conversation with the appropriate officer. While a magazine is indeed one way communication, designed to keep our community up-to-date and informed, there are plenty of ways in which Council actively seeks two way conversations and engagement. Our online and social media channels are great ways to engage, and I would encourage you to visit [YourKingstonYourSay.com.au](http://YourKingstonYourSay.com.au) to contribute to all our currently open consultations, with more to come in the future. Of course, you can always call our switchboard and one of our great team members can help direct you to the conversation you want to have."*

**Rosemary West asked,**

*"The benchmark lists for EVCs are short lists of species that distinguish one EVC from another, and include significantly less species than the comprehensive EVC lists. These lists are meant to improve the classification and understanding of remnant vegetation, not to restrict the number and diversity of species that can be planted. Question 1: Are the Councillors aware that voting for items 13.1 and 13.2 will not protect Kingston's EVCs or natural heritage, but by limiting planting (or re-planting) to the benchmark species of the dominant EVC and by reducing the replacement ratio from 3:1 to 1:1 or less, these resolutions will damage biodiversity by reducing the number of species planted to the benchmark list and could effectively ban the re-planting of trees on the foreshore as there are no trees on some of the benchmark lists? Question 2: As Kingston is low on the Council tree canopy list (coming 23rd of 31 metropolitan Councils) with only 12.3% of our canopy left (Urban Forest Strategy, p. 16), How does Council propose to reach its target of restoring 30% tree canopy if the 3:1 re-planting ratio for trees that are removed is abandoned or undermined as proposed in Items 13.1 and 13.2 on tonight's agenda?"*

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

*"In response to Question 1, Items 13.1 and 13.2 are subject to consideration by the Council on tonight's agenda and pending the direction of Council may require a further report to be prepared by Council Officers. In response to Question 2, as mentioned in response to Question 1. these matters are the subject of deliberation later in tonight's meeting. Pending the direction of Council may require a further report to be prepared by Council Officers."*

**Michael asked,**

*"The WEF (World Economic Forum) is not elected by Australian People, and never has been. They are not an authority in Australia. Question 1: How then, and why is Kingston Council implementing their plan of "smart cities" and surveillance (spying on all Australians on Australian land? Question 2: What contract does Kingston Council have signed by Australian people for this to proceed?"*

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

*"In response to Question 1, the Council is exploring a range of initiatives to use technology to assist it in the management of the City. A practical example is using technology in public waste bins to determine when they may need emptying. In response to Question 2, the Council has the statutory responsibility under the Victorian Local Government Act for the Kingston Local Government Area."*

**John asked,**

*"You stated that street LED lights are "sustainable" and "economical". It's noted that street LED lights turn on in the middle of the day when clouds cover the sky, so now during the winter LED lights turn on 24/7. Can you provide evidence that the LED lights are more economical than the old lights that were replaced? Please show us a breakdown of each year before and after installation."*

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

*"When implementing the first tranche of street light conversions (approximately 6,500 lights in 2017/18) it was identified that this would reduce Council's carbon footprint by 2,458 tonnes of CO<sub>2</sub>. The saving at the time was a saving of approximately \$478K from the operating budget. This would occur through a 32.6% saving in energy costs and 31.3% saving in the Operation, Maintenance and Replacement Costs."*

**Sarah asked,**

*"Why were there so many face recognition cameras installed during lockdown at every intersection/traffic lights in the Kingston Council area, and why was this done surreptitiously without ratepayers/residents knowing? This is not road safety cameras. It's face recognition cameras and Council is responsible to inform the community for new technology being installed in a public space. It's a breach of the Privacy Act 1988 C94. We are waiting for honest answer to be provided to us in a chamber."*

**The General Manager Infrastructure and Open Space provided the following response,**

*"Council has not installed any cameras at road intersections. It is a Victoria Police matter, and the resident is advised to contact Victoria Police."*

**Note:** The following questions from Mya, Mark and Louise were grouped together as they were considered similar in nature:

**Mya asked,**

*"Many suburbs in Melbourne are facing massive implant of 5G small cells in low density and residential areas. These small 5G small cells are implanted at the doorsteps of many households which is unprecedented and likely to expose biodiversity and Humans to harmful levels of electromagnetic radiation as many prominent scientists are naming us. This will drop the values of houses up to 45%. This small cell roll-out as well as 5GT towers roll-out is failing to comply with 2 key principles of the telecommunications Act 1997, being essential to respecting communities welfare. 5G is not sustainable as it consumes 3 times more energy than 4G, and it is hackable and the health injuries caused by these radiation are not insurable. Question - Please provide as a map of the project of any upcoming small cells tower installations on Kingston Council territory and provide us with levels of radiation of any single of these 5G cells that residents will be expected 24/7 in the homes."*

**Mark asked,**

*"Kingston Council is responsible for any installation of LED street lights and 5G towers on its territory. Arpana safety standards for 5G radiation are actually subject of a warning from prominent scientists in the world raising some concerns on the fact that firstly the health impacts of 5G on living organisms, human cells and DNA are not tested and secondly the level of the "acceptable" Electro Magnetic Radiation public exposure has been surprisingly raised in 2020 just before the 5G massive roll out in Australia. Why is Kingston Council stepping away from the precautionary principle and cannot provide any health risk assessment and environmental studies showing that these new levels of radiation omitted by 5G towers and LED lights are unequivocally safe for wildlife and humans?"*

**Louise asked,**

*"Following a question related to the major concern of the deployment of the military grade 5G technology (towers & small cells) untested on humans & not proven safe, Kingston Council admitted during the ordinary meeting of the 22 May 2023 its responsibility for Health & Safety for your staff and community stating that: "where risk is identified appropriate control are put in place to keep our staff and community safe". However, you have not responded clearly to this urgent concern, and told residents to refer to ACMA – ACMA had no authority for assessing or removing installed telecommunications facilities. Knowing that on 1 November 2019 the ALGA (Australian Local Government Association) has clearly raised to Parliament the health risks of this 5G rollout in Australia, and the risks of towers installed on the roof of many city buildings. Where is your evidence to now accept that exclusion of this massive 5G rollout from council planning? Clearly breaching your duty of care and risk assessment responsibilities, which are consequently putting at stake the health of the entire community, with this invisible & silent collective health threat."*

**The General Manager Customer and Corporate Support provided the following response:**

*"Federal level regulation is the domain of the Australian Radiation Protection and Nuclear Safety Agency, and on a Victorian State Level, the Department of Health regulates the use of radiation to protect people and the environment from its harmful effects by administering the Radiation Act 2005. As a Council, we rely on the advice and direction of these specialist agencies and have no active regulatory function in this space."*

**Simon Begg of Chelsea asked,**

*"It was reported at the last Council Meeting that additional security was engaged – in response to a risk that was assessed for this risk, does it still exist and, has the control method of additional security reduced the risk to an acceptable level (for community members who attend Council meetings)?"*

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

*"You may or may not be aware of significant media coverage of significant levels of disruption to Council Meetings and Council and community events across Victoria this year, which in some instances caused cancellations and the Police being called to manage threatening behaviour towards Council, community and staff. As a result, officers here at Kingston undertook an exercise to review our existing procedures in relation to Council Meetings and gallery behaviour and is currently satisfied with the risk controls in place, such that we are currently able to have the Council meeting conducted tonight as we are. Of course, Council reserves the right to take any steps deemed necessary to preserve the safety of the public, Councillors and staff, to protect community assets and to ensure the good governance of the municipality most significantly through the peaceful discharge of essential Council business as managed within the Council meeting agenda."*

**Simon Begg of Chelsea asked,**

*"Kingston's Integrated Transport Strategy (KITS) states that transport systems can be improved by reducing demand for car travel by encouraging walking, cycling and public transport. Will car travel be purposely inconvenienced as a way of engineering or contributing to this by reduced demand?"*

**The General Manager Infrastructure and Open Space provided the following response,**

*"We are not purposefully engineering to inconvenience vehicle travel as we acknowledge that cars will still be one of the chosen methods of travel for people for a variety of reasons. However, by improving accessibility and safety for other forms of travel and advocating for improved public transport to State Government, we aim to provide alternative options to reduce dependency on vehicles. Where possible, in the design of our projects, we will aim to promote and provide safe walking and cycling through our city. The Walking and Cycling Strategy is currently in development and we have consulted with our community recently on priority projects and we will be reporting shortly to Council."*

**Joe Crupi of Mentone asked,**

*"Over the weekend, rail work at Latrobe Street were conducted overnight. No one was advised night works were happening and the noise was louder than when the tunnel was constructed. Why weren't residents advised on such night works? Sleepless nights."*

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

*"Council was informed of the works that were being carried out at Latrobe Street by the Level Crossing Removal Project. Upon being informed of the works Council requested the Level Crossing Removal Project ensure that potentially impacted residents be notified. Council will raise the concerns raised by Mr. Crupi and ask that the Level Crossing Removal Project contact him to discuss his concerns regarding the works."*



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**Note:** A question submitted by Wandzia was not read out as it was deemed to be objectionable under Section 39.9.2 of the Governance Rules.

**Gail asked,**

*“My question was read out last month and I still have not received a reply. My concern is the power of the WEF, United Nations and the WHO. Are you in agreeance with what they are implementing? Are you being incentivised to go ahead? Please can you answer verbally tonight.”*

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

*“Apologies for not sending a reply. I will make sure we get back to you. While I am aware of the bodies that you have listed in a general sense, I’m not entirely sure of the powers or specific relevance of those bodies to Council, so perhaps read in conjunction with your previous questions, I’ll make sure that you’re provided with an appropriate response.”*

**8. Planning and Place Reports**

**8.1 KP-2009/506 - 22 Flinders Street, Mentone**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That Council determine to support the proposed secondary consent application and issue amended endorsed plans associated with Planning Permit KP-2009/506 at 22 Flinders Street Mentone, which allowed 'The development of this site for two (2) dwellings and the subdivision of the land into two (2) lots, in accordance with plans to be submitted pursuant to Condition 1'. The amendment proposes:

- The construction of a pool, associated pool fencing and paving to the rear of Dwelling 2 (known as 22B Flinders Street)
- The construction of a gazebo to the rear of Dwelling 2 (known as 22B Flinders Street)

**CARRIED**

**8.2 Tree Removal Application at Holmesglen TAFE, 488 South Road, Moorabbin**

**Moved: Cr Saab**

**Seconded: Cr Staikos**

That Council grant Local Law Permits for those trees outlined in Section 2 of this report, where the Recommendation is to remove trees pursuant to the assessment criteria contained within Clause 42 of the Community Local Law and provide for replacement planting at a ratio of up to 3:1 for each tree proposed to be removed.

Cr Hill arrived at 7.55pm.

**CARRIED**

**8.3 Response to Resolution - Notice of Motion No. 3/2023 - Review of Approved Landscape Plans for Mentone Life Saving Club**

**Moved: Cr Davies**

**Seconded: Cr Hill**

That Council instruct Officers to lodge a section 72 amendment to Planning Permit KP-2020/420 (through its representatives) as it relates to the landscape plan required by condition 1(a), seeking the following changes:

- a) Reduction in the amount of vegetation coverage to not more than 70% of the total plant coverage across the landscaped area; and
- b) Retain condition 1(a)(iv) providing for the planting of 20 *Allocasuarina verticillata* (Drooping She-oak) in the two groups as shown on approved landscape plans, however removing all unsuitable understorey vegetation proposed within the canopy dripline of the trees to reduce the potential for these plants to be impacted by allelopathy caused by the trees and to ensure that the understorey vegetation planted is compatible with the Drooping She-oaks.

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**Amendment**

**Moved: Cr Davies**

**Seconded: Cr Hill**

That Council instruct Officers to lodge a section 72 amendment to Planning Permit KP-2020/420 (through its representatives) as it relates to the landscape plan required by condition 1(a), seeking the following changes:

Delete Part a)

Modify Part b) Amend to read as follows "Vary condition 1(a)(iv) providing for the planting of 5 Allocasuarina verticillata (Drooping She-oaks) with the 15 trees that will now not be planted along the foreshore reserve to be planted at a nearby reserve or park, such 15 trees to be planted to be Drooping She-oaks or such other trees as Officers consider appropriate for the location".

Cr Oxley left the meeting at 8:02pm.

Cr Oxley returned to the meeting at 8:02pm.

Cr Howe left the meeting at 8:13pm.

**The Amendment was put and CARRIED**

**A Division was Called:**

**DIVISION:**

**FOR:** Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill, Hua and Saab (8)

**AGAINST:** Crs Eden and Oxley (2)

**CARRIED**

**The Amendment became the Motion**

**Procedural Motion**

**Moved: Cr Davey-Burns**

**Seconded: Cr Staikos**

That the Motion now be put.

**CARRIED**

**A Division was Called:**

**DIVISION:**

**FOR:** Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill, Hua and Saab (8)

**AGAINST:** Crs Eden and Oxley (2)

**CARRIED**

**The Substantive Motion Was Put and CARRIED**

**A Division was Called:**

**DIVISION:**

**FOR:** Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill, Hua and Saab (8)

**AGAINST:** Crs Eden and Oxley (2)

**CARRIED**

**Note:** Cr Hill requested through the Chair and was granted an extension of time to speak on the matter.

**8.4 Planning Scheme Amendment C205king - Planning Panel Report**

Cr Oxley declared a general conflict of interest in this item as she stores a jet ski in the vicinity and left the meeting at 8.27pm prior to any discussion on the matter.

Cr Eden declared a general conflict of interest in this item due to having a storage arrangement in the vicinity and left the meeting at 8.27pm prior to any discussion on the matter.

**Moved: Cr Staikos**

**Seconded: Cr Bearsley**

That the Council:

1. Receive the Planning Panel report in Appendix 1.
2. Adopt Amendment C205king to the Kingston Planning Scheme subject to:
  - a) The changes recommended by the Planning Panel.
  - b) A further administrative change to the Panel preferred version of the Comprehensive Development Zone Schedule 1 (CDZ1) to reflect a requirement for apartment buildings of any scale to meet the requirements of Clause 58 (Apartment Developments).
3. Submit Amendment C205king to the Minister for Planning for approval.
4. Notify submitters to Amendment C205king of the above resolutions.

**CARRIED**

**9. Community Strengthening Reports**

**9.1 Year 3 Health Plan Action Plan - Municipal Public Health and Wellbeing Plan 2021-25**

**RECOMMENDATION**

That Council:

1. Note the outcomes of the public comment period for the draft Year 3 Health Plan Action Plan for the Municipal Public Health and Wellbeing Plan 2021-25; and
2. Endorse the Year 3 Health Plan Action Plan for the Municipal Public Health and Wellbeing Plan 2021-25.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**10. Infrastructure and Open Space Reports**

**10.1 Bonbeach Sports Reserve Pavilion Development - Update**

**RECOMMENDATION**

That Council:

1. Note that funding advocacy to the State Government for a \$5M contribution towards the proposed pavilion development at Bonbeach Sports Reserve was unsuccessful;
2. Endorse commencement of a design review process of the proposed pavilion development at Bonbeach Sports Reserve that considers a range of options outlined in this report, to achieve a more cost-effective outcome consistent with Council and State Sporting Associations standards;
3. Endorse that consultation be undertaken with the tenant clubs and local community regarding a revised proposed pavilion development at Bonbeach Sports Reserve and its impact on the Master Plan; and
4. Note an update to the Pavilion Strategy and development of pavilion design guidelines is underway, to guide pavilion investment planning and design in future capital works programs.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**10.2 Award of Contract - CON-23/034 Parkdale Yacht Club Carpark Construction**

**RECOMMENDATION**

That Council:

1. Note the outcome of the tender assessment process for Contract 23/034 Parkdale Yacht Club Carpark Construction as set out in confidential Appendix 1 attached to this report;
2. Award Contract 23/034 - Parkdale Yacht Club Carpark Construction for the fixed lump sum price of \$1,099,543.21 (exclusive of GST) to VCrete Contractors Pty Ltd subject to appropriate financial guarantees being put in place; and
3. Approve the allocation of a separate contingency of up to 10% of the contract sum and delegate authority to the CEO or delegate to expend this allowance to ensure the successful completion of the project.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**10.3 Kingston's New Aquatic and Leisure Centre Concept Design**

Cr Eden returned to the meeting at 8:33pm.

Cr Oxley returned to the meeting at 8:33pm.

**Moved: Cr Cochrane**

**Seconded: Cr Bearsley**

That Council:

1. Endorse Kingston's new aquatic and leisure centre Concept Design, attached in Appendix 1, to proceed to community consultation and engagement in line with the community engagement approach; and
2. Note that a report will be presented at a future Council Meeting detailing the community feedback received on the Concept Design.

Cr Howe returned to the meeting at 8:34pm.

Cr Hua left the meeting at 8:36pm.

Cr Hua returned to the meeting at 8:39pm.

**CARRIED**

**11. Customer and Corporate Support Reports**

**11.1 Informal Meetings of Councillors**

**RECOMMENDATION**

That Council receive the report.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**11.2 CEO and General Manager Quarterly Expenses**

**RECOMMENDATION**

That Council receive the report.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**11.3 Authorisation of Officers - Planning and Environment Act 1987**

**RECOMMENDATION**

That:

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

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**11.4 Appointment of Chair and Independent Members to the Audit and Risk Committee**

**RECOMMENDATION**

That Council appoint to the Audit and Risk Committee:

- Bruce Potgieter as independent member for a period of one year expiring on 30 June 2024;
- Claire Filson as Chair for a period of two years expiring on 30 June 2025; and
- Geoff Harry as independent member for a period of three years expiring on 30 June 2026.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.



**11.5 Quick Response Grants**

**RECOMMENDATION**

That Council approve the following Quick Response Grant applications:

- Bayside Community Information and Support Service Inc - \$545.00 (subject to further information)
- Senior Citizens of the Freccia Azzurra Club Inc - \$1500.00
- Carrum Cricket Club - \$1137.00
- Menteed Incorporated - \$1500.00 00 (subject to further information)
- Le Page Park Cricket Club - \$1500.00

That Council not approve the following Quick Response Grant Application:

- Multicultural Nature Guides

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**11.6 Advocacy Quarterly Update - June**

**RECOMMENDATION**

That Council receive the June 2023 Advocacy Update report.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**11.7 Council Plan Year Three Annual Action Plan 2023-24 - Final**

**RECOMMENDATION**

That Council adopt the Kingston Council Plan 2021-25, Year Three – Annual Action Plan (2023 24) (Appendix 1).

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**12. Chief Finance Office Reports**

**12.1 Springvalley Reimbursement**

**RECOMMENDATION**

That Council authorise the payment of \$983,987.10 ex GST to Greater Dandenong City Council for the remediation works at the Springvalley closed landfill site directed under a Pollution Abatement Notice (PAN) issued by the Environment Protection Authority (EPA).

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**12.2 Proposed Lease of 640 Nepean Highway Carrum (Carrum Restaurant / Cafe)**

**RECOMMENDATION**

That Council:

1. Give public notice in accordance with Section 115 of the Local Government Act 2020 and Council's Community Engagement Policy to:
  - a) Inform the Kingston Community of Council's intention to grant a lease to Pynce Hospitality Group Pty Ltd (and/or nominee) for an initial term of five (5) years plus two further terms of five (5) years each at a commencing rental of \$38,000 per annum plus GST and outgoings for the building situated at 640 Nepean Highway, Carrum on the terms and conditions outlined in this report and;
  - b) Invite submissions and report back to Council.
2. In the event that submissions are received in response to Recommendation 1 (above), requiring Council's consideration, convene a meeting comprising the Mayor, Deputy Mayor, Ward Councillor, Chief Financial Officer, Manager, Property Services, Team Leader, Property Services to consider any submissions and report back to Council; and
3. In the event that no submissions are received that require Council's consideration, grant a lease to the Pynce Hospitality Group Pty Ltd (and/or nominee) on the terms and conditions outlined in this report.

**Note:** Refer to page 5 of the Minutes where this item was resolved *en bloc*.

**12.3 Proposed Sale of 6 Lochiel Avenue, Edithvale**

Cr Cochrane left the meeting at 8:49pm.

**Moved: Cr Staikos**

**Seconded: Cr Bearsley**

That Council, having given public notice on 10 April 2023 of its intention to sell the subject property under section 114 of the Local Government Act 2020 and Council's Community Engagement Policy, and having considered the one submission lodged in response to Council's Notice of Intention to Sell:

1. Advise suitable social and affordable housing providers that it is considering the future use of 6 Lochiel Avenue, Edithvale 3196;
2. Invite Expressions of Interest from social and affordable housing providers to develop the property for social and or affordable housing;
3. Receive a report following completion of the Expression of Interest campaign;
4. Authorise the Chief Executive Officer to act on Council's behalf in this matter; and
5. That a further report be presented to Council detailing where the funds would be spent, invested or allocated.

Cr Cochrane returned to the meeting at 8:52pm.

**CARRIED**

**12.4 Future of 33 Balcombe Road, Mentone**

**Moved: Cr Staikos**

**Seconded: Cr Hill**

That Council:

1. Advise suitable social and affordable housing providers that it is considering the future use of 33 Balcombe Road Mentone;
2. Invite Expressions of Interest from social and affordable housing providers to develop the property for social and or affordable housing; and
3. Receive a report following completion of the Expression of Interest campaign.

Cr Davey-Burns left the meeting at 9:01pm.

Cr Eden returned to the meeting at 9:06pm.

Cr Eden left the meeting at 9:06pm.

Cr Davey-Burns returned to the meeting at 9:08pm.

**CARRIED**

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**12.5 Proposed Sale of Council Reserve (part) at 40 Redwood Drive, Dingley Village**

**Moved: Cr Staikos**

**Seconded: Cr Hua**

That Council abandon the sale of the reserve known as Lot 1 of 40 Redwood Drive, Dingley Village, and instead retain the property as public open space.

Cr Hill left the meeting at 9:18pm.

Cr Hill returned to the meeting at 9:22pm.

**CARRIED**

**13. Notices of Motion**

**13.1 Notice of Motion No. 4/2023 - Cr Davies - Foreshore Guidelines**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

1. That Council officers provide a report for the consideration of Council presenting a draft guideline concerning the foreshore beach areas in Kingston, such guideline to include, but not be limited to the following areas:
  - a) The requirement of Council to acknowledge the dominant ecological vegetation class (EVC) established by the Department of Energy, Environment and Climate Action (DEECA) which applies to an area in Kingston where removal of vegetation and/or planting of vegetation or trees is proposed.
  - b) The Guideline will set out in table format the location of each applicable EVC in Kingston so that any resident, councillor or council employee can discern easily which EVC is the dominant EVC in a particular area of foreshore.
  - c) Any planting schedule is to comply with the dominant EVC with no vegetation or trees not included in that EVC to be planted.
  - d) Planting of trees to be on a 1:1 basis and a deviation from a 1:1 ratio would only be considered if it can be shown that no adverse impact to the EVC will occur.
  - e) Notify abutting residents of the proposed planting via addressed mail. Such notification to include why the plantings are important, EVC(s) which applies, why the plants will be planted and invite residents to meet staff on site to discuss the location of plants.
  - f) Where possible plants/trees should not impact on the views of residents or users of the Bay Trail.
  - g) Ensure that all Life Saving Clubs facilities in Kingston have unimpeded views of the beach.
  - h) Have regard to DEECA's Bioregions and EVC Benchmark guidelines for Gippsland Plain which is relevant to Kingston.
2. The aim of the Guideline is to protect and support the dominant EVC that applies in each location in Kingston.
3. This draft Guideline should be prepared no later than March/April 2023.

**Amendment**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

1. That Officers prepare a report for the consideration of Council presenting draft Guidelines for the foreshore areas in Kingston, such Guidelines will include, but not be limited to the following areas:
  - a) The requirement of Council to acknowledge, protect and reinforce the dominant ecological vegetation class (EVC) established by the Department of Energy, Environment and Climate Action (DEECA) which applies to any foreshore area in Kingston where removal of vegetation and/or planting of vegetation or trees is proposed.
  - b) The Guideline will set out in table format, similar to Appendix B of the now

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superseded Coastal Management Plan 2014 (see attached extract) the location of each applicable EVC along the Kingston foreshore so that any resident, councillor or council officer can discern easily which EVC is the dominant EVC in a particular area of foreshore.

- c) Any proposed planting schedule along the foreshore is to acknowledge, protect and reinforce the dominant EVC.
  - d) Planting of trees along the foreshore to be on a 1:1 basis and a deviation from a 1:1 ratio would only be considered if it can be demonstrated through ecological advice that no adverse impact to the EVC will occur.
  - e) Re-establish and apply Appendix C of the now superseded Coastal Management Plan 2014 with regard to community engagement and foreshore tree planting (see attached extract)
  - f) Where possible plants/trees on the foreshore should be planted where they have the least impact on the views of residents or users of the Bay Trail.
  - g) Ensure that all Life Saving Clubs facilities in Kingston have unimpeded views of the beach.
2. The aim of the Guideline is to protect and support the dominant EVC that applies in each foreshore location in Kingston.
3. This draft Guideline should be prepared no later than October 2023.

Cr Eden left the meeting at 9:36pm.

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

Cr Cochrane left the meeting at 9:40pm.

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

Cr Oxley left the meeting at 9:45pm.

Cr Oxley returned to the meeting at 9:45pm.

**The Amendment was put and CARRIED**

**A Division was Called:**

**DIVISION:**

**FOR:** Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill, Hua and Saab (8)

**AGAINST:** Crs Eden, Howe and Oxley (3)

**CARRIED**

**The Amendment became the Motion**

**Procedural Motion**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That the motion now be put.

**CARRIED**

**A Division was Called:**

**DIVISION:**

**FOR:** Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill, Howe, Hua and Saab (9)

**AGAINST:** Crs Eden and Oxley (2)

**CARRIED**

**The Substantive Motion was put and CARRIED**

**The Resolution reads as follows:**

1. That Officers prepare a report for the consideration of Council presenting draft Guidelines for the foreshore areas in Kingston, such Guidelines will include, but not be limited to the following areas:
  - a) The requirement of Council to acknowledge, protect and reinforce the dominant ecological vegetation class (EVC) established by the Department of Energy, Environment and Climate Action (DEECA) which applies to any foreshore area in Kingston where removal of vegetation and/or planting of vegetation or trees is proposed.
  - b) The Guideline will set out in table format, similar to Appendix B of the now superseded Coastal Management Plan 2014 (see attached extract) the location of each applicable EVC along the Kingston foreshore so that any resident, councillor or council officer can discern easily which EVC is the dominant EVC in a particular area of foreshore.
  - c) Any proposed planting schedule along the foreshore is to acknowledge, protect and reinforce the dominant EVC.
  - d) Planting of trees along the foreshore to be on a 1:1 basis and a deviation from a 1:1 ratio would only be considered if it can be demonstrated through ecological advice that no adverse impact to the EVC will occur.
  - e) Re-establish and apply Appendix C of the now superseded Coastal Management Plan 2014 with regard to community engagement and foreshore tree planting (see attached extract)
  - f) Where possible plants/trees on the foreshore should be planted where they have the least impact on the views of residents or users of the Bay Trail.
  - g) Ensure that all Life Saving Clubs facilities in Kingston have unimpeded views of the beach.
2. The aim of the Guideline is to protect and support the dominant EVC that applies in each foreshore location in Kingston.
3. This draft Guideline should be prepared no later than October 2023.

**Note:** Cr Davies requested through the Chair and was granted an extension of time to speak on the matter.

**Note:** Cr Eden requested through the Chair and was granted an extension of time to speak on the matter.

**Procedural Motion**

**Moved: Cr Staikos**

**Seconded: Cr Bearsley**

That the Meeting be extended until 10.30pm.

Cr Eden left the meeting at 9:54pm.

**CARRIED**

**13.2 Notice of Motion No. 19/2023 - Cr Davies - Tree Planting**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That officers prepare a report and present it to the September Council Meeting:

1. Reviewing and examining the efficacy, challenges and practicalities of the 3:1 tree replacement resolution since its adoption,
2. Provide any recommendations that would enhance/improve Council's operations and relationships with its residents regarding the implementation of Council and State Government policies in the management of the planning scheme and any environment act requirements, in particular the management of EVCs on the foreshore,
3. That Council will prioritise the implementation of the biodiversity strategy, urban forest strategy and street tree strategy without considering the 3:1 resolution until the outcome of this review.

Cr Oxley left the meeting at 9:55pm

**Amendment**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That officers prepare a report and present it to the October Council meeting:

1. Reviewing and examining the efficacy, challenges and practicalities of the 3:1 tree replacement resolution since its adoption;
2. Provide any recommendations that would enhance/improve Council's operations and relationships with its residents regarding the implementation of Council and state government policies in the management of the planning scheme and any environment act requirements, regarding the management of EVCs on the foreshore;
3. That Council will prioritise the implementation of the biodiversity strategy, draft urban forest strategy and street tree strategy without considering the 3:1 resolution until the outcome of this review.

Cr Eden returned to the meeting at 9:57pm.

Cr Oxley returned to the meeting at 9:57pm.

**The Amendment was put and CARRIED**

**A Division was Called:**

**DIVISION:**

**FOR:** Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill, Howe, Hua and Saab (9)

**AGAINST:** Crs Eden and Oxley (2)

**CARRIED**

**The Amendment became the Motion**

**Note:** It was requested by Cr Oxley and agreed to by the Chairperson that parts 1 and 2 of the Motion be put to the vote separately to part 3.



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**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That officers prepare a report and present it to the October Council meeting:

1. Reviewing and examining the efficacy, challenges and practicalities of the 3:1 tree replacement resolution since its adoption;
2. Provide any recommendations that would enhance/improve council's operations and relationships with its residents regarding the implementation of council and state government policies in the management of the planning scheme and any environment act requirements, regarding the management of EVCs on the foreshore;

**Parts 1 and 2 of the Substantive Motion were put and CARRIED**

3. That Council will prioritise the implementation of the biodiversity strategy, draft urban forest strategy and street tree strategy without considering the 3:1 resolution until the outcome of this review.

**Part 3 of the Substantive Motion was put and CARRIED**

**A Division was Called:**

**DIVISION:**

**FOR:** Crs Staikos, Davey-Burns, Bearsley, Cochrane, Davies, Hill, Howe, Hua and Saab (9)

**AGAINST:** Crs Eden and Oxley (2)

**CARRIED**

**The Resolution reads as follows:**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That officers prepare a report and present it to the October Council meeting:

1. Reviewing and examining the efficacy, challenges and practicalities of the 3:1 tree replacement resolution since its adoption;
2. Provide any recommendations that would enhance/improve council's operations and relationships with its residents regarding the implementation of council and state government policies in the management of the planning scheme and any environment act requirements, regarding the management of EVCs on the foreshore;
3. That Council will prioritise the implementation of the biodiversity strategy, draft urban forest strategy and street tree strategy without considering the 3:1 resolution until the outcome of this review.

**CARRIED**

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**14. Urgent Business**

There were no items of urgent business.

**15. Confidential Items**

**Moved: Cr Staikos**

**Seconded: Cr Howe**

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

**15.1 Property 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 that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage (section 3(1)(g(ii))), and
- the report contains financial information provided by a tenant on a commercial and in confidence basis that is market sensitive..

**CARRIED**

Cr Eden left the meeting at 10.14pm and did not return.

Cr Oxley left the meeting at 10.14pm and did not return.

The meeting was closed to members of the public at 10.14pm.

**Moved: Cr Staikos**

**Seconded: Cr Davey-Burns**

That the meeting be opened to members of the public.

**CARRIED**

The meeting was opened to members of the public at 10.23pm

The meeting closed at 10.24pm.

**Confirmed.....**

**The Mayor 24 July 2023**