

Kingborough



COUNCIL MEETING MINUTES

17 June 2024

These Minutes are provided for the assistance and information of members of the public, and are a draft until confirmed as a true record at the next Ordinary Meeting of Council.

Kingborough Councillors 2022 - 2026



Mayor
Councillor Paula Wriedt



Deputy Mayor
Councillor Clare Glade-Wright



Councillor Aldo Antolli



Councillor David Bain



Councillor Gideon Cordover



Councillor Kaspar Deane



Councillor Flora Fox



Councillor Amanda Midgley



Councillor Mark Richardson



Councillor Christian Street

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MINUTES of an Ordinary Meeting of Council
Kingborough Civic Centre, 15 Channel Highway, Kingston
Monday, 17 June 2024 at 5.30pm

1 AUDIO RECORDING

The Chairperson declared the meeting open, welcomed all in attendance and advised that Council meetings are recorded and made publicly available on its website. In accordance with Council's policy the Chairperson received confirmation that the audio recording had commenced.

2 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The Chairperson acknowledged the traditional custodians of this land, paid respects to elders past and present, and acknowledged today's Tasmanian Aboriginal community.

3 ATTENDEES

Councillors:

Acting Mayor Councillor C Glade-Wright	✓
Councillor A Antolli	✓
Councillor D Bain	✓
Councillor G Cordover	✓
Councillor K Deane	✓
Councillor F Fox	✓
Councillor A Midgley	✓
Councillor M Richardson	✓
Councillor C Street	✓

Staff:

Chief Executive Officer	Mr Dave Stewart
Chief Information Officer	Mr Fred Mout
Director People & Finance	Mr David Spinks
Director Governance, Recreation & Property Services	Mr Daniel Smee
Director Engineering Services	Mr David Reeve
Director Environment, Development & Community Services	Ms Deleeze Chetcuti
Business Improvement Officer	Mrs Stephanie Velini
Media & Communications Advisor	Ms Sam Adams
Executive Assistant	Mrs Amanda Morton

C160/11-2024

4 APOLOGIES

Mayor Councillor P Wriedt

C161/11-2024

5 CONFIRMATION OF MINUTES

Moved: Cr Flora Fox
Seconded: Cr David Bain

That the Minutes of the open session of the Council Meeting No.10 held on 3 June 2024 be confirmed as a true record.

CARRIED

6 WORKSHOPS HELD SINCE LAST COUNCIL MEETING

No workshops had been held.

C162/11-2024

7 DECLARATIONS OF INTEREST

Cr's Cordover and Bain declared an interest in the report 'Jackjumpers High Performance Training Centre'.

8 TRANSFER OF AGENDA ITEMS

There were no agenda items transferred.

C163/11-2024

9 QUESTIONS WITHOUT NOTICE FROM THE PUBLIC

Mr Mark Donnellon asked the following question without notice:

9.1 Graffiti

Does the limitation of Council only removing graffiti from Council property come from Council's own policy?

Chief Executive Officer responds:

Yes, it does. We have policies that approach the graffiti of Council owned assets. In terms of graffiti on non-council owned land, that is the the remit of that property owner.

Mr Donnellon:

What progress has Council made towards policy, strategy or planning changes that address the long standing graffiti that affects Kingborough ratepayers but is not covered by the current graffiti removal policy?

Chief Executive Officer:

Council has been working in partnership with the police to come up with a multifaceted approach to address graffiti within the municipal area.

Mr Donnellon:

Does that include changes to Council's policies or to the planning scheme or any strategies?

Chief Executive Officer:

At this stage it doesn't incorporate those types of interventions. It's not to say that it couldn't in the future. However, the first steps are understanding what approaches we can take with the other agencies that we work with, whether they be police or other organisations that engage with the community in order to encourage an approach. That means that the perpetrators of this type of graffiti have other productive endeavors to spend their time on. Then from there it's working with other stakeholders that are impacted, whether that be private landholders, especially around substantial graffiti items to make sure that they are being addressed.

Mr Donnellon:

If a local incorporated association was willing to volunteer their labor for the removal of graffiti, what Council resources and grants are available to assist the association to effectively remove graffiti?

Director Engineering Services responds:

We certainly had some community grants that are made available during the year which would be available for groups like that. It certainly would be something which we would see as a really positive thing from the community to be involved. There are lots of different stakeholders involved with it and we certainly try and do our part in terms of dealing with the various different stakeholders. As the CEO mentioned, we have a close relationship with the police in particular. We are also reviewing our own internal guidelines in terms of what we will be doing and providing some more information back to the public in terms of what Council can and can't do and what are some of the other options available to people. In answer to your question, certainly community grants would be the avenue I would be pointing to.

Mr Charlie Biggins asked the following questions without notice:

9.2 Tree Removal Application and Approvals Process

Given that emergency tree removal applications can take several days to a week to process, does Council hold sufficient public liability insurance to cover for damage that may arise from a hazardous tree on private land between the time that Council is notified of the hazard and the time that Council issues a permit to the land holder that they have Council permission to remove the hazard?

Director Governance, Recreation & Property Services responds:

Council holds public liability insurance. The question of whether it's sufficient is specific to the actual event at the time, but generally speaking, Council has insurance to cover off on claims made against it.

Mr Biggins:

In such a scenario, would council accept liability?

Director Governance, Recreation & Property Services:

It would be Council's standard practice not to accept liability and leave that up to our insurers.

Mr Biggins:

Does a landholder retain the liability for any subsequent damages caused by the tree on their own property, even if they have concerns regarding the tree safety, applied to Council to remove it and Council declined the application?

Director Governance, Recreation & Property Services:

The question is a hypothetical one and could only be answered by being tested in court.

Mr Biggins:

If Council refuses a reasonable request to remove a tree on qualified safety concerns and the tree subsequently fails, is Council in breach of their own and Local Government Act by failing to provide for the health and welfare of the community?

Director Governance, Recreation & Property Services:

The question does not have a straightforward answer. It needs to be tested in terms of answering that question. And again, it's a hypothetical question that would be very much dependent on the circumstances and all of the details associated with those circumstances.

Mr Biggins:

If a tree removal is exempt from the planning scheme, doesn't it mean that LUPA is subordinate to the other State act in regards to that particular planning scheme provisions and Council has no authority to prevent its removal?

Chief Executive Officer:

That's a complex question that has a number of acts involved with them. I think we'll take that one on notice to come back to you.

Mr Biggins:

When Council officers are assessing our hazardous tree removal under the planning scheme with their LUPA hat on, are these Council officers instructed to notify the CEO, who also wears another hat and has responsibilities under the Local Government Act to ensure the health and well-being of the community, and to abate a public nuisance, including a hazard that Council is satisfied exists?

Chief Executive Officer:

Staff act under operational delegations within the organisation. They do, however, have a responsibility to escalate issues that are of a health and safety risk through to my office. They will do so when they deem that there is a health and safety risk involved in the work that they are undertaking.

Mr Biggins:

At last Council meeting, the Director of Environment Development and Community Services said in the reply to my question "is Council claiming to be gatekeepers of all the acts of Parliament that deal with vegetation management on private land" and I quote, "we apply our bylaw and our offset policy in accordance with the legislation in which we are able to have those bylaws and policies in place, and they work in conjunction with other legislation, such as the Land Use and Planning Approvals Act and the Native Vegetation Act as well". What by-law is the director referring to and under what act does this by-law sit?

Director Environment, Development & Community Services:

That was a reference to general by-laws that we are authorised to enact under the Local Government Act.

Mr Biggins:

Given the Council ceased having the tree by-law provisions under Kingborough's environmental bylaw in August 2021 and passed the draft trees on private by-law in July 2022, that finally went out to public consultation in October 2023, what other statutory time limitations on Council to pass,

sign, seal this proposed by-law, including the yet to be completed legal and parliamentary approvals process.

Chief Executive Officer:

We will take that one on notice.

Mr Biggins:

Has Council been made aware of any legal obstacles that would prevent Council proceeding with the draft by-law in the substantive format that it was presented to the public for comment in October 2023?

Director Governance, Recreation & Property Services:

Council has received legal advice in relation to the development of the by-law and in accordance with the requirements of making that by-law, there is a legal practitioner prepared to sign off on that by-law.

Mr Biggins:

Is Council working on an alternative draft version of the by-law to circumvent these legal challenges before presenting it back to Council for final approval? And will the public be informed of any legal reasons for a redraft if the by-law is substantively different from the original?

Director Governance, Recreation & Property Services:

Council does not intend to redraft the by-law. There may be some minor changes resulting from the feedback obtained through the consultation process, but it certainly won't be a redraft and Council is confident in the legal advice it has received in relation to the validity of the by-law.

Mr Biggins:

Regarding my question on notice from last Council meeting in relation to the inclusion of two proprietary risk assessment licensing requirements on Council's tree removal application form, being the QTRA and the VALID methods, your officer has replied and claims that Council took advice from the Tasmanian Arboriculture Organisation otherwise known as the TAO, for your benefit is a wholly owned subsidiary of Arboriculture Australia Proprietary Limited, a not-for-profit organisation, who are the exclusive agents for a third proprietary tree risk assessment tool called TRAQ, who ironically is not listed on Council's application form. I've written to the TAO and made Council's CEO aware that a commercial conflict of interest may exist if a TAO member who is a known contractor to Kingborough Council and only one of four arborists in Southern Tasmania who have maintained the expensive licensing arrangements to use one of the proprietary tree risk assessment tools required by Council's tree removal application process has personally given this advice to Council and Council has acted upon it without undertaking their own regulatory impact assessment. Can Council please share publicly the written advice given to them that demonstrates that the advice received by Council was officially endorsed by the Tasmanian Arboriculture Organisation itself or their parent company Arboriculture Australia Proprietary Limited and not just the recommendations of an individual consultant seeking a commercial advantage over other qualified arborists?

Chief Executive Officer:

We will take that question on notice.

C164/11-2024**10 QUESTIONS ON NOTICE FROM THE PUBLIC**

10.1 Boundary Fencing

At the Council meeting on 3 June 2024, **Mr Charlie Biggins** asked the following question without notice to the Chief Executive Officer, with a response that the question would be taken on notice:

Regarding the application form for removal of trees, do Council officers advise land holders of the provisions for tree removal contained within section 16 of the Boundary Fences Act 1908, and that no Council permit is required if a land holder chooses to take advantage of the provisions contained within that act? If you tick that box is the landowner advised by Council staff that this is administered or is authorized under the Boundary Fences Act?

Officer's Response:

The *Boundary Fences Act 1908* does not authorise vegetation removal for boundary fencing in isolation and any tree or vegetation removal for the purpose of a boundary fence must also comply with other relevant regulatory instruments which control the clearing of vegetation. These instruments include the planning scheme, covenants on the title and Part 5 Agreements. It is noted that Clause 5.4.1 (h) of the planning scheme provides an exemption for tree removal located within 1.5m of a lot boundary for the purpose of erecting or maintaining a boundary fence. The exemption does not extend to the removal of a tree simply on the basis of it being in proximity to a boundary or boundary fence. Therefore, as part of a request for tree removal it needs to be confirmed that the purpose of the tree removal is to enable a boundary fence to be either erected or maintained and the proposed tree removal is within 1.5m of this boundary. Where trees are also subject to a covenant on the title or a Part 5 Agreement, this tree removal requires separate assessment and approval from Council under these instruments, even where exempt from requiring a planning permit and meeting the *Boundary Fences Act 1908*.

Nikki den Exter, Environmental Planner

10.2 Risk Matrix

At the Council meeting on 3 June 2024, **Mr Charlie Biggins** asked the following question without notice to the Chief Executive Officer, with a response that the question would be taken on notice:

Why are Council insisting on using a risk matrix? You're relying on arborists to present expert advice and then you're asking them to put it through one of these risk matrix, which is an in house risk matrix, for land holders to assess and prioritise their own trees and set their own levels. Council will have a different risk level to State Growth who will have a different acceptable risk level than one of the schools. This is what it's designed to do. This is not fit for purpose to be imposing the baseline risk level without having that discussion with the land holders, they can simply say I have a zero tolerance of risk and the whole risk matrix is thrown out the window. Why is it included for arborists to use to assess a landowners tree hazard?

Officer's Response:

Council utilises Australian Standards, Codes of Practice and peak bodies to inform our guidelines and programmes across Council, and tree risk assessment is no exception. The Tasmanian Arboriculture Organisation has provided advice to Council as to the appropriate methodologies to undertake tree risk assessments and what constitutes a suitably qualified arborist, and this is the standard that Council has applied.

Tree risk assessment can be undertaken using the following methods:

- The Quantified Tree Risk Assessment (QTRA) risk assessment. QTRA requires practitioners to complete 2 days of training and assessment to be deemed competent. Practitioners using

QTRA are encouraged to engage in update training, whenever the training version has been updated (currently V5).

- The VALID assessment, which uses a mix of qualitative and quantitative inputs. VALID users attend 2 days of training and assessment to be deemed competent. VALID qualifications need renewal every 5 years.

Regarding what constitutes a suitably qualified arborist:

- For pruning works a suitably qualified arborist will hold a minimum Certificate 3 (AHC30820 or equivalent) working to AS4373 or Arboriculture Australia's Minimum Industry Standard - MIS308.
- For consultancy work, a Diploma of Arboriculture (AHC50520 or equivalent) or the Graduate Certificate of Arboriculture (GC-ARBCULT).

Rene Raichert, NAB Coordinator

C165/11-2024

11 QUESTIONS WITHOUT NOTICE FROM COUNCILLORS

Cr Cordover asked the following questions without notice:

11.1 Platypus

Does Kingborough Council have a platypus management plan to help protect the platypus in the municipality, specifically, how are we managing platypus protection in Whitewater Creek relating to the Summerleas Road underpass?

Director Environment, Development & Community Services:

We don't specifically have a platypus management plan, but when works are completed, we do have environmental management plans that address all the potential risks and hazards to the surrounding environment. If a platypus was identified as an environmental value for that area, we would have controls in place. In terms of general management across the municipality, flora and fauna are values that we actively monitor, identify and then have management controls in place for as well.

Cr Cordover:

Does Council consider that it might be worth undertaking work on a specific strategy or consider it worthwhile to adopt guidelines and follow some of the learnings from other municipalities and academia, including the Australian Platypus Conservancy, because I note that they have a wide-ranging number of documents which would be useful for local councils like managing platypus risk, parks and lights, and a whole series of ones that directly affect local government?

Director Environment, Development & Community Services:

It's certainly something that is worth discussion with the NAB team, and I will take that away and have that conversation.

11.2 Little Penguins

Does Council provide special funding set aside within the natural areas and biodiversity budget for little penguin conservation or is it left up to local landcare groups and the Derwent Estuary Program to fund programs like revegetation, artificial nesting homes, etc?

Director Environment, Development & Community Services:

I don't believe we have a specific line item for funding the little penguins but we do work very closely with the DEP and the landcare groups.

Cr Cordover:

The amount of resourcing that Council is currently allocating to the mitigation of dog attack on our little penguin colonies, is that sufficient, or is it the recommendation of Council that more money or more resources should be allocated towards that specific goal?

Director Environment, Development & Community Services:

We have a lot of different values in our municipality and threats to our wildlife so we allocate our budget in accordance with those different priorities as we assess them. I will correct myself, the little penguin does have a budget, but it's combined into our overall NAB wildlife stream, and we also have officers that do dedicated work around the little penguins as well, so it is resourced at the moment. That is always obviously under review each year as we know more about the values in our municipality.

Cr Antolli asked the following question without notice:

11.3 Graffiti

Does Council have authority when graffiti is not being dealt with for a period of time on a commercial or residential property to caution or warn that owner out of community concern and deal with the graffiti? Do we have that authority or that ability to advise or request?

Director Governance, Recreation & Property Services responds:

The shorter answer is no. The only potential head of power that we could use would be under the nuisance provisions of the Local Government Act, and I'm not aware of any precedent where that's been used. We could take some legal advice on that, but that would be the only avenue that we could go down in terms of compelling a private land owner to remove graffiti.

12 QUESTIONS ON NOTICE FROM COUNCILLORS

There were no Questions on Notice from Councillors.

13 PETITIONS STILL BEING ACTIONED

There are no petitions still being actioned.

14 PETITIONS RECEIVED IN LAST PERIOD

At the time the Minutes was compiled no Petitions had been received.

15 OFFICERS REPORTS TO COUNCIL

C166/11-2024**15.1 JACK JUMPERS HIGH PERFORMANCE TRAINING CENTRE**

Moved: Cr Amanda Midgley
Seconded: Cr Gideon Cordover

That the matter be discussed.

CARRIED

Moved: Cr Christian Street
Seconded: Cr Flora Fox

That:

- (a) Council resolves to advertise its intent to dispose land within the Kingborough Sports Precinct to the State Government for the purpose of developing a High Performance Training Centre for the Tasmanian Jack Jumpers basketball team.
- (b) A further report be provided to Council providing details of the following:
- (i) Any objections received in relation to the disposing of the land;
 - (ii) An independent valuation on the land; and
 - (iii) Conditions relating to disposal of the land.

CARRIED

C167/11-2024**15.2 COMPLAINTS MANAGEMENT POLICY**

Moved: Cr Amanda Midgley
Seconded: Cr Gideon Cordover

That Council adopts the Complaints Management Policy 1.20 as amended.

CARRIED

C168/11-2024**15.3 CONTINUOUS IMPROVEMENT POLICY**

Moved: Cr Gideon Cordover
Seconded: Cr Amanda Midgley

That Council endorse the Continuous Improvement Policy 1.24, as attached to this report with the following amendments to the dot points in 5.4.1 and 5.4.2 being interchanged as follows:

'5.4.1 Chief Executive Officer

- Providing leadership that encourages initiative and a progressive culture within the organisation, and a commitment to continuous improvement.
- Reviewing and publishing continuous improvement data.

5.4.2 Management

- Promoting and supporting continuous improvement initiatives that contribute to enhanced business outcomes and improved customer service outcomes.
- Identifying and reporting on improvements.
- Prioritising and facilitating the implementation of improvement activities.
- Supporting employees working on continuous improvement activities.'

CARRIED

C169/11-2024

15.4 KINGBOROUGH DRAFT MULTICULTURAL ACTION PLAN

Moved: Cr Kaspar Deane
 Seconded: Cr Aldo Antolli

That Council endorse the Draft Multicultural Action Plan to be released for community consultation.

CARRIED

C170/11-2024

15.5 FINANCIAL REPORT - MAY 2024

Moved: Cr David Bain
 Seconded: Cr Flora Fox

That Council endorses the attached Financial Report for May 2024.

Cr Midgley left the room at 7.10pm

CARRIED

Cr Midgley returned at 7.10pm

C171/11-2024

15.6 APPENDICES

Moved: Cr Gideon Cordover
 Seconded: Cr Kaspar Deane

Cr Antolli left the room at 7.10pm
Cr Antolli returned at 7.13pm

That the Appendices attached to the Agenda be received and noted.

CARRIED

16 NOTICES OF MOTION

There were no Notices of Motion.

C172/11-2024**17 CONFIRMATION OF ITEMS TO BE DEALT WITH IN CLOSED SESSION**

Moved: Cr Flora Fox
Seconded: Cr Aldo Antolli

That in accordance with the *Local Government (Meeting Procedures) Regulations 2015* Council, by absolute majority, move into closed session to consider the following items:

Confirmation of Minutes

Regulation 34(6) *In confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.*

Applications for Leave of Absence

Regulation 15(2)(h) *applications by councillors for a leave of absence*

CARRIED

Public Copy

In accordance with the Kingborough Council *Meetings Audio Recording Guidelines Policy*, recording of the open session of the meeting ceased.

Open Session of Council adjourned at 7.19pm

OPEN SESSION ADJOURNS

OPEN SESSION RESUMES

Open Session of Council resumed at 7.21pm

C173/11-2024

Moved: Cr Flora Fox
Seconded: Cr Amanda Midgley

The Closed Session of Council having met and dealt with its business resolves to report that it has determined the following:

Item	Decision
Confirmation of Minutes	Confirmed
Applications for Leave of Absence	Approved

CARRIED

CLOSURE

There being no further business, the Chairperson declared the meeting closed at 7.22pm

.....
(Confirmed)

.....
(Date)