

Kingborough



COUNCIL MEETING MINUTES

15 July 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

Table of Contents

Item		Page No.	
Open Session			
	1	Audio Recording	1
	2	Acknowledgement of Traditional Custodians	1
	3	Attendees	1
C191/13-2024	4	Apologies	1
C192/13-2024	5	Confirmation of Minutes	2
	6	Workshops held since Last Council Meeting	2
	7	Declarations of Interest	2
	8	Transfer of Agenda Items	2
	9	Questions without Notice from the Public	2
C193/13-2024	10	Questions on Notice from the Public	2
	10.1	LUPA and Other Legislation - Tree Removal	2
	10.2	Tree By-Law Statutory Time Limitations	3
	10.3	Tree Risk Assessment Methodologies	3
	10.4	DA-2024-20 - 39 Hollyhock Drive	4
C194/13-2024	11	Questions without Notice from Councillors	5
	11.1	Paid Parking Enforcement on Private Properties	5
	12	Questions on Notice from Councillors	5
	13	Petitions still being Actioned	5
	14	Petitions Received in Last Period	5
	15	Officers Reports to Council	6
C195/13-2024	15.1	The Review of the Southern Tasmania Regional Land Use Strategy - State of Play Report	6
C196/13-2024	15.2	LGAT General Meeting Motion	6
C197/13-2024	15.3	Nomination for Disability Inclusion and Access Advisory Committee	6
C198/13-2024	15.4	Appendices	6
	16	Notices of Motion	6
C199/13-2024	17	Confirmation of Items to be Dealt with In Closed Session	7

MINUTES of an Ordinary Meeting of Council
Kingborough Civic Centre, 15 Channel Highway, Kingston
Monday, 15 July 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:

- Mayor Councillor P Wriedt ✓
- Deputy Mayor Councillor C Glade-Wright ✓
- Councillor G Cordover ✓
- Councillor K Deane ✓
- Councillor F Fox ✓
- Councillor M Richardson ✓
- Councillor C Street ✓

Staff:

- | | |
|------------------------------------------------------------|-----------------------|
| Chief Executive Officer | Mr Dave Stewart |
| Acting Director Governance, Recreation & Property Services | Mr Daniel Kaimatsoglu |
| Director Engineering Services | Mr David Reeve |
| Director Environment, Development & Community Services | Ms Deleeze Chetcuti |
| Senior Strategic Planner | Mr Adriaan Stander |
| Media & Communications Advisor | Ms Sam Adams |
| Executive Assistant | Mrs Amanda Morton |

C191/13-2024

4 APOLOGIES

- Councillor A Antolli
- Councillor D Bain
- Councillor A Midgley

C192/13-2024

5 CONFIRMATION OF MINUTES

Moved: Cr Flora Fox
 Seconded: Cr Clare Glade-Wright

That the Minutes of the open session of the Council Meeting No. 12 held on 1 July 2024 be confirmed as a true record.

CARRIED

6 WORKSHOPS HELD SINCE LAST COUNCIL MEETING

Date	Topic	Detail
8 July	Operational Overview	Update provided on a range of projects and programs

7 DECLARATIONS OF INTEREST

There were no declarations of interest.

8 TRANSFER OF AGENDA ITEMS

There were no agenda items transferred.

9 QUESTIONS WITHOUT NOTICE FROM THE PUBLIC

There were no questions without notice from the public.

C193/13-2024

10 QUESTIONS ON NOTICE FROM THE PUBLIC

Council has determined that questions on notice or questions taken on notice from a previous meeting should not contain lengthy preambles or embellishments and should consist of a question only. To this end, Council reserves the right to edit questions for brevity so as to table the question only, with some context if need be, for clarity.

10.1 LUPA and Other Legislation - Tree Removal

At the Council meeting on 17 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:

Where potential conflicts arise when the act is made subordinate to the other through the use of exemptions and amendments, Council administers the provisions of two acts of Parliament, the Land Use and Planning Approvals Act and the Local Government Act. Council uses the Kingborough Interim Planning Scheme that sits under LUPA to assess tree removal applications. The planning scheme has provisions for the protection of significant trees and priority vegetation. Section 5 of

Kingborough Interim Planning Scheme contains exemptions that make the planning scheme provisions subordinate to the Forest Practices Act and regulations, the Fire Service Act, the Boundary Fences Act, Water Management Act and the Local Government Act. 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?

Officer's Response:

No, an exemption from the planning scheme does not mean that LUPAA is subordinate to the other State acts in regard to that particular planning scheme provision. Further information on subordinate legislation can be found at <https://www.treasury.tas.gov.au/economy/economic-policy-and-reform/subordinate-legislation-act-1992>

Tasha Tyler-Moore, Manager Development Services

10.2 Tree By-Law Statutory Time Limitations

At the Council meeting on 17 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:

Given the Council ceased having the tree by-law provisions under Kingborough's environmental by-law 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.

Officer's Response:

The timeframes associated to the making of a By-law are governed by the provisions of the Local Government Act 1993 and the Acts Interpretation Act 1931. Excluding actions already taken by Council, if Council was to make a By-law, the By-law must be published in the Tasmanian Government Gazette (Gazette) within 21 days of being made by the Council, and be titled with reference to the municipal area, subject matter, and the year in which it is made. The By-law would then be submitted to the Subordinate Legislation Committee as required within seven (7) working days of publication in the Gazette. Furthermore, the By-law is then required to be tabled in parliament within 10 sitting days of publication in the Gazette.

Scott Basham, Manager – Legal and Property

10.3 Tree Risk Assessment Methodologies

At the Council meeting on 17 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 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?

Officer's Response:

The advice provided to Council from the Tasmanian Arboriculture Organisation was not provided by a consulting arborist who currently works in Kingborough. The process for requesting documentation from Council of this nature is through the Right to Information process which can be found here: <https://www.kingborough.tas.gov.au/council/right-to-information>.

Liz Quinn, Manager Environmental Services

10.4 DA-2024-20 - 39 Hollyhock Drive

Mr Declan West submitted the following questions on notice:

- 1. When DA-2024-20 '39 Hollyhock Drive' was first advertised we rang to speak with the relevant planner and also had a meeting. Unfortunately we had no idea there was a specific planning scheme issue with the POS being where it is until the planning report was released four days before the council meeting. Does Council believe it was reasonable that the planners withheld this information when we had specifically asked for advice on the exact discretionary matters?*
- 2. The objective of clause 10.4.3 [sic – reference to the debate at the Council meeting on 1 July 2024] as well as the related acceptable solution had not been met, and therefore this resulted in the performance criteria needing to be adequately addressed and met. Consequently, the whole discussion should have been around whether or not the performance criteria in clause 10.4.3 P2 was adequately addressed and met. If it wasn't, then that made for a potential refusal - however, no one appears to have understood this. Why did none of the Councillors understand this, and why didn't anyone in the room point this out when it was clear that the councillors didn't realise/appreciate the issue?*

Officer's Response:

1. The plans displayed during the public exhibition period clearly show the location of the private open space between the dwelling and the frontage. No information on the proposed development was withheld from representors and clear advice regarding the applicable discretions was provided during discussions with the representors. Advice was given that the discretion from the north facing upper-level windows under Clause 10.4.6 A2 could be addressed by the applicant if they agreed to implement the privacy treatment to these windows to comply with the Acceptable Solution. This was imposed as a condition on the permit.

In relation to public representations made in accordance with the *Land Use Planning and Approvals Act 1993* (the Act), Council does not reply to these and is not required to by the Act. The Council as a Planning Authority must be objective and not interfere in the making of representations.

The planning report in the Council Agenda, and the attached Assessment Checklist, identified all discretions and included all key concerns raised in the representations.

2. The Private Open Space requirements, including the discretion, Clause 10.4.3 for the General Residential Zone in the Planning Scheme were identified in the Council Report and the attached Assessment Checklist. The Council report assessed the Performance Criteria specified in the Scheme and concluded that the proposal complied with the relevant requirements of the Performance Criteria under Clause 10.4.3 P2. Assessment of an application cannot extend beyond the criteria and considerations contained within the Scheme.

Councillors have access to the report in the Agenda and they also have the opportunity to ask questions to the planning officers during the meeting. The planning officers do not direct the Councillors to ask specific questions, and as per meeting procedures the officers in a Council meeting only answer questions when directed by the Chair (Mayor).

Deleeze Chetcuti, Director Environment, Development & Community Services

C194/13-2024

11 QUESTIONS WITHOUT NOTICE FROM COUNCILLORS

Council has determined that questions on notice or questions taken on notice from a previous meeting should not contain lengthy preambles or embellishments and should consist of a question only. To this end, Council reserves the right to edit questions for brevity so as to table the question only, with some context if need be, for clarity.

Cr Cordover asked the following question without notice:

11.1 Paid Parking Enforcement on Private Properties

There was a case in Victoria relating to Docklands in 2006 and the State Ombudsman there called for 1100 parking tickets that were issued between 2002 to 2005 to be refunded and the quote from The Age article says "at the heart of the problem is that the Docklands authority contracted Council to handle parking enforcement in 2002 but failed to authorise individual parking officers and prosecutions as required by law". With Kingborough Council's parking contracts that we have where we are enforcing parking time limits with paid fines on private property, have we received legal advice to make sure that we are not at risk of having those fines called into question?

Chief Executive Officer responds:

I will take your question on notice.

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

C195/13-2024**15.1 THE REVIEW OF THE SOUTHERN TASMANIA REGIONAL LAND USE STRATEGY - STATE OF PLAY REPORT**

Moved: Cr Clare Glade-Wright
Seconded: Cr Gideon Cordover

That Council note the State of Play report and the beginning of stakeholder engagement on the comprehensive review and update to the STRLUS.

CARRIED

C196/13-2024**15.2 LGAT GENERAL MEETING MOTION**

Moved: Cr Flora Fox
Seconded: Cr Clare Glade-Wright

That Council advise the Mayor regarding voting at the upcoming LGAT General Meeting as follows:

Proposed amendment to the pensioner rates remission guidelines

Yes No DD

CARRIED

C197/13-2024**15.3 NOMINATION FOR DISABILITY INCLUSION AND ACCESS ADVISORY COMMITTEE**

Moved: Cr Flora Fox
Seconded: Cr Gideon Cordover

That Kamilla Martin be appointed as a member of the Kingborough Disability Inclusion and Access Advisory Committee.

CARRIED

C198/13-2024**15.4 APPENDICES**

Moved: Cr Christian Street
Seconded: Cr Clare Glade-Wright

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

CARRIED

16 NOTICES OF MOTION

There were no Notices of Motion.

C199/13-2024**17 CONFIRMATION OF ITEMS TO BE DEALT WITH IN CLOSED SESSION**

Moved: Cr Flora Fox
Seconded: Cr Clare Glade-Wright

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

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

Open Session of Council adjourned at 5.54pm

OPEN SESSION ADJOURNS

OPEN SESSION RESUMES

Open Session of Council resumed at 5.57pm

C200/13-2024

Moved: Cr Flora Fox
Seconded: Cr Clare Glade-Wright

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 5.58pm.

.....
(Confirmed)

.....
(Date)

