

Council Meeting

Council Chamber
Civic Centre
Boxshall Street Brighton

Tuesday
20 September 2022
at 6.30pm



Minutes

PRESENT:

Chairperson: Cr Alex del Porto (Mayor)

Councillors: Cr Sonia Castelli
Cr Hanna El Mouallem (Deputy Mayor)
Cr Laurence Evans OAM
Cr Clarke Martin
Cr Jo Samuel-King MBBS
Cr Fiona Stitfold

Officers: Mick Cummins – Chief Executive Officer
Till Buden – Director Community and Customer Experience
Jill Colson – Director Corporate Services
Matthew Cripps – Director City Planning and Amenity
Mark Varmalis – Director Environment, Recreation and Infrastructure
Juliana Aya – Manager Urban Strategy
Terry Callant – Manager Governance
Johan Coates – Manager Amenity Protection
James Roscoe – Manager Climate, Waste and Integrated Transport
Bill Shanahan – Manager Finance
Jason Stubbs – Manager Commercial Services
Tom Vercoe – Acting Manager Open Space, Recreation and Wellbeing
Robert Lamb – Governance Officer

Table of Contents

1.	Prayer	
2.	Acknowledgement of Country	
3.	Apologies	
4.	Disclosure of Conflict of Interest of any Councillor	
5.	Adoption and Confirmation of the minutes of previous meeting	
6.	Public Question Time	
7.	Petitions to Council	
7.1	Joint Letter requesting Council to address the level of lighting within Chelsea Street, Brighton	8
7.2	Petition for Council to introduce more effective parking laws/restrictions at May Street, Brighton	9
8.	Minutes of Advisory Committees	
8.1	Records of meetings held under the auspices of Council.....	10
8.2	Minutes of the Disability Access and Inclusion Advisory Committee meeting held on 22 August 2022.....	11
8.3	Minutes of the Audit and Risk Committee meeting held on 22 August 2022	12
8.4	Minutes of the Audit and Risk Committee meeting held on 31 August 2022	14
9.	Reports by Special Committees	
	There were no reports by special committees submitted to the meeting.	
10.	Reports by the Organisation	
10.1	Governance Rules – (Targeted Review)	16
10.2	Appointments to the Yalukit Willam Nature Reserve Committee of Management	17
10.3	Proposed Lease to Brighton Life Saving Club Inc. for a new Lease at Dendy Street Beach, Brighton	18
10.4	Proposed Lease to Black Rock Life Saving Club, Black Rock...	20
10.5	Proposal to redevelop and lease Dendy Park Tennis Centre to Tennis Australia.....	22
10.6	Bayside Parklet Policy 2022 - Proposed amendments to support implementation	23

10.7	Planning Scheme Amendment C187 - Environmentally Sustainable Development Local Policy	24
10.8	Climate Emergency Action Plan Update	25
10.9	Bayside Environmental Sustainability Framework - Annual Progress Report	26
10.10	Suburban Rail Loop East, Outcomes of the Inquiry and Advisory Committee Process - Environmental Effects Statement	27
10.11	Submission to the Social and Affordable Housing Compact.....	28
10.12	Update on the Inquiry into the Protections within the Victorian Planning Framework	29
10.13	School Crossing Service - Advocacy.....	30
10.14	Discontinuance and Sale of Right of Ways, Roads and Reserves Policy.....	31
10.15	Proposed Discontinuance and Sale of Road adjoining 5 Masfield Avenue, Sandringham	32
10.16	Draft Annual Financial Statements for the year ended 30 June 2022	33
10.17	Performance Statement for Year Ending 30 June 2022	34
10.18	Council Action Awaiting Report	35
11.	Reports by Delegates	
12.	Urgent Business	
13.	Notices of Motion	
13.1	Notice of Motion - 323 - Formation of a South Eastern Councils Biodiversity Network.....	38
14.	Confidential Business	
14.1	Demand for Costs - Brighton Foreshore Association Inc. v Bayside City Council	39

The Mayor declared the Council Meeting open at 6.30pm and advised members of the public gallery that the meeting is being recorded and streamed live on the internet to enhance the accessibility of Council meetings to the broader Bayside community.

The Mayor invited Cr El Mouallem to read the prayer.

1. Prayer

Cr El Mouallem read the prayer at the commencement of the meeting.

O God
Bless this City, Bayside,
Give us courage, strength and wisdom,
So that our deliberations,
May be for the good of all,
Amen

2. Acknowledgement of Country

Cr Evans read the acknowledgement of the original inhabitants of this land.

- ◆ Bayside City Council proudly acknowledges the Bunurong People of the Kulin Nation as the Traditional Owners and Custodians of this land, and we pay our respects to their Elders, past, present and emerging as well as any Aboriginal or Torres Strait Islander community members with us today.
- ◆ Council acknowledges the Bunurong's continuing relationship to the land and waterways and respects that their connection and spiritual identity is maintained through ancient ceremonies, songlines, dance, art and living culture.
- ◆ Council pays tribute to the invaluable contributions of the Bunurong and other Aboriginal and Torres Strait Island Elders who have guided and continue to guide the work we do.

Minutes' silence acknowledging passing of Queen Elizabeth II

The Mayor requested those present in the Chamber to remain standing to observe a minutes' silence to acknowledge the recent passing of Her Majesty Queen Elizabeth II.

3. Apologies

There were no apologies submitted to the meeting.

Personal Statement

It is recorded that Cr Martin made a personal statement to the meeting. Cr Martin indicated that following written advice to the Chief Executive Officer and his fellow Councillors, Cr Martin intends to run as an independent candidate for the State Election in November 2022.

In accordance with the Councillor Code of Conduct and the MAV Guidelines, Cr Martin declared his intended candidacy at a meeting of Council as soon as practicable as a prospective candidate.

Cr Martin advised Council that he intends to declare any conflicts of interest that may pertain to the conflicting role as a prospective candidate and a Councillor. Cr Martin indicated that he is aware of his obligations to differentiate between his role as a councillor and as a prospective candidate when making public comment.

Cr Martin also advised the meeting of his obligation not to use Council resources, including Council staff, equipment and facilities, or Council activities including Council meetings, events and other Council related external activities in relation to his proposed candidacy.

Cr Martin indicated that when he becomes a nominated candidate for the election, he intends to seek leave of absence from all Council activities, from the day of nomination until the conclusion of the election and he intends to suspend his councillor allowance during this period.

Cr Martin indicated that he will seek leave of absence at a future meeting of Council.

Cr Martin thanked Council for allowing him to make this statement at the meeting in accordance with the requirement of the Code of Conduct and the MAV guidelines.

4. Disclosure of Conflict of Interest of any Councillor

- Cr Samuel-King – declared a General Conflict of Interest in Item 10.2 – Appointments to the Yalukit Willam Nature Reserve Committee of Management, given her close association with some of the candidates for the Committee
- Cr Castelli – declared a General Conflict of Interest in Item 10.3 – Proposed lease to Brighton Life Saving Club Inc for a new lease at Dendy Street Beach Brighton; and a General Conflict of Interest in 14.1 – Demand for Costs – Brighton Foreshore Association Inc v Bayside City Council, given her partner owns a bathing box at Dendy Street Beach.
- Cr El Mouallem – declared a General Conflict of Interest in Item 10.6 – Bayside Parklet Policy 2022, given his wife is involved in operation of hospitality business in Brighton.
- Cr Martin – declared a General Conflict of Interest in Items 10.9, 10.10, 10.11, 10.12, 10.13, given his proposed candidacy at the State Election and potential conflict in roles.

5. Adoption and Confirmation of the minutes of previous meeting

2022.

Moved: Cr Martin

Seconded: Cr Evans OAM

That the minutes of the Bayside City Council meeting held on 16 August 2022, as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

6. Public Question Time

In accordance with the resolution at the June 2021 Council Meeting, temporary meeting procedures with regard to public question time remain in place:

- *All questions received and responses are read out at the meeting within the allotted 15 minute timeframe for public question time.*
- *All questions and responses read out will be recorded in the minutes.*
- *A written response will be provided to all questions received.*

There were no public questions received.

7. Petitions to Council

7.1 JOINT LETTER REQUESTING COUNCIL TO ADDRESS THE LEVEL OF LIGHTING WITHIN CHELSEA STREET, BRIGHTON

Environment, Recreation and Infrastructure - Environment, Recreation and Infrastructure
File No: PSF/22/29 – Doc No: DOC/22/267284

Moved: Cr El Mouallem (Deputy Mayor) Seconded: Cr Evans OAM

That the joint letter be referred to the Chief Executive Officer for consideration and response.

CARRIED

7.2 PETITION FOR COUNCIL TO INTRODUCE MORE EFFECTIVE PARKING LAWS/RESTRICTIONS AT MAY STREET, BRIGHTON

Environment, Recreation and Infrastructure - Environment, Recreation and Infrastructure
File No: PSF/22/26 – Doc No: DOC/22/261687

Moved: Cr El Mouallem (Deputy Mayor) Seconded: Cr Evans OAM

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

CARRIED

8. Minutes of Advisory Committees

8.1 RECORDS OF MEETINGS HELD UNDER THE AUSPICES OF COUNCIL

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/273364

Moved: Cr Martin

Seconded: Cr Stitfold

That Council notes the records of meeting/s held under the auspices of Council as required by the *Local Government Act 2020* and Council's Governance Rules:

- 23 August 2022 Strategic Issues Discussion
- 6 September 2022 Councillor Briefing.

CARRIED

**8.2 MINUTES OF THE DISABILITY ACCESS AND INCLUSION ADVISORY
COMMITTEE MEETING HELD ON 22 AUGUST 2022**

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/259157

Moved: Cr Martin

Seconded: Cr El Mouallem (Deputy Mayor)

That Council notes the minutes of the Disability Access and Inclusion Advisory Committee meeting held on 22 August 2022.

CARRIED

8.3 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 22 AUGUST 2022

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/22/260669

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council

1. notes the minutes of the Audit and Risk Committee meeting held on 22 August 2022
2. adopts the following the recommendations form the Audit and Risk Committee:

Item 7.1 – Audit and Risk Committee Work Plan

The Audit and Risk Committee:

1. *notes the activities of the August meeting within the 2021–22 Work Plan as per the adopted annual work program*
2. *notes and approves the revised Work Plan for 2022–23*
3. *recommends to Council that the Audit and Risk Committee Charter be amended to reflect the revised Work Plan activities.*

Item 9.1.1. – Strategic Risk Review and Operational Risks

That the Audit and Risk Committee:

1. *notes the six-monthly review of the Strategic Risks and the associated treatment actions*
2. *notes the removal of Strategic Risk 12 relating to COVID-19, and notes a change to the residual risk rating of Strategic Risk 4 from Medium to High*
3. *notes the review of the 11 Strategic Risks by management and recommends to Council that the review of the Strategic Risks be noted*
4. *receives a report at the February meeting on the Top 5 Operational Risks including controls, mitigation strategies and exposure.*

Item 9.3.1. – Draft Three-Year Strategic Internal Audit Plan

That the Audit and Risk Committee:

1. *notes the draft three-year Strategic Internal Audit Plan for 2022–23 to 2024–25*
2. *recommends to Council that the draft program of internal audits to be undertaken in 2022–23 be adopted.*

Item 9.8.1. – 2021–22 Annual Report of the Audit and Risk Committee

That the Audit and Risk Committee:

- 1. noted the content of the draft 2021–22 Audit and Risk Committee Annual Report subject to minor editorial changes to include reference to the consideration of the 2021–22 Financial and Performance Statements*
- 2. recommends to Council that a precis of the Audit and Risk Committee Annual Report be included in the organisations 2021–22 Annual Report.*

CARRIED

8.4 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 31 AUGUST 2022

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/22/272193

Moved: Cr Evans OAM

Seconded: Cr Castelli

That Council:

1. notes the minutes of the Audit and Risk Committee meeting held on 31 August 2022
2. adopts the following recommendations of the Audit and Risk Committee held on 31 August 2022:

Item 8.2.1 – Annual Performance Statements for Year Ending 30 June 2022

That the Audit and Risk Committee, subject to any feedback received from VAGO:

- 1 receives and notes the Financial Report and draft management representation letter for the financial year ended 30 June 2022*
- 2 recommends to Council that Council resolves, subject to changes recommended by the Audit and Risk Committee, to give in principle approval of the Financial Report for the financial year ended 30 June 2022*
- 3. congratulates Council officers in the preparation of both the Financial Statements and Performance Statements.*

Item 8.2.3 – Performance Statement for year ending 30 June 2022

That the Audit and Risk Committee:

- 1. receives and notes the Performance Statement for year ended 30 June 2022 and recommends to Council, that Council resolves to adopt the Performance Statement for the financial year ending 30 June 2022 in principle and certify the Performance Statement in its final form*
- 2. notes the Governance and Management Checklist*
- 3. notes the results of the LGPRF performance indicators for 2021–22.*

CARRIED

9. Reports by Special Committees

There were no reports by special committees submitted to the meeting.

10. Reports by the Organisation

REQUESTS TO BE HEARD:

Item 10.3		For (F) Against (A)
Proposed Lease to Brighton Life Saving Club Inc. for a new Lease at Dendy Street Beach, Brighton		
Written Statements		
1.	Mr George Reynolds (on behalf of Bayside Residents Group - Ratepayers Victoria Inc)	(A)

Item 10.4		For (F) Against (A)
Proposed Lease to Black Rock Life Saving Club, Black Rock		
Written Statements		
1.	Mrs Nicola Harrop (on behalf of Black Rock Life Saving Club)	(A)
2.	Ms Catherine Duggan	(A)
3.	Mr Cam McDonald (on behalf of Black Rock Salts)	(A)
4.	Mrs Vicky McKay (on behalf of Sandringham Life Saving Club)	(A)
5.	Mr Shane Ryan (on behalf of Half Moon Bay Life Saving Club)	(A)
Requests to Speak		
1.	Mrs Nicola Harrop	(A)
2.	Mrs Cate McGrath (on behalf of Black Rock Life Saving Club)	(A)
3.	Mr Paul Shannon (on behalf of Life Saving Victoria)	(A)
4.	Miss Rebecca Moncrieff	(A)
5.	Mr Kane Treloar	(A)

10.1 GOVERNANCE RULES – (TARGETED REVIEW)

Corporate Services - Governance

File No: PSF/22/31 – Doc No: DOC/22/278502

Moved: Cr Evans OAM

Seconded: Cr Castelli

That Council:

1. notes the feedback received during the community engagement period in relation to proposed revisions to Council's Governance Rules
2. adopts the revised Governance Rules referenced as Attachment 3 to this report
3. undertakes a feasibility on the information technology infrastructure required to provide the stable implementation of hybrid meetings and refer this proposal to the 2023–24 budget for consideration
4. notes that officers will explore options for a temporary implementation of hybrid meetings, as in interim measure, as required
5. provides a copy of the revised Governance Rules to each Councillor and publishes the revised Governance Rules on Council's website.

CARRIED

10.2 APPOINTMENTS TO THE YALUKIT WILLAM NATURE RESERVE COMMITTEE OF MANAGEMENT

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/282400

It is recorded that Cr Samuel-King declared a General Conflict of Interest in this item given her close association with some of the candidates for the Committee. Cr Samuel-King accordingly vacated the meeting prior to the discussion on this item at 6.43 pm.

Moved: Cr El Mouallem (Deputy Mayor) Seconded: Cr Evans OAM

That Council:

1. appoints Dr Tricia Wevill and Patrick Honan as expert representatives to the Yalukit Willam Nature Reserve Committee of Management for a 2 year term
2. appoints Alison Soutar and April Seymore as community representatives representing community groups, to the Yalukit Willam Nature Reserve Committee of Management for a 3 year term
3. appoints Stephen le Page, Sam Murray, Stephanie Convery and Alicia Darvell as residents, ratepayers or people with strong connections to the reserve to the Yalukit Willam Nature Reserve Committee of Management for a 3 year term
3. writes to all applicants advising them of Council's decision and thanking them for their application to the Committee of Management.

CARRIED

It is recorded that Cr Samuel-King declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

It is recorded that Cr Samuel-King returned to the meeting at 6.49 pm.

It is recorded that the Mayor called for a motion to change the order of business of the agenda and deal with item 10.4 prior to the consideration of Item 10.3 given there were a number of speakers waiting to be heard for item 10.4.

Procedural Motion

Moved: Cr Evans

Seconded: Cr Castelli

That Council resolves to re-order the business of the Agenda to consider item 10.4 prior to item 10.3.

CARRIED

10.3 PROPOSED LEASE TO BRIGHTON LIFE SAVING CLUB INC. FOR A NEW LEASE AT DENDY STREET BEACH, BRIGHTON

Corporate Services - Commercial Services
File No: PSF/22/34 – Doc No: DOC/22/271815

It is recorded that Cr Castelli declared a General Conflict of Interest in this item given her partner owns a bathing box at Dendy Street Beach. Cr Castelli accordingly vacated the Chamber and left the meeting at 8.11 pm.

It is recorded that Mr George Reynolds (on behalf of Bayside Residents Group - Ratepayers Victoria Inc) submitted a written statement in relation to this item.

Moved: Cr El Mouallem (Deputy Mayor)

Seconded: Cr Samuel-King MBBS

That Council:

1. commences the statutory procedures under Section 115 of the Local Government Act 2020 (the Act), to enter into a new Lease with Brighton Life Saving Club Inc. for the occupation of part of the Dendy Street Beach Pavilion, Brighton for a period of 21 years, with a commencing rent of \$3,294 plus GST per annum with fixed increases on the anniversary of the commencement date of 3% of the rent paid in the year immediately prior
2. authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 115 of the Act in relation to the Lease proposed and in accordance with Council's Community and Stakeholder Engagement Policy 2021
3. gives Public Notice on Council's website outlining the proposal in accordance with Section 115 of the Act
4. commences a community engagement process in accordance with Section 115(4) of the Act
5. following the consideration of any submissions, receives a further report at a future Council meeting.

The Motion was PUT and a **DIVISION** was called:

DIVISION: **FOR:** Crs Alex del Porto (Mayor), Clarke Martin, Jo Samuel-King
MBBS, Fiona Stitfold, Laurence Evans OAM and Hanna El
Mouallem (Deputy Mayor) (6)
AGAINST: Nil (0)

CARRIED

It is recorded that Cr Castelli declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

It is recorded that Cr Castelli returned to the meeting at 8.20 pm.

10.4 PROPOSED LEASE TO BLACK ROCK LIFE SAVING CLUB, BLACK ROCK

Corporate Services - Commercial Services
File No: PSF/22/34 – Doc No: DOC/22/271832

It is recorded that Mrs Nicola Harrop (on behalf of Black Rock Life Saving Club), Ms Catherine Duggan, Mr Cam McDonald (on behalf of Black Rock Salts), Mrs Vicky McKay (on behalf of Sandringham Life Saving Club) and Mr Shane Ryan (on behalf of Half Moon Bay Life Saving Club) each submitted a written statement in relation to this item.

It is recorded that Mrs Nicola Harrop, Mrs Cate McGrath (on behalf of Black Rock Life Saving Club), Mr Paul Shannon (on behalf of Life Saving Victoria), Miss Rebecca Moncrieff, and Mr Kane Treloar each spoke for 2 minutes in relation to this item.

Moved: Cr Evans OAM

Seconded: Cr Martin

That Council defers consideration of this matter to a future Council Meeting to allow further negotiation with Black Rock Life Saving Club on alternative lease conditions.

The Motion was PUT and a **DIVISION** was called:

DIVISION: **FOR:** Crs Clarke Martin, Fiona Stitfold and Laurence Evans OAM (3)
 AGAINST: Crs Alex del Porto (Mayor), Sonia Castelli, Jo Samuel-King
 MBBS and Hanna El Mouallem (Deputy Mayor) (4)

LOST

Moved: Cr Samuel-King MBBS

Seconded: Cr Castelli

That Council:

1. commences the statutory procedures under Section 115 of the Local Government Act 2020 (the Act), to enter into a new Lease with Black Rock Life Saving Club Inc. for the occupation of Black Rock Life Saving Club for a period of 21 years, with a commencing rent of \$3,184 plus GST per annum with fixed increases on the anniversary of the commencement date of 3% of the rent paid in the year immediately prior
2. authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 115 of the Act in relation to the Lease proposed and in accordance with Council's Community and Stakeholder Engagement Policy 2021
3. gives Public Notice on Council's website outlining the proposal in accordance with Section 115 of the Act
4. commences a community engagement process in accordance with Section 115(4) of the Act
5. following the consideration of any submissions, receives a further report at a future Council meeting.

DIVISION:

FOR: Crs Alex del Porto (Mayor), Sonia Castelli, Jo Samuel-King
MBBS and Hanna El Mouallem (Deputy Mayor) (4)

AGAINST: Crs Clarke Martin, Fiona Stiffold and Laurence Evans OAM (3)

CARRIED

10.5 PROPOSAL TO REDEVELOP AND LEASE DENDY PARK TENNIS CENTRE TO TENNIS AUSTRALIA

Corporate Services - Commercial Services
File No: PSF/22/34 – Doc No: DOC/22/238845

Moved: Cr El Mouallem (Deputy Mayor) Seconded: Cr Samuel-King MBBS

That Council:

1. commences the statutory procedures under Section 115 of the *Local Government Act 2020* (the Act), to enter into a new Lease with Tennis Australia Limited of Melbourne Park, Olympic Boulevard, Melbourne Victoria 3000 in accordance with the Heads of Agreements (Attachment 2), for the occupation of Premises known as Dendy Park Tennis Centre, Breen Drive, East Brighton
2. authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 115 of the Act in relation to the Lease proposed and in accordance with Council's Community and Stakeholder Engagement Policy 2021
3. gives Public Notice on Council's website outlining the proposal in accordance with Section 115 of the Act
4. commences a community engagement process in accordance with Section 115(4) of the Act
5. following the consideration of community consultation, receives a further report at a future Council meeting.

CARRIED

10.6 BAYSIDE PARKLET POLICY 2022 - PROPOSED AMENDMENTS TO SUPPORT IMPLEMENTATION

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/280451

It is recorded that Cr El Mouallem declared a General Conflict of Interest in this item given his wife is involved in operation of hospitality business in Brighton. Cr El Mouallem left the meeting at 8.29 pm.

Moved: Cr Castelli

Seconded: Cr Samuel-King MBBS

That Council

1. endorses the proposed amendments to the following sections of the Bayside Parklet Policy 2022 as outlined in this report
2. endorses amendments to Clause 5.4 Consultation and Engagement to include notification requirements and extent of notification which reads as follows:

Upon receipt of a Parklet application, Council will determine the extent of notification to minimise any material detriment to the activity centre and adjoining residents and businesses.

The extent of notification is not prescribed to enable site specific considerations.

The following notification requirements will apply:

- *The notification period will be 2 weeks*
- *Council will undertake notification to occupiers and property owners*
- *Public Notice of the Parklet application to be displayed at the applicant's premises for duration of the notification period*

It is encouraged that prior to formally lodging of an application for parklet, the applicant consults with nearby businesses and residents that will be potentially affected by the proposed parklet to proactively address any concerns as part of the application process.

CARRIED

It is recorded that Cr El Mouallem declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

It is recorded that Cr El Mouallem returned to the meeting at 8.34 pm.

**10.7 PLANNING SCHEME AMENDMENT C187 - ENVIRONMENTALLY
SUSTAINABLE DEVELOPMENT LOCAL POLICY**

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/280549

Moved: Cr Martin

Seconded: Cr Samuel-King MBBS

That Council requests that the Minister for Planning appoint an Independent Planning Panel to consider submissions received in relation to Amendment C187bays in accordance with Section 23 of the *Planning and Environment Act 1987*.

CARRIED

10.8 CLIMATE EMERGENCY ACTION PLAN UPDATE

Environment, Recreation and Infrastructure - Climate, Waste and Integrated Transport

File No: PSF/22/26 – Doc No: DOC/22/278900

Moved: Cr Samuel-King MBBS

Seconded: Cr Martin

That Council:

1. notes the actions undertaken in 2021–22 to implement the Climate Emergency Action Plan 2020–25 as shown in Attachment 1 and the revised Year 3 Climate Emergency Action Plan as shown in Attachment 2
2. notes and endorses the new Climate Emergency Action Plan 2020–25 (Attachment 3) that responds to delivery of actions aligned to the community emissions target
3. as part of implementation of the Climate Emergency Action Plan under Theme 5: Natural Environment, investigates the opportunity to measure, protect and improve Bayside's capacity to absorb carbon by December 2023
4. receives a further report in the first quarter of 2023–24 detailing delivery of Year 3 actions, including a roadmap that highlights the action-based approach and sphere of influence to meet the community emissions target.

CARRIED

10.9 BAYSIDE ENVIRONMENTAL SUSTAINABILITY FRAMEWORK - ANNUAL PROGRESS REPORT

Environment, Recreation and Infrastructure - Climate, Waste and Integrated Transport
File No: PSF/22/26 – Doc No: DOC/22/278917

It is recorded that Cr Martin declared a General Conflict of Interest in this item given his proposed candidacy at the State Election and potential conflict in roles, and accordingly left the meeting at 8.55 pm.

Moved: Cr Samuel-King MBBS Seconded: Cr El Mouallem (Deputy Mayor)

That Council:

1. notes the actions taken during 2021–22 to implement the Environmental Sustainability Framework
2. receives a report detailing progress against targets and the overall success of actions by September 2023
3. receives the Environmental Sustainability Framework Action Plan 2023–25 for the final two years of the Environmental Sustainability Framework by September 2023
4. receives a report at or before its March 2023 Council Meeting on the planting program for Bayside with a particular focus on:
 - a. trees and vegetation planted in Bayside generally and including Elsternwick Park South since 1 January 2021, including species and location
 - b. trees and vegetation to be planted in the future, including species and location
 - c. potential approach for removing non-indigenous trees that have been planted in inappropriate locations, such as the indigenous garden bed in Elsternwick Park South
5. embeds the use of logs for habitat purposes and mistletoe protection into its Civil Infrastructure and Open Space Service Delivery contract
6. continues the removal of barbed wire within and around Bayside's public open spaces and reserves.

CARRIED

It is recorded that Cr Martin declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

**10.10 SUBURBAN RAIL LOOP EAST, OUTCOMES OF THE INQUIRY AND
ADVISORY COMMITTEE PROCESS - ENVIRONMENTAL EFFECTS
STATEMENT**

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/246474

It is recorded that Cr Martin declared a General Conflict of Interest in this item given his proposed candidacy at the State Election and potential conflict in roles, and accordingly left the meeting.

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council notes the findings and recommendations of the Inquiry and Advisory Committee and Minister's Assessment, in relation to the Suburban Rail Loop East Environmental Effects Statement.

CARRIED

It is recorded that Cr Martin declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

10.11 SUBMISSION TO THE SOCIAL AND AFFORDABLE HOUSING COMPACT

City Planning and Amenity - Urban Strategy
File No: FOL/19/3320 – Doc No: DOC/22/280890

It is recorded that Cr Martin declared a General Conflict of Interest in this item given his proposed candidacy at the State Election and potential conflict in roles, and accordingly left the meeting.

Moved: Cr Stitfold

Seconded: Cr Samuel-King MBBS

That Council notes the officers' submission to the Draft Social and Affordable Housing Compact and its ongoing advocacy on this matter.

CARRIED

It is recorded that Cr Martin declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

10.12 UPDATE ON THE INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/278561

It is recorded that Cr Martin declared a General Conflict of Interest in this item given his proposed candidacy at the State Election and potential conflict in roles, and accordingly left the meeting.

Moved: Cr Evans OAM

Seconded: Cr El Mouallem (Deputy Mayor)

That Council:

1. notes the findings of the Legislative Council Environment and Planning Committee's (the Committee) interim report into the protections within the Victorian Planning Framework
2. receives a further report once the committee's substantive findings and the Government response to the Committee's recommendations and proposed actions are publicly available.

CARRIED

It is recorded that Cr Martin declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

10.13 SCHOOL CROSSING SERVICE - ADVOCACY

City Planning and Amenity - Amenity Protection

File No: PSF/22/37 – Doc No: DOC/22/281567

It is recorded that Cr Martin declared a General Conflict of Interest in this item given his proposed candidacy at the State Election and potential conflict in roles, and accordingly left the meeting.

Moved: Cr El Mouallem (Deputy Mayor) Seconded: Cr Samuel-King MBBS

That Council:

1. joins the multi-Council advocacy campaign for the State Government to modernise the School Crossing Supervisor Program and increase funding to Councils to run the program
2. confirms its support for a financial contribution of approximately \$4,000 towards the advocacy campaign funded through the 2022 –23 operating budget.

CARRIED

It is recorded that Cr Martin declared a General Conflict of Interest in this item and was not present in the meeting during debate on the item or when the vote was taken.

It is recorded that Cr Martin returned to the Meeting at 9.24 pm.

10.14 DISCONTINUANCE AND SALE OF RIGHT OF WAYS, ROADS AND RESERVES POLICY

Corporate Services - Commercial Services
File No: PSF/22/34 – Doc No: DOC/22/264012

Moved: Cr El Mouallem (Deputy Mayor) Seconded: Cr Samuel-King MBBS

That Council:

1. notes that the draft Discontinuance and Sale of Right of Ways, Roads and Reserves Policy will progress to a period of Community Engagement between 22 September and 20 October 2022
2. receives further report at a future Council Meeting.

CARRIED

10.15 PROPOSED DISCONTINUANCE AND SALE OF ROAD ADJOINING 5 MASEFIELD AVENUE, SANDRINGHAM

Corporate Services - Commercial Services
File No: PSF/22/34 – Doc No: DOC/22/260828

Moved: Cr Castelli

Seconded: Cr Stitfold

That Council:

1. commences the statutory procedures in accordance with the Local Government Act 1989 and the Local Government Act 2020, to discontinue the subject road adjoining 5 Masefield Avenue, Sandringham outlined in red in Attachment 1, and sell the subject road to the adjoining owner of 5 Masefield Avenue, Sandringham for \$90,000 plus GST
2. gives public notice outlining the proposal in accordance with Section 223 of the Local Government Act 1989
3. establishes a Special Committee of Council and determines the membership of the Committee (with a minimum of three {3} councillors) to hear any submitters that wish to be heard
4. in the event that submission/s are received, convenes a Section 223 Special Committee of Council meeting on 7 November 2022 at 5.00pm at the Council Chambers, Boxshall Street, Brighton, or held remotely via electronic media, to hear any submitters that wish to be heard
5. following the consideration of any submissions, receives a further report at a future Council Meeting.

CARRIED

NOTE: Item 10.15 was **CARRIED** as part of a block motion.

10.16 DRAFT ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2022

Corporate Services - Finance
File No: PSF/22/32 – Doc No: DOC/22/274673

Moved: Cr Castelli

Seconded: Cr Stitfold

That Council:

- 1 receives and notes the Financial Report for the financial year ended 30 June 2022
- 2 authorises the Chief Financial Officer to make immaterial adjustments to the Financial Statements if requested by the Victorian Auditor General's office. If material adjustments are requested, the Chief Financial Officer is authorised to make such adjustments and advise Council and its Audit Committee of the effect of these adjustments
- 3 gives 'in-principle' approval of the Financial Report for the financial year ended 30 June 2022 and authorises Cr Sonia Castelli and Cr Laurence Evans to certify the statements on behalf of Council and submit these to the Minister for Local Government.

CARRIED

NOTE: Item 10.16 was **CARRIED** as part of a block motion.

10.17 PERFORMANCE STATEMENT FOR YEAR ENDING 30 JUNE 2022

Corporate Services - Governance

File No: PSF/21/23 – Doc No: DOC/22/283960

Moved: Cr Martin

Seconded: Cr Castelli

That Council:

1. receives and notes the Performance Statement for year ended 30 June 2022
2. gives in-principle approval of the Performance Statement for year ended 30 June 2022 and authorises Council's Audit and Risk Committee representatives Cr Sonia Castelli and Cr Laurence Evans to certify the statements on behalf of Council and include the statements in Council's 2021–22 Annual Report.

CARRIED

10.18 COUNCIL ACTION AWAITING REPORT

Corporate Services - Governance

File No: PSF/22/31 – Doc No: DOC/22/273362

Moved: Cr Castelli

Seconded: Cr Stitfold

That Council notes the Council Action Awaiting Report.

CARRIED

NOTE: Item 10.18 was **CARRIED** as part of a block motion.

11. Reports by Delegates

1. **Association of Bayside Municipalities** – Crs Fiona Stitfold and Clarke Martin indicated that Association had not met since the previous Council meeting.
2. **Metropolitan Transport Forum** – The Director Environment, Recreation and Infrastructure reported that the Senior Traffic Officer attended the Forum held on 7 September 2022, and the forum received a presentation by the MAV President Cr David Clark. The Forum also received a presentation from the Cities of Boroondara, Frankston and Hobsons Bay on their proposed advocacy program for the upcoming State Election.
3. **Municipal Association of Victoria** – The Mayor, Cr Alex del Porto attended a special State Council Meeting on Friday 13 September which considered and adopted significant changes to the MAV Rules. Discussion took place of the proposal to remove the plural voting rights for metropolitan councils which results in one vote per council. The Mayor indicated whilst the rule change achieves equity across the sector in terms of voting rights, it does not provide an equal playing field when metropolitan councils pay a substantially greater annual subscription. The Mayor intends to raise this issue under Urgent Business later in the agenda.
4. **Inner South Metropolitan Mayors' Forum** – The Mayor, Cr Alex del Porto indicated that there was nothing further to report on since the previous Council meeting.
5. **South East Councils Climate Change Alliance** – Cr Clarke Martin reported that the SECCCA met last week at a member breakfast, where a presentation was made on the lessons learnt from the Lismore floods and what processes have been put in place.

Moved: Cr Martin

Seconded: Cr Evans

That the Reports by Delegates be received and noted.

CARRIED

12. Urgent Business

It is recorded that the Mayor raised a matter of urgent business concerning the MAV subscription methodology. Given the timing of the next State Council Meeting being on 14 October 2022, which is preceding the next Council Meeting, Council needs to submit a late motion as a result of this evening's meeting.

Procedural Motion

Moved: Cr El Mouallem

Seconded: Cr Evans

That the matter relating to a lodging a State Council Motion to the MAV on the review of the MAV annual subscription methodology be considered as a matter of urgent business, given the timing of the MAV State Council Meeting is preceding the October Council Meeting.

CARRIED

Procedural Motion

Moved: Cr Evans

Seconded: Cr Castelli

That Cr El Mouallem take the Chair for consideration of the Urgent Business matter – Item 12.1 MAV – Review of the Annual Subscription of Methodology.

CARRIED

12.1 **MAV – REVIEW OF THE ANNUAL SUBSCRIPTON OF METHODOLOGY**

Moved: Mayor, Cr del Porto

Seconded: Cr Samuel-King

That the MAV undertakes a review of member council annual subscriptions with a view to determine an alternative subscription methodology to ensure equity across all member councils, that reflects the value of one council one vote, not based on population, and the options be considered at a Special Meeting of the State Council of the MAV.

The Motion was PUT and a **DIVISION** was called:

DIVISION: **FOR:** Crs Alex del Porto (Mayor), Sonia Castelli, Jo Samuel-King MBBS, Hanna El Mouallem (Deputy Mayor), Clarke Martin, Fiona Stiffold and Laurence Evans OAM (7)
AGAINST: Nil

CARRIED

Procedural Motion**Moved: Cr Evans****Seconded: Cr Samuel-King**

That the Mayor resume the Chair for the remainder of the meeting.

CARRIED**13. Notices of Motion****13.1 NOTICE OF MOTION - 323 - FORMATION OF A SOUTH EASTERN COUNCILS BIODIVERSITY NETWORK**

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/21/23 – Doc No: DOC/22/238349

It is recorded that Cr Samuel-King sought leave to amend Notice of Motion - 323 - South Eastern Councils Biodiversity Network.

Moved: Cr Samuel-King**Seconded: Cr Evans**

That Cr Samuel-King be granted leave to defer Notice of Motion - 323 - South Eastern Councils Biodiversity Network

CARRIED**Moved: Cr Samuel-King MBBS****Seconded: Cr El Mouallem (Deputy Mayor)**

That Council defers consideration of Notice of Motion - 323 - Formation of a South Eastern Councils Biodiversity Network until the October 2022 Council Meeting to enable further consultation with network councils.

CARRIED

14. Confidential Business

Moved: Cr Samuel-King MBBS

Seconded: Cr Evans OAM

That pursuant to Section 66(2)(a) of the Local Government Act 2020 (the Act), the Council resolves that so much of this meeting be closed to members of the public, as it involves Council consideration of matters coming within some or all of the following categories listed in Section 3(1) (confidential information) of such Act:

- (a) Council business information*
- (b) security information*
- (c) land use planning information*
- (d) law enforcement information*
- (e) legal privileged information*
- (f) personal information*
- (g) private commercial information, being information provided by a business, commercial or financial undertaking that—*
 - (i) relates to trade secrets; or*
 - (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;*
- (h) confidential meeting information*
- (i) internal arbitration information*
- (j) Councillor Conduct Panel confidential information*
- (k) information prescribed by the regulations to be confidential information for the purposes of this definition*
- (l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989.*

CARRIED

Table of Contents

14.1 DEMAND FOR COSTS - BRIGHTON FORESHORE ASSOCIATION INC. V BAYSIDE CITY COUNCIL

(LGA 2020 Section 3(1)(e) legal privileged information, being information to which legal professional privilege or client legal privilege applies.)

It is recorded that the public gallery was vacated to enable Council to consider the above listed items in Confidential Business.

Following consideration of Confidential Business, the Chairperson declared the meeting closed at 10.11pm.