

Council Meeting

Council Chamber
Civic Centre
Boxshall Street Brighton

**Tuesday
15 March 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
Joan Andrews – Manager Community Services
Juliana Aya – Manager Urban Strategy
Terry Callant – Manager Governance
John Coates – Manager Amenity Protection
Sally Morgan – Acting Manager Communications, Engagement and Customer Experience
James Roscoe – Manager Climate, Waste and Integrated Transport
Bill Shanahan – Manager Finance
Jason Stubbs – Manager Commercial Services
Damien Van Trier – Manager Open Space, Recreation and Wellbeing
Newton Gatoff – Property Coordinator
Robert Lamb – Governance Officer

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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.

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 Martin 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

It is recorded that the following Councillors disclosed a conflict of interest in the following items:

- Cr Castelli – Item 10.2 – Dendy Street Beach Erosion Control – Long Term Options Update – General Conflict of Interest
- Cr El Mouallem – Item 10.3 – Draft Footpath Trading Policy – General Conflict of Interest
- Cr Evans – Item 10.8 – Sandringham Hospital Strategic Agreement – General Conflict of Interest
- Cr Samuel-King – Item 10.17 – CONTRACT CON/21/101 – Elsternwick Park Nature Reserve Community Interface Infrastructure - General Conflict of Interest

Procedural Motion

Moved: Cr Evans

Seconded: Cr Castelli

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 Thursday 17 March 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 Bayside City Council Meeting held on 15 February 2022.

Moved: Cr Evans OAM

Seconded: Cr Castelli

That the minutes of the Bayside City Council Meeting held on 15 February 2022, 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, **17** 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. Mrs Melissa Beech

Ms Melissa Beech submitted a question regarding lighting at Dendy Park, and Ms Beech asked:

Question

Can Council please consider safety lighting on the western pathway of Dendy Park adjacent to the ovals?

Response from the CEO

Council works to strike a balance between the amenity of park users, surrounding residents, personal safety and wildlife. Lighting of this section of path was not raised as an issue during the development of the Dendy Park Masterplan and Victoria Police have not raised this as an area of public safety concern. As such, Council has no plans to install path lighting in this section of Dendy Park.

2. Mrs Mary McCauley

Mrs Mary McCauley submitted a question regarding the Draft Domestic Animal Management Plan, and Mrs McCauley asked:

Question

With reference to the new policy re pets and wildlife, Is Council spending any time or resources to better understand the implications of possum populations in Bayside , and the impact of increasing density development by both Council and the State Government's policies.

Response from the CEO

The Draft Domestic Animal Management Plan applies to domestic dogs and cats and includes proposed actions to minimise the impacts of dogs and cats on wildlife and the environment.

Council does not have any programs planned to investigate the implications of development on possum populations.

The Bayside Biodiversity Action Plan 2018–27 seeks to maximise conservation of habitat diversity and connectivity in public open space.

3. Mr Paul Shields

Mr Paul Shields submitted a question regarding Council's Post-war Modern Residential Heritage Study, and Mr Shields asked:

Question

How can Council consider that mandatory heritage listing on a house that is less than 25 percent of its original design due to numerous extensions and remodels during the 1970s and 1980s be fair and equitable to myself and my neighbours ?

Response from the CEO

Council's heritage consultants have assessed the property based on the information available to them through their research.

As per correspondence, the current consultation stage of the process is intended to allow affected property owners to provide any additional information that may influence the initial assessment. Additional information can include photos, planning or building plans which show that the residential building has been altered or is not 'intact.'

Council's heritage consultant will review any information provided and consider the implications on the heritage value of the site. It is encouraged that this information be provided by 30 April 2022 to ensure this is considered before the next steps in the process commence.

4. Ms Pat Carden

Ms Pat Carden submitted a question regarding the works at Dendy Beach, and Ms Carden asked:

Question

Considering the significant disruption to Dendy Beach over this summer by ongoing major works, does Council intend to inform interested parties eg ratepayers and bathing box licensees of its future plans for the beach? Information has not been disseminated and ad hoc signage is not enough.

Response from the CEO

Council has implemented a communications plan to inform beach goers of the range of works at Dendy Street Beach, including signage. Council has also communicated to the Brighton Beach bathing Box Owners Association regarding short and medium term works to stabilise the beach.

5. Mr George Reynolds

Mr George Reynolds submitted a question regarding Council's Second Quarter Performance Report for 2021–22 , and Mr Reynolds asked:

Question

In the 2021-22 Second Quarter Performance Report at agenda Item 10,19, Council fails to identify its Income and expenditure on Rates and charges, as required by the Local Government (Planning and Reporting) Regulations 2020.

Likewise, It also fails to separately identify the income and expenditure incurred in its Own source Revenue stream as required by M3 of the Corporations Law. The financial performance documents are of no use to users of the Council accounts.

(a) Why don't councillors seek an assurance from a competent forensic account that the accounts are correctly prepared, AND

(b) Seek the opinion of the Commonwealth Auditor General that non-compliance with M3 of the Corporations Law is allowed for Local Government Bodies.

Response from the CEO

(a) *Council has a well credentialled Audit and Risk Management Committee which has reviewed and endorsed the financial statements. The Chair of the committee has 25 years audit experience as an Audit Partner at Price Waterhouse Coopers.*

(b) *The Victorian Auditor General's Office (VAGO) is responsible for the review and approval of Bayside's financial statements. VAGO has certified that the financial statements have been completed in accordance with the Local Government Reporting Regulations.*

6. Mr George Reynolds

Mr George Reynolds submitted a further question regarding Beaumaris Reserve, and Mr Reynolds asked:

Question

The Beaumaris Reserve changing rooms and clubhouse is being completed shortly and it is being advertised by the soccer club as ready for use by their members.

(a) What happened to the planning permit necessary for the development and use of such a rental facility, as determined in *Bence v BCC* [2020], AND

(b) Have the lease terms between the club and Bayside City Council been revised to ensure that the provisions of s111(1)(a) of the Local Government Act 2020, will be met?

Response from the CEO

(a) *As the land is owned and managed by Council, zoned Public Park Recreation Zone and the works are valued less than \$10 million a Planning Permit was not required for the development or use of the Beaumaris Reserve Sports Pavilion.*

(b) *Council will meet all relevant obligations in the Local government Act 2020 while seasonally allocating the sports pavilion to local sporting clubs.*

7. Mr Matthew Marshall

Mr Matthew Marshall submitted a question regarding Council's Post-war Modern Residential Heritage Study, and Mr Marshall asked:

Question

As an impacted homeowner, I am deeply distressed (again) and more importantly disillusioned about the indecisiveness of our council decisions.

- a) Surely we can put matters to bed rather than keep revisiting this. How do we get longevity out of decisions by the council?
- b) Secondly, how can I speak to a councillor about this, as all seem to be running for cover and not meeting the impacted home owners. Whom are bearing the brunt of this decision for the 'supposed' community benefit.

Response from the CEO

- a) *Identifying, documenting and protecting heritage places is a responsibility of Council under the Planning and Environment Act 1987. Heritage protection is not a static issue and requires ongoing attention to fulfill legislative responsibilities.*

In order to have the merits thoroughly considered and debated, a planning scheme amendment process needs to progress through the Planning Panel stage, where the merits of each property can be comprehensively tested before an independent body.

- b) *The current consultation stage of the process is intended to allow affected property owners to provide any additional information that may influence the initial assessment. It is recommended that prior to engaging with Councillors, any relevant information is provided to Council officers to consider.*

Engagement with Councillors, including site visits, may be best left until after 30 April when any additional information has been provided for consideration.

The appointment of a delegated committee of Council is also being considered at tonight's Council meeting which would enable any party to present their views directly to all Councillors.

8. Mrs Fiona Marshall

Mrs Fiona Marshall submitted a question regarding Council's Post-war Modern Residential Heritage Study, and Mrs Marshall asked:

Question

- a) What does council propose home owners do to protect their privacy and confidentiality if they have been targeted for heritage nomination?
- b) And how does Bayside council suggest they will securely manage and control any adverse affects that happen when properties are heritage listed, and are no longer private for the occupants? Will bayside council provide paid security when these tours are undertaken?

Response from the CEO

While property addresses have been published in the draft Post-War Modern Residential Heritage Study, this information is already available on the internet and is not protected by any privacy legislation. No personal details or information relating to affected property owners as part of the study have been published.

Photos of houses can be updated if the property owner is concerned that the pictures taken impact their privacy. All number plates have been redacted from cars in photos and will remain redacted in the final version of the Study.

It is uncertain what 'adverse affects' are being referred to in relation to properties that may become heritage listed. Bayside City Council does not currently provide for or intend to provide mid-century architecture house tours in the future. Any concerns about inappropriate behaviour in the public realm should be directed to police.

9. Dr Julie Janev

Dr Julie Janev submitted a question regarding Council's Post-war Modern Residential Heritage Study, and Dr Janev asked:

Question

- a) I would like to ask how the council can justify making a bad situation worse without giving us the funding to repair all the major works needed here?
- b) If it is true that the community are in favor of heritage listing, then perhaps a 'Heritage levy' can be added to rates notices too?

Response from the CEO

Works, repairs and routine maintenance which do not change the appearance of a heritage listed place can be undertaken without a planning permit being required, standard with any private dwelling whether heritage listed or not. Major repairs that change the appearance of an apartment or townhouse complex may require planning permission, whether or not heritage controls are in place. It is recommended that proponents engage with Council's statutory planning department to determine whether permission is required prior to undertaking any works. Most heritage permits can be dealt with under the State Governments VicSmart provisions and will be decided within 10 days.

A 'heritage levy' is a creative approach that would require support by the State Government in order to be implemented. There is currently no foundation to support the introduction of a levy under the current State Government planning legislation.

10. Dr Julie Janev

Dr Julie Janev submitted a further question regarding Council's Post-war Modern Residential Heritage Study, and Dr Janev asked:

Question

In the spirit of fairness and equal rights for all homeowners, why should we have less rights than our neighbours, and why isn't a more ethical decision being made here, e.g. why doesn't counsel buy our complex as a whole instead of reducing our return on investment potential?

Response from the CEO

The intrinsic nature of planning legislation is that it places an element of control across all land within Victoria and sets out the land use and built form requirements.

In some locations, residential development of up to four storeys can be allowed, whereas in other locations, this is restricted to two. Similarly, this relates to housing policy, vegetation protection, neighbourhood character and heritage controls. In deciding the level of regulation and protections to be applied, it must be informed by robust strategic justification that considers the appropriate balance of achieving community vision and the needs of land owners.

Once the strategic justification has been finalised, in this case the current heritage study, the merits can be tested through a planning scheme amendment process, with an independent Planning Panel being appointed to consider the views of all submitters to the process. The Panel will then make recommendations to Council and the Minister for Planning on the appropriateness of the heritage protection.

11. Dr Zena Burgess

Dr Zena Burgess submitted a question regarding Council's Post-war Modern Residential Heritage Study, and Dr Burgess asked:

Question

Will council move with the debate and take a more sophisticated approach to consultation?

Response from the CEO

A Council Report (Item 10.1) is part of tonight's agenda which seeks the establishment of a Delegated Committee of Council to hear submissions to the draft Post-War Modern Residential Heritage Study. If the Committee is to be established, submitters are welcomed to be heard by Council at a future meeting.

12. Mrs Rhonda Lipschutz

Mrs Rhonda Lipschutz submitted a question regarding the works at Dendy Beach, and Mrs Lipschutz asked:

Question

As a double residential rate payer for home and Beach Box the council did not engage directly with me rather than with the Bathing Box Association. I should be advised of any works or changes at the beach. Why has there has been no information coming forward to me?

Response from the CEO

Council has communicated with the Brighton Beach Bathing Box Owners Association and directly with the currently impacted box owners concerning short term beach erosion mitigation, including the recent sand bag installation.

Council will communicate directly with all box owners regarding any consideration of long- term solutions to the erosion issue at Dendy Street Beach.

13. Mrs Rhonda Lipschutz

Mrs Rhonda Lipschutz submitted a further question regarding the works at Dendy Beach, and Mrs Lipschutz asked:

Question

Will the Council please consider other serious issues that impact on the erosion of the beach (such as invasive weeds, broken fencing etc) and issues impacting on the reputation of the council and the status of this iconic beach (such as inadequate lighting, no CCTV cameras, unsafe pathways, toxic plants and inadequate water supplies, substandard toilets etc)?

Response from the CEO

Council is working through the erosion issue at Dendy Street Beach, has implemented short-term mitigations including sandbagging in front of the most at-risk boxes and is finalising plans to renourish the beach to provide a short-medium solution for beach erosion.

Council is considering a report at tonight's Meeting that may provide further direction for the next stages of investigating long term mitigation of the beach erosion issue.

14. Ms Lea Jaensch

Ms Lea Jaensch submitted a question regarding Council's Post-war Modern Residential Heritage Study, and Ms Jaensch asked:

Question

Can you please tell me what information is gathered on the circumstances of the individual home owners, and the likely implications on them, as part of the draft heritage study?

Response from the CEO

The purpose of a heritage study is to consider the significance of heritage places within the municipality. A heritage place could include a site, area, building, group of buildings, structure, archaeological site, tree, garden, geological formation, fossil site, habitat or other place of natural or cultural significance and its associated land.

Information relating to current land owners is generally not a consideration, unless this is intrinsically tied to the significance of the place. The Statement of Significance sets out the reasons why a place is considered to be significant.

In relation to the Draft Post-War Modern Residential Heritage Study, property owners' details have been limited to names and addresses for public consultation purposes.

Given the 15 minutes allocated to Public Question Time had expired the remaining 3 questions from Ms Lea Jaensch and Ms Fiona Quinn were not read out and responded to at the meeting. A response will be provided in writing to these questions.

7. Petitions to Council

7.1 PETITION TO IMPLEMENT PERMIT PARKING ON GOULD STREET, BRIGHTON

Environment, Recreation and Infrastructure - Climate, Waste and Integrated Transport
File No: PSF/22/31 – Doc No: DOC/22/51234

Moved: Cr El Mouallem (Deputy Mayor)

Seconded: Cr Castelli

That the petition be received, and a report be submitted to the May 2022 Council Meeting cycle for consideration.

CARRIED

**7.2 PETITION FOR COUNCIL TO UNDERTAKE FURTHER NEGOTIATIONS
IN RELATION TO THE PROPOSED WARM WATER POOL AT
BRIGHTON GOLF COURSE**

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/67277

Moved: Cr Castelli

Seconded: Cr El Mouallem (Deputy Mayor)

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/22/51187

Moved: Cr Martin

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:

- 22 February 2022 Strategic Issues Discussion
- 1 March 2022 Councillor Briefing.

CARRIED

**8.2 MINUTES OF THE DISABILITY ACCESS AND INCLUSION ADVISORY
COMMITTEE MEETING HELD ON 7 FEBRUARY 2022**

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/34573

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 7 February 2022.

CARRIED

8.3 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 21 FEBRUARY 2022

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/55447

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council:

1. notes the minutes of the Audit and Risk Committee meeting held on 21 February 2022 (contained in Confidential Attachment 1)
2. adopts the following recommendations of the Audit and Risk Committee:

Item 9.1.1. – Strategic Risk Register Review

That the Audit and Risk Committee:

1. notes the six-monthly review of the Strategic Risks and the associated treatment actions
2. notes the review of the 12 strategic risks by management and recommends to Council that the review of the Strategic Risks be noted.

Item 9.1.4 – Risk Management Policy Review

That the Audit and Risk Committee recommends to Council that the revised Risk Management Policy dated February 2021, be adopted.

CARRIED

**8.4 MINUTES OF THE BAYSIDE ARTS AND GALLERY ADVISORY
COMMITTEE MEETING HELD ON 23 FEBRUARY 2022**

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/61739

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council notes the minutes of the Bayside Arts and Gallery Advisory Committee meeting held on 23 February 2022.

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 Establishment of a Delegated Committee of Council to hear submissions to the Draft Post-War Modern Residential Heritage Study

1. Ms Felicity Watson (on behalf of National Trust of Australia – Victoria)
2. Mrs Fiona Austin
3. Mr Andrew Jessop & Ms Nareewan Wongle
4. Dr Zena Burgess
5. Mr Peter Corfield
6. Ms Marika Okkas
7. Ms Yulia Zlatkin

8. Mr Neill Wiffin
9. Ms Annie Price (on behalf of Beaumaris Modern)
10. Ms Sandra Collins
11. Mr Darryl Behrendorff
12. Mr Peter Hodges
13. Mrs Litsa Chorianopoulos
14. Ms Kate Murphy & Dennis Goldner AM
15. Mr Frank Pothitos
16. Mrs Michelle Tinsley

Item 10.2 Dendy Street Beach erosion control – Long Term Options Update

1. Ms Fiona Quinn
2. Mrs Rhonda Lipschutz

Item 10.4 Draft Domestic Animal Management Plan 2022–26: Community Consultation

1. Ms Linda Kiernan
2. Mrs Roseann Lenihan
3. Ms Patricia Smyth

Item 10.15 Future Leases and Uses for Higinbotham Hall Precinct

1. Mr Roger Jones

10.1 ESTABLISHMENT OF A DELEGATED COMMITTEE OF COUNCIL TO HEAR SUBMISSIONS TO THE DRAFT POST-WAR MODERN RESIDENTIAL HERITAGE STUDY

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/60116

It is recorded that Ms Felicity Watson (on behalf of National Trust of Australia –Victoria), Mrs Fiona Austin, Mr Andrew Jessop & Ms Nareewan Wongle, Dr Zena Burgess, Mr Peter Corfield, Ms Marika Okkas, Ms Yulia Zlatkin, Mr Neill Wiffin, Ms Annie Price (on behalf of Beaumaris Modern), Ms Sandra Collins, Mr Darryl Behrendorff, Mr Peter Hodges, Mrs Litsa Chorianopoulos, Ms Kate Murphy & Dennis Goldner AM, Mr Frank Pothitos, and Mrs Michelle Tinsley each submitted a written statement in relation to this item.

Moved: Cr Castelli

Seconded: Cr Samuel-King MBBS

That Council:

1. establishes a Draft Post-War Modern Residential Heritage Study Delegated Committee in accordance with Section 61 of the *Local Government Act 2020*, with the sole purpose to hear submissions in relation to the Draft Post-War Modern Residential Heritage Study to be held on Tuesday 24 May 2022 commencing at 5.00pm. The Delegated Committee to consist of all Councillors, with a quorum of 4 Councillors
2. in accordance with Chapter 3 of the Governance Rules, section 2, resolves to hear all submitters with no limitation to the number of speakers (as per Section 62 (1) of the Governance Rules) with a time limit of three minutes per submitter
3. notes that the Draft Post-War Modern Residential Heritage Study Delegated Committee has no formal delegated powers other than to hear submissions only. Any decision-making process will be undertaken by a meeting of Council
4. notes Section 64(10) of the Governance Rules where a submitter has been heard at a Delegated Committee established for that purpose to hear submissions, no further opportunity will be afforded to make a presentation on the subject matter when it is considered at a Council Meeting
5. writes to all stakeholders advising of the meeting and process for lodging a submission and request to be heard.

CARRIED

10.2 DENDY STREET BEACH EROSION CONTROL – LONG TERM OPTIONS UPDATE

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/63411

It is recorded that Cr Castelli declared a general conflict of interest in this item given her partner owns a Bathing Box at Dendy Beach. Cr Castelli left the Meeting at 7:00 pm prior to the discussion being held on the matter.

It is recorded that Ms Fiona Quinn, and Mrs Rhonda Lipschutz each submitted a written statement in relation to this item.

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

That Council:

1. in consideration of the high rates of beach erosion at Dendy Street Beach, undertakes further investigation, modelling and preliminary environmental impact assessments for both the breakwater and groyne options outlined in this report
2. consults on long-term mitigation options with key stakeholders including:
 - Brighton Bathing Box Association
 - Brighton Lifesaving Club
 - Friends of Brighton Dunes
 - Brighton Preservation Association
 - Bathing Box Owners
 - Brighton Icebergers
3. presents the outcome of these works and stakeholder consultation at a future Council meeting no later than 16 August 2022.

AMENDMENT

Moved: Cr Stitfold

Seconded: Cr Martin

That Council:

1. in consideration of the high rates of beach erosion at Dendy Street Beach, undertakes further investigation, modelling and preliminary environmental impact assessments for both the breakwater and groyne options outlined in this report
2. consults on long-term mitigation options with key stakeholders including:
 - Brighton Bathing Box Association
 - Brighton Lifesaving Club
 - Friends of Brighton Dunes
 - Brighton Preservation Association
 - Bathing Box Owners
 - Brighton Icebergers

3. presents the outcome of these works and stakeholder consultation at a future Council meeting no later than 16 August 2022
4. acknowledges that the implementation of any long-term mitigation option will have an impact on the local natural environment and that the sourcing, transportation and installation of any structure will result in significant carbon emissions.

CARRIED

The **AMENDMENT** became the **MOTION**.

The **MOTION** was then put to the vote and **CARRIED**

It is recorded that Cr Castelli was not present in the meeting during debate or when the vote was taken on this item. Cr Castelli returned to the Meeting at 7:27 pm.

10.3 DRAFT FOOTPATH TRADING POLICY 2022

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/54625

It is recorded that Cr El Mouallem declared a general conflict of interest in this item given his wife is a business owner within Church Street Shopping Centre. Cr El Mouallem (Deputy Mayor) left the Meeting at 7:29 pm prior to the discussion being held on this matter.

Moved: Cr Stitfold

Seconded: Cr Samuel-King MBBS

That Council:

1. adopts the Footpath Trading Policy 2022–25 (Attachment 1) subject to:
 - a. the ability to vary the kerb zone clearance areas adjacent to angled parking spaces by up to 200mm subject to:
 - i. the provision of a physical barrier between the kerb zone and the trading zone
 - b. the requirement that all footpath trading furniture must not exceed a height of 1.2 metres
 - c. a transitional requirement for all gas heaters to be discontinued as part of the 2023 permit renewal process
 - d. that footpath trading must cease as of 11pm nightly
2. amends the Local Law Guidelines by deleting the Footpath Trading Policy 2018 and replacing with the Footpath Trading Policy 2022–25 of the Local Law Guidelines
3. authorises the CEO (or the appropriate delegate) to notify the community of the amendment to the Local Law Guidelines via Council's website.

AMENDMENT

Moved: Cr Evans OAM

Seconded: Cr Castelli

That Council:

1. adopts the Footpath Trading Policy 2022–25 (Attachment 1) subject to:
 - a. the ability to vary the kerb zone clearance areas adjacent to angled parking spaces by up to 200mm subject to:
 - i. the provision of a physical barrier between the kerb zone and the trading zone
 - b. the requirement that all footpath trading furniture must not exceed a height of 1.2 metres
 - c. a transitional requirement for all gas heaters to be discontinued as part of the 2025 permit renewal process

- d. that footpath trading must cease as of 11pm nightly
2. amends the Local Law Guidelines by deleting the Footpath Trading Policy 2018 and replacing with the Footpath Trading Policy 2022–25 of the Local Law Guidelines
3. authorises the CEO (or the appropriate delegate) to notify the community of the amendment to the Local Law Guidelines via Council's website.

CARRIED

The **AMENDMENT** became the **MOTION**.

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 or when the vote was taken on this item. Cr El Mouallem (Deputy Mayor) returned to the Meeting at 7:41 pm.

10.4 DRAFT DOMESTIC ANIMAL MANAGEMENT PLAN 2022–26: COMMUNITY CONSULTATION

City Planning and Amenity - Amenity Protection
File No: PSF/22/37 – Doc No: DOC/22/46556

It is recorded that Ms Linda Kiernan, Mrs Roseann Lenihan, and Ms Patricia Smyth each submitted a written statement in relation to this item.

Moved: Cr El Mouallem (Deputy Mayor)

Seconded: Cr Martin

Part A

That Council:

1. approves commencement of community engagement on the draft Domestic Animal Management Plan 2022–26 in March/April 2022, subject to the following change:
 - a. deletion of the reference to the removal of dog off leash areas adjacent to Ricketts Point Marine Sanctuary on page 37 of the draft
 - b. modify the timing of 10.2 action that reads “Review Dog off leash restrictions adjacent to Ricket Point Marine Sanctuary and all beaches” to year four of the plan
2. receives a further report at the Ordinary Meeting of Council on 17 May 2022 to consider any submissions received, prior to the adoption of the Domestic Animal Management Plan 2022–26.

Part B

That Council receives a report by no later than 16 August 2022 detailing the process involved to consider multiple open spaces throughout Bayside for the future provision of a secure dog park.

CARRIED

10.5 REVISED FINAL DRAFT SUSTAINABLE BUILDING AND INFRASTRUCTURE POLICY

Environment, Recreation and Infrastructure - Climate, Waste and Integrated Transport
File No: PSF/21/36 – Doc No: DOC/21/397199

Moved: Cr Martin

Seconded: Cr Evans OAM

That Council:

1. notes the changes to the revised Final Draft Sustainable Building and Infrastructure Policy in response to community and Councillor feedback
2. adopts the Sustainable Building and Infrastructure Policy 2022 (Attachment 2 to this report).

CARRIED

10.6 INVESTMENT POLICY 2022 REVIEW

Corporate Services - Finance

File No: PSF/22/32 – Doc No: DOC/22/63383

Moved: Cr Martin

Seconded: Cr Castelli

That Council

1. adopts the attached Investment Policy
2. advocates via the Market Forces website to the major banks regarding their lending to the fossil fuel industry.

CARRIED

10.7 AGED CARE SERVICES

Community and Customer Experience - Community Services
File No: PSF/22/39 – Doc No: DOC/22/50371

Moved: Cr Evans OAM**Seconded: Cr Martin**

That Council

1. acknowledges the importance of older persons in the community to have choice in selecting Council as their service provider, as their needs become more complex, and they wish to remain at home
2. endorses the expansion of its existing aged care services to include the delivery of Home Care Packages (HCP).

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

10.8 SANDRINGHAM HOSPITAL STRATEGIC AGREEMENT

Community and Customer Experience - Community Services
File No: PSF/22/39 – Doc No: DOC/22/50399

It is recorded that Cr Evans declared a general conflict of interest in this item given he is a Board Member of Fairway Bayside Aged Care. Cr Evans left the Meeting at 8:23 pm prior to the discussion being held on the matter.

Moved: Cr Martin

Seconded: Cr Stitfold

That Council

1. continues to identify, facilitate and support collaborative actions and opportunities to formalise arrangements with Alfred Health, Fairway Bayside Aged Care and Family Life Fern Street Children's Centre to achieve positive outcomes for the community
2. receives an updated report at the March 2023 Council Meeting on the collaboration.

CARRIED

It is recorded that Cr Evans was not present in the meeting during debate or when the vote was taken on this item. Cr Evans returned to the Meeting at 8:29 pm.

10.9 UPDATE ON THE HOMES FOR HOMES PLANNING PERMIT CONDITION

City Planning and Amenity - Development Services
File No: PSF/22/35 – Doc No: DOC/22/64227

Moved: Cr Martin

Seconded: Cr El Mouallem (Deputy Mayor)

That Council:

1. ceases placing the Homes for Homes conditions on any permit until such time that the Affordable Housing Strategy is more advanced and considered to be a seriously entertained document
2. places a note on any multi-dwelling planning permit advising/encouraging applicants to voluntarily commit to the Homes for Homes initiative.

CARRIED

10.10 SUBMISSION TO THE INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/62718

Moved: Cr Evans OAM

Seconded: Cr Stitfold

That Council:

1. endorses the officers' submission made to the Inquiry into the protections within the Victorian Planning Framework
2. receives a report on the Committees findings and interim report once made publicly available.

CARRIED

10.11 DISABILITY ACCESS AND INCLUSION ADVISORY COMMITTEE - EXTENSION TO TERM OF MEMBERSHIP

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/22/27 – Doc No: DOC/22/13212

Moved: Cr Martin

Seconded: Cr El Mouallem (Deputy Mayor)

That Council endorses an extension to the current term of the Disability Access and Inclusion Advisory Committee membership until 10 May 2022 – the membership consisting of the following committee members:

Councillors:

Cr Clarke Martin (Chairperson)

Cr Hanna El Mouallem

External Members:

Ms Emily Costello

Mr Ade Djajamihardja

Mr Mark Glascodine

Ms Jo Levett

Mr Jeff Naylor

Ms Emma Olivier

Mr Sam Seoud

Mr Andrew Turner

Ms Natarsha Warren

Ms Tara Webb.

CARRIED

**10.12 REVIEW OF CHRISTMAS DECORATIONS PROGRAM 2021 AND
RECOMMENDATIONS FOR FUTURE IMPLEMENTATION**

City Planning and Amenity - Urban Strategy
File No: PSF/22/35 – Doc No: DOC/22/63215

Moved: Cr Castelli

Seconded: Cr El Mouallem (Deputy Mayor)

That Council:

1. expands the placement of Christmas decorations to include the smaller activity centres commencing in 2022
2. receives a report by February 2023 that outlines the gradual Christmas/festive season decorations program expansion including new criteria, centres to be included per year and indicative cost to inform 2023–24 and beyond budget discussions
3. proceeds with two pop-up installations in 2022 – one in Were Street, Brighton and the second at the activity centre at the corner of Bluff and Highett Roads
4. engages with local cultural groups to explore the potential expansion of the program that supports community inclusion
5. continues with the planning and delivery of activations in activity centres that have a good retail mix and a higher visitor and shopper footfall
6. considers the increase in the operating budget allocation for Christmas and festive decorations program from \$130k to \$195k to support the delivery of the two additional pop-up installations and small activity centres in 2022 and required maintenance and repairs as part of the 2022–23 budget process.

CARRIED

**10.13 2022 AUSTRALIAN LOCAL GOVERNANCE ASSOCIATION (ALGA)
NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT**

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/63112

Moved: Cr Samuel-King MBBS

Seconded: Cr Castelli

That Council

1. approves the attendance of the Mayor Cr del Porto and Crs Evans, Martin and Samuel-King at the ALGA National Assembly to be held in Canberra from 19 to 22 June 2022
2. submits the following motion to the National General Assembly:

Wildlife Friendly Lighting Standards

That the National General Assembly calls on the Australian Government to develop Wildlife Friendly Lighting Standards.

CARRIED

10.14 MUNICIPAL ASSOCIATION OF VICTORIA - STATE COUNCIL MEETING - CALL FOR MOTIONS

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/63392

Moved: Cr Samuel-King MBBS

Seconded: Cr Martin

That Council endorses the following motions to be put forward at the MAV State Council Meeting to be held on 24 June 2022:

Mental Health Support for Young People

That the MAV calls on the State Government to investigate and explore partnership opportunities between local government and other agencies supporting Youth Mental Health services to ensure young people (up to age of 30 years) in isolated and public transport deprived areas, and overseas students currently residing in Victoria gain access to appropriate and relevant youth mental health services that are affordable for young people to access.

Barbed Wire

That the MAV calls on urban municipalities to adopt a policy to manage the use of barbed wire or eliminate where possible the use of barbed wire on Council owned land to reduce impacts to native wildlife.

Uluru Statement from the Heart

That the MAV call upon all Victorian local government authorities to support the Uluru Statement from the Heart which calls on the Australian people to walk with First Nations in a people's movement for Voice, Treaty and Truth, and encourage all Councils to write to their respective Federal Member of Parliament calling on the Australian Government to support Constitutional Recognition for Aboriginal and Torres Strait Islander peoples and the key principles of the "Uluru Statement from the Heart".

Wildlife Friendly Lighting Policy

That the MAV calls on all councils to consider developing a wildlife friendly lighting policy.

Managing Noisy Miners

That the MAV calls on the State Government as part of the review of the (Victorian) *Wildlife Act 1975*, to address the increasing issue of Noisy Miners and their negative impact on other native birds.

CARRIED

10.15 FUTURE LEASES AND USES FOR HIGINBOTHAM HALL PRECINCT

Corporate Services - Commercial Services
File No: PSF/22/34 – Doc No: DOC/22/63901

It is recorded that Mr Roger Jones submitted a written statement in relation to this item.

Moved: Cr Martin

Seconded: Cr Stitfold

That Council:

1. accepts the offer by Southern FM to establish a new lease of 9 years 364 days with a commencement rent of \$7,272pa, subject to annual CPI increases over the term
2. accepts the offer by Brighton Dance Studio for a new lease of 3x3x3 years with a commencement rent of \$35,000 in Year 1, \$50,000 in Year 2 and \$70,000 in Year 3 for Brighton Dance Studio with market rent reviews at the commencement of each of the following two terms
3. resolves to terminate the Committee of Management for Higinbotham Hall and for the Mayor to write to the Committee to thank them for their many years of service to the community
4. seeks a design and cost estimate for the erection of a green fence to provide tenants access to the rear of the Parliament Street building, for the demolition of brick-outbuildings and construction of a small public garden open to Parliament Street and consider as part of the 2022–23 budget and capital works process.

CARRIED

10.16 PROPOSED LEASE TO OPTUS AT BALCOMBE PARK RESERVE

Corporate Services - Commercial Services
File No: PSF/22/34 – Doc No: DOC/22/43463

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

That Council, in accordance with Section 115 of the *Local Government Act 2020* (the Act), authorises the Director of Corporate Services to execute a new Lease with Optus Mobile Pty Ltd in accordance with the Heads of Agreement provided in Attachment 1, for the occupation of part of Balcombe Park Reserve, 472 Balcombe Road, Beaumaris VIC 3193, under the following terms:

Site: Balcombe Park Reserve, Beaumaris

Tenant: Optus Mobile Pty Ltd

Purpose: Construction, maintaining and operating a telecommunications network and telecommunications service

Premises: Part of land at Balcombe Park Reserve, 472 Balcombe Road, Beaumaris VIC 3193

Commencement Date: 1 January 2021

Term: 10 years

Further Term: 2 further terms of 5 years each

Commencing Annual Rent: \$20,000 + GST

Rent Escalation: Fixed 3% on the anniversary of the commencement date.

CARRIED

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

**10.17 CONTRACT CON/21/101 - ELSTERNWICK PARK NATURE RESERVE
COMMUNITY INTERFACE INFRASTRUCTURE**

Corporate Services - Commercial Services
File No: PSF/22/27 – Doc No: DOC/21/312257

It is recorded that Cr Samuel-King declared a general conflict of interest in this item given her partner was part of the evaluation panel for the contract. Cr Samuel-King MBBS left the Meeting at 9:23 pm prior to the discussion being held on the matter.

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council:

1. awards Contract CON/21/101 Elsternwick Park Nature Reserve Community Interface Infrastructure to Fleetwood urban Pty Ltd (ABN 40 000 789 748) for the lump sum price of \$962,948 (excl. GST) and \$1,059,242 (including GST)
2. authorises the Chief Executive Officer to sign all necessary documentation related to Contract CON/21/101 Elsternwick Park Nature Reserve Community Interface Infrastructure
3. advises the unsuccessful tenderers accordingly.

CARRIED

It is recorded that Cr Samuel-King was not present in the meeting during debate or when the vote was taken on this item. Cr Samuel-King MBBS returned to the Meeting at 9:25 pm.

10.18 CONTRACT CON/22/22 - MICROSOFT LICENCE RENEWAL

Corporate Services - Information Technology
File No: PSF/22/30 – Doc No: DOC/22/60476

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council:

1. accepts the quoted price for (contract number CON/22/22) supply of Microsoft Licences from Data#3 Limited (ABN 65 486 719 651), for the total sum, over 3 years, of \$1,458,083 (Excl. GST)
2. authorises the Chief Executive Officer to sign all necessary documentation related to contract number CON/22/22.

CARRIED

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

**10.19 2021–22 2ND QUARTER PERFORMANCE REPORT (OCTOBER-
DECEMBER 2021)**

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/33336

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council notes the 2021–22 2nd Quarter Performance Report for the period October to December 2021.

CARRIED

NOTE: Item 10.19 was **CARRIED** as part of a block motion.

10.20 COUNCIL ACTION AWAITING REPORT

Corporate Services - Governance
File No: PSF/22/31 – Doc No: DOC/22/51190

Moved: Cr Castelli

Seconded: Cr Evans OAM

That Council notes the Council Action Awaiting Report.

CARRIED

NOTE: Item 10.20 was **CARRIED** as part of a block motion.

11. Reports by Delegates

1. **Association of Bayside Municipalities** – Crs Fiona Stitfold and Clarke Martin reported that the ABM has now established quarterly meetings to update Councillors on the activities of the ABM and to share ideas. The first meeting is scheduled to be held on 30 March.

The ABM also provided a submission to the Department of Environment, Land, Water and Planning in response to the Draft Coastal and Marine Management Plan Guidelines.

The ABM was also advised that the Port Phillip Bay Coastal Hazard Assessment is continuing with a new project manager.

2. **Metropolitan Transport Forum** – The Director Environment, Recreation & Infrastructure indicated he attended the March meeting of the Forum where the Forum heard a presentation from the Grattan Institute on a Car Plan for the future of Melbourne.
3. **Municipal Association of Victoria** – The Mayor, Cr Alex del Porto reported that the MAV has not had a meeting. The next State Council Meeting will be held on 24 June 2022.
4. **Inner South Metropolitan Mayors' Forum** – The Mayor, Cr Alex del Porto indicated that these Forums will re-commence next month.
5. **Metropolitan Local Government Waste Forum** – Cr Clarke Martin indicated that no meeting was held since the previous Forum
6. **South East Councils Climate Change Alliance** – Crs Clarke Martin and Fiona Stitfold indicated the next meeting is scheduled for March. SECCCA have indicated that it would be advocating at the next election for Carbon Emission Targets. SECCA also indicated that it would continue to advocate to the State Government on all matters relating to Port Phillip and Western Port Bays.

Moved: Cr Evans

Seconded: Cr Castelli

That the Reports by Delegates be received and noted.

CARRIED

12. Urgent Business

There were no items of urgent business submitted to the meeting.

13. Notices of Motion**13.1 NOTICE OF MOTION - 319 - POWERFUL OWL PROTECTION - SECOND-GENERATION ANTICOAGULANT RODENTICIDES (SGARS)**

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/22/70181

Procedural Motion**Moved: Cr Evans****Seconded: Cr El Mouallem**

That Council grants Cr Samuel-King leave to amend Notice of Motion 319.

CARRIED**Moved: Cr Samuel-King MBBS****Seconded: Cr Stitfold**

That Council:

1. phases out the use of the Second-Generation Anticoagulant Rodenticide (SGAR) and implements suitable alternatives across Council properties and open spaces, and receives a report at or before the June 2022 Council meeting on the alternative methods available
2. supports a motion to be put before the Australian Local Government Association National Congress calling on the Australian Government to recognise the harmful impacts of second-generation rodenticides and prohibits their use in Australia and promotes alternative methods of rodent management
3. supports a motion to be put before the Municipal Association of Victoria State Council meeting:
 - calling on the State Government to recognise the harmful impacts of second-generation rodenticides and prohibits their use in Victoria and establish a taskforce to investigate and promote alternative methods of rodent management
 - seeking other municipalities to cease the use of the Second-Generation Anticoagulant Rodenticide (SGAR) and implements suitable alternatives across Council properties and open spaces
4. if feasible, due to engagement timeframes, makes a submission to the Review of Anticoagulant Rodenticides currently being completed by the Australian Pesticides and Veterinary Medicines Authority in line with the motion being put to the Australian Local Government Association National Congress
5. notes its ongoing commitment to managing rodents across the Bayside Municipality.

CARRIED

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 MINUTES OF THE CHIEF EXECUTIVE OFFICER'S EMPLOYMENT MATTERS ADVISORY COMMITTEE HELD ON 9 MARCH 2022

(LGA 2020 Section 3(1)(f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.)

Following consideration of Confidential Business, the Mayor declared the meeting closed at 9.51pm.