



# MEETING OF THE PORT PHILLIP CITY COUNCIL

## MINUTES

17 JULY 2024



Please consider  
the environment  
before printing



Consider carefully how  
the information in this  
document is transmitted



**MINUTES OF THE MEETING OF THE PORT PHILLIP CITY COUNCIL HELD  
17 JULY 2024 IN ST KILDA TOWN HALL AND VIRTUAL VIA TEAMS**

The meeting opened at 6:36pm.

**IN ATTENDANCE**

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

Chris Carroll, Chief Executive Officer, Brian Tee, General Manager City Growth and Development, Tarnya McKenzie, Interim General Manager Community Wellbeing and Inclusion, Lachlan Johnson, General Manager, Operations and Infrastructure, Claire Stevens, General Manager Organisational Capability and Experience, Joanne McNeill, Executive Manager Governance and Organisational Performance, Xavier Smerdon, Head of Governance, Rebecca Purvis, Senior Council Business Advisor, Eden Aspinall, Council Business Advisor, Lauren Bialkower, Executive Manager City Growth and Culture, Dana Pritchard, Manager Open Space, Recreation and Community Resilience, Nellie Montague, Manager Safety & Amenity .

*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.*

**1. APOLOGIES**

Nil.

**LEAVE OF ABSENCE – COUNCILLOR RHONDA CLARK**

**Moved Crs Pearl/Martin**

That Council:

- 1 Approves the leave of absence for Councillor Clark for the period 2 August to 18 August 2024

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

**2. CONFIRMATION OF MINUTES**

**Moved Crs Martin/Pearl**

That the minutes of the Meeting of the Port Phillip City Council held on 3 July 2024 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 material conflict of interest in relation to item 10.1 *St Kilda Triangle Live Music Venue - Stage 2 – Targeted Market Engagement Outcomes and Next Steps*, due to their wife's employment interests. The CEO noted they have had no involvement in the advice on this matter or the preparation of the report. The CEO advised they would remain in the meeting for the item as it is a public report and they are not a decision maker.

Mayor Heather Cunsolo declared an interest in relation to item 14.2 *Notice of Motion – Councillor Cunsolo - Barak Beacon*, due to currently renting a property in the area for a limited period. Mayor Cunsolo advised this is not a general or material conflict of interest.

### CONDOLENCE MOTION – JAMES MITCHELL

**Moved Crs Martin/Sirakoff**

That Council

1. Expresses its deep regret on the passing of James Mitchell.
2. 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.**

### CONDOLENCE MOTION – KERRY MCKENDRICK

**Moved Crs Pearl/Bond**

That Council

1. Expresses its deep regret on the passing of Kerry McKendrick
2. 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:

- **Justin Halliday:** Over a year ago, in May 2023, the Balaclava toilet block was removed, with a replacement date of October 2023. What is the status of the replacement toilet block, and why has this been delayed?

*Lachlan Johnson, General Manager, Operations and Infrastructure, advised that the replacement of the public toilet has been incredibly frustrating and apologised to the*

# MINUTES - MEETING OF THE PORT PHILLIP CITY COUNCIL - 17 JULY 2024



community that it has taken so long. Whilst there are alternative facilities within the area, the delay is unacceptable.

The previous public toilet was demolished over 12-months ago. Council entered into a design and construct contract for the supply and installation of a new public toilet in a similar style to that which was installed last year at Shakespeare Grove in St Kilda. The contractor who was selected to install the Coles carpark toilet was selected in part because of their experience in delivering the facility in Shakespeare Grove. The public toilet has been fabricated and is awaiting installation. The lack of progress onsite is due to repeated delays in the builder achieving a building permit. I am informed that as of this afternoon, the latest set of information has been submitted to the building surveyor for review and approval. Pending the outcome of that assessment, works onsite will start immediately and construction is forecast to take three weeks.

- **Justin Halliday:** Similarly, the Alma Park East toilet block burned down almost three and a half years ago; when can the community expect the Alma Park toilets to reopen? Why has it taken so long for these to be replaced and be rebuilt, and what can we do in the future to prevent such delays?

Lachlan Johnson, General Manager, Operations and Infrastructure, advised that the previous public toilet in Alma Park East was burnt down three years ago. Works are nearly finished. It was estimated that building would be open in late June but this was delayed due to some final compliance issues. These have now been addressed and, pending the final inspection, the public toilet should be open next week. The protracted timeframe for the reconstruction has been impacted by the insurance process and supply chain issues with securing the bespoke materials for the building. Specifically, this involved Council putting two tenders to market and not obtaining satisfactory responses, and a six-month delay with the delivery of stainless steel components that had to be sourced from overseas. The timeframe to reconstruct the building is much longer than Council or the community would have wanted. As part of the finalisation of the project, as is part of Council's standard practice, a review of project will be undertaken to determine what could have been done differently and better. The lessons learnt from this project will be particularly relevant for future complex insurance related projects.

- **Justin Halliday:** The Alma Rd entrance to Alma Park, which is adjacent to the train line; this has significant heritage value, is currently blighted by 8 bins, 2 signs, a dumpster and unfortunately, this is where a lot of dog feces is dumped, so it has a pretty rank smell. Has council considered relocating these bins away from the park's heritage entrance, perhaps to the nature strip immediately above the rail underpass?

Lachlan Johnson, General Manager, Operations and Infrastructure, advised that they have asked Council's waste management team to see if officers can relocate some of the bins away from the entrance. There is obvious benefits of having bins located where people walk past but they are sure this is something that officers can do in this situation given that there is some space available next to them.

- **Justin Halliday:** The heritage listed Park Keeper's Cottage has been fenced off for more than 15 years. What is Council's plan for this significant building?

Lachlan Johnson, General Manager, Operations and Infrastructure, advised that the Park Keeper's Cottage is a historically significant building and has been fenced off from the public for a considerable period of time. They took on notice the question regarding the longer term plan for the building but confirmed that it is not on Council's work program for 2024/25.



- **Justin Halliday:** Council is currently displaying a proposed design for a barrier along the south boundary of Alma Park West. In May last year, the Council approved a vegetation barrier instead of a fence, with the proposed design to be released for community consultation early in 2024. However, we are now presented with a wire fence design that differs from the original vegetation barrier approved by Council, and without any opportunity for the community to comment on the proposal. Why did the design change? Why is a fence required instead of vegetation? Who was consulted about the design change and finally, how does a wire fence protect and enhance the heritage of Alma Park when other heritage parks such as St Kilda Botanical Gardens have recently had wire mesh fences replaced designs more fitting for their original character?

*Tarnya McKenzie, Interim General Manager Community Wellbeing and Inclusion, advised that Council officers produced six design options which were then independently reviewed by John Patrick Landscape Architects Pty Ltd (JPLA Pty Ltd), taking into consideration all aspects related to potential impact on the park, who ultimately provided a recommendation for what they considered the least impactful option. The combination of the fence and garden bed design is to maximise the effectiveness of the barrier to provide an uplift in safety for both children and dogs leaving Alma Park West at the southern end of the park. All design options were independently reviewed by John Patrick Landscape Architects Pty Ltd, taking into consideration all aspects related to potential impact on the park, JPLA Pty Ltd ultimately provided a recommendation for what they considered the least impactful option. Council's internal Principal Heritage Advisor subsequently peer reviewed the JPLA Pty Ltd report and supported their recommendation. The important driver for this project is one of improving safety for the community and their dogs and council, through developing this design solution, will be able to achieve this outcome whilst respecting the aesthetics of Alma Park.*

- **Richard Whitfield:** I would like to say that I strongly support Council initiatives to increase exercise equipment in public spaces. Anything that we can do to encourage healthy lifestyles and community socialization is to be applauded, especially among residents who are older, less healthy and more isolated. As well as exercise equipment, I'd also like to support the need for more and better public seating. When does Council expect to look at and incorporate older persons' exercise in its parks and recreation?

*Tarnya McKenzie, Interim General Manager Community Wellbeing and Inclusion, advised that, at the moment, there are no plans for the installation of new outdoor fitness equipment in the next 2-3 years. However, when we commence designing these new spaces, we will consider accessibility and equipment for use across the ages. As we review our Sport and Recreation Strategy, which is upcoming in the next twelve months, we will be identifying needs to inform future design and look at demand for activations of our existing outdoor fitness equipment.*

## **Council Report Submissions:**

### **Item 7.1 Frank's Sculptures – Danks Street Petition Response**

- **Frank Artuso**

### **Item 7.2 Petition for Port Phillip Council to Cease the Proposed Fitzroy St Seating Plan**

- **Rod Mitchell**
- **Rhonda Small**
- **Gabrielle Chamberlain**



## Item 9.1 City of Port Phillip Rental Crisis - Petition Response

- Rhonda Small
- Alex Darton

## Item 10.1 St Kilda Triangle Live Music Venue - Stage 2 – Targeted Market Engagement Outcomes And Next Steps

- Mary Stuart
- Hugh van Haandel

## Item 13.3 South Melbourne Town Hall - ANAM Schematic Design

- Nick Bailey

## Item 14.1 Notice of Motion for Fitzroy Street Seating

- Rod Mitchell
- Richard Ludlow
- Una Steele
- Adrian King
- David Williams
- Russell Frajman
- Charlotte Frajman

## 5. COUNCILLOR QUESTION TIME

**Councillor Pearl:** Officers might be aware of a billboard that's located on private property on the corner of York Street and Montague Street, South Melbourne, which is adjacent to the Sol Green Reserve. Can officers please take this question and report back if these billboards have valid permits, why these trees have not been replanted in front of these billboards that appear to be on private property, and is there any way Council can get these billboards removed?

*Brian Tee, General Manager City Growth and Development, took the question on notice for further response.*

**Councillor Pearl:** Can Officers please provide an update on the development/building permits at 1-7 Waterfront Place? Specifically, can you update Councillors on the development and cleanup at this site? When was the last time Council engaged with the owner/developer regarding the appalling state of the site?

*Nellie Montague, Manager Safety and Amenity advised that Council is currently assessing an amendment application which seeks several changes to the development that was approved by Planning Permit 490/2020. The changes sought in the amendment application are confined to internal changes to apartments, changes to the other land uses (gym, retail and communal facilities) and minor external changes to colonnades and the material and finishes. The amendment application is currently waiting for a response to a further information request. The applicant is required to respond to the further information request by 29 July 2024. Planning permit 490/2020 requires the development to start by 3 August 2026 and officers have been informed that the land has recently been sold and that settlement will occur soon. At this stage we do not have the details of the new owner, however will work with them when to improve the appearance of the land.*

*Nellie Montague, Manager Safety and Amenity, took on notice the question regarding the exact date of communication with the owner, but advised that the land is being used by another building taking place close by and so there is some activity happening on the site from that construction site.*



**Councillor Sirakoff:** Is there any update on the progress of supermarkets and their shopping trolleys, with the installation of perimeter constraint systems, so that shopping trolleys are not spread throughout the city?

*Nellie Montague, Manager Safety and Amenity advised that the current Local Law came into effect on 1 August 2023 required that by 1 September 2024, premises with 30 or more shopping trolleys for use by customers must have installed a device that constrains the shopping trolley to the perimeter of the premises.*

*From the 1 September 2024, once a trolley is found outside the perimeter of a premises the owner of the trolley will be notified and given a reasonable opportunity to recover the trolley, unless the shopping trolley or its location poses a danger. Penalty fees of up to \$489 (2.5penalty units) can be applied for collection of impounded shopping trolleys and any trolley not collected within 14 days can be disposed of by Council. We have been informed that the third party supplying the devices are in discussion with Coles and Woolworths to implement the locks prior to 1 September 2024. Local Laws will continue to monitor and take action when needed.*

## 6. SEALING SCHEDULE

Nil.

## 7. PETITIONS AND JOINT LETTERS

### Item 7.1 Frank's Sculptures – Danks Street Petition Response

#### **Moved Crs Pearl/Baxter**

That Council:

1. Thanks the community for their petition and acknowledges the community benefits and. social connectiveness these sculptures have created on Danks Street.
2. Notes that the sculptures on the nature strip can be considered under the Nature Strip Guidelines as legacy gardens and that under this provision they can be retained if they meet safety requirements.
3. Requests that officers conduct safety assessments on the sculptures to ensure they limit risk to the broader public, noting that through these assessments the sculptures may need to be modified, moved or removed.
4. Notes that the sculptures in the median strip of Danks Street between Mills Street and Kerferd Road will be included in the design of the Danks Street Biolink Project and retained.
5. Requests that no further installations of sculptures in public space is to take place without Council consent.

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



**Item 7.2 Petition for Port Phillip Council to Cease the Proposed Fitzroy St Seating Plan**

A Petition containing 209 signatures, was received from local residents.

**Moved Crs Pearl/Sirakoff**

That Council:

1. Thanks the petitioner for their Petition.
2. Receives and notes the Petition and provides a response at a future Council meeting, pending the outcome of the Notice of Motion on the same matter to be considered at this meeting.

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

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

### **8.1 Presentation of CEO Report Issue 108 - May, 2024**

#### **1. PURPOSE**

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

**Moved Crs Martin/Pearl**

That Council:

- 3.1 Notes the CEO Report – Issue 108 (provided as Attachment 1).
- 3.2 Authorises the CEO or their delegate to make minor editorial amendments that do not substantially alter the content of the report.

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

## **9. INCLUSIVE PORT PHILLIP**

### **9.1 City of Port Phillip Rental Crisis - Petition Response**

#### **1. PURPOSE**

- 1.1 Provide an officer report on the City of Port Phillip Rental Crisis petition and consideration of the seven proposed actions identified.

**Moved Crs Pearl/Cunsolo**

That Council:

- 3.1 Acknowledges the availability of established State Government emergency rental relief programs, currently administered by local external agencies, particularly the



# MINUTES - MEETING OF THE PORT PHILLIP CITY COUNCIL - 17 JULY 2024



Private Rental Assistance Program (PRAP) and Rental Stress Support Package (RSSP).

- 3.2 Does not replicate the State Government emergency rental relief programs.
- 3.3 Works with partners to advocate to the State Government for a review of the income thresholds of PRAP / RSSP to enabling the extension of services to those currently ineligible.
- 3.4 Notes that Council maintains a dedicated website page to affordable housing information, including tenancy assistance and support.
- 3.5 Notes that Council's Housing and Homelessness Team will continue to respond to enquiries, including those from individual renters facing challenges. Officers will continue to direct people to suitable services and supports.
- 3.6 Notes there are established annual budget allocations to deliver affordable housing and homelessness programs, and project contributions through the 'In Our Backyard' project reserve.
- 3.7 Notes that a budget submission was considered for direct funding to South Side Justice as part of the 2024/25 Council Plan and Budget and additional funding was not included in the budget.
- 3.8 In partnership with South Side Justice, advocates to Consumer Affairs Victoria for a targeted dedicated Tenancy Assistance and Advocacy Program (TAAP) in the inner south, with a full-time tenancy lawyer to directly support and address issues facing the community.
- 3.9 Notes that people renting in the City of Port Phillip hold equal access to services provided by Council and are not restricted due to status.
- 3.10 Includes the following as part of Council's Advocacy priorities in 2025/2026:
  - 3.10.1 Strategies to improve outcomes for tenants' security, and equitability and conditions that will generate investment in rental supply and affordability (State)
  - 3.10.2 Extend welfare supports around Rent Assistance (Federal)
  - 3.10.3 Review for consideration of the impacts of the PRAP thresholds (55% of household income) and the need to consider and address through their programs the higher local private rental costs in Port Phillip when compared to the metropolitan average (State)
  - 3.10.4 Advocate to Consumer Affairs Victoria for a targeted Tenancy Assistance and Advocacy Program (TAAP) in the inner south to directly support and address issues facing the community (State).

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



## 10. LIVEABLE PORT PHILLIP

### 10.1 St Kilda Triangle Live Music Venue - Stage 2 – Targeted Market Engagement Outcomes And Next Steps

#### 1. PURPOSE

- 1.1 To present the outcomes from the St Kilda Triangle Live Music Venue - Stage 2 - Targeted Market Engagement undertaken in response to Council's direction provided at the public Council Meeting on 6 December 2023 to clarify the level of interest in and capacity for investing in a new live music and performance venue on the St Kilda Triangle and understand the quantum of funding contribution that is possible.
- 1.2 To provide options and a recommendation for the next steps for the project for consideration and endorsement by Council.

#### Moved Crs Bond/Clark

That Council:

- 3.1 Notes that Council, at a public meeting on 6 December 2023, was presented with a number of documents collating the outcome of various streams of work undertaken as part of the Stage 1 St Kilda Triangle Live Music Venue feasibility assessment work including the *St Kilda Triangle Design Feasibility for a Live Music and Performance Venue*, *St Kilda Triangle Potential Live Music / Performance Venue Market Sounding Report* and *The St Kilda Triangle Commercial Feasibility Analysis & Development Options Report* and the *St Kilda Triangle – Proposal for a Live Music and Performance Venue - Engagement Summary Report*
- 3.2 Notes the following key findings across the various components of work:
  - There is demand for a flexible 5000 standing live music and performance venue.
  - The 'proof of concept' layout shows that a venue can be effectively accommodated on the St Kilda Triangle with carparking, public realm and other uses.
  - There is strong industry support for a new venue to be located in St Kilda.
  - There is majority support for a live music and performance venue, including strong support by representatives of the Traders Associations for Acland Street and Fitzroy Street, though there is some local opposition to the idea.
  - There was concern expressed by destination venues immediately adjacent about a reduction in parking leading to loss of business.
  - Carparking and traffic movement, the scale of the building and ongoing activation of or need for the venue were raised as concerns by those who did not support the concept and there were mixed views regarding parking.
  - The likely cost of the 'proof of concept' idea that has been explored for a new live music and performance venue is estimated as a range between \$113m-\$139m, including the venue, basement carparking and public realm.



- The cost estimate that has been developed is useful for understanding the type of cost for a development such as this but would need to be reassessed to reflect any key changes that have been incorporated to the final design and cost of construction at the time.
  - Operators are likely to have capacity to include a significant capital contribution as part of a bid in a competitive procurement process for a new venue in future, with the quantum being directly related to the length of tenure.
  - Given the regional significance and civic nature of the project, it is likely that public funding or other subsidy will be required to support private investment in the development, to achieve an overall outcome for the site that will realise the full benefits possible.
- 3.3 Notes the process and outcomes of the Targeted Market Engagement undertaken with selected live music industry organisations and those that have previously contacted Council, as set out in the confidential *St Kilda Triangle Live Music Venue – Stage 2 – Targeted Market Engagement Report*.
- 3.4 Notes that the *St Kilda Triangle Live Music Venue – Stage 2 – Targeted Market Engagement Report* collating the work undertaken as part of Stage 2 undertaken to date has been provided confidentially to Council due to the commercially sensitive nature of the contents but that a summary of the findings within the context of the broader market engagement findings has been included in the body of this report.
- 3.5 Notes that three options have been provided to Council for consideration, these are:
- **Option 1:** Undertake Advocacy to State Government while other project works pause.
  - **Option 2:** Begin preparation for a Competitive Market Process while continuing to advocate to State Government.
  - **Option 3:** Pause All St Kilda Triangle Live Music Venue Work and review next steps with the newly elected Council.
- 3.6 Instructs the CEO or delegates to proceed with implementation of Option 1, including authorising any budget required for implementation.

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

*The Mayor adjourned the meeting for a break at 8.36pm.*

*The meeting resumed at 8.49pm.*

## 11. SUSTAINABLE PORT PHILLIP

Nil.

## 12. VIBRANT PORT PHILLIP

Nil.



## 13. WELL GOVERNED PORT PHILLIP

### 13.1 Station Pier and Waterfront Place – Draft Scheme Amendment GC187

#### 1. PURPOSE

- 1.1 To seek a decision on the Minister for Planning's request for consent to amend the Port Phillip Planning Scheme boundary and consideration of draft planning scheme Amendment GC187 to the Port Phillip Planning Scheme.

#### Moved Crs Pearl/Martin

That Council:

- 3.1 Notes the request from the Minister for Planning seeking consent to amend the Port Phillip Planning Scheme boundary under Section 6(6)(d) of the Planning and Environment Act 1987 (the Act) and views on draft planning scheme Amendment GC187 to the Port Phillip Planning Scheme.
- 3.2 Endorses the content in **attachment 3** to this report as the submission to the proposed Ministerial Amendment GC187 and request for consent under Section 6(6)(d) of the Planning and Environment Act 1987.
- 3.3 Authorises the CEO, or their delegate, to prepare a formal Council submission consistent with clause 3.2 above and submit to the Minister for Planning.

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

### 13.2 Investment and Treasury Management Policy

#### 1. PURPOSE

- 1.1 To present to Council for approval of the updated Investment & Treasury Management Policy, which sets out the principles to be followed by officers investing funds with financial institutions.

#### Moved Crs Pearl/Bond

That Council:

- 3.1 Adopts the Investment & Treasury Management Policy 2024 as set out in Attachment 1 to this report.
- 3.2 Delegates authority to the CEO to reflect any changes made by Council at tonight's meeting, and to make minor typographical corrections and administrative changes.

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

### 13.3 South Melbourne Town Hall - ANAM Schematic Design

#### 1. PURPOSE

- 1.1 To present to Council, and recommend conditional approval of, the schematic design submitted by the Australian Academy of Music (ANAM) in accordance



with their Agreement for Lease (AFL) with Council for the redevelopment of the South Melbourne Town Hall (SMTH).

## **Moved Crs Pearl/Cunsolo**

That Council:

- 3.1 Acknowledges the collaborative work between the Australia National Academy of Music (ANAM) and Council in progressing the refurbishment of the South Melbourne Town Hall.
- 3.2 Notes that the Schematic Design submitted by ANAM for Council's consideration meets the shared objectives of Council and ANAM for the highly valued community asset.
- 3.3 Provides conditional approval for the Schematic Design, noting the following key matters to be resolved:
  - 3.3.1 Heritage Victoria approval of the design including specifically for the proposed eastern extension (Student Common Room), demolition of the north-western apartment, modifications to the main stage, and other associated works that will impact the heritage significance of the building.
  - 3.3.2 Detailed investigation and clarification on window repairs and double-glazing, noting the requirements of the Project Brief.
  - 3.3.3 Rendering of the exterior of the building.
  - 3.3.4 Provision of energy storage as per the Project Brief requirements.
  - 3.3.5 Further development of the design of the proposed ramp at the main entrance to ensure that it meets crime prevention through environmental design (CPTED) principles, by not leaving a gap between the ramps.
- 3.4 Delegates to the Chief Executive Officer, or their delegate, through the joint project control group, to resolve the outstanding matters to the satisfaction of Council.

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

## **14. NOTICES OF MOTION**

### **Item 14.1 Notice of Motion for Fitzroy Street Seating**

#### **Moved Crs Bond/Nyaguy**

That Council:

1. Requests officers to install 10 public seats on Fitzroy Street, St Kilda at the below locations:
  - Site 1: 3-5 Fitzroy St, Cleve Gardens – 2 x chairs
  - Site 5: 43 Fitzroy St, Chemist Warehouse – 2 x chairs
  - Site 7.5: 77 Fitzroy St, CareMore Pharmacy – 1 x chair plus bike hoops to be added. The existing mushroom stools will be removed from this site

# MINUTES - MEETING OF THE PORT PHILLIP CITY COUNCIL - 17 JULY 2024



- Site 11A: 107 Fitzroy St, Tom's Liquor – 1 x chair
  - Site 11: 123 Fitzroy St, The Hive Coworking space - 1 x chair
  - Site 13: 161 Fitzroy St, Anytime Fitness - 3 x chairs
2. Notes that all sites will be contingent on no underground services being identified below.
  3. Install barriers consisting of small metal hoops around Fitzroy Street Garden Beds to ensure the maintenance and vibrancy of greenery planted.

## AMENDMENT

### Moved Crs Cunsolo/Sirakoff

That the following changes marked in **bold** be made to the motion:

That Council:

1. Requests officers to install ~~40~~ **9** public seats on Fitzroy Street, St Kilda at the below locations:
  - Site 1: 3-5 Fitzroy St, Cleve Gardens – 2 x chairs
  - Site 5: 43 Fitzroy St, Chemist Warehouse – 2 x chairs
  - Site 7.5: 77 Fitzroy St, CareMore Pharmacy – ~~4 x chair~~ plus bike hoops to be added. The existing mushroom stools will be removed from this site
  - ~~Site 11A: 107 Fitzroy St, Tom's Liquor – 1 x chair~~
  - ~~Site 11: 123 Fitzroy St, The Hive Coworking space – 1 x chair~~
  - ~~Site 13: 161 Fitzroy St, Anytime Fitness – 3 x chairs~~
  - **Add site 14: 135 Fitzroy Street, Alex Theatre – 3 x chairs**
  - **Add site 15: 179 Fitzroy Street, Bar.ber site – 2 x chairs**
2. Notes that all sites will be contingent on no underground services being identified below.
3. Install barriers consisting of small metal hoops around Fitzroy Street Garden Beds to ensure the maintenance and vibrancy of greenery planted.

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

**Cr NYAGUY called for a DIVISION.**

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

**AGAINST: Crs Baxter, Crawford, Bond and Nyaguy**

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

**The AMENDMENT became the SUBSTANTIVE MOTION.**

That Council:-

1. Requests officers to install 9 public seats on Fitzroy Street, St Kilda at the below locations:
  - Site 1: 3-5 Fitzroy St, Cleve Gardens – 2 x chairs



- Site 5: 43 Fitzroy St, Chemist Warehouse – 2 x chairs
  - Site 7.5: 77 Fitzroy St, CareMore Pharmacy –bike hoops to be added. The existing mushroom stools will be removed from this site
  - Add site 14: 135 Fitzroy Street, Alex Theatre – 3 x chairs
  - Add site 15: 179 Fitzroy Street, Bar.ber site – 2 x chairs
2. Notes that all sites will be contingent on no underground services being identified below.
  3. Install barriers consisting of small metal hoops around Fitzroy Street Garden Beds to ensure the maintenance and vibrancy of greenery planted.

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

*The Mayor adjourned the meeting for a break at 9.36pm.*

*The meeting resumed at 9.42pm.*

## **14. NOTICES OF MOTION (Cont.)**

### **Item 14.2 Notice of Motion – Councillor Cunsolo - Barak Beacon**

#### **Moved Crs Cunsolo/Pearl**

That Council:-

1. Expresses its concern about the impacts of the Barak-Beacon Public Housing development proposal, specifically:
  - Failure to relocate two crossovers to Beacon Road (ideally utilising two of the five existing, soon to be obsolete crossovers on Beacon Road) in order to reduce the impact associated with all vehicle access from Barak Road, being a small street. This will cause congestion, delays, safety concerns.
  - Failure to provide appropriate building setbacks to ensure that the development better integrates with the surrounding residential areas.
2. Requests that the Mayor write to the State Government expressing its disappointment at the failure of the Government to consider the amenity, safety and other impacts on the community.

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

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

Nil.

## **16. URGENT BUSINESS**

Nil.



## ADDITIONAL ITEM

### Port Phillip Internal Arbitration Process - Decision and Statement of Reasons

In accordance with section 147(4) of the Local Government Act 2020, the Arbiter's decision and statement of reasons on the matter of an Application by Councillor Christina Sirakoff and Councillor Andrew Bond concerning Councillor Robbie Nyaguy (attached) is tabled and recorded in the minutes of the meeting.

#### Attachments

1. Port Phillip Internal Arbitration Process – Decision and Statement of Reasons

*Councillor Nyaguy addressed the meeting in accordance with the Arbiter's decision.*

*Councillor Nyaguy left the chamber at 945pm and did not return to the chamber.*

## 17. CONFIDENTIAL MATTERS

### Moved Crs Martin/Clark

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 Plumbing & Gasfitting Services Contract Award

3(1)(g(i)). private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets

3(1)(g(ii)). private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

**Reason** - The report outlines a proposed contracting arrangement and commercially sensitive information that if made public would potentially expose parties to unfavourable disadvantage.

#### 17.2 Contract Award - St Kilda Festival Production Management Services

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

**Reason** - Confidential tender recommendations presented to Council for decision

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

The meeting was closed to the public at 9.45pm.

The meeting reopened to the public at 10.01pm.

As there was no further business the meeting closed at 10.01pm.

Confirmed: 7 August 2024

Chairperson \_\_\_\_\_





**ARBITRATION PURSUANT TO DIVISION 5 OF PART 6 OF THE  
LOCAL GOVERNMENT ACT 2020**

**Internal Arbitration Process – City of Port Phillip  
(IAP 2024-23)**

**Applicants:** Councillors Christina Sirakoff and Andrew Bond  
**Respondent:** Councillor Robbie Nyaguy  
**Arbiter:** Yehudi Blacher

**DECISION AND STATEMENT OF REASONS**

**Background**

1. The applicants in this matter are Crs. Christina Sirakoff and Andrew Bond.
2. The respondent is Cr. Robbie Nyaguy.
3. On 1 May 2024 Crs. Sirakoff and Bond made a joint application under s 143 of the *Local Government Act 2020* for an internal arbitration process to make a finding of misconduct against Cr. Nyaguy in relation to a Facebook posting made on 4 February 2024 by Cr. Nyaguy ([Attachment 1](#)). The posting was made immediately prior to the beginning of the annual pride March in the City of Port Phillip.
4. Specifically, councillors Sirakoff and Bond allege that Cr. Nyaguy's posting breached the standards of conduct set out in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020.

**The Application**

5. In her section of the complaint Cr. Sirakoff stated that Cr. Nyaguy made a number of statements in his posting which were inaccurate, misleading and disrespectful. She referenced his use of the words "fair-weather friends" to inaccurately describe her lack of commitment to the LGBTIQ+ community in Port Phillip. She also stated that Cr. Nyaguy's reference to actions of Neo-Nazi's by imputation associated her with that group.



Specifically, Cr. Sirakoff accused Cr. Nyaguy of breaching Clause 1 - Treatment of Others, Clause 2 - Performing the role of a Councillor and Clause 4 - Must not mislead the public, of the standards of conduct.

6. In his section of the application Cr. Bond stated that Cr. Nyaguy made a number of false statements. He also stated that by using the words “Don’t forget that when they walk past you smiling in their rainbow t-shirts” Cr. Nyaguy was implying that Crs. Bond, Clark and Sirakoff supported actions taken by Neo Nazi’s the previous year. In doing so Cr. Bond accused Cr. Nyaguy of encouraging members of the public to harm the three councillors either verbally, or physically or both. Cr. Bond accused Cr. Nyaguy of breaching Clause 2 of the standards of conduct.

#### **Directions Hearing**

7. A Directions Hearing on this matter was held on 6 May 2024. In attendance were Crs. Sirakoff, Bond and Nyaguy and the Council’s Councillor Conduct Officer, Ms. Joanne McNeill. At the hearing the Arbitrator explained the arbitration process to the parties. He advised Cr. Nyaguy, that he would consider any submission made by him relevant to the complaint lodged by the applicants. He requested that Cr. Nyaguy, specifically address the reasons why he did not think his comments breached the standards of conduct set out in Schedule 1 of the Local Government (Governance and Integrity) Regulations 2020. Cr. Nyaguy provided his response on 22 May 2024.

#### **Cr. Nyaguy’s response**

8. In his response Cr. Nyaguy made the following points.
  - a) He was shocked that two of his councillor colleagues had lodged the complaint and did not believe that the comments made in the posting ‘violated’ his commitments and obligations as a councillor.
  - b) Following a complaint to the Mayor from Cr. Bond, Cr. Nyaguy met with the Mayor and Cr. Bond. At that meeting Cr. Nyaguy disagreed with Cr. Bond’s view that by using the words “fair-weather friends” he was endangering Cr. Bond and his fellow councillors.
  - c) He stated that the use of the term “fair-weather friends” accurately described the three councillors referred to in the posting.



- d) Cr. Nyaguy stated that he made the posting on the day of the annual Midsumma Pride March as a reflection of the importance of the day to the queer community. He said that the posting reached 250-300 people.
- e) Cr. Nyaguy concluded his response by stating that after Cr. Sirakoff contacted him about the posting he told her that he disagreed with her concerns and invited her to contact him. He also noted that when he had contacted her on other matters she had had not responded to him.

### **Substantive Hearing and considerations**

- 9. The Hearing on this matter was held on 19 June 2024. In attendance were Crs. Sirakoff, Bond and Nyaguy. The Councillor Conduct Officer Ms. Joanne McNeill was also in attendance.
- 10. At the Hearing the applicants reiterated the points made in their complaint. The respondent did likewise.
- 11. The applicants emphasised that:
  - a) Cr. Nyaguy was factually incorrect to state in his posting that the councillors had voted against the LGBTIQ+ Action Plan.
  - b) Cr. Nyaguy was factually incorrect to state that they supported the cancelling of the drag storytime event.
  - c) Cr. Bond stated that the use of the term “fair-weather friends” could potentially have resulted in verbal or physical harm to the named councillors.
  - d) The language used by Cr. Nyaguy had caused Cr. Sirakoff considerable distress by linking her to pressure from Neo-Nazis to cancel the storytime event.
- 12. In response, Cr. Nyaguy acknowledged that he had not been at the meeting at which the decision on the Action Plan was made nor had he checked the record of the meeting. A check of the records of meetings the relevant meetings relating to the Action Plan showed that both councillors supported the release of the Action Plan for public consultation and abstained from the final vote endorsing the report.



13. In relation to the applicants' interpretation that his posting linked them to actions by Neo-Nazis, Cr. Nyaguy stated that it was not his intention. The relevant words are- "Last year, Neo-Nazi's succeeded in cancelling a drag storytime for local kids, and our fair-weather friends supported it and some said we shouldn't run such events. Don't forget that when they walk past you smiling in their rainbow t-shirts."
14. Whatever Cr. Nyaguy intention, a common sense understanding of his use of the word 'that' clearly makes the link. At the hearing Cr. Nyaguy acknowledged that he could have made his point about the councillors being "fair-weather friends" without reference to Neo-Nazis. In addition, his reference to their support of the decision to cancel the storytime event is incorrect as it was not made by the Council but by the Council's Chief Executive Officer.
15. Despite his acknowledgment of the errors at the Hearing, Cr. Nyaguy indicated that he would not delete the posting or to apologise to the complainants.

**Arbitration Decision**

16. There are two relevant considerations in determining this matter. Firstly, whether the statements made by Cr. Nyaguy are factually correct. Secondly, if not, whether the words used by him breached the relevant standards of conduct.
17. By his own admission Cr. Nyaguy has acknowledged that his assertion that the applicants voted against the Action Plan was incorrect as was his reference to their support of the decision to cancel the event.
18. He also acknowledged that he could have better phrased the paragraph referring to fair-weather friends and Neo-Nazis.
19. As to whether his words contravened the relevant standards of conduct, I find that they were abusive, disrespectful, and mislead the public as to the views of the applicants, and make a finding of misconduct against Cr. Nyaguy. Further, I am satisfied that Cr. Nyaguy's words did have the potential to incite others to cause physical harm to the applicants.



**Sanctions**

20. I acknowledge the importance of the Action Plan for Cr. Nyaguy and the distress caused to him by the disgraceful actions of Neo-Nazis at the Midsumma Pride march the year before. However, as a councillor Cr. Nyaguy has the responsibility to comply with all the provisions of the Local Government Act. It is unfortunate that Cr. Nyaguy did not take up the opportunities to amend his posting once he became aware, prior to the Hearing, of the distress caused to the applicants.
21. Moreover, at the Hearing, having acknowledged his factual errors in the posting and that he could have used his word more judiciously, he again indicated that he would not change the relevant words in the posting.
22. Accordingly, I direct that, at the next meeting of the Council, Cr. Nyaguy should publicly apologise to Crs. Sirakoff and Bond. The apology should be unequivocal in acknowledging that he made false accusations regarding the councillors voting on the LGBTIQA+ Action Plan and used words which could reasonably be understood by them as abusive, disrespectful. The apology should also acknowledge that he misled the public as to their views regarding the Action Plan and in relation to Cr. Sirakoff caused her great distress by the linking the decision to cancel the drag storytime event with actions taken by Neo-Nazis.
23. I further direct that Cr. Nyaguy make a public apology no later than 2 days after the next meeting of Council, by deleting the posting on Facebook and any other social media platform on which it may appear and replacing it with the words used in his apology.
24. Finally, I direct that Cr. Nyaguy undertake training in the appropriate use of social media and that he not make any posting on social media in relation to Council matters until the Mayor is satisfied that he understands how to use such platforms consistent with his statutory obligations as a councillor. This training should be done by a trainer approved by the Council.

Yehudi Blacher  
Arbiter  
16 July 2024

# MINUTES - MEETING OF THE PORT PHILLIP CITY COUNCIL - 17 JULY 2024



## Attachment 1 - Facebook posting by Cr. Nyaguy

Dear Port Phillip rainbow friends and family,

Beware fair-weather friends. They love to play with rainbows but disappear when it rains.

Today I'll be matching (*sic*) in the Midsumma Pride Parade alongside my fellow Port Phillip Councillors and staff. Some of these Councillors took our votes, attend our parties, and then abandon us when it matters

During the 2020 election eight of the nine councillors elected to Port Phillip signed the 'Rainbow Pledge' from the Victorian Pride Lobby. The pledge is a program of actions to make local government more inclusive, responsive and accessible to LGBTIQ+ people. Three of them broken (*sic*) their pledge.

Last year, when our LGBTIQ+ Action Plan was put to Council - Crs Bond, Clark and Sirakoff - voted against it. They did the same a year before when it was first proposed. Delivering an Action Plan was core to the Rainbow Pledge.

Last year, Neo-Nazi's succeeded in cancelling a drag storytime for local kids, and our fair-weather friends supported it and some said we shouldn't run such events.

Don't forget that when they walk past you smiling in their rainbow t-shirts.

I'd rather they keep their promises and protect us when we're attacked.

Nobody needs fair-weather friends.

With you under rainbows and rain,

Robbie

P.S here's a photo below of me marching, and meaning it. Happy Midsumma!