



# MEETING OF THE PORT PHILLIP CITY COUNCIL

## MINUTES

4 OCTOBER 2023



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# MINUTES - MEETING OF THE PORT PHILLIP CITY COUNCIL - 4 OCTOBER 2023



## MINUTES OF THE MEETING OF THE PORT PHILLIP CITY COUNCIL HELD 4 OCTOBER 2023 IN ST KILDA TOWN HALL AND VIRTUAL VIA WEBEX

The meeting opened at 6:31pm.

### IN ATTENDANCE

Cr Cunsolo (Chairperson), Cr Baxter, Cr Bond, Cr Clark, Cr Crawford, Cr Martin, Cr Nyaguy, Cr Pearl.

Chris Carroll, Chief Executive Officer, Brian Tee, General Manager City Growth and Development, Felicity Leahy, Acting General Manager Community Wellbeing and Inclusion, Lachlan Johnson, General Manager, Operations and Infrastructure, Daniel Lew, Acting General Manager Governance, Capability and Experience, Dana Pritchard, Manager Open Space, Recreation and Community Resilience, Fiona van der Hoeven, Manager City Planning and Sustainability, Simon Hill, Executive Manager Waste and City Maintenance, Siobhan Belmore, Manager Property and Assets, Nellie Montague, Manager Partnerships and Transport, Karen Roache, Coordinator Strategic Transport, Lisa Davis, Manager Safety and Amenity, Sophie McCarthy, Executive Director South Melbourne Market, Anthony Savenkov, Head of Real Estate Portfolio (Development & Transactions), Darryn Hartnett, Executive Manager Governance and Organisational Performance, Xavier Smerdon, Head of Governance, Katrina Collins, Senior Governance Advisor, Emily Williams, Council Business Advisor.

*The City of Port Phillip respectfully acknowledges the Traditional Owners of this land, the people of the Kulin Nations. We pay our respect to their Elders, past and present. We acknowledge and uphold their continuing relationship to this land.*

### REQUESTS TO ATTEND BY ELECTRONIC MEANS

Nil.

#### 1. APOLOGIES

Councillor Sirakoff was absent from the meeting due to an approved leave of absence from 7 September to 8 October 2023.

#### 2. CONFIRMATION OF MINUTES

##### **MOVED** Crs Martin/Nyaguy

That the minutes of the Meeting of the Port Phillip City Council held on 6 September 2023 be confirmed.

**A vote was taken and the MOTION was CARRIED unanimously.**



### 3. DECLARATIONS OF CONFLICTS OF INTEREST

Chris Carroll, Chief Executive Officer declared a potential perceived and general conflict of interest in relation to Confidential item 17.1 Palais Theatre and Luna Park Precinct Project Update due to their wife's employment and business interests which sometimes sees them as a competitor of Live Nation. The CEO noted that they have not been involved in advice regarding the report.

Councillor Pearl declared a conflict of interest in item 14.4 Notice of Motion Councillor Louise Crawford National Theatre External Building Upgrade due to a close association with a former member of the Committee.

### CONDOLENCE MOTIONS

#### MAGGIE (MARGARET) NIALL AM

*Maggie Niall, former St Kilda Councillor, dedicated Community and Family member who sadly passed away on 3 July 2023.*

##### **MOVED Crs Martin/Bond**

That Council:

- Expresses its deep regret on the passing of Maggie (Margaret) Niall AM.
- Offers its sincere condolences to their family and places on record its appreciation for their service to the City of Port Phillip.

**A vote was taken and the MOTION was CARRIED unanimously.**

#### RON BARASSI AM

*Australian rules footballer, coach and media personality and legend of the St Kilda community, who sadly passed away on 16 September 2023.*

##### **MOVED Crs Cunsolo/Nyaguy**

That Council:

- Expresses its deep regret on the passing of Ron Barassi AM.
- Offers its sincere condolences to their family and places on record its appreciation for their service to the City of Port Phillip.

**A vote was taken and the MOTION was CARRIED unanimously.**

### 4. PUBLIC QUESTION TIME AND SUBMISSIONS

Public questions are summarised below. The submissions were made verbally and can be listened to in full on our website: <http://webcast.portphillip.vic.gov.au/archivephp>

#### Public Question Time:

- **Troy Williams:** In 2022, the Council rates for residents were on a general rate of 001615 they are now 001694 for the 2023 rates which is a 4.9% increase. I understood from the Council meeting on 20 June 2023, the general rates would be capped at 2.8%. I am keen to understand from Council what audit or valuation has been done or what details have been provided from the Valuer General on these valuations across Port Phillip and what

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clearance has been conducted to verify that they are within the 2.8% cap or within the Victorian Government's 3.5% cap?

*Lachlan Johnson, General Manager Operations and Infrastructure advised that the Victorian Government's Fair Go Rates system sets a limit to the amount Councils can increase rates each year, this is also known as Councils annual 'rates cap'. The rate cap is the maximum increase in a Council's average general rate income. It does not apply to each property owner's rates notice, but applies as an average across the Municipality of all property classes, for example residential, commercial and industrial properties.*

*For 2023/24, the State Government set a rates cap at 3.5%, however Council endorsed a lower rates increase of 2.8%. This was in recognition of the cost-of living pressures that our Community are facing and was funded from favourable 2022/23 cash surplus.*

*Consistent with Council's Rating Strategy, rates are calculated using a property's capital improved value (or CIV). With different rates in the dollar applying for Residential, Commercial and Industrial properties. Applying the rate cap is not a simple exercise as property valuations fluctuate year on year. For 2023/24, average residential valuations decreased by (0.7%), while commercial properties' valuations increased by 6.5% and industrial properties by 8.3%. Therefore, each year, rates in the dollar for each property class are adjusted to remove the impact of these property revaluations. Rates and the dollar movements for 2023/24 were as follows:*

- *Residential properties saw an increase in the rate of the dollar at 4.89%*
- *Commercial properties saw a fall of 1.99%*
- *Industrial properties saw a fall of 3.52%*

*Specific information about Council's valuations and rating assumptions can be found in Volume 2 of the Council Plan and Budget (pages 96 to 107). This includes Council's approved valuations for 2023/24 and the Fair Go Rates System Compliance Statement.*

- **Helen Halliday:** Could the Council advise why the tree planting work proposed for Woodstock Street and the further additional planting of vegetation in Bothwell Street remains incomplete? What additional planting has been done in the rest of the City of Port Phillip, we seem to have missed out on the most recent planting season?

*Dana Pritchard, Manager Open Space, Recreation and Community Resilience, advised that there has been two main issues with the in-road tree plots at Woodstock Street, the first being soil and drainage and the second being traffic bollards. Both issues have now been resolved and the project will now be completed in early November 2023, followed by twice weekly watering in the summer to assist with the establishment.*

*Bothwell Street was completed in November 2022, however sections have been vandalised and in some areas the growth has been patchy. Later in October, the vandalised trees are being replaced and 1,000 new plants will be added.*

*With regards to planting trees across the municipality, 1,000 trees are expected to be planted this year through infill program the capital works program and native vegetation sites.*

- **Michael Barrett:** As we are all aware, the general public exhibits both cynicism and lack of confidence in the behaviour of both local Council's and local Councillors across Australia. This needs to change for the benefit of both local Council's and the general public. I refer to the Port Phillip Council meeting of 2 August 2023, and the personal behaviours exhibited during this meeting.

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Under section 139 (1) of the Victorian Local Government Act of 2020, each local Council is required to develop and maintain a Councillor Code of Conduct. Under section 141 (1) of the said Act an internal arbitration process applies to any breach of the standards of conduct. Can the Council confirm firstly that a Councillor Code of conduct exists and secondly has the conduct and behaviour demonstrated at the meeting on 2 August 2023 initiated an internal arbitration process?

*Mayor Cunsolo confirmed that the City of Port Phillip has a Councillor Code of Conduct that was adopted on 17 February 2021. Under section 145 of the Local Government Act 2020, information in an application made under section 143 for an internal arbitration process is confidential and therefore was not able to confirm or deny if any such application has been made.*

- **Isaac Hermann:** In relation to the Elster Creek catchment advocacy paper directed to the State Government, promoting and advocating for funding towards flood mitigation issues and in our municipality. Has there been any State support for the six proposed flood mitigation projects mentioned in this report, particularly the Shakespeare Grove main drain? I understand that the St Kilda Town Hall is a designated relief Centre for flood victims, regardless of the fact that a boat would be required to get here. What is the alternative and why aren't places of refuge under flood conditions made public? The SES a number of years ago bought out a report encouraging community involvement in the decision process in locating safe places of refuge during flooding. When will Council commence advocacy for flood mitigation on behalf of Shakespeare Main Drain catchment residents?

*Lachlan Johnson, General Manager Operations and Infrastructure advised that Council works closely with Melbourne Water to alleviate and reduce flooding across the City but took the questions on notice to provide a response.*

- **Richard Whitfield:** I understand that with the migration to Federal funding for most aged care services, some local Councils are planning to greatly reduce their involvement. I urge Council to make representations to the State and Federal Governments on how it can have an ongoing and active role in ensuring that older persons in our community are well supported. What is Council's intention for the future of Aged Care service as they migrate to federal funding?

*Felicity Leahy, Acting General Manager Community Wellbeing and Inclusion advised that with the Aged Care Reforms and the implementation of the Support at Home Program in 2025, all Victorian Local Governments have had to look at their ability to continue to deliver some Commonwealth funded services.*

*Council has been working to understand the issues, options and opportunities for how it can continue to support people to age well in the City of Port Phillip and deliver on our Positive Ageing Policy. This includes being very active in meeting with the Commonwealth, State Government and the Municipal Association of Victoria (MAV) to advocate for the City of Port Phillip's older residents to have the support that they need to age well, and to maximise the use of our local knowledge and understanding of our diverse community here in Port Phillip.*

*Council's intention is to undertake consultation and engagement prior to making any final decision and to use the aged care reforms as an opportunity to find ways to maximise the outcomes for older people in the City of Port Phillip.*

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*Council acknowledges that local knowledge and local support are critical in supporting older people to age well and Council has a strong commitment to older people which is clearly expressed in Council's Active Ageing strategy.*

## **Council Report Submissions:**

### **Item 7.1 Petition - Fishermen's Bend Gymnastics Club (FBGC) Seeking Urgent Funding for Long Term Facility**

- Amanda Moore
- Belinda Ousley

### **Item 10.1 Options for Regulation and Management of Short Stay Accommodation**

- Jane Smith
- Alex Darton

### **Item 10.2 E-scooter Trial Update and Future Approach**

- Richard Hannah
- Hugo Burt-Morris

### **Item 10.3 Amendment C215port - 21 Dorcas Street, South Melbourne (Permanent Heritage Overlay)**

- Jarryd Gray on behalf Dorcas Development Nominee

### **Item 11.1 Port Phillip EcoCentre Lease Community Engagement**

- Jan Cossar
- Kathryn Bowen
- Richard Whitfield
- Alex Darton
- Pam O'Neil
- Nicholas Capes
- Ian Grey
- Dr Cecile van der Burgh

### **Item 11.2 Panel Supply for Mobile Garbage Bins - RFT000234**

- Jennifer Edge

### **Item 12.1 South Melbourne Market Annual Report 2022-23**

- Amanda Stevens (Chair of the South Melbourne Market Committee)

### **Item 14.3 Notice of Motion – Councillor Robbie Nyaguy – Voice to Parliament**

- Jack Halliday
- David Demmer
- Richard Whitfield
- Alex Darton
- Jennifer Edge
- Rhonda Small
- Peter Moraitis
- Beti Jay
- Ian McDonald
- Annette Wade
- Sue Taffe
- Iain Stewart
- Linda Conden
- Adam Briggs (*Councillor Nyaguy read on behalf during the item*)

### **Item 14.4 Notice of Motion – Councillor Louise Crawford – National Theatre External Building Upgrade**

- Mary Akindele
- Alex Darton
- Govind Pillai



*The Mayor adjourned the meeting for a break at 8:18pm*

*The meeting resumed at 8:30pm.*

## 5. COUNCILLOR QUESTION TIME

- **Councillor Martin:** With recent announcements from the State Government in relation to changes to planning reforms, what impact is this going to have on the Council?

*Brian Tee, General Manager City Growth and Development advised that there are significant changes that Council officers are still investigating. We are concerned that the changes have been made and have already come into effect without engagement on the details with Council or the community. This has created confusion and uncertainty for the community, particularly for those who already have applications in the system.*

*Our preliminary view is that there are adverse consequences for the community who will have less opportunity to have a say about changes that will impact the look and feel and scale about residential expansions or new dwellings in their neighbourhood. For example, some planning applications can now be considered without any public notification – and in some instances the right of community members to object to an application or appeal to VCAT has been removed.*

*The community has, it appears in some areas, fewer rights. The impacted rights include rights to object to buildings being located close to their fence line. In addition, rights to object to overlooking or overshadowing buildings have in some cases been reduced. Our primary concern is those areas where the community and Council has lost the right to control the types of development that occurs in their streets and suburbs.*

- **Councillor Nyaguy:** Has the paperwork for the Marlborough Street Community Housing official paperwork been completed and have tenants moved in? Given the delay of the completion of that project, how much rent has been lost and which party is responsible for that funding that gap?

*Lachlan Johnson, General Manager Operations and Infrastructure advised that the subdivision plan was recently registered on 27 September 2023 and Council is now working with HousingFirst on settlement. The official settlement date is 6 November 2023; however, we are working to expedite settlement as much as possible so that it can occur sooner. Once settlement has occurred, residents can move in.*

*There is other work underway to discharge planning conditions which includes Council finalising endorsement of the Car Parking Management Plan which will facilitate the opening of the public car park at the basement level of the building. In relation to the funding gap, the question was taken on notice.*

- **Councillor Nyaguy:** Is Council aware of any bike path upgrades to Albert Park Reserve as part of their masterplan and if so, what are the timelines and how does that work align with our identified cycling corridors as part of the City of Port Phillip's Integrated Transport Strategy?

*Fiona van der Hoeven, Manager City Planning and Sustainability advised that the Albert Park Masterplan sets out a 25 year vision for the park, and the plan was dated 2019. An initiative within that masterplan (initiative 13) outlines an integrated cycling network to provide better connections to the Bicycle network proposed within the City of Port Phillip and also within the Reserve itself. A high level implementation plan is captured within that masterplan, and it puts the project at about medium term works and that works are to occur indicatively around*

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*a four to six year period, but Council officers cannot comment on the Victorian Government's implementation plan at this stage as we are not privy to any of the budget considerations that may impact the delivery of that project. In relation to how it aligns with Council's 'Integrated Transport Strategy', the Albert Reserve forms part of the bike corridor to Albert Park Road and Kerferd Road as part of the Shrine to Sea and that is noted to be delivered by the State Government.*

- **Councillor Nyaguy:** At the last meeting Council Meeting, I asked about the changes to the community bus. Officers have confirmed over email that the bus will return to a timetabled service in late-October. How are officers planning to communicate this to the community?

*Felicity Leahy, Acting General Manager Community Wellbeing and Inclusion advised that the communication of the bus returning to a time tabled service will be communicated through a range of methods, these will include:*

- *Updated information located on the Council website*
- *Updated flyers and distribution of the bus timetable to Libraries, Community Centres and pride centre, as well as hospitals and medical centres within the local area.*
- *Changed information on the associated bus stops where the community bus route is located,*
- *Updated information to be provided to our Older Person's Advisory Committee (OPAC),*
- *Information provided to residential and retirement living facilities within the municipalities*
- *Information will also be provided to current clients of support services through the CHSP suite of services and*
- *Internal socialisation of these changes with community facing teams, including ASSIST, Library staff, Community Support Workers and staff who work within the Children Services team so that this information can be shared within the community.*

- **Councillor Nyaguy:** What commitments did LiveNation make around community use and community support as part of their lease of the Palais Theatre and how does Council monitor and report on that?

*Siobhan Belmore, Manager Property and Assets advised that the Palais lease has a number of provisions that are targeted for Community use and support. These include the Community reservation periods which are outlined in clause 11 of the lease and the creation of the Palais Theatre Community Fund where fifty cents from each ticket sold is contributed back to the Palais Theatre Community Fund, the purpose of which is to raise money for funding Community projects, programs and developments. The fund can also be used to provide discounted event hire for local organisations as per clause 12. The tenant is required to provide an annual report to Council which outlines several things including the events conducted at the Palais, the types of events, spread of promoters and patronage demographics and details the use of the Palais Theatre Community Fund for Community benefit activities and functions.*

- **Councillor Pearl:** Could Council officers provide details regarding any monetary or in-kind support that the City of Port Phillip has extended toward the Aboriginal and Torres Strait Islander Voice initiative?

*Felicity Leahy, Acting General Manager Community Wellbeing and Inclusion advised that no staff resources had been allocated or used for the Aboriginal and Torres Strait Islander Voice initiative but confirmed that the Port Phillip Citizens for Reconciliation (PPCR), successfully*



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*applied for a hall hire subsidy to hold a public forum “Learn about the Voice to Parliament Referendum”. That forum occurred on 21 September 2023 and the funds covered hall hire, security and staffing up to the value of \$3.5K.*

*Given Council’s neutral position, this application took into consideration a number of factors. Council officers took time to discuss with the PPCR noting that Council did not have a position on The Voice at the time and, as such, sought confidence that the event was sensitive to this and was educational and neutral in its design. Officers were assured that the forum intended to share information with the local community about the principles relating to the forthcoming Referendum and its promotion and program was identified as neutral informative.*

*Council also received a booking request for the St Kilda Town Hall in early October. This event is being organised with the assistance of Josh Burns MP and the purpose being to promote the Voice to Parliament referendum. On reviewing this application Officers noted this was in line with the Community Access and Allocation Policy and approved this request. It was also identified that this was a campaigning event therefore treated as a private/commercial event. No subsidy was provided and the commercial rate was charged.*

*Aside from these two events, no other support or resources have been provided in relation to the Aboriginal and Torres Strait Islander Voice.*

**Councillor Pearl** followed up to clarify if the first event was a neutral event? and if it was found to not be neutral and was used to promote the ‘Yes’ event, would it meet the policy and qualify for a subsidy?

*Felicity Leahy, Acting General Manager Community Wellbeing and Inclusion took the question on notice to confirm.*

- **Councillor Pearl:** Could the officers provide an update on public comments received concerning the Council's intention to purchase the AustPost site in Port Melbourne for the use of public open space?

*Brian Tee, General Manager City Growth and Development responded in relation to the public comments that have been received in relation to the purchase of this site. Council was asked by ‘The Age newspaper’ regarding any intention to purchase the site, the City of Port Phillip confirmed we had placed a bid to purchase the site. This response was then reported in an article in The Age titled ‘School or sports field? State and council in ‘absurd’ bidding war over Fishermans Bend site’, on 10 August 2023. The State Government has not made any public comment in relation to Council’s bid. There has been public Community responses, these has come from open space advocates and sporting clubs, who have supported the creation of new open space in the municipality, including at this site.*

- **Councillor Pearl:** Have the officers received any information from the State Government on the route number for trams planned to operate on the Park Street Tram extension? Additionally, could we be updated on the current projected date for the completion of the tram line extension? Does Council have a policy on our preference of what tram numbers and tram routes can run down that line?

*Nellie Montague, Manager Partnerships and Transport advised that the future tram numbers that will service Park Street are yet to be determined by the Victorian Government. The City of Port Phillip’s CEO wrote to Rail Projects Victoria in June this year seeking an update of the Park Street Tram Link including the completion timeline for the extension. Rail Projects Victoria responded in August 2023 and advised that they are working with the Department of Transport and Planning on the timing and scope of the proposal to link trams services along*



*Park Street between Kings Way and Heather Street. They have advised they will provide a more detailed update later on in the year once this process has been completed. In relation to a Council policy for numbering and routes of tram routes, the question was taken on notice.*

## **6. SEALING SCHEDULE**

Nil.

## **7. PETITIONS AND JOINT LETTERS**

### **7.1 Petition - Fishermen's Bend Gymnastics Club (FBGC) Seeking Urgent Funding for Long Term Facility**

#### **MOVED Crs Martin/Cunsolo**

1. Thanks the petitioners for submitting their petition.
2. Receives and notes the Petition and provides a response to a future Council meeting.

**A vote was taken and the MOTION was CARRIED unanimously.**

## **8. PRESENTATION OF CEO REPORT**

### **8.1 Presentation of CEO Report July 2023 - Issue 98**

#### **Purpose**

- 1.1 To provide Council with a regular update from the Chief Executive Officer regarding Council's activities and performance.

#### **MOVED Crs Martin/Baxter**

- 3.1 Notes the CEO Report Issue 98 (provided as Attachment 1).

**A vote was taken and the MOTION was CARRIED unanimously.**

## **9. INCLUSIVE PORT PHILLIP**

Nil.

## **10. LIVEABLE PORT PHILLIP**

### **10.1 Options for Regulation and Management of Short Stay Accommodation**

#### **Purpose**

- 1.1 To provide Council with information about short stay accommodation (SSA) in Port Phillip and outline options for Council regulation and management of amenity impacts caused by short stay accommodation premises.



*Councillor Pearl noted an interest in this item due to using AirBnB, but remained in the chamber for consideration of the item as they did not determine the interest to be general or material.*

## **MOVED Crs Baxter/Crawford**

That Council:

- 3.1 Notes that the concept of short stay accommodation has evolved significantly since its inception, and that some short stay accommodation premises can cause adverse amenity impacts upon neighbouring residents when not well managed.
- 3.2 Thanks the petitioners for their petition to Council on 4 April 2023 seeking advocacy for a State Government response to Short Stay Accommodation.
- 3.3 Thanks the petitioners for their petition to Council on 6 September 2023 requesting Council utilise Clause 59 of the Local Law to address amenity concerns arising from short stay accommodation.
- 3.4 Implements Option 1: Utilise existing legislation and its Local Law, including Clause 59 to address amenity concerns arising from short stay accommodation.
- 3.5 Approves the following guidelines for inclusion into the Local Law Procedures and Protocols Manual.

*“In considering whether to take enforcement action in response to a complaint about commercial premises being used for short-term or other accommodation for commercial gain, an authorised officer must consider the following guidelines:*

- a) *The severity of the impact of the conduct complained of on the amenity of the surrounding properties, including history of complaints, number of complainants and the extent of the alleged impacts.*
  - b) *The prospects of any enforcement action succeeding, including the:*
    - (i) *Nature and reliability of the evidence available; and*
    - (ii) *Level of engagement of the complainant in any enforcement action.*
  - c) *The resources required to investigate and/or pursue enforcement action in respect of the conduct complained of.*
  - d) *Any mitigating circumstances, including factors such as the steps taken by the owner/occupier of the property to minimise the amenity impacts.*
  - e) *Whether there are other more suitable avenues to address the amenity impacts, including:*
    - (i) *Whether action has been taken by an Owners Corporation under the Owners Corporations Act 2006 (OCA) in respect of the conduct complained of, or any similar conduct; and whether it was successful; and*
    - (ii) *Other relevant legislation.*
  - f) *Any other matter with the authorised officer considers to be relevant to the particular complaint.”*
- 3.6 Continues its advocacy to State Government for introduction of a consistent, State-wide approach to regulating Short Stay Accommodation.
  - 3.7 Notes that Officers will brief Councillors after 12 months’ on how and when clause 59 has been applied in relation to SSA, the actions undertaken and whether its use has been effective.

**A vote was taken and the MOTION was CARRIED.**



## 10.2 E-scooter Trial Update and Future Approach

### Purpose

- 1.1 To update Councillors on the current e-scooter trial which ends 5 October 2023 and consider Council's involvement in ongoing shared e-scooter scheme in Port Phillip.

### MOVED Crs Martin/Baxter

That Council:

- 3.1 Notes the feedback on the trial including uptake and safety and amenity concerns raised in this report.
- 3.2 Request that the Mayor write to the Minister for Roads and Road Safety requesting the public release of the Victorian Government e-scooter trial evaluation.
- 3.3 Endorses Council's continued participation in e-scooter schemes provided that Councils have the power to manage shared e-scooter schemes through contractual arrangements that can address safety and amenity.
- 3.4 Authorises the Chief Executive Officer (or their delegate) to undertake any procedures required to allow participation in a three year shared e-scooter scheme with up to two operators and (subject to agreement with Council) a maximum of 500 e-scooters including, in collaboration with other councils.

**A vote was taken and the MOTION was CARRIED unanimously.**

## 10.3 Amendment C215port - 21 Dorcas Street, South Melbourne (Permanent Heritage Overlay)

### Purpose

- 1.1 To consider and endorse *the 21 Dorcas Street, South Melbourne Heritage Report and Place Citation* (Trethowan Architects, 2023) as the strategic basis for modified heritage controls for 21 Dorcas Street, South Melbourne.
- 1.2 To determine whether to request authorisation from the Minister for Planning to prepare and exhibit an amendment to the Port Phillip Planning Scheme to apply the Heritage Overlay to 21 Dorcas Street, South Melbourne, on a permanent basis.
- 1.3 To determine whether to write to the Minister for Planning endorsing officer's request for an interim heritage overlay to 21 Dorcas Street, South Melbourne.

### MOVED Crs Bond/Crawford

That Council:

- 3.1 Endorses the 21 Dorcas Street, South Melbourne Heritage Report and Place Citation (Trethowan Architects, 2023) (**Attachment 1**) as the strategic basis for additional heritage controls proposed by Amendments C214port and C215port.
- 3.2 Endorses the officer request made to the Minister for Planning to approve Amendment C214port under Section 20(4) of the Planning and Environment Act



1987 (the Act) which applies an interim heritage overlay to 21 Dorcas Street, South Melbourne.

3.3 Authorises the Chief Executive Officer (or their delegate) to:

3.3.1 Seeks authorisation from the Minister for Planning to prepare and exhibit Amendment C215port to the Port Phillip Planning Scheme (**Attachment 2**), pursuant to Section 8A of the Act.

3.3.2 Place Amendment C215port on exhibition, in accordance with Section 19 of the Act 1987, subject to Ministerial authorisation.

3.3.3 Finalise the amendment documentation for authorisation and exhibition of Amendment C215port, including making minor changes that do not change its intent.

3.3.4 Write to the Minister for Planning advising of Council's decision to commence the process for Amendment C215port and the timeframes for its progression.

**A vote was taken and the MOTION was CARRIED unanimously.**

## **10.4 Graham St Overpass Skatepark and Carpark Design and Construct - Tender Award**

### **Purpose**

1.1 To seek Council's approval to enter into Contract for RFT000251 between City of Port Phillip and Grind Projects Pty Ltd for the design and construction of the Graham St Overpass Skatepark and Carpark.

*Mayor Cunsolo advised of the following amendments to the report after original publication of the agenda:*

- *Section 4.12: Correction to note responses to tender clarifications were received on the 26th September 2023.*
- *Section 4.19.6: Correction to note the financial and performance assessment check was prepared by Corporate Scorecards rather than Council's Financial Compliance Accountant*

### **MOVED Crs Bond/Martin**

That Council:

3.1 Enter into Contract for RFT000251 with Grind Projects Pty Ltd for the design and construction of the Graham St Overpass Skatepark Design and Construct.

3.2 Notes that the proposed contract value is \$990,000.00 inclusive of GST (\$900,000.00 excluding GST)

3.3 Authorises the Chief Executive Officer (or their delegate) to execute the Contract Document on behalf of Council and to exercise contract variations and execute those variations as required within the approved project budget.

3.4 Notes that design documentation is expected to be completed in March 2024. Construction works are anticipated to commence in April 2024 and take 12 weeks to



competition, depending on the final approved design. Practical Completion and handover to Council anticipated at the end of June 2024.

- 3.5 Affixes the Common Seal of the Port Phillip City Council to Contract for RFT000251 between the Council and Grind Projects Pty Ltd.
- 3.6 Notes that the tender process has been conducted in accordance with Sections 108 and 109 of the Local Government Act 2020 and Council's Procurement Policy; and
- 3.7 Notes opportunities of collaborative procurement for this Request for Tender were not considered practicable due to the specific nature of the services and works being procured.

**A vote was taken and the MOTION was CARRIED unanimously.**

## 11. SUSTAINABLE PORT PHILLIP

### 11.1 Port Phillip EcoCentre Lease Community Engagement

#### Purpose

- 1.1 To propose that an environmental education centre in the St Kilda Botanical Gardens ("EcoCentre Facility") be leased to Port Phillip EcoCentre Incorporated ("Port Phillip EcoCentre") and to seek approval to call for public feedback on that proposal.

#### MOVED Crs Crawford/Baxter

- 3.1 Commences the statutory procedures under Section 115 of the Local Government Act 2020 ("Act") to enter into a lease with Port Phillip EcoCentre Incorporated for the occupation of the environmental education facility at 55A Blessington Street, St Kilda, on the following terms: total term of no greater than **21** years; commencing annual rent \$104 plus GST.
- 3.2 Authorises the Chief Executive Officer (or their delegate) to undertake the administrative procedures necessary to enable Council to carry out its functions under 115(4) of the Act in relation to the lease proposed, including giving public notice on its website and carrying out community engagement.
- 3.3 Following the consideration of any submissions, receives a further report at a future meeting of Council.

**A vote was taken and as it was a tied vote, in accordance with rule 55.1 of the Governance Rules, the Chair exercised a casting vote.**

**Councillor Nyaguy called for a DIVISION.**

**FOR: Crs Baxter, Crawford, Martin and Nyaguy.**

**AGAINST: Crs Bond, Clark, Cunsolo and Pearl.**

**{Mayor Cunsolo exercised a casting vote against the motion}**

**The MOTION was LOST.**

*Councillor Martin moved the Officer's Recommendation:*

**MOVED Crs Martin/Cunsolo**

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- 3.1 Commences the statutory procedures under Section 115 of the Local Government Act 2020 (“Act”) to enter into a lease with Port Phillip EcoCentre Incorporated for the occupation of the environmental education facility at 55A Blessington Street, St Kilda, on the following terms: total term of no greater than 15 years; commencing annual rent \$104 plus GST.
- 3.2 Authorises the Chief Executive Officer (or their delegate) to undertake the administrative procedures necessary to enable Council to carry out its functions under 115(4) of the Act in relation to the lease proposed, including giving public notice on its website and carrying out community engagement.
- 3.3 Following the consideration of any submissions, receives a further report at a future meeting of Council.

**A vote was taken and the MOTION was CARRIED.**

**Cr Baxter called for a DIVISION.**

**FOR: Crs Baxter, Crawford, Martin, Nyaguy and Cunsolo**

**AGAINST: Crs Bond, Pearl and Clark**

**The MOTION was CARRIED.**

## **11.2 Panel Supply for Mobile Garbage Bins - RFT000234**

### **Purpose**

- 1.1 To present the report of the Tender Evaluation Panel (“TEP”) for Tender 000234, Panel for the supply of mobile garbage bins, and to recommend the awarding of the contract to SULO MGB Australia Pty Ltd.

### **MOVED Crs Martin/Bond**

That Council:

- 3.1 Enter into a new contract with SULO MGB Australia Pty Ltd for a total contract value of \$2,011,529 including GST, over a contract term of three years with an option, solely at Council’s discretion, to extend an additional two years, for the supply of mobile garbage bins.
- 3.2 Notes that the contract award figure provides additional purchasing capacity beyond the forecast budget but that any use of the contract will be subject to Council’s annual budget.
- 3.3 Delegates authority to the Chief Executive Officer to consider and enact the extension option

**A vote was taken and the MOTION was CARRIED unanimously.**



## 12. VIBRANT PORT PHILLIP

### 12.1 South Melbourne Market Annual Report 2022-23

#### Purpose

- 1.1 To endorse the South Melbourne Market Annual Report 2022-23.

#### MOVED Crs Bond/Nyaguy

That Council:

- 3.1 Endorses the South Melbourne Market Annual Report 2022 – 23 (Attachment 1).
- 3.2 Authorises the Chief Executive Officer (or their delegate) to make any minor editorial changes required to publish the Annual Report.

**A vote was taken and the MOTION was CARRIED unanimously.**

### 12.2 St Kilda Esplanade Market Strategy, Annual Report, Terms of Reference and Recommendations for the Reference Committee.

#### Purpose

- 1.1 To present the St Kilda Esplanade Market Annual Report 2022-23.
- 1.2 To present the draft St Kilda Esplanade Market (SKEM) Strategic Plan 2023 – 2028 for Council's consideration
- 1.3 To present the recommended panel members for the SKEM Reference Committee 2023 -2025 and updated Terms of Reference for Council's approval.

#### MOVED Crs Nyaguy/Bond

That Council:

- 3.1 Notes and receives the St Kilda Esplanade Market Annual Report 2022- 2023 and Market budget figures as outlined in **Attachment 1**.
- 3.2 Adopts the St Kilda Esplanade Market Strategic Plan 2023 – 2028 as outlined in **Attachment 2**.
- 3.3 Approves the updated Terms of Reference for the St Kilda Esplanade Market Reference Committee as outlined in **Attachment 3**.
- 3.4 Delegates authority to the Chief Executive Officer (or their delegate) to make amendments to the Terms of Reference document to correct any minor drafting errors that do not materially alter the intent.
- 3.5 Appoints Committee Members to the St Kilda Esplanade Market Reference Committee as appears in confidential **Attachment 5**.
- 3.6 Makes public the list of Committee following the adoption by Council and the acceptance of the nominees.





- 3.7 Recognises the contribution of the outgoing members of the St Kilda Esplanade Market Reference Committee and formally thanks them for their service to the Port Phillip community.

**A vote was taken and the MOTION was CARRIED unanimously.**

## **13. WELL GOVERNED PORT PHILLIP**

### **13.1 Councillor Expenses Monthly Reporting - August 2023**

#### **Purpose**

- 1.1 To report on the expenses incurred by Councillors during August 2023, in accordance with the Councillor Expenses and Support Policy.

#### **MOVED Crs Nyaguy/Martin**

That Council:

- 3.1 Notes the monthly Councillor expenses report for August 2023 (attachment 1) and that this will be made available on Council's website.

**A vote was taken and the MOTION was CARRIED unanimously.**

### **13.2 Records of Informal Meetings of Council**

#### **Purpose**

- 1.1 The purpose of this item is to report to Council written records of Informal Meetings of Councillors at the City of Port Phillip as required by the Governance rules.

#### **MOVED Crs Martin/Pearl**

That Council

- 2.1 Receives and notes the written records of Informal Meetings of Council (attached) as required by the Governance Rules.

**A vote was taken and the MOTION was CARRIED unanimously.**

## **14. NOTICES OF MOTION**

### **14.1 Notice of Motion – Councillor Tim Baxter – Developer Register**

#### **MOVED Crs Baxter/Nyaguy**

That Council:

- 1 Directs the Chief Executive Officer, or their delegate, to develop a policy governing Councillor and officer contact with property developers, submitters, lobbyists, and other stakeholders in land use planning decision making processes
- 2 Directs the Chief Executive Officer, or their delegate, to model the policy in point 1 on that of Greater Dandenong's "Policy – Councillor Contact with Developers, Submitters



and Lobbyists”, with the major exception being that policy must be adhered to, rather than be voluntary, for Councillors and officers

- 3 Directs the Chief Executive Officer, or their delegate, present a draft policy back to Council for consideration no later than the 15 November Council meeting.

**AMENDMENT**

**MOVED Crs Cunsolo/Pearl**

To amend point 3 indicated in ‘italics’:

- 3 Directs the Chief Executive Officer, or their delegate, present a draft policy back to Council for consideration *at a future Council meeting*.

**Mayor Cunsolo withdrew the AMENDMENT.**

*A further amendment was moved.*

**AMENDMENT**

**MOVED Crs Martin/Crawford**

To amend point 3 indicated in ‘italics’:

- 3 Directs the Chief Executive Officer, or their delegate, present a draft policy back to Council for consideration no later *than the first Council meeting in April 2024*.

**A vote was taken and the AMENDMENT was CARRIED.**

**The AMENDMENT became the SUBSTANTIVE MOTION.**

That Council:

- 1 Directs the Chief Executive Officer, or their delegate, to develop a policy governing Councillor and officer contact with property developers, submitters, lobbyists, and other stakeholders in land use planning decision making processes
- 2 Directs the Chief Executive Officer, or their delegate, to model the policy in point 1 on that of Greater Dandenong’s “Policy – Councillor Contact with Developers, Submitters and Lobbyists”, with the major exception being that policy must be adhered to, rather than be voluntary, for Councillors and officers
- 3 Directs the Chief Executive Officer, or their delegate, present a draft policy back to Council for consideration no later than the first Council meeting in April 2024.

**A vote was taken and as it was a tied vote, in accordance with rule 55.1 of the Governance Rules, the Chair exercised a casting vote.**

**Cr Baxter called for a DIVISION.**

**FOR: Crs Baxter, Crawford, Martin and Nyaguy**

**AGAINST: Crs Bond, Pearl, Clark and Cunsolo**

***Mayor Cunsolo exercised a casting vote against the motion}***

**The MOTION was LOST.**



#### **14.2 Notice of Motion – Councillor Tim Baxter – Changes to Governance Rules**

##### **MOVED Crs Baxter/Nyaguy**

That Council:-

1. Authorises community consultation to occur from Thursday 5 October 2023 to Thursday 2 November 2023 on changes to its Governance Rules (as per Attachment 1) to amend the following meeting procedures:
  - a. Moving and voting en bloc for items is expressly prohibited
  - b. The names of Councillors who spoke on each motion are recorded
  - c. The names of Councillors who voted for and against each motion are recorded, regardless of whether a division was called
2. Notes that community engagement is required in relation to developing or amending the Governance Rules under section 60(4) of the Local Government Act 2020.
3. Notes that if feedback is received during community engagement, a second report will be brought to Council with the results of that process and any recommended changes to the Governance Rules for consideration by Council.
4. Notes that if no feedback is received via community engagement, the amended Governance rules will come into effect upon the conclusion of that process.

**A vote was taken and as it was a tied vote, in accordance with rule 55.1 of the Governance Rules, the Chair exercised a casting vote.**

**Cr Nyaguy called for a DIVISION.**

**FOR: Crs Baxter, Crawford, Martin and Nyaguy**

**AGAINST: Crs Bond, Pearl, Clark and Cunsolo**

***{ Mayor Cunsolo exercised a casting vote against the motion }***

**The MOTION was LOST.**

#### **14.3 Notice of Motion – Councillor Robbie Nyaguy – Voice to Parliament**

##### **MOVED Crs Nyaguy/Crawford**

That Council:

1. Supports the Uluru Statement from the Heart, including affirming a Yes position in the October 14 Referendum recognition establishing and Aboriginal and Torres Strait Islander Voice.
2. Supports clear and accurate provision of information necessary for this community's informed decision making with regards to the Voice to Parliament referendum.
3. Reaffirms its commitment to lead reconciliation truth telling, community voice and the self-determination of First Nations people through the development of its third Reconciliation Action Plan.

**Mayor Cunsolo took the vote under DIVISION.**

**FOR: Crs Baxter, Crawford, Martin and Nyaguy**



**AGAINST:** Crs Bond, Pearl and Clark

**ABSTAINED** Cr Cunsolo

**A vote was taken and as it was considered a tied vote under rule 54.3 of the Governance Rules, in accordance with rule 55.1, the Chair exercised a casting vote.**

*The Mayor adjourned the meeting at 11:37pm, where advice was sought on the Governance Rules.*

*The Meeting resumed at 11:53pm.*

**{Mayor Cunsolo exercised a casting vote for the motion}**

**The MOTION was CARRIED.**

#### **14.4 Notice of Motion – Councillor Louise Crawford – National Theatre External Building Upgrade**

*Councillor Pearl declared a conflict in this item due to close association with a former Committee member and left the chamber at 11:54pm*

**MOVED** Crs Crawford/Martin

That Council:

1. Supports the National Theatre, St Kilda, with a one-off funding of \$30,000 for an external building upgrade and lighting to improve both the safety and amenity of a key entryway to St Kilda.

**A vote was taken and the MOTION was CARRIED.**

*Councilor Pearl returned to the chamber at 12:05am.*

*Councillor Clark left the chamber at 12:05am and did not return for the remainder of the meeting.*

### **15. REPORTS BY COUNCILLOR DELEGATES**

Nil.

### **16. URGENT BUSINESS**

Nil.

### **17. CONFIDENTIAL MATTERS**

**MOVED** Crs Pearl/Martin

That Council resolves to move into confidential to deal with the following matters pursuant to section 66(2) of the *Local Government Act 2020*:

#### **17.1 Palais Theatre and Luna Park Precinct Project Update**

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

**Reason:**

*Contractual negotiations regarding the procurement of services of this project are still being undertaken and finalised and the public releasing of the information in the report at this stage may negatively impair Councils ability to effectively negotiate and implement procurement arrangements.*

**A vote was taken and the MOTION was CARRIED.**

The meeting closed to members of the public at 12:06am.

The meeting reopened at 12:14am.

As there was no further business the meeting closed at 12:14am.

Confirmed: 18 October 2023

Chairperson \_\_\_\_\_