

Council Meeting

held remotely and
live-streamed via
Council's website

**Tuesday
15 February 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
Jill Colson – Director Corporate Services
Bryce Craggs – Director Community and Customer Experience
Matthew Cripps – Director City Planning and Amenity
Adam McSwain – Director Environment, Recreation and Infrastructure
Rachael Bragg – Executive Manager People and Strategy
Juliana Aya – Manager Urban Strategy
Terry Callant – Manager Governance
John Coates – Manager Amenity Protection
James Roscoe – Manager Climate, Waste and Integrated Transport
Jason Stubbs – Manager Commercial Services
Damien Van Trier – Manager Open Space, Recreation and Wellbeing
Robert Lamb – Governance Officer

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The Mayor declared the Council Meeting open at 6:30pm and noted that the meeting was being held remotely via electronic media. The meeting was recorded and streamed live on the internet.

The Mayor invited Cr Stitfold to read the prayer.

1. Prayer

Cr Stitfold 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 Samuel-King 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.

3. Apologies

There were no apologies submitted to the meeting.

4. Disclosure of Conflict of Interest of any Councillor

Cr El Mouallem declared a general conflict of interest in the following items, given his wife is involved in the operation of a hospitality business in Brighton and it may be perceived that this interest will influence consideration of these items:

- Item 10.2 – Draft Bayside Parklet Policy
- Item 10.3 – Draft Footpath Trading Policy 2022-25

Procedural Motion**Moved: Cr Martin****Seconded: Cr Stitolf**

That Council:

1. considers the meeting to be adjourned for 10 minutes from the commencement of any technical problem which prevents Council from livestreaming the meeting
2. adjourns the meeting to be reconvened on Wednesday 16 February 2022 at 6.30pm via livestreaming on Council's website, in the event livestreaming cannot be resumed within 30 minutes from the commencement of the technical problem which prevents livestreaming on Council's website.

CARRIED**5. Adoption and Confirmation of the minutes of previous meeting**

- 5.1 Confirmation of the Minutes of the Ordinary meeting of Bayside City Council held on 21 December 2021.

Moved: Cr Castelli**Seconded: Cr Evans OAM**

That the minutes of the Ordinary meeting of Bayside City Council held on 21 December 2021, as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED**6. Public Question Time**

In accordance with Chapter 2, Section 57 of Council's Governance Rules, 11 public questions were submitted to the Meeting. In accordance with the resolution at the June 2021 Ordinary Meeting of Council, temporary meeting procedures with regard to public question time are 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.

1. Ms Lesley Bawden

Ms Lesley Bawden submitted a question regarding the proposed Warm Water Pool at Brighton Golf Course, and Ms Bawden asked:

Question

Noting that this is open public space which will be sacrificed, can the CEO confirm that the smaller warm water pool proposed for the Brighton Golf Course precinct will:

- a. be heated to at least 34°
- b. have good/plentiful public access times for ordinary residents and ratepayers of Bayside
- c. have an ambient air temperature on a par with GESAC's Wellness (warm water) pool

Response from the CEO

It is proposed that the clinical pool will be heated to 34 degrees.

Council has resolved that providing a level of affordable and accessible community access to both Warm Water pools is a key principle of this project.

The pool and surrounds will be designed by aquatic specialists to ensure the comfort of facility users.

2. Ms Dineke Maclean

Ms Dineke Maclean submitted a question regarding the proposed Warm Water Pool at Brighton Golf Course, and Ms Maclean asked:

Question

- a) Given that commercial arrangements will need to be negotiated, can the CEO confirm that council will engage experienced commercial operators to negotiate favourable terms of lease for the proposed Warm Water Pool facility at Brighton Golf Course, and if so, what will be the key outcomes required from the negotiators?
- b. Will a key outcome the commercial negotiators be required to meet be to negotiate that there be good/plentiful/ongoing public access times to the small warm water pool for ordinary residents and ratepayers of Bayside such as at City of Glen Eira's GESAC Wellness Pool, without the need to be under supervision and added expense of health practitioners?

Response from the CEO

- a) *Council is negotiating directly with Leisure Management Services as the current lessee of Brighton Golf Course and an experienced aquatic facility management company.*
- b) *Council has resolved that providing a level of affordable and accessible community access to both Warm Water pools is a key principle of this project.*

3. Mr Michael Heffernan

Mr Michael Heffernan submitted a question regarding legal costs to defend Council's decision to build a new Life saving club at Dendy St Beach, and Mr Heffernan asked:

Question

In view of the fact that the Victorian Supreme Court of Appeal has dismissed the appeal by the Brighton Foreshore Association against an earlier VCAT decision regarding the Dendy Street Beach Masterplan and pavilion, I ask the following questions:

- a) how much has it cost the Bayside Council to defend these actions at VCAT, and at the Victorian Supreme Court and again at the Appeal Court of the Victorian Supreme Court?
- b) has the losing party in these actions, the Brighton Foreshore Association, contributed to the costs incurred by the Bayside Council in defending these actions, and if the losing party has not yet contributed what action will the Bayside Council consider to recompense the Council and ratepayers?

Response from the CEO

The total costs associated with the engagement of consultants/experts and legal representation associated will all the various proceedings (inclusive of VCAT, the Supreme Court, and the Court of Appeals), since 2016–17, is in the order of \$930,000.

Specifically the legal fees incurred by Council associated with the cost of defending the Supreme Court proceeding and the Court of Appeal proceeding equate to approximately \$278,000.

A costs order has been made in Council's favour against the applicant in both proceedings. Council is in the process of pursuing its costs in accordance with those costs orders. Council is unable to say anything more about that process at this stage.

4. Mrs Janice Cook

Mrs Janice Cook submitted a question referencing elements of Council's Urban Forest Strategy, and Mrs Cook asked:

Question

- a) What does Council propose doing about problems caused by neighbour's tree roots?
- b) Where does this new plan leave ratepayers in relation to this problem?

Response from the CEO

With regard to existing trees on private property, Council's only involvement is to determine a tree pruning application, if required. Legal advice on these matters can be obtained from lawyers, Legal Aid or BayCISS. Dispute Settlement Centre of Victoria remains the appropriate venue to address these matters.

When approving the siting of new vegetation through proposed landscape plans for new development, Council officers consider the proximity to the adjoining boundaries and fences as part of their decision and whether alternative locations can be provided to ensure problems in relation to tree roots are minimised.

5. Mr George Reynolds

Mr George Reynolds submitted a question regarding heritage matters, and Mr Reynolds asked:

Question

Residents of post-war properties in Beaumaris are being regaled with postal advertising, authored by Council, to join a "voluntary" Heritage Register.

- (a) Is this work being funded from the General Rate Budget, and
- (b) Has the Voluntary Heritage Register been approved by the Minister for Planning as suitable for inclusion in the Bayside Planning Scheme?

Response from the CEO

The voluntary heritage nomination process was funded from Council's Operational Budget.

The voluntary heritage nomination approach was not supported by the Minister for Planning as it was considered the process did not adequately fulfil Council's responsibilities under the Planning and Environment Act 1987. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the draft Post-War Modern Residential Heritage Study.

6. Mr George Reynolds

Mr George Reynolds submitted a further question regarding rates and charges, and Mr Reynolds asked:

Question

In response to a freedom of Information request dated 4th November 2021, Council claimed not to have the information required to correctly calculate the rates and charges for the current year. Which public documents are available to allow the ratepayers to access:

- (a) the estimated amount to be raised by General Rates, as required by Reg. 117/2020 s10(2)(c) and (d), and
- (b) the estimated amount to be raised by each type of service rate or charge, as required by Reg 117/2020 s10(2)(o)?

Response from the CEO

A schedules or rates and charges including general rates and service charges has been prepared in accordance with the Reporting Regulations and can be found on pages 42 to 45 of the Bayside City Council 2021/22 Budget. The 2021–22 budget document was subject to community consultation prior to its adoption by Council and can be found on Bayside's website.

7. Mrs Mary Larsen

Mrs Mary Larsen submitted a question regarding heritage matters, and Mrs Larsen asked:

Question

Please advise: What is the justification for heritage listing 170 ageing homes from another era in perpetuity when there are already 30 properties heritage listed in Post-War Modern Architectural style?

Response from the CEO

The draft Post-War Modern Residential Heritage Study has identified 98 properties to be of potential individual local heritage significance, and 8 properties to be of potential heritage significance as a 'group listing'.

Heritage significance is assessed using HERCON criteria, which is used for heritage assessments across Australia. The criteria comprises of eight individual standards and is a national set of established criteria used to determine the suitability of a Heritage Place. The significance of a property is based upon (but not limited to): the historical, rarity, scientific, environmental, design, technical, social and/or other special significance.

The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay.

8. Ms Natalie Boston

Ms Natalie Boston submitted a question regarding planting of native species, and Ms Boston asked:

Question

Will planting of native species be selected from appropriate local regional specimen and can council seek advice from Indigenous landscape heritage consultant, this strengthening Bayside's willingness to acknowledge and respect Traditional Custodians' input?

Response from the CEO

Plant species used to plant out Council land will be sourced from the Bayside Community Nursery. The nursery propagates all its stock from locally sourced material, including seed back.

Where possible, tree stock will also be sourced from the Bayside Community Nursery. Due to the volumes of stock required, alternative nurseries will also be engaged to supply tree stock. This stock will be predominantly sandbelt indigenous.

Any input from specific landscape consultants will be determined on a site-by-site basis and subject to funding.

9. Ms Natalie Boston

Ms Natalie Boston submitted a further question regarding significant trees, and Ms Boston asked:

Question

How is Council held to account to protect existing significant trees in the event that Council owned/ managed land may need redevelopment, and said trees are deemed to be in the way and thus sanctioned for removal? Case in point at the Ludstone Street dog park.

Response from the CEO

Council projects that have the potential to impact trees are subject to the same application process as a project delivered by any developer or business. Therefore, should a Council-managed project require a tree to be removed, and if that application is approved, the required fee is paid by the project. Fees received are reinvested into future tree planting and establishment works across Bayside.

10. Ms Megan Fallon

Ms Megan Fallon submitted a question regarding the keeping of poultry animals, and Ms Fallon asked:

Question

What is Council's justifications for requiring a planning permit for keeping more than 2 chickens? Was an animal welfare expert consulted in the decision making process?

Response from the CEO

Council has reviewed the matter and determined the Local Law provisions are more appropriate to manage the number of Poultry on private property. Up to 10 Poultry animals can be kept without a Local Law permit provided the animals are not part of a commercial operation or for breeding purposes; otherwise, a planning permit would be required for Animal Husbandry.

Planning Permits applications for Animal Husbandry do not require input from animal welfare experts as the Planning Scheme clearly sets out the relevant requirements.

11. Dr Zena Burgess

Dr Zena Burgess submitted a question regarding heritage matters, and Dr Burgess asked:

Question

There are 177 homes listed by consultants for involuntary heritage listing.

What specific criteria and weighting will be used to assess which properties are included and which are allowed to be controlled by the property owners?

Response from the CEO

The draft Post-War Modern Residential Heritage Study has identified 98 properties to be of potential individual local heritage significance, and 8 properties to be of potential heritage significance as a 'group listing'.

Heritage significance is assessed using HERCON criteria, which is used for heritage assessments across Australia. The criteria comprises of eight individual criteria and is a national set of established criteria used to determine the suitability of a Heritage Place. The significance of a property is based upon (but not limited to): the historical, rarity, scientific, environmental, design, technical, social and/or other special significance.

The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay. The documentation for each place shall include a Statement of Significance that clearly establishes the importance of the place and addresses the heritage criteria.

7. Petitions to Council

There were no petitions submitted to the meeting.

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/22/28982

Moved: Cr Castelli

Seconded: Cr Evans OAM

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:

- 1 February 2022 Councillor Briefing.

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:

The Mayor noted that temporary changes to the Council meeting procedures are in place with regard to Chapter 2, Division 10 of Council's Governance Rules (Individual Presentations), whereby:

- *in place of speaking in-person at a Council / Committee meeting, members of the public may submit a written statement (maximum of four (4) A4 single pages) which must be sent electronically, or delivered to Council's Corporate Centre, by 9:00am on the day of the meeting*
- *written statements received after 9:00am on the day of the meeting will not be considered by the meeting*
- *a person may only make a written statement to an Ordinary Meeting/Special Committee Meeting in relation to an item listed in the agenda under Reports by the Organisation, and even then not if the item is in the nature of a report summarising a decision already made by another body; or if the report relates to a Tender Report relating to the awarding of a contract*
- *in accordance with Chapter 2, Section 83(1) of Council's Governance Rules 2020, any statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community may not be accepted*
- *where a person has formally made a written statement in relation to an item on the agenda, the statement will be provided to all councillors in advance of the meeting*
- *written statements are not confidential and, following the closure for receipt of statements, will be published (including first and last names only) on Council's website as an attachment to the Agenda for the relevant meeting*
- *written statements will not be read out at the meeting; however, the Chairperson will advise the meeting of the number of statements received to each item.*

The following individuals submitted written statements to the meeting:

Item 10.1 Bayside Urban Forest Strategy 2022–40

1. Dr Vicki Karalis (on behalf of Sandringham Foreshore Association)
2. Mrs Sue Forster
3. Ms Pauline Reynolds
4. Mr Derek Screen (on behalf of Pennydale Residents Action Group Inc.)
5. Ms Sally Eldridge (on behalf of Friends of Native Wildlife Inc.)

Item 10.2 Draft Bayside Parklet Policy

1. Mr Erik Purcell
2. Mr Ray Purcell
3. Dr Vicki Karalis (on behalf of Sandringham Foreshore Association)
4. Mr Jonathan Sherren
5. Mr James Salem
6. Mr Evan and Mrs Jane Packer

Item 10.3 Draft Footpath Trading Policy 2022–25

1. Mr Evan Packer

Item 10.4 Proposed Amendment to Council Resolution Regarding Outcomes of Community Engagement - Wilson Recreation Reserve - Brighton Grammar School Proposal

1. Mr Ross Featherston (on behalf of Brighton Grammar School)
2. Mr David Brewer
3. Mr Kevin Howard
4. Ms Katrina Fraser
5. Miss Dianne Anderson

Item 10.5 Outcomes from Community Engagement on Defining Character in Bayside's General Residential Zones

1. Mr Derek Screen (on behalf of Pennydale Residents Action Group Inc.)

Item 10.7 Response to Notice of Motion - 315 - Wildlife-Friendly Gardens and Naturestrips

1. Mrs Sue Forster
2. Ms Pauline Reynolds

Item 10.8 Response to Notice of Motion - 317 - Noisy Miner Project

1. Mrs Sue Forster

Item 10.11 Extension of kerbside waste, recycling and food and green waste collection contracts

1. Mr George Reynolds

10.1 BAYSIDE URBAN FOREST STRATEGY 2022–40

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/27947

It is recorded that Dr Vicki Karalis (on behalf of Sandringham Foreshore Association), Mrs Sue Forster, Ms Pauline Reynolds, Mr Derek Screen (on behalf of Pennydale Residents Action Group Inc.), and Ms Sally Eldridge (on behalf of Friends of Native Wildlife Inc.) each submitted a written statement in relation to this item.

Moved: Cr Samuel-King MBBS

Seconded: Cr Evans OAM

That Council:

1. adopts the Bayside Urban Forest Strategy 2022–40 (Attachment 1), subject to the following amendments:

- 1.1. Amend the Vision of the Urban Forest Strategy which reads:

Bayside's urban forest will support and contribute to a cooler, greener and ecologically connected Bayside through increased vegetation and canopy cover, that provides areas of habitat for biodiversity to thrive, enhances the amenity and character of the municipality, and builds on our community's connection to nature.

is to be replaced so to read:

Bayside's urban forest will protect and restore ecological systems with special concern for biological diversity and natural processes which will create a cooler and greener Bayside with enhanced amenity and character where people are connected to nature.

- 1.2. Amend the introduction to include reference to pre European settlement, historic Ecological Vegetation Communities (EVC), and the cultural significance of vegetation to our indigenous community.
 - 1.3. Amend the Strategic Objectives of the Strategy to include an additional point to read:
 - *Support and enhance our local biodiversity and protect locally endangered, native species via improving habitat connectivity and the protection and planting of EVCs*

- 1.4. Amend the "Benefits of Urban Forest" section of the Urban Forest Strategy to include an additional point, to read:

- *re-introduction and/or return of locally extinct flora and fauna*

- 1.5 Strengthen the Urban Forest Strategy to also focus on increasing the ground cover and mid storey vegetation, by:

Amending Goal 3 so to read:

Goal 3: Council will seek to substantially increase understorey planting, including shrubs, small trees and all other elements that occupy the vegetation layer below the canopy of taller trees, throughout Council

streets, parks and reserves to improve native biodiversity, provide habitat and food sources for a range of fauna.

1.6 Amend Strategy 3.1 (first point) so to read:

Strategy 3.1: Improve, implement, and facilitate Council processes and procedures to assist the monitoring of the urban forest

- *Implementing the Urban Tree Monitoring Project*

Council will continue to develop the Urban Tree Monitoring Project to ensure Council is able to track and measure tree canopy cover across Bayside and its ground cover and mid story vegetation. The Tool will allow Council to continue monitoring the loss and gain of trees over time, and health of the urban forest as new trees start to develop.

Following the implementation of the Tool, the data collected could expand to identify tree height and species on private property and identify and predict areas that are vulnerable to potential heat island effect.

1.7 Amend the four (4) year action plan theme “Monitor” action to read:

Continue to develop the Urban Tree Monitoring Tool to ensure Council can:

- a) Track and measure canopy cover and tree numbers*
- b) Strengthen the model to aim to create modelling and forecasting scenarios*
- c) Aim to expand the software to be able to identify tree height and species in the longer term.*
- d) Aim to expand the software to identify different types of vegetation cover below 3 metres in height so to set targets to substantially increase understorey planting, including shrubs, small trees and all other elements that occupy the vegetation layer below the canopy of taller trees*
- e) Aim to embed a heat mapping tool within the model to be able to predict future areas vulnerable to potential urban heat island effect.*
- f) Present the spatial representation of tree and vegetation species and diversity across Bayside.*

1.8 Amend the four (4) year action plan theme “Increase” action “Increase the use of vegetation cover, particularly under-storey planting, in public areas to increase greening and improve biodiversity without impacting on accessibility or existing uses” target to read:

- *Increase the understorey (understorey/middle storey) vegetation by 50% by 2040*

1.9 Amend the four (4) year action plan theme “Increase”, aligning with “Consider the individual needs of Bayside’s suburbs and ensure that the approach to increasing canopy cover and urban forest outcomes is tailored to the conditions of each area” by amending action “Prepare precinct-based urban forest plans to respond to site specific challenges and identify opportunities for increased planting” part a) to read:

- a) *Prioritise areas of greatest need, including areas with the lowest existing percentage canopy tree cover, to increased planting, including areas that are strategically located to mitigate Urban Heat Island effects for residents (including within Major Activity Areas and areas experiencing increased density and construction activity), areas of declining canopy or aging trees, highly trafficked pedestrian routes and gaps/vacancies in public planting*

1.10 Strengthen the Urban Forest Strategy by:

- a) Amending the four (4) year action plan theme 'Maintain', aligning with "Enhance Council's ability to retain existing trees on private property through increased regulation of tree removal" strategy by including the following new actions:
 - *Investigate and where possible introduce a municipal-wide approach to the avoiding, minimising, and offsetting the loss of native vegetation based on a similar framework to that set out in Clause 52.17 of the Bayside Planning Scheme*
 - *To review Planning Permit Landscape Conditions to require the retention of appropriate tree trunks and/or branches on site or within Council reserves to support and strengthen our habitat*
- b) Amending the four (4) year action plan theme 'Maintain', aligning with "Enhance Council's ability to retain existing trees on private property through increased regulation of tree removal." by amending action "Amend the Neighbourhood Amenity Local Law, Management of Tree Protection on Private Property 2015" to include:
 - *Increase the trees that are protected to include exotic species*
- c) Amending the four (4) year action plan theme 'Celebrate and Learn', aligning with "Continue to build upon Council's green image and utilise this platform to advocate and partner with key stakeholders to provide greener outcomes across Bayside, metropolitan Melbourne and Victoria" strategy by including the following new action:
 - *Develop an "Adopt a Tree or Ecological Vegetation Communities" program to encourage the community to directly and actively support the objectives of the urban forest strategy*
- d) Amending the four (4) year action plan theme 'Increase', aligning with "Consider the individual needs of Bayside's suburbs and ensure that the approach to increasing canopy cover and urban forest outcomes is tailored to the conditions of each area" by including the following new action:
 - *Review and recommend the required actions to support Council's Community Nursery(ies) to ensure it can adequately support the demands in providing plants (including mother stock) to support the Urban Forest Strategy*

- 1.11 Minor editorial changes to ensure that there is clarity regarding biodiversity
2. considers the financial costs of implementing the Urban Forest Strategy as part of the 2022–23 budget process
3. requires updates to be presented to Council annually which highlights (but not limited to):
 - 3.1 the status of the annual actions
 - 3.2 the four year action for the future years
 - 3.3 any proposed changes to the strategy that may be necessary to ensure that the strategy remains current
4. writes to all participants to thank them for their contribution in assisting the preparation and completion of the Strategy.

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

DIVISION: **FOR:** Crs Alex del Porto (Mayor), Clarke Martin, Sonia Castelli, Jo Samuel-King MBBS, Fiona Stitfold, Laurence Evans OAM and Hanna El Mouallem (Deputy Mayor) (7)
 AGAINST: Nil (0)

CARRIED

10.2 DRAFT BAYSIDE PARKLET POLICY

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/28970

It is recorded that Mr Erik Purcell, Mr Ray Purcell, Dr Vicki Karalis (on behalf of Sandringham Foreshore Association), Mr Jonathan Sherren, James Salem, and Mr Evan and Mrs Jane Packer each submitted a written statement in relation to this item.

It is recorded that Cr El Mouallem (Deputy Mayor) declared a general conflict of interest in this item given his wife is involved in the operation of a hospitality business in Brighton and it may be perceived that this interest will influence consideration of this matter. Cr El Mouallem left the Meeting at 7.37 pm.

Moved: Cr Stitfold

Seconded: Cr Evans OAM

Part A

That Council:

1. supports the extension of spacelets for a period of five months, where the current spacelet beneficiaries enter an agreement to maintain the temporary structures at their full cost or proceed with the removal of spacelets where no agreement is entered into commencing 31 March 2022
2. endorses the draft Parklet Policy for the purposes of community engagement
3. receives a report at the May 2022 Council Meeting with the outcomes of the community consultation and the revised Draft Parklet Policy for adoption.

Part B

That a report be presented to Council at or by the June 2022 Council meeting on the process (including the time, resourcing, cost and consultation) to consider the closure of the section Melrose Street, Sandringham located to the west of Station Street, Sandringham and east of common boundary between 12 Melrose Street and 118-120 Beach Road, Sandringham to vehicular traffic pursuant to the requirements of the relevant legislation; and investigate the merits of making the underground parking at 122 Beach Road for traders only with the appropriate parking times to be reviewed.



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

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

CARRIED

It is recorded that Cr El Mouallem was not present in the meeting during debate on this item or when the vote was taken.

10.3 DRAFT FOOTPATH TRADING POLICY 2022–25

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/29503

It is recorded that Mr Evan Packer submitted a written statement in relation to this item.

It is recorded that Cr El Mouallem (Deputy Mayor) declared a general conflict of interest in this item given his wife is involved in the operation of a hospitality business in Brighton and it may be perceived that this interest will influence consideration of this matter.

Moved: Cr Martin

Seconded: Cr Samuel-King MBBS

That Council defers consideration of this matter until the March 2022 Council meeting.

CARRIED

It is recorded that Cr El Mouallem was not present in the meeting during debate on this item or when the vote was taken.

Cr El Mouallem (Deputy Mayor) returned to the Meeting at 7.57 pm.

10.4 PROPOSED AMENDMENT TO COUNCIL RESOLUTION REGARDING OUTCOMES OF COMMUNITY ENGAGEMENT - WILSON RECREATION RESERVE - BRIGHTON GRAMMAR SCHOOL PROPOSAL

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/21432

It is recorded that Mr Ross Featherston (on behalf of Brighton Grammar School), Mr David Brewer, Mr Kevin Howard, Ms Katrina Fraser, and Miss Dianne Anderson each submitted a written statement in relation to this item.

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

That Council:

1. reaffirms the resolution passed at the 17 August 2021 Council Meeting on this matter
2. notes its willingness to further consider this item if Brighton Grammar School is open to entering into an agreement that provides community access outside of school hours and activities to Brighton Grammar School's Crowther and/or Mitchell ovals.

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

DIVISION: **FOR:** Crs Alex del Porto (Mayor), Sonia Castelli, Jo Samuel-King MBBS, Fiona Stitfold, Laurence Evans OAM and Hanna El Mouallem (Deputy Mayor) (6)
AGAINST: Cr Clarke Martin (1)

CARRIED

10.5 OUTCOMES FROM COMMUNITY ENGAGEMENT ON DEFINING CHARACTER IN BAYSIDE'S GENERAL RESIDENTIAL ZONES

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/29197

It is recorded that Mr Derek Screen (on behalf of Pennydale Residents Action Group Inc.) submitted a written statement in relation to this item.

Moved: Cr Martin

Seconded: Cr Evans OAM

That Council:

1. notes the community engagement results from the preferred character in growth areas engagement consultation
2. continues to draft potential planning scheme changes to support character outcomes in growth areas
3. receives a report at or before the June 2022 Council Meeting with the outcomes.

CARRIED

Procedural Motion

Moved: Cr Samuel-King MBBS

Seconded: Cr Martin

That the meeting be adjourned for a period of 10 minutes.

CARRIED

It is recorded that the meeting was adjourned at 8.30pm.

Procedural Motion

Moved: Cr Evans OAM

Seconded: Cr Castelli

That the meeting be resumed.

CARRIED

It is recorded that the meeting was resumed at 8.40pm.

**10.6 SUBMISSION TO THE DEPARTMENT OF ENVIRONMENT, LAND,
WATER AND PLANNING - IMPROVING THE OPERATION OF RESCODE**

City Planning and Amenity - Development Services
File No: PSF/22/35 – Doc No: DOC/22/27929

Moved: Cr Martin

Seconded: Cr Castelli

That Council endorses the officer submission to the Department of Environment, Land, Water and Planning (DEWLP) regarding 'Improving the operation of Rescode'.

CARRIED

10.7 RESPONSE TO NOTICE OF MOTION - 315 - WILDLIFE-FRIENDLY GARDENS AND NATURESTRIPS

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/18459

It is recorded that Mrs Sue Forster, and Ms Pauline Reynolds each submitted a written statement in relation to this item.

Moved: Cr Samuel-King MBBS

Seconded: Cr Evans OAM

That Council:

1. continues to promote that residents are no longer required to obtain a permit for indigenous plantings in nature strips
2. considers the matter of cat containment and curfews as part of the development of Council's Domestic Animal Management Plan
3. considers the allocation of \$25,000 for the development of a series of webinars, podcasts, other online forums and/or in-person workshops encouraging residents to plant and maintain wildlife friendly gardens as part of the 2022–23 budget process
4. receives a further report in June 2022 on the cost and resource impacts of facilitating an open garden scheme and reviewing opportunities to increase readership and availability of the Banksia Bulletin.

CARRIED

10.8 RESPONSE TO NOTICE OF MOTION - 317 - NOISY MINER PROJECT - RESTORING THE BALANCE

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/18495

It is recorded that Mrs Sue Forster submitted a written statement in relation to this item.

Moved: Cr Samuel-King MBBS

Seconded: Cr Stitfold

That Council:

1. focuses on the implementation of the Urban Forest Strategy, Parks Linkages and Habitat Improvement Plan and other open space projects in an effort to improve the natural environment particularly for small, native birds
2. recognises Noisy Miners as a Key Threatening Process and as such as a key threat to biodiversity, both within Bayside and more generally
3. makes a submission to the review of the Wildlife Act (Victoria) requesting the State Government (as part of this review) to remove the need for permits in order to actively manage Noisy Miners.

CARRIED

10.9 ROAD MANAGEMENT PLAN UPDATE

Environment, Recreation and Infrastructure - City Assets and Presentation

File No: PSF/22/29 – Doc No: DOC/22/31462

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

That Council:

1. notes the performance standards in the Road Management Plan
2. seeks a further report by May 2022 on the cost and resource implications of reducing the footpath intervention level to 15mm and modifying the days to completion on Major Roads and high-use footpaths to 15 days.

CARRIED

10.10 IRONMAN BAYSIDE 2022

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/13879

Moved: Cr Martin

Seconded: Cr Evans OAM

That Council approves the extended road closure end time endorsed in the Events in Public Places Policy from 11.30am to 1.00pm on 13 November 2022 to conduct the Ironman Melbourne event.

CARRIED

10.11 EXTENSION OF KERBSIDE WASTE, RECYCLING AND FOOD AND GREEN WASTE COLLECTION CONTRACTS

Environment, Recreation and Infrastructure - Climate, Waste and Integrated Transport
File No: PSF/22/26 – Doc No: DOC/22/19858

It is recorded that Mr George Reynolds submitted a written statement in relation to this item.

Moved: Cr Martin

Seconded: Cr Stitfold

That Council authorises the Chief Executive Officer or his delegate to:

1. extend the current Food and Green Waste Collection Contract No. 111207B for the period 1 July 2022 to 30 June 2023 and vary the collection schedule to a weekly collection frequency for the duration of the contract extension and execute this in accordance with the terms and conditions of the contract
2. extend the current Domestic Waste Collection Contract No. 111207C for the period 1 July 2022 to 30 June 2023 and vary the collection schedule to a fortnightly collection frequency for the duration of the contract extension and execute this in accordance with the terms and conditions of the contract
3. extend the current Recycling Collection Contract No. 12/64 for the period 1 July 2022 to 30 June 2023 and execute this in accordance with the terms and conditions of the contract.

CARRIED

10.12 COUNCIL ACTION AWAITING REPORT

Corporate Services - Governance

File No: PSF/22/31 – Doc No: DOC/22/28985

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council notes the Council Action Awaiting Report.

CARRIED

10.13 PRE-TENDER COMMITMENT TO PROCUREMENT OF SOUTH EAST METROPOLITAN ADVANCED WASTE PROCESSING (SEMAWP)

Environment, Recreation and Infrastructure - Climate, Waste and Integrated Transport
File No: PSF/22/26 – Doc No: DOC/22/17748

Moved: Cr Martin

Seconded: Cr Stitfold

That Council:

1. authorises the Chief Executive Officer to execute and send a commitment letter to South East Metropolitan Advanced Waste Processing Pty Ltd (ACN 654 660 438) confirming that Council will not exercise any right to request a buy-back of its shares under the Shareholders Agreement for the duration of the contract and would not exercise its right to exit from the SEMAWP Project subject to the tender responses falling within the following fundamental parameters:
 - is a conforming Tender and complies with the requirements of the Specification, or such other form of specification approved by the SPV
 - the project being located at the agreed Site
 - has the terms of any Waste Supply Deed in the form of the draft waste supply deed contained in the Request for Tender, or such other form of waste supply deed approved by the SPV
 - the gate fee is within an agreed limit for the South East Metropolitan Advanced Waste Processing Project
2. endorses the pass-through arrangements for any liability incurred by the SPV to Council under the minimum tonnage guarantee regime on the basis that:
 - Council will only be liable to provide waste to the minimum tonnage as agreed through the Working Group
 - the minimum tonnage guarantee from the SPV to the AWP provider would be assessed annually under the Waste Supply Deed between the SPV and the AWP Provider
 - any liability of the SPV incurred under the minimum tonnage guarantee (which could not be covered by waste produced by other participating councils or alternative waste streams secured by the AWP Provider) would be passed through to Council if the minimum tonnage commitment was not achieved
3. endorses the provision of a financial guarantee, under which the councils guarantee that South East Metropolitan Advanced Waste Processing Pty Ltd will remain solvent and will not be wound up during the term of the Contract
4. endorses the partial bid reimbursement arrangement for unsuccessful tenderers who submit compliant tender responses and to cover circumstances where the SEMAWP tender is cancelled by the SPV or councils
5. authorises the Chief Executive Officer to take any further actions necessary to facilitate Council's participation in the South East Metropolitan Advanced Waste Processing Project.

CARRIED

11. Reports by Delegates

1. **Association of Bayside Municipalities** – Crs Fiona Stitfold and Clarke Martin indicated that there has been no meeting since the previous meeting.
2. **Metropolitan Transport Forum** – The Director Environment, Recreation and Infrastructure attended the recent forum where PTV gave a presentation on the strategic plan and initiatives that are being explored across the state.
3. **Municipal Association of Victoria** – The Mayor, Cr Alex del Porto indicated that no meeting has been held. The Annual State Council Meeting of the MAV is scheduled to be held in May 2022.
4. **Inner South Metropolitan Mayors' Forum** – The Mayor, Cr Alex del Porto indicated that the Mayor's forum has not met.
5. **Metropolitan Local Government Waste Forum** – Cr Clarke Martin indicated that the Waste Forum met last week, with the main focus on building the circular economy and impacts of bin contamination.
6. **South East Councils Climate Change Alliance** – Crs Clarke Martin and Fiona Stitfold indicated that that SECCCA has not met since the previous Council meeting.

Moved: Cr Evans

Seconded: Cr Martin

That the Reports by Delegates be received and noted.

CARRIED

12. Urgent Business

Procedural Motion to admit item to Urgent Business

Moved Cr Samuel-King

Seconded Cr Evans

That the matter of Council's amended submission in relation to the Suburban Rail Loop East Environmental Effects Statement be dealt with as a matter of Urgent Business.

CARRIED

12.1 SUBURBAN RAIL LOOP EAST ENVIROMENTAL EFFECTS STATEMENT

Moved Cr Samuel-King

Seconded Cr Evans

That Council:

1. amends its submission to the Suburban Rail Loop East Environmental Effects Statement and Planning Scheme Amendment endorsed by Council at its meeting of 21 December 2021 to include impacts associated with the loss of the regionally significant open space "Chain of Parks"
2. notes that the proposed amendment responds to Council's previous advocacy and support for the sand belt Chain of Parks, and the need to continue to protect the Green Wedge Delta to meet current and future demand for open space for the South East Region.

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

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

AGAINST: Nil (0)

CARRIED

13. Notices of Motion

There were no notices of motion submitted to the meeting.

14. Confidential Business

Moved: Cr Evans OAM

Seconded: Cr Martin

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 COMMUNITY SPORTS FACILITIES AT SANDRINGHAM COLLEGE - PROJECT UPDATE

(LGA 2020 Section 3(1)(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.)

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 Mayor declared the meeting closed at 9.55pm.