



Minutes of the Ordinary Meeting of Bayside City Council

held in the Council Chambers, Civic Centre,
Boxshall Street Brighton
on Tuesday 21 November 2017

The Meeting commenced at 7.00pm

PRESENT:

Cr Laurence Evans (Mayor)
Cr Rob Grinter
Cr Alex del Porto
Cr James Long BM JP
Cr Michael Heffernan
Cr Clarke Martin
Cr Sonia Castelli

OFFICERS IN ATTENDANCE:

Adrian Robb	Chief Executive Officer
Mick Cummins	Director Corporate Services
Hamish Reid	Director City Planning and Community Services
Steven White	Director Environment, Recreation and Infrastructure
Damien Van Trier	Manager Open Space, Recreation and Wellbeing
Joan Andrews	Manager Community Services
Michael Henderson	Coordinator Statutory Planning
Michael Kelleher	Coordinator Statutory Planning
Terry Callant	Governance Manager
Karen Brown	Governance Coordinator
Mandy Bartlett	Governance Officer

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	Nil	

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The Mayor declared the meeting open at 7pm and advised members of the public gallery that the Council meeting is being recorded and streamed live on the internet to enhance the accessibility of Council meetings to the broader Bayside Community.

The Mayor invited Cr Castelli to read the prayer.

1. Prayer

Cr Castelli 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 Original Inhabitants

The Mayor invited Cr del Porto to read the acknowledgement of the original inhabitants of this land.

- ◆ We acknowledge that the original inhabitants of this land that we call Bayside were the Boon Wurrung people of the Kulin nation.
- ◆ They loved this land, they cared for it and considered themselves to be part of it.
- ◆ We acknowledge that we have a responsibility to nurture the land, and sustain it for future generations.

3. Apologies

It is recorded that Cr Clarke Martin requested leave of absence for the December Ordinary Meeting of Council and the December Planning and Amenity Committee meetings, and further requested suspension of his allowance during his absence.

It is recorded that Cr del Porto requested leave of absence for the December Ordinary Meeting of Council and the 2nd December Planning and Amenity Committee meeting, and further requested suspension of his allowance during his absence.

Moved Cr Long

Seconded Cr Castelli

1. That Council grant Cr Clarke Martin leave of absence for the December Ordinary Meeting of Council and the December Planning and Amenity Committee meetings, and it is noted that Cr Martin has requested suspension of his councillors allowance during his absence.

2. That Council grant Cr Alex del Porto Martin leave of absence for the December Ordinary Meeting of Council and the 2nd Planning and Amenity Committee meeting to be held in December, and it is noted that Cr del Porto has requested suspension of his councillors allowance during his absence.

CARRIED

There were no apologies submitted to the November Ordinary Meeting of Council meeting.

4. Disclosure of any Conflict of Interest of any Councillor

It is recorded that Cr Clarke Martin declared an Indirect Interest due to conflicting duties in Item 10.2 – Beaumaris Hub Feasibility Update given he is the current President of the Beaumaris RSL.

5. Adoption and Confirmation of the minutes of previous meeting

- 5.1 Confirmation of the Minutes of the Ordinary meeting of Bayside City Council held on 24 October 2017.

Moved: Cr Long

Seconded: Cr Grinter

That the minutes of the Ordinary meeting of Bayside City Council held on 24 October 2017, as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

- 5.2 Confirmation of the Minutes of the Annual meeting of Bayside City Council held on 9 November 2017.

Moved: Cr Long

Seconded: Cr Grinter

That the minutes of the Annual meeting of Bayside City Council held on 9 November 2017, as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

6. Public Question Time

In accordance with Section 64 of Council's Governance Local Law No 1, 8 public questions were submitted to the Meeting. In accordance with Section 64 part 15 where a questioner is not present in the Chamber at the time of Public Question Time, the question and response will not be read out at the meeting or recorded in the minutes.

1. Mr George Reynolds

At its meeting on 24th October, 2017, Council resolved to change the terms of the lease of the land to be occupied by the Beaumaris Sports Club at Banksia Reserve. During the debate it was revealed by questions to Council staff, that:

- (a) the lease was a building and improving lease, and
 - (b) the lease was for a period of more than ten years.
- a) Why has the granting of the original lease for a period of more than ten years not been subject to a s223 process as required by s190(3)(b) and s190(3)(c) of the Local Government Act 1989, and
 - b) Why, the resolution to alter the terms of the lease, has not included the requirement to commence a s223 process as required by s190(4) of the Local Government Act 1989?

Response by the Chief Executive Officer

- a) *The lease has been subject to statutory consultation processes as required under the Local Government Act 1989. This commenced after a resolution at the Council meeting of Tuesday 21 October 2014. Two submissions were received. A Special Committee of Council was held on 4 December 2014 to hear public submissions in relation to the Beaumaris Sports Club Lease. It is noted in the minutes of the Special Committee meeting that you spoke in support of your submission.*
- b) *No essential terms of the lease have been changed. The location, rental and term remain the same. The lease contains a repayment schedule which was altered by the resolution of Council.*

2. Mr George Reynolds

Inspection of the Planning Applications Register with reference to the Beaumaris sports Club (68 Oak Street) indicates permits were issued for a Restricted Recreation Facility and Place of Assembly with car parking reduction, consumption of liquor and removal of native trees.

- a) Why the subsequent introduction of a commercial kitchen did not trigger a requirement for a planning permits under 52.20 and 52.27,(convenience restaurant and licensed premises), and
- b) Why the amended permit granted to Mr S Eccleston on 09/09/2015 covered a total Cost of Work of \$2,925,000 when the amended project appeared (from Council Minutes and Agendas) to cost \$5,338,300 on a net of GST basis?

Response by the Chief Executive Officer

- a) *Clause 52.20 (convenience restaurant and take-away food premises) only applies to land located within a residential zone. The land is located within the Public Park and Recreational Zone, therefore Clause 52.20 is not applicable. Approval of an on-premises liquor licence (including the subsequent kitchen area) was approved on 24 June 2013 and forms part of Planning Permit 2012/698.*
- b) *Council did not submit the planning permit application for this project so your question would be best directed to the Beaumaris Sports Club as the Permit applicant. It is acknowledged that the estimated costs for the Banksia Reserve pavilion project increased following the initial planning permit application by the Beaumaris Sports Club and information regarding project costs are recorded in the various update reports considered by Council.*

3. Ms Sandra Collins

- a) Why did Council seek an interim heritage listing when your own officers did not recommend this?
- b) When will you begin meaningful consultation with the owners of the 45 affected in relation to the interim heritage listing?

Response by the Mayor

- a) *Council has the discretion to make changes to recommendations presented by officers when deciding on a particular matter at the Ordinary Council Meeting. In this instance Council resolution reflected community sentiment in relation to the loss of neighbourhood character of Beaumaris and Black Rock reflected in the substantial demolition of properties taking place in the area.*
- b) *Council is in the process of commencing a Mid-Century Modern Heritage Study for Beaumaris and Black Rock. The preparation of the Study will involve consultation with affected property owners. This will include direct notification to owners of properties proposed for inclusion in the Heritage Overlay as part of the recommendations of the Beaumaris and Black Rock Mid Century Modern Heritage Study. 1 on 1 meetings with the Heritage Consultants and Council Officers will be available to affected property owners to discuss the findings of the study. It is expected that this consultation will commence in March 2018.*

4. Mr Barry Brooker

- a) Will Council, if it has not already done so, obtain from Victorian Archives Centre, 99 Shiel Street North Melbourne, crucial related “waterways” material, thereby making crucial data available to and fairly informing all interested parties, about sites of former natural watercourses (POS90447 having been say filled in) and contour mapping for Council’s three wards? Noting, Panel Hearing’s views on C140’s lack of specific data concerning permeability issues in the City of Bayside.
- b) Given Council’s approval regarding potential informative discussions occurring at a senior level, with neighbouring councils (Glen Eira, Kingston & Port Phillip) regarding flooding and, in my view, potential crucial political considerations, is Council able to inform over 10,000 vulnerable and at risk ratepayers what the current situation might be?

Response by the Chief Executive Officer

- a) *Council does have access to all necessary details relating to terrain, waterways and drains to inform drainage upgrade strategies and works. Many watercourses have been filled and piped over time. Amendment C140 sought to introduce site permeability standards into the planning scheme. But Amendment C140 has been abandoned.*
- b) *This response is on the understanding that Mr Brooker is referring to the Elster Creek CEO Forum that has been convened by Melbourne Water. The Forum is developing a three point action plan covering the areas of:*
 1. *Informed community;*
 2. *One catchment, one plan; and*
 3. *Collaborative strategic planning*

The draft action plan was presented to a selection of stakeholders at a meeting on 7 September 2017 and finalised at a recent CEO Forum. Information is being prepared for publishing on each Councils, and Melbourne Water’s website.

5. Mr Kevin Spencer

Given Councils appointment of Council representatives to the judging panel for the Built Environmental Award Committee at the recent Annual Meeting of Council:

- a) Explain how is it that a judging panel is formed when council has not approved the Built Environment Awards extravaganza for the forthcoming year?
- b) What was the total cost to the Ratepayers of Bayside for the Staff involvement and recent exclusive dining and awards night?

Response by the Mayor

- a) *Overall the awards are seen as an opportunity to acknowledge and encourage excellence in urban design, whilst also reinforcing the importance of future development to be responsible and responsive to urban character, streetscape and local heritage while embracing innovation. The awards have been successfully conducted since 2006, with over 600 high quality design buildings being nominated. The Built Environment Awards are recognised as a successful Council initiative and whilst the Council budget is yet to be approved we are already receiving nominations for next year's awards.*
- b) *The estimated costs of the awards, covering all expenses and including the awards event night is \$25,000.*

6. Mr Kevin Spencer

At the recent Remembrance Day Service at Green Point Brighton, I was shocked to see the neglect and poor maintenance of the adjoining once beautiful and multiple heritage overlaid, Brighton Beach Gardens, the dereliction of which makes a mockery of The 7 Goals of Council's "Council Plan" including that of "Making Bayside a better place."

- a) When is council going to commit to the restoration of this precious environmental community sanctuary as per its plan approved by council in 2015?
- b) Will council consider sound proofing the Beach road boundary of the gardens to protect the once peaceful and quiet heritage gardens community refuge, especially for young families and the elderly's enjoyment?

Response by the Chief Executive Officer

- a) *Council has and is committed to preserving and improving the Brighton Beach Gardens. In 2013 Council endorsed a 10 year Landscape Conservation Management Plan for the Green Point Precinct including the Brighton Beach Gardens. The aim of the Plan is to improve the amenity and preserve the historic and cultural values of the site. Since the Plan was adopted, Council has installed perimeter fencing, upgraded the car park, improved park amenities such as benches and waste disposal facilities and extended the garden beds.*
- b) *Acoustic fencing to provide a sound barrier between the park and Beach Road would be inconsistent with the historical and cultural values of the site. It is not part of the Brighton Beach Gardens Landscape Conservation Management Plan.*

7. Mrs Fiona Marshall

How are council planning to engage the 45 property owners and ensure their views are heard? I understand the council has consulted with the Beaumaris Modern group, yet the impacted property owners have only received a letter telling them what has happened rather than any community consultation on this.

Response by the Chief Executive Officer

Council is in the process of engaging Heritage experts to prepare a Mid-Century Modern Heritage Study for Beaumaris and Black Rock. The preparation of the Study will involve consultation with affected property owners. This will include direct notification to owners of properties proposed for inclusion in the Heritage Overlay as part of the recommendations of the Beaumaris and Black Rock Mid Century Modern Heritage Study. 1 on 1 meetings with the Heritage Consultants and Council staff will be available to affected property owners to discuss the findings of the study. It is expected that consultation will commence in March 2018.

8. Mrs Fiona Marshall

Could council confirm that the study into interim heritage listing is taking into account future forecasted costs associated with maintaining, preserving and compensating home owners who would be personally affected by such a measure?

Given this proposed heritage listing would be a 'community' benefit not a private benefit, I would expect 'community' would be required to compensate and share the burden of the increased cost of ownership and reduced capital value. Therefore, I would like council to confirm they are taking these costs into consideration when they undertake this study, as part of their decision making and budget planning.

Response by the Chief Executive Officer

Consideration for heritage listings is based on the merits of heritage significance alone. This is no different than for any planning requirement in as much as any change in a planning control is likely to have an effect on the status of a property, its potential and its market appeal.

Heritage property values are determined by multiple of factors which are general and specific. General factors include zoning, planning overlays, size of property, types of surrounding properties, general amenities, tenancy opportunities, alternative property use, returns, current socio-economic conditions and the quality of the buildings. Specific factors include prestige associated with ownership, refurbishment costs, building efficiency, maintenance and operational costs and perception of risk. In relation to demand for heritage properties, there are those in the market who are prepared to pay a premium for properties of heritage significance whilst there are some who will not participate due to heritage listing.

7. Petitions to Council

7.1 PETITION: REDUCTION OF SPEED LIMIT TO 40KMPH IN MARY AVENUE, HIGHETT

Corporate Services - Governance
File No: PSF/17/68 – Doc No: DOC/17/237554

Petition from residents requesting Bayside City Council to reduce the speed limit to 40kmph in Mary Avenue, Highett. (28 signatories).

"We the undersigned hereby petition Bayside City Council to reduce the speed regulation in Mary Avenue, Highett to 40 kph.

There are in excess of 14 children under the age of 13 living or staying in Mary Avenue, Highett and the taxi company in Bay Road use Mary Avenue to test their brakes and do excessive and unsafe speeds and many drivers use Mary Avenue as a through road and travel at excessive and unsafe speed."

Petition Requirements

The submitted petition containing 28 signatories meets the required format of a petition in accordance with Council's Governance Local Law No: 1, Clause 65.

Officer Comment

Speed limits in Victoria are established by VicRoads. Council does not have the authority to authorise the change requested by the petitioners. Council staff will review the issues identified in the petition and engage with VicRoads regarding the speed limit. If the recorded traffic speed is assessed as warranting intervention, there may be other traffic management options available to reduce vehicle speeds in Mary Street, Highett.

Moved: Cr Castelli

Seconded: Cr del Porto

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

CARRIED

7.2 PETITION - RE-ESTABLISHMENT OF THE BAYSIDE FILM FESTIVAL

Corporate Services - Governance
File No: PSF/17/68 – Doc No: DOC/17/229484

Petition from residents requesting Bayside City Council to re-establish the Bayside Film Festival. (50 signatories).

“We the undersigned hereby petition Bayside City Council to re-establish the Bayside Film Festival and to recommend a shared financial responsibility through the privatisation of the festival with assistance from Bayside City Council.

We propose the following notions:

1. Obtaining financial support through a crowdfunding campaign
2. Moving the festival to an outdoor setting such as Dendy Park (allowing for lowered costs, and accommodation for more attendees)
3. Volunteer options for secondary school students to be involved in the festival
4. Film entries for all ages with different award categories
5. Community involvement for the selecting of the films.”

Petition Requirements

The submitted petition containing 50 signatories meets the required format of a petition in accordance with Council’s Governance Local Law No: 1, Clause 65.

Moved: Cr del Porto

Seconded: Cr Grinter

That the petition be received and a report be submitted to the December 2017 Ordinary Meeting of Council for consideration.

CARRIED

8. Minutes of Advisory Committees

Nil

9. Reports by Special Committees

Nil

10. Reports by the Organisation

REQUESTS TO BE HEARD:

In accordance with Council's Governance Local Law No.1 Clause 69, the following individuals were granted three minutes each to speak to an item indicated below.

Item 10.2 Beaumaris Hub Feasibility Update

1. Mr David Richards
2. Mr Shayne Benedict
3. Mr Joe Mottola
4. Mr George Reynolds
5. Mr Mike Stone
6. Mr Travis Quirk

Item 10.3 Statutory Planning Service and Delegations

1. Mr Evan Packer

Item 10.7 Quarter One Performance Report – July to September 2017

1. Mr George Reynolds

10.1 NATIONAL DISABILITY INSURANCE SCHEME

City Planning & Community Services - Community Services
File No: PSF/17/71 – Doc No: DOC/17/241157

It is recorded that there were no speakers for this item.

Moved: Cr del Porto

Seconded: Cr Long

That Council:

1. Does not register as a National Disability Insurance Service provider;
2. Advocates to the Brotherhood of St Laurence as the Local Area Coordination (LAC) agency to meet the needs of the Bayside community;
3. Writes to State and Federal members to advocate for a sufficient level of guaranteed funding for non-eligible NDIS clients beyond June 2019; and
4. Receives a further report prior to June 2018, with options for Council's ongoing role in relation to disability inclusion, advocacy and planning beyond the cessation of the Inclusive Communities funding in June 2018.

CARRIED

10.3 STATUTORY PLANNING SERVICE AND DELEGATIONS

City Planning & Community Services - Development Services
File No: PSF/17/70 – Doc No: DOC/17/245443

It is recorded that Mr Evan Packer spoke for three minutes on this item.

Moved: Cr del Porto

Seconded: Cr Grinter

That Council resolves to:

- a) Note the update in the Statutory Planning service provided in this report.
- b) Adopts the proposed delegations as noted below for a trial period of 6 months:

Part 1 - Section 61 (1)(a & b) of the Planning and Environment Act 1987

Council officers do not have delegation to decide an application where:

- Any application is 'called in' by a Councillor; and
- An application where three or more objections have been received and Council officers are recommending that a notice of decision to grant a permit be issued.

Part 2 - Section 61 (1)(a & b) of the Planning and Environment Act 1987

Council officers do not have delegation to decide an application where:

- Any application is 'called in' by a Councillor; and
- An application for the removal of two or more trees protected by the Vegetation Protection Overlay (VPO) and Council officers are recommending that a planning permit or a notice of decision to grant a permit be issued.
- Where an application is sought for a 3 or more storey building that triggers a requirement for a permit under the Design and Development Overlay Schedule 3 and Council officers are recommending that a planning permit or a notice of decision to grant a permit be issued.

Part 3 - Victorian Civil and Administrative Tribunal (VCAT)

Council officers are provided the following delegation:

- Where Council is a party to a proceeding at VCAT, the Director (DCPCS), Department Manager (MDS), Statutory Planning Coordinator (SPC) and Principal Statutory Planner (PSP) have the power to make a decision relating to the conduct of a proceeding including a decision to settle the proceeding (i.e. agree to a consent order) where there is three or less objectors.

Part 4 - Victorian Civil and Administrative Tribunal (VCAT)

Council officers do not have delegation to decide an application where a:

- Secondary Consent application to a VCAT permit has been made.
- c) Receive a further report in June 2018 reporting on the outcomes of the trial and any further recommendations.

CARRIED

10.4 CON/17/76 CASTLEFIELD RESERVE PAVILION REDEVELOPMENT

Environment, Recreation & Infrastructure - City Assets & Projects
File No: PSF/17/74 – Doc No: DOC/17/231447

It is recorded that there were no speakers for this item.

Moved: Cr Castelli

Seconded: Cr del Porto

That Council:

1. Awards contract CON/17/76 Castlefield Reserve Pavilion Redevelopment to Bowden Corporation Pty Ltd for the lump sum price of \$1,111,044.31 (excl. GST) and \$1,222,148.74 (incl GST);
2. Authorises the Chief Executive Officer to sign all necessary documentation related to CON/17/76 Castlefield Reserve Pavilion Redevelopment; and
3. Advises the unsuccessful tenderers accordingly.

CARRIED

10.5 CONTRACT CON/17/103 - DEBT COLLECTION SERVICES CONTRACT - PROCUREMENT AUSTRALIA

Corporate Services - Finance
File No: PSF/17/69 – Doc No: DOC/17/242808

It is recorded that there were no speakers for this item.

Moved: Cr Long

Seconded: Cr Grinter

That Council

1. Awards Con/17/103 Debt Collection Services contract to Midstate Credit Collection Pty Ltd for a period of 2 years commencing 1 December 2017 with an additional 2 x 1 year options to extend;
2. Authorises the Chief Executive Officer to sign all necessary documentation related to Con/17/103 Debt Collection Services contract; and
3. Advises the unsuccessful shortlisted tenderers accordingly

CARRIED

10.6 OPEN SPACE LIGHTING POLICY (2014) - RESCISSION

Environment, Recreation & Infrastructure - Open Space, Recreation & Wellbeing
File No: PSF/17/65 – Doc No: DOC/17/239684

It is recorded that there were no speakers for this item.

Moved: Cr Grinter

Seconded: Cr Castelli

That Council:

1. notes that the assessment criteria in the Open Space Lighting Policy (2014) are addressed in a number of Council's policies and masterplans and an assessment has indicated that the Open Space Lighting Policy (2014) is not required; and
2. rescinds the Open Space Lighting Policy (2014) as shown in Attachment 1.

CARRIED

**10.7 QUARTER ONE PERFORMANCE REPORT - JULY TO SEPTEMBER
2017**

CEO - Strategy and Performance
File No: PSF/17/64 – Doc No: DOC/17/245515

It is recorded that Mr George Reynolds spoke for three minutes each on this item.

Moved: Cr Heffernan

Seconded: Cr Long

That Council:

1. notes the Quarter 1 Performance Report against the Council Plan activities for the period July to September 2017; and
2. adopts the financial report to 30 September 2017.

CARRIED

10.8 COUNCIL ACTION AWAITING REPORT

Corporate Services - Governance
File No: PSF/17/68 – Doc No: DOC/17/249172

It is recorded that there were no speakers for this item.

Moved: Cr Long

Seconded: Cr Grinter

That Council notes the Council Action Awaiting Report.

CARRIED

11. Reports by Delegates

1. **Association of Bayside Municipalities** – The Mayor Cr Laurence Evans advised that the Association has not yet met since the last update.
2. **MAV Environment Committee** – Director Environment, Recreation and Infrastructure Services advised that the Committee has not yet met since the last update.
3. **Metropolitan Transport Forum** – Cr Clarke Martin reported that the Forum hosted a meeting with the Metropolitan Municipality representatives to discuss future bus options and service improvements to the bus services across Melbourne.
4. **Municipal Association of Victoria** – Cr Alex del Porto advised that the MAV has not yet met since the last update.
5. **Inner South Metropolitan Mayors' Forum** – The Mayor Cr Laurence Evans advised that the Forum has not yet met since the last update.
6. **Metropolitan Local Government Waste Forum** – Cr Michael Heffernan advised that the last meeting of the Forum was held on 9 November 2017 which was the same night as Council's Annual Meeting. A Council officer attended the Forum and a report has been provided.

Moved: Cr Grinter

Seconded: Cr Long

That the delegates reports be received and noted.

CARRIED

12. Urgent Business

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

13. Notices of Motion

There were no Notices of Motion submitted to the meeting.

14. Confidential Business

Moved: Cr Martin

Seconded: Cr Long

That pursuant to Section 89(2) of the Local Government Act 1989, 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 89(2) of such Act.

- (a) Personnel matters;*
- (b) The personal hardship of any resident or ratepayers;*
- (c) Industrial matters;*
- (d) Contractual matters;*
- (e) Proposed developments;*
- (f) Legal advice;*
- (g) Matters affecting the security of Council property;*
- (h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;*
- (i) A resolution to close the meeting to members of the public.*

CARRIED

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14.1 MINUTES OF THE CHIEF EXECUTIVE OFFICER'S EMPLOYMENT MATTERS COMMITTEE HELD ON 30 OCTOBER 2017
(LGA 1989 Section 89(2)(a) and (d) personnel matters and contractual matters.)

14.2 PROPERTY MATTER
(LGA 1989 Section 89(2)(d) and (h) Section 89(2)(d) and (h) of the Local Government Act 1989 as it contains contractual matters and matters which the Council considers would prejudice the Council or any person.)

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

Following consideration of Confidential Business the Chairperson declared the meeting closed at 9:15pm.

CONFIRMED THIS INSERT 19 DAY OF DECEMBER 2017

CHAIRPERSON:

