



# MEETING OF THE PORT PHILLIP CITY COUNCIL

## MINUTES

8 DECEMBER 2022



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# MINUTES - MEETING OF THE PORT PHILLIP CITY COUNCIL - 8 DECEMBER 2022



## MINUTES OF THE MEETING OF THE PORT PHILLIP CITY COUNCIL HELD 8 DECEMBER 2022 IN ST KILDA TOWN HALL AND VIRTUALLY VIA WEBEX

The meeting opened at 6:33pm.

### IN ATTENDANCE

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

Chris Carroll, Chief Executive Officer, Brian Tee, General Manager City Growth and Development, Lachlan Johnson, General Manager Customer Operations and Infrastructure, Joanne McNeill, General Manager Governance and Organisational Capability, Donna D'Alessandro, Manager City Development, Matthew Schreuder, Acting Planning Coordinator Canal Ward, Jeremy Newland, Senior Urban Planner, John Bartels, Acting Executive Manager City Planning and Sustainability, Xavier Smerdon, Head of Governance, Emily Williams, Council Business Advisor, Samuel Yeo, Council Business Officer.

*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

### MOVED Crs Martin/Crawford

That Council approves the request to attend the meeting virtually received by Councillor Baxter.

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

*\*Councillor Baxter joined the meeting in person at 7:50pm.*

## 1. APOLOGIES

Councillor Katherine Copsey is taking extended leave from 28 November 2022 until further notice.

The Mayor, Councillor Heather Cunsolo advised that they will be overseas from 10 December to 12 January 2023, during which time Councillor Andrew Bond will be performing the duties of Mayor.

Councillor Tim Baxter joined the meeting in person at 7:50pm.

## 2. CONFIRMATION OF MINUTES

Nil.



### 3. DECLARATIONS OF CONFLICTS OF INTEREST

Nil.

### 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:

- **Chris Zeiher:** Residents that face in or nearby the fenced off-leash dog park at Eastern Road Reserve North have had to resort to calling police (as well as Council assist) due to excessive noise in the park. We have also witnessed an increase in off leash animals in the Eastern Road Reserve South park, of most concern is the volume of large animals (off leash) in close proximity to children. How many fines has the Council issued to park users in breach of the park use guidelines? And when will the off-leash review commence?

*Brian Tee, General Manager City Growth and Development advised that the question has a number of elements – however the underlying theme is community safety. Community safety is a key priority for Council. Council's animal management team proactively patrols the area seven days a week to see if there are any dogs off lead. Our patrols have been timed to respond to information from the community about when off lead behaviour occurs. At this stage we have not issued any fines to park users. However, we will continue our patrols and if necessary we will prosecute offending behaviour. In addition, we will review the signage in the area to ensure that the off lead restrictions are clear.*

*Council is undertaking a review of all current off-leash dog parks across the municipality. Many of these issues could be considered as part of the off-leash review and further advised that a decision on the commencement of that review is expected to be made by council shortly. Consultation for this review will commence next week (12 December 2022) on Council's Have Your Say page. The Have Your Say Page will clearly outline the consultation opportunities for the review as it progresses. The feedback provided on Eastern Reserve will be considered through this process*

- **Sarah Phillipson:** Dog barking noise from the fenced dog park at Eastern Road is not included under the council rule 52 rule regarding noise emanating from council land. Noise levels from this park are excessive. I engaged an acoustic engineer to monitor the noise from the park. In one week there were in excess of 5006 barks. The consultant estimates there could be up to 10,000 barks in any given week. Barking occurs every day, every week and has for years. There is no respite. The volume and quantity of barking are in breach of all noise guidelines and protocols. We understand that council will be conducting a comprehensive review of all dog parks by the end of next year. My neighbours and I would like to know what noise measures Council are going to put in place whilst we wait for the dog park review?

*Brian Tee, General Manager City Growth and Development advised that Clause 52 of our Local Law – Behaviour on Council Land is limited to the conduct of a person and cannot be applied to the conduct of an animal. The Domestic Animals Act 1994, does have a provision which applies to dogs barking however, that clause is directed at the owner of land that keeps a dog on the land. It does not apply to Council (public) land. In relation to Council Land, there is no legislation that directly deals with the mischief of a barking dog on Council Land. Council's Animal Management Unit will continue to monitor the park as much as possible to ensure all dogs are under effective control and are on leash after 7.30pm. This is*

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*often an effective way to reduce barking. As mentioned to the previous questioner, Council's review of all current off-leash dog parks across the municipality will commence next week (12 December 2022) and include public consultation.*

- **Peter Moraitis:** What is council planning to do with the Food and Garden material it will commence collecting throughout Port Phillip in 2023? Will it be provided to the community for garden compost and for community gardens in Port Phillip.  
Will the quality of compost produced also be monitored? Will Council consider a rebate to residents given the waste charge is for a full financial year but at the halfway point FOGO has not yet commenced across the municipality?

*Lachlan Johnson, General Manager Customer Operations and Infrastructure advised that the Food and Garden Materials collected currently (from our communal hub locations and selected Elwood residents) and from the new FOGO service commencing in 2023 will be taken to a commercial facility in Dandenong South for processing before being sent for composting. While Council does not monitor the quality of the compost produced, it will be monitoring FOGO contamination in kerbside and communal bins and our FOGO processor also has decontamination processes for FOGO material prior to the composting process. At this stage compost from our FOGO service will not be available for the community or community gardens, but through our new Waste Strategy (Don't Waste It! 2022-25) we will be exploring opportunities for our FOGO materials to be reused within the City of Port Phillip.*

*Council is excited to be rolling out this new Food and Garden Organic recycling service, which is highly valued by our community and is key to meeting our sustainability targets such as landfill diversion. Whilst the service will not commence until January 2023, Council is required to include all rates and charges in the rates notice sent out in August. Council is charging the full year's fee due to initial implementation costs such as one-off caddies and liners. Note, it is only a part cost recovery. Residents will receive their FOGO bin from the 9 January 2023, with the FOGO service commencing on the 23 January 2023. There is no error to the kerbside FOGO charge therefore no refund will be provided to residents.*

!

## **Council Report Submissions:**

### **Item 10.1...Change of use to Rooming House - PDPL/00537/2022**

- |                   |                   |                  |
|-------------------|-------------------|------------------|
| • Richard Want    | • Steven Beckwith | • Jenny Phillips |
| • Delia Want      | • Gillian Watt    | • Una McIlvenna  |
| • Marika Tashevsk | • Lachlan Webster | • Ronald Pose    |

### **Item 10.4 South Melbourne Structure Plan**

- |                 |                |              |
|-----------------|----------------|--------------|
| • Teresa Warren | • John Lowndes | • Jamie Gray |
|-----------------|----------------|--------------|

### **Item 14.1 . Notice of Motion – Councillor Christina Sirakoff – Pop Up Bike Lanes**

- |                     |                  |                  |
|---------------------|------------------|------------------|
| • Julie Clutterbuck | • Peter Krashow  | • Marcel Randles |
| • Matthew Fagan     | • Adam Blandford | • George Hibbard |
| • Jan Talacko       | • Cameron Smith  | • Gavin Randles  |
| • Mark Naughton     | • Una Steele     | • Vicky Ho       |

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***The following submissions were read out by a Council officer:***

- Allison McCormack
- Josh Burns MP Federal Member for Macnamara

***The Mayor took the following questions on notice during public question time and submissions:***

- **Terri Thompson:** Following the Department of Transports consultation we were informed by a formal letter from DoT confirming after reviewing all feedback received that they would not make any changes to Kerferd Road as part of the pop up bike lane program. The Shrine to Sea project update October 2022 released that they are currently evaluating five different bike lane and road configurations based on feedback they have received to date. I have had a number of neighbours contact me with their concerns again. We have the following three questions:
  1. What are these five different bike lane and road configurations proposed for Kerferd Road?
  2. On Consultation who in Kerferd Road has formed part of the consultation? As a resident of Kerferd Road, I'd like to ensure we have been represented in any consultative meetings regarding changes to Kerferd Road.
  3. What is the current position of the City of Port Phillip regarding any proposed bike lane changes in Kerferd Road?

*The Mayor adjourned the meeting at 8:04pm.*

*The meeting resumed at 8:18pm.*

## **5. COUNCILLOR QUESTION TIME**

- **Councillor Pearl:** Can officers table the total cost spent on the Shrine to Sea Project so far?

*The Mayor took the question on notice*

## **6. SEALING SCHEDULE**

Nil.

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

Nil.

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

Nil.

## **9. INCLUSIVE PORT PHILLIP**

Nil.



## 10. LIVEABLE PORT PHILLIP

### 10.1 Change of use to Rooming House - PDPL/00537/2022

#### Purpose

- 1.1 To consider and determine Planning Application PDPL/00537/2022 for use of the land for a rooming house.

#### MOVED Crs Bond/Baxter

- a. That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- b. That a Notice of Decision to Grant a Permit be issued for use of the land for a rooming house at 11 Wenden Grove, St Kilda East.
- c. That the decision be issued as follows:

#### 1. Amended Plans Required

Before the use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application (identified as those date stamped received by Council on 15 September 2022, prepared by CAD Productions, consisting of TP01 through TP08, all dated July 22, and subsequently advertised) but modified to show:

- a) 3 x 240L bins for general waste and 3 x 240L bins for recyclables.
- b) Provision for the future location of bins for food organics and garden organics (FOGO).
- c) All bins located in a bin corral providing suitable screening from the street and located away from habitable room windows.
- d) A dedicated area to locate any hard waste and e-waste.
- e) Any other requirements as per the Waste Management Plan at condition 3.
- f) The secure and under cover location of at least two bicycle spaces.
- g) Any modifications as required by the On-Site Management Plan at condition 4.
- h) Notation on plans that the maximum number of residents will not exceed 13.

#### 2. No Alterations

The layout and description of the use(s) as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

#### 3. Waste Management Plan

Before the use starts, the Waste Management Plan submitted with the application must be amended to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Waste Management Plan (and associated site and floor plans, where relevant) must include reference to the following:

- The estimated garbage and recycling volumes for the use.

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- The location and space allocated to the garbage and recycling bin storage area and collection point.

Once submitted and approved, the Waste Management Plan must be carried out to the satisfaction of the Responsible Authority.

## 4. On-Site Management Plan

Before the use commences, a management plan must be prepared to the satisfaction of the Responsible Authority. The plan must include, but not be limited to, the following:

- Procedures, and standards for residents to minimise amenity and parking problems in the neighbourhood.
- Establishment of a complaints hotline for, and regular meetings with, adjacent residents, as required.
- Standards for property maintenance, health and cleanliness including measures to be undertaken to ensure areas surrounding the establishment are kept clean of litter.
- Security against thefts and break-ins, including security of residents' belongings.
- Development, documentation and promulgation of a fire management plan.
- Establishment of house rules (to be displayed in a prominent location and clearly visible to residents at all times) and which will include:
  - Resident behaviour
  - Noise
  - Alcohol consumption
  - Littering
- Appropriate management and security practices to prevent the congregation of residents and visitors in communal and outdoor areas after 10pm.
- How residents will be regularly informed of the waste management arrangements
- No more than two cars in total are to be owned by the residents of the rooming house at any one time and these two cars must be parked within the garage upon designated tandem car parking space located on the land and must not be parked on the street at any time.
- Car and bicycle parking areas must be kept available for these purposes only and must not be used for any other purpose such as storage.
- Only students may reside at the rooming house at any time.
- Rooming house welcome packs must be provided to each student outlining tram, train and bus timetables relevant to the local area and to be provided to each student upon the commencement of occupation of a room.
- Tram, train and bus timetables together with a map of those locations must be clearly located within the common area and/or erected near the entrance of the rooming house.

Once to the satisfaction of the responsible authority, the management plan will be endorsed and form part of this permit. The management of the use must always be



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in accordance with the endorsed management plan to the satisfaction of the Responsible Authority.

5. A copy of the permit and on-site management plan shall be displayed at all times in a prominent location within the premises, to the satisfaction of the Responsible Authority.

## 6. Storage of Goods

Without the further written consent of the Responsible Authority, no goods are permitted to be stored, or left exposed, outside the building so as to be visible from any public area.

## 7. Resident Numbers

Without the further written consent of the Responsible Authority, no more than 13 residents must live on the premises at any time.

## 8. Time for starting and completion

This permit will expire if the use is not started within two (2) years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use allowed by the permit has not yet started

## RECOMMENDATION PART B – CONSENT GRANTED

That the Planning Committee authorise the Manager City Development to instruct Council's Statutory Planners and/or Council's solicitors on any VCAT application for review should one be lodged.

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

## 10.2 Changes to Planning Delegations (9 December 2022) until the first sitting of the Planning Committee

### Purpose

- 1.1 To delegate to the Chief Executive Officer (including the power to on delegate), the power to enable specific planning activities to be undertaken during the period of time between the last Planning Committee meeting being 8 December 2022 until the first sitting of the Planning Committee in 2023.

### MOVED Crs Pearl/Crawford

That Council:

- 3.1 Delegates to the Chief Executive Officer (including the power to on delegate), effective for the period 9 December 2022 until the first sitting of the Planning Committee, in 2023, only, the power to:
  - 3.1.1 Determine an application where:



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- The application has not been refused under delegation and 16 or more objections are received.
  - The application raises strategic or substantive policy issues.
  - The application involves substantive non-compliance with the Planning Scheme or Council Policy, but officers consider the application should be supported.
  - The application involves non-compliance with residential parking requirements.
  - The application involves the total demolition of a building in a heritage overlay.
  - The application involves land use for accommodation in the Fishermans Bend Urban Renewal Area.
  - The application involves all development including development for the purposes of accommodation in the Fishermans Bend Urban Renewal Area.
  - The application exceeds six storeys in height in the area covered by sub-precinct 2 in Schedule 26 to the Design and Development Overlay in the Port Phillip Planning Scheme, for the St Kilda Road North precinct.
  - The application is in relation to all land use, design and structural matters, including amendments and secondary consents to the approved Seabaths Development Plan.
- 3.1.2 To provide comments to the Minister for Planning where the Minister is the Responsible Authority or Planning Authority for a statutory planning application or planning scheme amendment.
- 3.1.3 To instruct Council's Statutory Planners and/or Council's solicitors in relation to any application for review lodged with VCAT, or an application for a planning scheme amendment or an application before an Advisory Committee.
- 3.1.4 To determine planning permit applications or amendments or requests for extensions of time to planning permits within the Fishermans Bend Urban Renewal Area including applications comprising accommodation.
- 3.1.5 To determine planning permit applications that exceed six storeys in height in the area covered by Sub Precinct 2 in Schedule 26 to the Design and Development Overlay in the Port Phillip Planning Scheme, for the St Kilda Road North Precinct.
- 3.1.6 To determine all land use, design and structural matters, including amendments and secondary consents to the approved Seabaths Development Plan.
- 3.1.7 All determinations made during the period 9 December 2022 until the first sitting of the new Planning Committee will be reported to the first Planning Committee in the February 2023 Statutory Planning Delegations Decisions Report or as applicable.
- 3.2 Notes that this delegation does not preclude planning matters being considered by Council at its Ordinary Meeting of Council.

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- 3.3 Prepares, and affixes the Common Seal of the Port Phillip City Council to, an Instrument of Delegation to the CEO that accords with this resolution.
- 3.4 Notes that all determinations made during the period 9 December 2022 until the first sitting of the new Planning Committee in 2023, will be reported to the Planning Committee in the January/February Statutory Planning Delegations Decisions Report, or earlier as applicable.

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

## 10.3 Statutory Planning Delegated Decisions - November 2022

### Purpose

- 1.1 To present a summary of all Planning Permits issued in accordance with the Schedule of Delegation made under the Local Government Act 2020 and Section 188 of the Planning & Environment Act 1987 adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

### MOVED Crs Crawford/Martin

That the Committee:

- 3.1 Receives and notes the November 2022 reports regarding the summary of all Planning Decisions issued in accordance with the Schedule of Delegation made under the Local Government Act 2020 and Section 188 of the Planning & Environment Act 1987 adopted by Council on 24 July 1996 and as amended, for the Port Phillip Planning Scheme.

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

## 10.4 South Melbourne Structure Plan

### Purpose

- 1.1 To provide Council with the outcomes of the Phase 2 Community engagement on the South Melbourne Structure Plan Discussion Paper.
- 1.2 To seek Council's endorsement of the Built Form and Public Realm Design Objectives and Character Statements as the basis for targeted consultation to inform preparation of the South Melbourne Structure Plan.

### MOVED Crs Martin/Bond

That Council:

- 3.1 Note the outcomes of the Phase 2 Community engagement on the South Melbourne Structure Plan Discussion Paper, included at **Attachment 2**.
- 3.2 Endorses the Built Form Objectives and Character Statements, included at **Attachment 3** and Public Realm Design Objectives, included at **Attachment 4** for use in targeted engagement to inform the preparation of the South Melbourne Structure Plan.

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



## **10.5 E-Scooter Trial**

### **Purpose**

- 1.1 To update Council on the Victorian Government timeline for the evaluation of the trial of e-scooters, and to recommend extension of Council's participation in the trial with the Victorian Government and other local government partners, until this evaluation is completed and there is clarity on the recommended regulatory framework.

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

That Council:

- 3.1 Extend Council's participation in the e-scooter trial with the Victorian Government and other local government partners until the Victorian Government evaluation is completed and there is clarity on the recommended regulatory framework.
- 3.2 Authorises the Chief Executive (or their delegate) to undertake any administrative procedures required to allow continued participation in the e-scooter trial.
- 3.3 Notes that findings from the Victorian Government evaluation and recommendations for regulatory change will be presented to Council when available.

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

## **11. SUSTAINABLE PORT PHILLIP**

Nil.

## **12. VIBRANT PORT PHILLIP**

Nil.

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

Nil.

## **14. NOTICES OF MOTION**

### **14.1 Notice of Motion – Councillor Christina Sirakoff – Pop Up Bike Lanes**

#### **MOVED Crs Sirakoff/Clark**

That Council:-

1. Notes the Traffix Group report (G32421R-01C, October 2022) was prepared by an independent and expert group of consultants on bike lane design and reports on the adverse impacts of the temporary Pop-Up Bike Lane treatments at locations within the City of Port Phillip. Which are representative of all the Pop-Up Bike Lanes installed across the Municipality.

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2. Acknowledges resident concerns about the safety of the temporary bicycle infrastructure located in Westbury Street, St Kilda East and notes residents have advocated for the removal of these pop-up bike lane treatments.
3. Writes to the Department of Transport and requests that they immediately end the pop-up bike trials on Westbury Street, St Kilda East and remove the concrete barriers northbound on Marine Parade.
4. Acknowledges that four Victorian election candidates for the seat of Albert Park who participated at a community forum on 10 November 2022 committed to removing all or some of the Pop-Up Bike Lanes.
5. Writes to the Department of Transport (DoT) and requests that they immediately implement the recommendations in the report with regards to the removal of the Pop-Up Bike Lane treatments. Including all speed humps, bollards, concrete blocks, and yellow lines at those locations and also in Westbury Street, St Kilda East and the intersection of Brighton Rd with Dickens Street. Specifically, Council requests DoT to remove the following treatments:
  - Marine Parade Kerb Separated Bicycle Lanes in consultation with Council
  - Marine Parade/intersection with Wordsworth Street, Thackeray Street, Meredith Street, Marine Ave.
  - Richardson Street/Withers Street
  - Deakin Street/Loch Street/York Street
  - Lyons Street/Bridge Street/Esplanade West
  - McGregor Street/Park Road & Page Street
  - Reinstate Brighton Road and Dickens Street intersection similar to neighbouring roads at Hennessy Ave and Milton Street
6. Acknowledges and thanks the DOT for its efforts to date in working collaboratively with Council to implement Council resolutions, which seek to address community concerns regarding the Pop-Up Bike Lane Infrastructure in the municipality.
7. Requests that the DOT conducts thorough consultation with the residents of the City of Port Phillip prior to any new bike lane infrastructure in the City of Port Phillip.

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

**Cr Bond called for a DIVISION.**

**FOR:** Crs Crawford, Cunsolo, Bond, Sirakoff, Martin, Pearl and Clark

**AGAINST:** Cr Baxter

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

*The Mayor adjourned the meeting at 9:38pm.*

*The meeting resumed at 9:49pm.*

## 15. REPORTS BY COUNCILLOR DELEGATES

Nil.



## 16. URGENT BUSINESS

### **MOVED Crs Crawford/Martin**

That Council considers an item of urgent business relating to Management of Legal Services.

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

### **16.1 Management of Legal Services**

#### **MOVED Crs Crawford/Sirakoff**

That Council

- 3.1 Endorses the additional above threshold spend of up to \$100,000 (Inc. GST) for the engagement of specialist legal advice for new matters including the local laws review, and representation at VCAT for a planning matter, to Maddocks Lawyers;
- 3.2 Notes the Procurement Policy is currently under review and that an update to the Policy, including a revised approach to the procurement of legal advice, will be presented to Council in early 2023 for consideration; and
- 3.3 Notes that the engagement of legal advice is to be funded from existing budget allocations including the local law review project.

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

## 17. CONFIDENTIAL MATTERS

Nil.

As there was no further business the meeting closed at 10:14pm.

Confirmed: 1 February 2023

Chairperson \_\_\_\_\_