**Council AGENDA**

**Wednesday 12 October 2022**

**Commencing 7 pm**

**Council Chamber, Merri-bek Civic Centre, 90 Bell Street, Coburg**



**Acknowledgement of the traditional custodians of the City of Merri-bek**

Merri-bek City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Merri-bek, and pays respect to their elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.

**Information about Council Meetings**

These notes have been developed to help people better understand Council meetings. All meetings are conducted in accordance with Council’s Governance Rules.

**WELCOME** The Mayor, who chairs the meeting, formally opens the meeting.

1. **APOLOGIES** Where a Councillor is not present, their absence is noted in the minutes of the meeting. Council may also approve leaves of absence in this part of the meeting.
2. **DISCLOSURES OF CONFLICTS INTERESTS** A Councillor has a duty to disclose any direct or indirect financial or other interests, they may have in any matter to be considered by Council that evening.
3. **CONFIRMATION OF MINUTES** The minutes of the previous meeting are put before Council to confirm the accuracy and completeness of the record.
4. **ACKNOWLEDGEMENTS AND OTHER MATTERS** At each Council Meeting provision of 10 minutes will be made in the Agenda for the Mayor and Councillors to acknowledge and recognise achievements of local individuals and organisations; and raise matters considered important to Council.
5. **PETITIONS** Council receives petitions from citizens on various issues. Council formally accepts petitions at Council meetings.
6. **PUBLIC QUESTION TIME** This is an opportunity (30 minutes), for citizens of Merri-bek to raise questions with Councillors.
7. **COUNCIL REPORTS** Council officers prepare detailed reports, which are considered by Councillors and a Council position is adopted on the matters considered. The Mayor can invite firstly Councillors, secondly Officers, and then citizens in attendance to identify Council reports which should be given priority by the meeting and considered in the early part of the meeting.
8. **NOTICES OF MOTION** A motion which has been submitted to the Chief Executive Officer no later than 12 pm (noon) 10 days prior to the meeting which is intended to be included in the agenda. The motion should outline the policy, financial and resourcing implications.
9. **NOTICE OF RESCISSION** A Councillor may propose a motion to rescind a resolution of the Council, provided the previous resolution has not been acted on, and a notice is delivered to the CEO or delegate setting out the resolution to be rescinded and the meeting and date when the resolution was carried. If a motion for rescission is lost, a similar motion may not be put before the Council for at least one month from the date it was last lost, unless the Council resolves that the notice of motion be re-listed at a future meeting.
10. **FORESHADOWED ITEMS** This is an opportunity for Councillors to raise items proposed to be submitted as Notices of Motion at future meetings.
11. **URGENT BUSINESS** The Chief Executive Officer or Councillors, with the approval of the meeting, may submit items of Urgent Business (being a matter not listed on the agenda) but requiring a prompt decision by Council.
12. **CONFIDENTIAL BUSINESS** Whilst all Council meetings of Council are open to the public, Council has the power under the *Local Government Act 2020* to close its meeting to the public in certain circumstances which are noted where appropriate on the Council Agenda. Where this occurs, members of the public leave the Council Chamber or Meeting room while the matter is being discussed.
13. **CLOSE OF MEETING** The Mayor will formally close the meeting and thank all present.

**NEXT MEETING DATE** The next Council meeting will be held on Wednesday 9 November 2022 commencing at 7 pm, in the Council Chamber, Merri-bek Civic Centre, 90 Bell Street, Coburg. The next Planning and Related Matters meeting will be held on Wednesday 23 November 2022 commencing at 6.30 pm, in the Council Chamber, Merri-bek Civic Centre, 90 Bell Street, Coburg.

**WELCOME**

**1. APOLOGIES/LEAVE OF ABSENCE**

Leave of absence has been granted to:

Cr. Panopoulos - 1 October 2022 to 26 November 2022 inclusive

**2. DISCLOSURES OF CONFLICTS OF INTEREST**

**3. MINUTE CONFIRMATION**

The minutes of the Council Meeting held on 10 August 2022 be confirmed, subject to the following corrections to the proposed minutes as follows:

Item 7.2 (page 20) Foreshadowed Motion -  Amendment of point 4 a) to read as: Design of the raised pedestrian crossing, east of Joffre Road, in Council’s capital works plan and seek State Government (Department of Transport) approval.

Item 7.2 (page 23) Resolution -  Amendment of point 4 a) to read as: Design of the raised pedestrian crossing, east of Joffre Road, in Council’s capital works plan and seek State Government (Department of Transport) approval.

The minutes of the Council Meeting held on 14 September 2022 be confirmed.

**4. ACKNOWLEDGEMENTS AND OTHER MATTERS**

**5. Petitions**

Nil

**6. PUBLIC QUESTION TIME**

**7. Council Reports**

7.1 Amendment C208more - Implementation of the Heritage Nominations Study - Gateway 3 - Consideration of Panel's Recommendations and Decision on the Amendment 7

7.2 AMENDMENT C201MORE - REZONING OF INDUSTRIAL LAND IN THE SHEPPARD AND NORRIS STREET COBURG NORTH PRECINCT - DECISION GATEWAY 3 - CONSIDERATION OF PANEL REPORT AND DECISION ON THE AMENDMENT 22

7.3 2022 Planning Scheme Review Report 127

7.4 Right of Way Discontinuance and Sale adjoining 50 & 52 Breese Street Brunswick 278

7.5 Permanent Road Closures - Oak Park Laneways 286

7.6 Proposed land rent fee for Scouts and Girl Guides Leases 299

7.7 Draft Grounds and Pavilions Allocations Policy 305

7.8 Investment Policy 349

7.9 Contract RFT-2022-329 - South Street, Hadfield Road Reconstruction Works Between East Street and Sussex Street 363

7.10 Contract RFT-P-2021-210 for Provision of Services for Open Space and Bushland Services 369

7.11 2021-22 Moreland City Council Annual Report 380

7.12 Financial Management Report for the Period Ended 31 August 2022 593

7.13 Governance Report - October 2022 - Cyclical Report 606

**8. Notices of Motion**

8.1 What's in a name? Moreland to Merri-bek 670

8.2 Elevated Rail and the Upfield Corridor Vision – Brunswick 672

8.3 Support for animal rescue groups 675

8.4 Revitalisation of Sydney Road 678

**9. Notice of Rescission**

**10. Foreshadowed Items**

**11. URGENT BUSINESS**

**12. Confidential Business**

12.1 Epping Animal Welfare Facility Contract Terms

*Pursuant to section 3(1)(g(ii)) of the Local Government Act 2020 this report has been designated as confidential because it relates to 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.*

12.2 Notice of motion - confidential Infrastructure matter

*Pursuant to section 3(1)(a) of the Local Government Act 2020 this report has been designated as confidential because it relates to Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.*

**7. Council Reports**

7.1 Amendment C208more - Implementation of the Heritage Nominations Study - Gateway 3 - Consideration of Panel's Recommendations and Decision on the Amendment

**Director Place and Environment Joseph Tabacco**

**City Strategy and Economy**

Council, at its meeting held on 14 September 2022 resolved that the matter be deferred to the Council meeting scheduled for 12 October 2022

## Officer Recommendation

That Council:

1. Notes the findings and recommendations of the C208more Planning Panel.

2. Adopts the changes to the final *Moreland Heritage Nominations Study 2022* reference document and *Moreland Heritage Exemptions Incorporated Plan* *2022*, shown at Attachment 1 to this report.

3. Using its powers as a planning authority under section 29 of the *Planning and Environment* *Act* 1987, adopt Planning Scheme Amendment C208more as shown in Attachment 1 of this report.

4. Submit the adopted Amendment to the Minister for Planning.

**REPORT**

**Executive Summary**

Amendment C208more (the Amendment) seeks to implement the recommendations of the *Moreland Heritage Nominations Study* and complete the implementation of the *Moreland Heritage Gap Study*, to:

 Apply the Heritage Overlay to 45 individual heritage places, 1 serial listing, 7 new precincts and 3 precinct extensions

 Update the heritage value of 4 heritage places and 2 heritage precincts

 Fix mapping irregularities and heritage overlay boundaries

 Delete existing overlays from properties within the new serial listing

 Add the Moreland Heritage Nominations Study 2020 and a statement of significance for each place and precinct as a reference document

Council adopted the *Moreland Heritage Nomination Study* and resolved to commence the preparation of a planning scheme amendment to apply the HO to these properties at its meeting in August 2020 (DCF35/20). The Amendment was exhibited to the public for a period of 7 weeks and 43 submissions were received. Council resolved in December 2021 to request the Minister for Planning to appoint an independent Panel to consider the submissions received during exhibition of the Amendment.

A Panel Hearing was held on 1-3 March and 3 & 6 May 2022. The Panel report was generally supportive, noting that the Amendment was well founded and strategically justified. The Panel recommends that the Amendment be adopted subject to changes, generally related to updating information in the heritage citations and to remove seven places and two precincts from the Amendment.

Officers support the majority of Panel’s recommendations but recommend that the Walsh Street Precinct (HO599) remains in the Amendment.

A copy of the Panel’s report can be viewed at [Amendment C208 Moreland Heritage Nominations Study Implementation](https://merri-bek.vic.gov.au/building-and-business/planning-and-building/strategic-planning/current-amendments/amendment-c208-moreland-heritage-nominations-study-implementation2/).

**Previous Council Decisions**

**DCF72/19 Amendment C174 – Moreland Heritage Gap Study Decision Gateway 3 – Consideration of Panel Report and Decision on the Amendment – Council Action Plan Item** – 13 March 2019

*That Council:*

*1. Notes the findings and recommendations of the C174 Panel included at Attachment 1 to this report.*

*a) Splits Amendment C174 to the Moreland Planning Scheme into two parts as follows:*

*b) Amendment C174 Part 1 (as described in Attachment 2 to this report).*

*2. Amendment C174 Part 2 (151A Lygon Street, Brunswick East).*

*3. Adopts Amendment C174 Part 1 to the Moreland Planning Scheme with the changes shown at Attachment 2, pursuant to section 29(1) of the Planning and Environment Act 1987.*

*4. Adopts the final Moreland Heritage Gap Study 2019 reference document as shown at Attachments 3, 4, 5 and 6 to this report.*

*5. Adopts the proposed changes to the Moreland Heritage Exemptions Incorporated Plan 2019, shown at Attachment 7 to this report.*

*6. Adopts the proposed changes to Amendment documentation and Design and Development Overlay – Schedule 18 discussed at section 3 of this report as shown at Attachment 8.*

*7. Submits Amendment C174 Part 1 to the Moreland Planning Scheme to the Minister for Planning for approval, pursuant to section 31 of the Planning and Environment Act 1987.*

*8. Defers adoption of Amendment C174 Part 2 until after a decision is received in relation to the VCAT hearing for 151A Lygon Street, Brunswick East.*

*9. Requests that the Minister for Planning prepare, adopt and approve a prescribed amendment pursuant to section 20A of the Planning and Environment Act 1987 as shown at Attachment 9 to extend the interim heritage controls for 151A Lygon Street, Brunswick East for a period of 12 months while the VCAT process for the site is undertaken and to enable a decision to be made on Amendment C174 Part 2.*

10. *Notifies all submitters of Council’s decision in relation to Amendment C174.*

**DCF35/20 – Amendment C208 – Moreland Heritage Nominations Study – Gateway 1 – Authorisation and Exhibition** – 12 August 2020

*That Council:*

*1. Endorses the report Moreland Nominations Study 2020 at Attachments 1 and 2 to this report, as a reference document listed in Clause 22.06 – Heritage. This report outlines the rationale and evidence which underpins the proposed planning scheme changes.*

*2. Requests that the Minister for Planning prepare, adopt and approve prescribed Moreland Planning Scheme Amendment C207 (interim heritage controls) pursuant to section 20A of the Planning and Environment Act 1987 as shown in Attachments 3 and 4 to this report.*

*3. Using its powers as a Planning Authority under sections 8A and 8B of the Planning and Environment 1987, seeks Authorisation from the Minister for Planning to prepare Moreland Planning Scheme Amendment C208 (permanent heritage controls) as shown in Attachments 5 and 6 to this report.*

*4. Following receipt of the Minister’s Authorisation, exhibits Amendment C208 in accordance with Section 19 of the Planning and Environment Act 1987 and as outlined in the consultation section of this report.*

*5. Authorises the Director City Futures to make changes to Amendment C208 based on conditions imposed in any Authorisation granted by the Minister for Planning and to make minor changes.*

*6. Using its powers as a planning authority under Sections 23 and 28 of the Planning and Environment Act 1987, abandons Moreland Planning Scheme Amendment C174 Part 2.*

*7. Writes to the Minister for Planning advising of Council’s decision to abandon Moreland Planning Scheme Amendment C174 Part 2.*

**7.6 Amendment C208more – Heritage Nominations Study – Decision Gateway 2 – Consideration of Submissions –** 8 December 2021

*That Council:*

*1. Using its powers as a planning authority under s 23(1) of the Planning and Environment 1987, requests that the Minister for Planning appoint an independent Panel to consider all submissions to Moreland Planning Scheme Amendment C208more.*

*2. Endorses the response to submissions as set out in Attachment 1 to this report to form the basis of Council’s submission to an Independent Planning Panel.*

*3. Notes that the recommended form of the Amendment to be presented to the Independent Planning Panel to respond to submissions is included in Attachment 1 to this report.*

*4. Refers any late submissions to the Independent Planning Panel appointed to consider the Amendment and submissions.*

*5. Authorises the Director City Futures to make minor changes to Moreland Planning Scheme Amendment C208more and to give direction on issues which arise in the course of the Panel hearing in response to expert evidence and submissions if required, so long as any further changes are generally in accordance with the Moreland Heritage Nominations Study.*

*6. Endorses the Moreland Thematic History 2020 in Attachment 2 to this report.*

*7. As part of the review of the Moreland Heritage Action Plan 2017-2032 provide Council with information about the scope and cost of a review of early, mid and late Victorian era cottages in Moreland to determine if there are any additional individual buildings or group/serial precincts worthy for inclusion in a heritage overlay, noting that the Heritage Action Plan review will be reported to Council in 2022.*

## 1. Policy Context

### Council Action Plan

Creating ‘Vibrant spaces and places in Moreland’ is a key theme (Theme 4) of the Council Plan. One strategy to achieve the Strategic Objective of Theme 4 is:

4.4 Create a sense of place while retaining what is valued about heritage including First Nations

### Heritage Action Plan

The Heritage Action Plan 2017-32 (HAP) includes heritage actions to identify, conserve and manage the city’s heritage. This includes:

 Action K5 - Commission heritage expert assistance to undertake a preliminary assessment of the potential heritage places identified as part of the public nomination process held in 2016.

 Action K14 - Commission heritage expert assistance to undertake a heritage study of Pre-War and Post War Modern architectural style heritage places identified as part of the public nomination process held 2016 (this action is based on the outcomes of the Preliminary Assessment as per Action K5). Note two studies may be prepared i.e. Pre-War and Post War.

 Action P3 – Prepare a planning scheme amendment to introduce the places identified and assessed as part of the Pre-War and Post War Modern architectural style Heritage Study(s) (aligned with Actions K5 and K14) into the Moreland Planning Scheme, via application of the Heritage Overlay.

 Action K12 - Update the City of Moreland Thematic History by simplifying some of the major themes and improving the current structure of Theme 6: Building Moreland’s Houses and Theme 9: Shopping and Retailing in Moreland.

The Moreland Heritage Nominations Study, Amendment C208more and the update to the Moreland Thematic History align with these actions.

### Planning and Environment Act 1987

The *Planning and Environment Act 1987* (the Act) states the objectives of planning in Victoria. It directs Councils under section 12(1)(a) to implement the following objective:

Provide for the fair, orderly, economic and sustainable use, and development of land. Conserve and enhance those buildings, areas and other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

Amendment C208more aligns with this objective of the Act by conserving places that are significant in Merri-bek.

### The Planning Scheme

#### Clause 15.03 - Heritage

Heritage conservation is an objective of State planning policy. This objective is supported by the following strategies at Clause 15.03-1S (Heritage Conservation) of the Scheme:

Identify, assess and document places of natural or cultural heritage significance as a basis for their inclusion in the planning scheme.

Provide for the protection of natural heritage sites and man-made resources.

Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance.

Encourage appropriate development that respects places with identified heritage values.

Retain those elements that contribute to the importance of the heritage place.

Encourage the conservation and restoration of contributory elements of a heritage place.

Ensure an appropriate setting and context for heritage places is maintained or enhanced.

Support adaptive reuse of heritage buildings where their use has become redundant.

Amendment C208more is consistent with this heritage conservation policy. The Moreland Heritage Nominations Study has identified significant places to Merri-bek. Amendment C208more seeks to protect them and manage development of them by including them in the Heritage Overlay.

Clause15.03-1L – Heritage includes added built form guidance for places in the heritage overlay. This policy applies to all land affected by a heritage overlay.

#### Clause 43.01 - Heritage Overlay (HO)

The purpose of the Heritage Overlay is to:

Conserve and enhance heritage places of natural or cultural significance.

Conserve and enhance those elements which contribute to the significance of heritage places.

Ensure that development does not adversely affect the significance of heritage places.

Conserve heritage places by allowing a use that would otherwise be prohibited if it assists with the conservation of the place.

If Council resolves to adopt Amendment C208more and it is gazetted by the Minister, the properties added to the Heritage Overlay will be subject to the requirements of Clause 43.01 of the Planning Scheme.

## 2. Background

### Heritage Gap Study Public Nominations

The Moreland Heritage Gap Study (MHGS) investigated the outstanding recommendations of earlier heritage studies and panel reports. The MHGS was completed in two stages:

 Stage 1: Preliminary assessment - A review of all the remaining places to short list which ones were worthy of further assessment. This stage was completed in May 2016.

 Stage 2: Detailed heritage assessment - Involved the heritage assessment of the places short listed in Stage 1. Stage 2 was completed in October 2018.

Amendment C174more implemented the findings of the MHGS. This Amendment was approved by the Minister on 5 January 2021.

### 151A Lygon Street, Brunswick

Council received a late submission to Amendment C174more for 151A Lygon Street, Brunswick East. This submission was received after the C174more planning panel hearing and could not be considered as part of the Amendment.

The matter was heard by VCAT and the way forward settled between Council and the land owners. The property was added to C208more to provide another opportunity for the landowner to participate in the amendment and panel hearing process.

### Heritage Nominations Study

The Moreland Heritage Nominations Study 2020 (MHNS) investigated the heritage significance of the places nominated by the public in 2016. This study was prepared in two stages.

Stage 1: Preliminary Assessment

The Stage 1 study was completed in May 2019 by the heritage consultants GHD Context Pty Ltd. The purpose of this stage was to work out which places were worthy of a detailed heritage assessment. The assessment found 620 places were worthy of a more detailed assessment.

Stage 2: Detailed heritage assessment

The Stage 2 study was completed in June 2020 by heritage consultants Extent Heritage Pty Ltd. This study involved:

 A detailed assessment of the places short listed in Stage 1

 The assessment of extra places found through fieldwork

 Update of heritage descriptions of four places already in the Moreland Heritage Overlay.

The MHNS (Stage 2) was prepared in accordance with Heritage Victoria Guidelines, the Australia ICOMOS Charter for Places of Cultural Heritage Significance (the Burra Charter) and its guidelines. The study involved historical research, site visits and a research of existing heritage places and precincts to assess the place against the National Heritage Convention (HERCON) criteria. The HERCON criteria is a standard measure of heritage assessment used across Australia. It includes criteria that consider historical significance, rarity and aesthetic characteristics of places.

The Stage 2 study found 340 places as being locally significant to Merri-bek. The study forms the basis of Amendment C208more and recommends including the following in the heritage overlay:

 44 individual places

 1 serial listing

 7 new precincts

 3 precinct extensions

The Stage 1 and Stage 2 MHNS can be viewed at [Amendment C208 Moreland Heritage Nominations Study Implementation](https://www.moreland.vic.gov.au/building-and-business/planning-and-building/strategic-planning/current-amendments/amendment-c208-moreland-heritage-nominations-study-implementation2/)

### Authorisation of Amendment C208more

On 17 September 2020 Council sought Authorisation from the Minister of Planning to prepare and exhibit Amendment C208more. On 24 September 2020 Council received a letter from the Department of Environment, Land, Water and Planning (DELWP) stating the amendment required further review. The review required Council officers to check and confirm which properties were subject to active planning permits.

Authorisation of the Amendment was granted on 9 July 2021 and included a number of conditions relating to:

 Minor edits to the Amendment documentation to reference the new Planning Policy Framework and fix administrative errors

 Removal of 18 Kendall Street Coburg from the Amendment despite a heritage assessment confirming that the property was locally significant. This was on the basis that a planning permit had been issued for redevelopment of the land. The dwelling has now been demolished.

DELWP’s letter of Authorisation also noted that the State Government had an interest in the redevelopment of 31 The Avenue Coburg. Council was encouraged to contact Development Victoria before preparing the amendment documents for exhibition.

Council Officers met with Development Victoria representatives to discuss the future development of the land. The existing heritage significance of the Grove precinct and the proposed heritage overlay for the Moreland Secondary College and former Kangan TAFE Campus were discussed. Development Victoria was notified when the Amendment was on Exhibition. This provided them with an opportunity to put in a submission and be part of the Amendment process.

### Interim heritage controls – Amendment C207more

On 17 September 2020, Council requested the Minister for Planning to apply a heritage overlay to the places in the MHNS on an interim basis. This was to protect the places while the Amendment process was being undertaken. This request was granted on 30 September 2021 and a heritage overlay was applied with an expiry of 31 May 2022.

The expiry of these interim heritage overlays was extended by Amendment C220more on 26 May 2022 applying an expiry of 23 May 2023.

## 3. Issues

### Panel recommendations

The Panel recommended the Amendment be adopted as exhibited, subject to a number of changes.

This section provides a summary of the Panel’s five recommended changes, and an officer response to each proposed change. The Panel’s findings and recommendations are included in the Planning Panel Report.

| **Panel recommendation** | **Council Officer response** |
| --- | --- |
| **1. Delete the Heritage Overlay from:** |  |
| a) Duke Street Precinct (HO593) | This is consistent with Council’s adopted position post exhibition. Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 1(a)*** |
| b) Walsh Street Precinct (HO599) | Council Officers do not support the Panel’s recommendation.Panel outline that there may be a case for Walsh Street Precinct to be locally significant as demonstrating the historical development in Coburg but that the Statement of Significance ‘barely’ addresses the important aesthetic qualities of the precinct. They further outline that 26 Walsh Street clearly contributes to the development of Walsh Street and should have been included within the Precinct in the Heritage Nominations Study. Officers disagree with the Panel’s findings and recommendation not to proceed with HO599 at this time. It is considered that the precinct meets the threshold for aesthetic significance. Further work to reconsider 26 Walsh Street’s inclusion in the precinct can be noted in the Heritage Action Plan. **Council officer recommendation:*****Retain HO599 in the Amendment***Close with solid fill***Note for the Heritage Action Plan, work that considers 26 Walsh Street Coburg’s inclusion in the precinct.*** |
| c) 151A Lygon Street, Brunswick East (HO505) | Council Officers support the Panel’s recommendation. The Panel considered that 151A Lygon Street has aesthetic interest, as an attractive small building in the jazz deco style but is not elevated to individual significance on its own.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 1(c)*** |
| d) Lorreto, 198 Edward Street, Brunswick East (HO552) | Council Officers support Panel’s recommendation. Panel considered Lorreto could well be a contributory place if within a precinct, however the heritage assessment does not provide adequate justification that it has importance as a representative example to warrant individual heritage value.Future heritage work that considers the significance of Victorian Terraces as part of a wider cottage study should include this property. A heritage study for Victorian cottages will be noted in the updated Heritage Action Plan.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 1(d)*** |
| e) CERES Community Environment Park, 7 Lee Street, Brunswick East (HO559) | Council officers support the Panel recommendation.The Panel outlined in their report that CERES Community Park is likely to have sufficient significance to justify the HO, and further work will help clarify the elements that need to be managed. This further work will then provide a clearer basis for assessment of future planning applications. There is a low level of risk in not proceeding with the heritage overlay at this point in time as the site is not under any pressure for redevelopment and the land is under Council’s management.Panel’s conclusion that further work to manage the heritage attributes of this site is being addressed in the Heritage Action Plan review. **Council officer recommendation:** Checkmark with solid fill***Support Panel’s recommendation 1(e)*** |
| f) Joe’s Market Garden, 131 Harding Street, Coburg (HO572) | Similar to CERES, the Panel outlined in their report that Joe’s Market Garden has sufficient significance to justify the HO and further work will help clarify the elements that need to be managed. There is a low level of risk in not proceeding with the heritage overlay at this point in time as the site is not under any pressure for redevelopment.The Panel’s conclusion that further work to manage the heritage attributes of this site is being addressed in the Heritage Action Plan review.**Council officer recommendation:** ***Support Panel’s recommendation 1(f)***Checkmark with solid fill |
| g) 31 The Avenue, Coburg (HO580) | Council Officers support the Panel’s recommendation. The Panel outlined that the place being of Brutalist architecture is not in itself a reason for significance. They were not satisfied that the heritage assessment adequately demonstrated that this building displayed high quality aesthetic characteristics to elevate the building to the point of individual significance or importance.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 1(g)*** |
| h) 13 Ash Grove, Oak Park (HO586) | This recommendation is consistent with Council’s adopted position post exhibition. Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 1(h)*** |
| i) 413 Gaffney Street, Pascoe Vale (HO590). | Council Officers support the Panel’s recommendation. The Panel outlined that a post war heritage study would provide the necessary context for determining whether 413 Gaffney Street, Pascoe Vale is of sufficient heritage significance to apply the Heritage Overlay. There is not adequate justification to consider the property of individual heritage significance.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 1(i)*** |
| 2. Remove 78 Albion Street, Brunswick East from the Glenmorgan Street, Albion Street and Clarendon Street Precinct (HO85). | Council Officers support this recommended change. The Panel recommended that 78 Albion Street be removed from the Amendment following submissions to the Amendment and an additional review by Council’s heritage expert at the hearing. This was based on the property’s position at the edge of the precinct and that it displayed uncharacteristic form and site history to the remainder of the contributory properties in and proposed for HO85, rendering it to have a non-contributory heritage value.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 2*** |
| 3. Amend the Statement of Significance for: |  |
| a) Glenmorgan Street, Albion Street and Clarendon Street Precinct (HO85) in accordance with the Panel preferred version at Appendix E1 of this report. | The Panel has recommended that the Statement of Significance be amended in accordance with the Panel’s preferred version attached as an Appendix to the panel report.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 3(a)*** |
| b) Coonan’s Hill Precinct (HO207) in accordance with the Panel preferred version at Appendix E2 of this report | Council Officer’s support this recommended change. The original house and front terracing at 487 Moreland Road have been demolished since the Study and preparation of the Amendment. The large bluestone retaining wall however remains. The Panel recommendation that the heritage value of 491 Moreland Road be non-contributory and also remain in the precinct is therefore appropriate. The typography, terracing and large retaining walls are a key feature of this heritage streetscape and retaining 487 Moreland Road in the precinct will ensure future development respects the heritage values of the Precinct and the adjacent contributory Moreland Road properties. The citation and Statement of Significance will be updated as per Attachment 1, including correcting any incorrect spelling of the precinct name to Coonans Hill Precinct.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 3(b)***  |
| c) Hanover Street Precinct (HO594) to refer to 32 and 54 Hanover Street, Brunswick as non-contributory. | This is consistent with Council’s adopted position post exhibition. Both 32 and 34 Hanover Street have permits to build a new dwelling on the land. Panel recommended that since the dwelling at 32 Hanover Street had been demolished, its heritage value should change to non-contributory. An administrative error with referencing the wrong dwelling has occurred in the Panel Report. 34 Hanover Street is currently a vacant lot and 32 Hanover Street still contains the original dwelling.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 3(c)*** |
| d) 383 Brunswick Road, Brunswick (HO550) in accordance with the Panel preferred version at Appendix E3 of this report. | Officer’s support the minor grammatical edits to the Statement of Significance recommended by Panel. The citation and Statement of Significance will be updated as per Attachment 1.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 3(d)***  |
| e) 113 Nicholson Street, Brunswick East (HO563) in accordance with the Panel preferred version at Appendix E4 of this report. | Officer’s support the minor grammatical edits to the Statement of Significance recommended by Panel. The citation and Statement of Significance will be updated as per Attachment 1.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 3(e)***  |
| f) Coburg Market 415-423 Sydney Road, Coburg (HO577) in accordance with the Panel preferred version at Appendix E5 of this report. | Officers support the update of the citation and statement of significance to describe timber and steel trusses.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 3(f)*** |
| g) 28 McMahons Road, Coburg North (HO583) in accordance with the Panel preferred version at Appendix E6 of this report. | Officers support the modification of the citation and statement of significance to more accurately capture the physical characteristics of the place.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 3(g)*** |
| h) ‘Bluestone Retaining Walls, Deveraux Street, Draska Court, Short Avenue, Ash Grove, Vincent Street and Xavier Street, Oak Park’ (HO585) to: remove 64 Vincent Street, Oak Park from the map showing the Heritage Overlay curtilage amend the wording of ‘What is significant?’ to state:*The bluestone retaining walls at Deveraux Street, Draska Court, Short Avenue, Ash Grove, Vincent Street (apart from 64 Vincent Street) and Xavier Street, Oak Park are significant.* | Removing the part of the HO adjacent to 64 Vincent Street from the curtilage map is consistent with Council’s adopted position post exhibition. Council Officers support Panel’s recommended approach to describe that the walls adjacent 64 Vincent Street are not significant in the Statement of Significance. The citation and statement of significance will be updated as per Attachment 1.**Council officer recommendation:*****Support Panel recommendation 2(h) with minor a change to the wording to clarify that the retaining walls are on public land and not on 64 Vincent Street.***Checkmark with solid fill |
| 4. Amend the Moreland Heritage exemptions Incorporated Plan to:a) show 29, 32 and 54 Hanover Street, Brunswick as non-contributory. | See recommendation 3 (c). This is consistent with Council’s adopted position post exhibition.**Council officer recommendation:*****Support Panel recommendation 4 by amending the Moreland Heritage Permit Exemptions Incorporated Plan to show 29, 34 and 54 Hanover Street as non-contributory.***Checkmark with solid fill |
| 5. Before adopting the Amendment, confirm and if necessary correct the Heritage Overlay number for the Coburg Velodrome at 30 Charles Street, Coburg North | The exhibited Statement of Significance incorrectly references the sites proposed heritage overlay as HO591 instead of HO582. The Statement of Significance will be updated as per Attachment 1.Checkmark with solid fill**Council officer recommendation:*****Support Panel recommendation 5.*** |

### Other Changes

##### Administrative error

It has been recognised that the 32 and 34 Hanover Street Brunswick (properties within the Hanover Street Precinct) have existing planning permits to construct a new dwelling. During the Panel process it was identified that the dwelling at 34 Hanover Street Brunswick had been demolished and the original dwelling at 32 Hanover Street still remains. Based on this, Officers recommended that 34 Hanover Street’s value be modified to non-contributory to reflect accurately the site’s contribution to the Precinct.

The Panel in outlining this occurrence, has made an administrative error by referring to 32 Hanover Street as the site with the dwelling demolished and recommending the heritage value of 32 Hanover be modified. As the original dwelling at 32 Hanover Street still remains, it should retain its contributory heritage value to the precinct.

##### Precinct Extensions merged citation

During the Panel hearing, the Panel requested Council circulate a citation that merged the content of the Heritage Nominations Study with the current citation for Coonans Hill Precinct so there is only one citation to reference when seeking information about the extended Precinct. The Panel further outlined in their report that this is their preferred version.

With this in mind, Council Officers have updated the Moreland Heritage Nominations Study Volume 2 to include a final citation for the following three extended precincts that merged the existing citation with the work included in the Moreland Heritage Nominations Study:

 HO85 – Glenmorgan Street, Albion Street and Clarendon Street Precinct

 HO87 – Gordon Street and Devon Avenue Precinct

 HO207 – Coonans Hill Precinct

*Correct spelling of HO207*

The Panel identified that that HO207 was spelt in parts incorrectly as Coonan’s Hill Precinct, instead of Coonans Hill Precinct. The citation has been updated to correct all reference to HO207 as Coonans Hill Precinct.

### Human Rights Consideration

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities. The notification carried out as part of the Amendment, the ability to be part of the Panel hearing process and the proposed overlay do not limit or interfere with any Human Rights, in particular ‘Section 13: The right to privacy and reputation’, ‘Section 18: The right to take part in public life’, and ‘Section 20: Property rights’. The following is noted:

 Council utilises existing personal information held by Council to ensure owners of affected and adjoining properties are notified. This is required by the *Planning and Environment Act* 1987.

 Any person may elect to take part in the process by providing a submission to the Responsible Authority.

 All submitters are invited to take part in the Panel hearing process and it is their choice if they wish to take part.

 No parties are deprived of any legal or proprietary interest in land, or the ability to use and develop that land in accordance with the planning regulatory framework.

 A person is considered to be deprived of their property rights if a regulation has the effect of substantially depriving a property owner of the ability to use his or her property or part of that property. Amendment C208 implements existing planning scheme policy.

It is considered that the proposed changes to the Heritage Overlay as set out in this Report will not have a direct or significant impact on gender equality.

## 4. Community consultation and engagement

Amendment C208more to the Planning Scheme was publicly exhibited for 7 weeks from 13 August 2021 to 1 October 2021.

As a result of public exhibition, 43 submissions were received. Council report 7.6 presented to the December 2021 Council meeting includes a detailed response to the results of exhibition and the process that was undertaken.

All submitters have been notified of the timing of this report.

## 5. Officer Declaration of Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

## 6. Financial and Resources Implications

The costs associated with the Amendment are included within the Strategic Planning Unit operational budget.

It is anticipated that the amendment will come into effect in the 2022/2023 financial year. The inclusion of approximately 340 places within the Heritage Overlay by Amendment C208more is likely to generate approximately five additional planning permit applications annually. The impacts are expected to be minimal and can be managed within the existing resources of the Urban Planning Unit.

## 7. Implementation

### Amendment Process

The following timeline is broken down into key ‘decision gateways’ for Council. The timeline is approximate and subject to not only Council’s continued approval at key decision gateways, but also Ministerial approval timelines and Planning Panels Victoria reporting.

#### Decision Gateway 1: Authorisation and Exhibition (Completed)

***Decision Gateway 2: Submission review and referral to a Panel (Completed)***

***Decision Gateway 3: Review Panel report and final decision (this report)***

 September 2022: Report on the Panel’s recommendations and consider adoption of final version of the Amendment

 September 2022: Submit the Amendment to the Minister of Planning for approval

 March 2023: Anticipated approval by the Minister of Planning.

Background documents and Incorporated documents to the planning scheme that have ‘Moreland’ in their title will be updated with ‘Merri-bek’ and formalised in the Planning Scheme via a future planning scheme amendment.

## Attachment/s

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | C208more Gateway 3 - Changes to citations and Heritage Permit Exemptions Incorporated Plan maps | D22/397482 | Separately circulated |

**Attachment 1: C208more Gateway 3 - Changes to citations and Heritage Permit Exemptions Incorporated Plan maps**

This attachment has been published separately due to its size.

**7.2 AMENDMENT C201MORE - REZONING OF INDUSTRIAL LAND IN THE SHEPPARD AND NORRIS STREET COBURG NORTH PRECINCT - DECISION GATEWAY 3 - CONSIDERATION OF PANEL REPORT AND DECISION ON THE AMENDMENT**

**Director Place and Environment Joseph Tabacco**

**City Strategy and Economy**

**Officer Recommendation**

That Council:

1. Notes the findings and recommendations of the Amendment C201more Panel included at Attachment 1 to this report.

2. Adopts Amendment C201more to the Moreland Planning Scheme pursuant to Section 29(1) of the *Planning and Environment Act 1987*, as exhibited and with the changes recommended by the Planning Panel and discussed at Section 3 of this report and shown at Attachment 2.

3. Submits Amendment C201more to the Moreland Planning Scheme to the Minister for Planning for approval, pursuant to section 31 of the *Planning and Environment Act 1987*.

**REPORT**

**Executive Summary**

Amendment C201more proposes to rezone land at 3-5, 4, 6, 7, 8, 10 and 16-20 Sheppard Street, 2-4 and 6 Norris Street and part of 39A Shorts Road Coburg North from industrial to residential. The amendment proposes to introduce an Incorporated Plan Overlay to guide future residential development on the land, including the provision of affordable housing, and apply the Environmental Audit Overlay to manage any potential contamination risks.

Council exhibited Amendment C201more from 7 April 2022 to 13 May 2022. The Amendment received six submissions. Council resolved in June 2022 to request the Minister for Planning to appoint an Independent Panel to consider the submissions.

A Panel Hearing was held on 15 August 2022 and the report released to Council on 9 September 2022. The Panel report was supportive and the Panel noted that the Amendment was well founded and strategically justified. The Panel recommended that the Amendment be adopted subject to changes, including:

1. In the Incorporated Plan Schedule, do not include a decision guideline requiring seeking the views of adjoining owners and occupiers (outside of the Precinct) before a decision is made.

2. In Clause 02.03-5 Housing, correct the references to the ‘Economic Development Framework Plan’ to the ‘Housing Framework Plan’.

3. In the Incorporated Plan, make the changes which generally reflect Council’s final preferred version of the document.

It is recommended that Council adopt Amendment C201more with the changes recommended by the Panel and discussed at Section 3 of this report and submit the Amendment to the Minister for Planning for approval.

**Previous Council Decisions**

**Amendment C201more – Rezoning of Industrial Land in the Sheppard and Norris Street Coburg North Precinct – Decision Gateway 2 – Consideration of Submissions and Request for a Panel** - 8 June 2022

*That Council:*

*1. Using its powers as a Planning authority under s23(1) of the Planning and Environment Act 1987, requests that the Minister for Planning appoint an Independent Planning Panel to consider all submissions to Moreland Planning Scheme Amendment C201more.*

*2. Endorses the responses to submissions as set out in Attachment 1 to this report to form the basis of Council’s submission to an Independent Planning Panel.*

*3. Refers any late submissions to the Independent Planning Panel appointed to consider the Amendment and submissions.*

*4. Authorises the Director Place and Environment to make minor changes to Moreland Planning Scheme Amendment C201more and give direction on issues which arise in the course of the Panel hearing in response to expert evidence and submissions if required.*

*5. Amends the draft Schedule 5 to the Incorporated Plan Overlay to include a decision guideline that requires seeking the views of adjoining owners and occupiers (outside of the precinct) before a decision is made about a planning permit application to use or develop land in that part of the precinct in the General Residential Zone and that this will be included in Council’s submission to an Independent Planning Panel and authorises the Director Place and Environment to finalise the wording of the decision guideline.*

**Amendment C201more – Rezoning of Industrial Land in the Sheppard and Norris Street Coburg North Precinct – Decision Gateway 1 - Authorisation** – 8 September 2021

*That Council:*

*1. Using its powers as a planning authority under sections 8A and 8B of the Planning and Environment 1987, seeks authorisation from the Minister for Planning to prepare Moreland Planning Scheme Amendment C201more as shown in Attachments 1, 2 and 3 to this report.*

*2. Following receipt of the Minister’s authorisation, exhibits Amendment C201more in accordance with Section 19 of the Planning and Environment Act 1987 and as outlined in the Consultation section of this report.*

*3. Authorises the Director City Futures to make changes to the Amendment C201more based on conditions imposed in any authorisation granted by the Minister for Planning and to make any grammatical changes and correct any errors in the relevant documents.*

**Amendment C158 – Moreland Industrial Land Strategy 2015-2030 (MILS) – Consideration of Panel Report and Adoption –** 13 July 2016

*That Council:*

*1. Note the findings and recommendations of the Panel appointed to consider Amendment C158 documented in the Panel Report dated 4 May, 2016 and included at Attachment 1.*

*2. Adopt the revised Moreland Industrial Land Strategy 2015 - 2030 included at Attachment 4.*

*3. Adopt Amendment C158 to the Moreland Planning Scheme, pursuant to section 29(1) of the Planning and Environment Act 1987, with the recommended changes shown in the revised amendment documentation included at Attachment 5.*

*4. Delegate to the Director Planning and Economic Development the authority to finalise changes to the Moreland Industrial Land Strategy 2015 - 2030 and Amendment C158 in accordance with Council’s resolution and also to undertake any changes as required to correct errors, grammatical changes and map changes.*

*5. Submit Amendment C158 with changes to the Minister for Planning for approval, pursuant to section 31(1) of the Planning and Environment Act 1987.*

*6. Notify all submitters of Council’s resolutions above and of the Minister’s decision on Amendment C158 once confirmed.*

**1. Policy Context**

**Council Plan**

The Council Plan 2021-2025 includes themes related to an environmentally proactive City, moving and living safely and vibrant spaces and places.

The Planning Scheme supports delivery of the Council Plan by directing land use and development in Merri-bek. Introducing new content into the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) through Amendment C201more is aligned with the following strategies of the Council Plan:

1.2 – Protect existing trees and plant more trees through development controls on private land.

1.4 – Strategically increase accessible and inclusive open spaces based on local needs.

2.1 – Build safe, accessible and high-quality bike and pedestrian infrastructure to create links between areas of high pedestrian and cycling demand, especially the Coburg to Glenroy Bike Path.

2.2 – Scope and implement suburb based active transport (bike and pedestrian) improvements (prioritising Fawkner, Gowanbrae, Hadfield, Oak Park, Pascoe Vale and Glenroy).

2.6 – Collaborate with the community to improve pedestrian and cycling infrastructure on a case-by-case basis.

4.3 – Design neighbourhoods to be safe, pleasant, inviting places for all to visit and live.

4.7 – Increase local affordable housing outcomes.

4.8 - Influence the delivery of better-quality private developments.

**Planning Policy Framework**

The Planning Scheme outlines that Council looks to manage growth by directing most of the City’s growth to areas with access to shops, services, and public transport. The Planning Scheme also includes policy to guide rezoning of industrial land in areas identified as Transition Residential Areas. In planning for Merri-bek’s expected population growth and diversity, the Scheme outlines Council’s commitment to encouraging a diversity of housing and to facilitate the provision of affordable housing.

**Moreland Industrial Land Strategy 2015-2030 and A Job in Moreland**

Council’s role in keeping a balance between land uses and ensuring that there is new land for housing whilst retaining sufficient space for employment floorspace is addressed through the *Moreland Industrial Land Strategy* (MILS), and more recently in the *A Job in Moreland* report.

The MILS guides planning decisions about the future of industrial land in Merri-bek. The MILS categorises all industrial land, by site or precinct, into one of three strategic categories as follows:

 Category 1: Core Industrial and Employment Areas - maintain land for industry and other employment uses;

 Category 2: Support a transition to a broader range of employment uses and seek to prioritise employment uses over residential uses; or

 Category 3: Support change in some areas to facilitate quality residential development that contributes to housing supply.

The MILS provides a clear framework for land rezoning and identifies when rezoning should occur. The proposed Planning Scheme Amendment C201 (the Amendment) is consistent with the strategic intent of MILS and the framework plan that identifies the site within Category 3: Transitional-Residential Areas.

The *A Job in Moreland* report details the employment floorspace that Merri-bek needs now and into the future to provide space for jobs in the municipality. The report found that the City’s activity centres, and Category 1 and 2 precincts should be the focus for this floorspace. Implementation of the MILS for Category 3 precincts remains appropriate.

**2. Background**

In September 2021 Council resolved to seek the Minister’s authorisation to prepare the Amendment and following receipt of authorisation, to exhibit the Amendment. the Minister’s authorisation to exhibit the Amendment was received on 11 February 2022.

The Amendment was publicly exhibited from 7 April to 13 May 2022 and six submissions were received. Key themes raised in submissions included:

 Support for change

 Mandating affordable housing

 Interface with Hosken Reserve

 Strategic justification of the Amendment

 Impact on the transport system

 Procedural issues

On 8 June 2022 Council resolved to request the Minister for Planning to appoint a Planning Panel to consider submissions to the Amendment. A Panel Hearing was held via video conference on 15 August 2022. The report of the Panel was received on 9 September 2022 and released to the public on 21 September 2022.

**3. Issues**

**Panel recommendations**

The Panel recommended the Amendment be adopted as exhibited, subject to changes.

This section provides a summary of the Panel’s three recommended changes, and an officer response to each proposed change. A copy of the Panel report is provided at **Attachment 1.**

| **Recommendations of the Panel** |
| --- |
| **Panel Recommendation** | **Council officer response** |
| 1. In the Incorporated Plan Schedule, do not include a decision guideline requiring seeking the views of adjoining owners and occupiers (outside of the Precinct) before a decision is made. | The Panel noted in making its decision that Council may not have the power to make changes to an amendment that are not in response to a submission. It also noted that the Incorporated Plan Overlay (IPO) parent provisions contain no ability to formally require the notice of proposals that are ‘generally in accordance with the incorporated plan’. By seeking to establish alternative notice provisions to those set out under the *Planning and Environment Act 1987,* Council could open itself to legal action in the courts as opposed to VCAT.The Panel also highlighted the role of the IPO as a ‘master planning overlay’, which ultimately seeks to define the parameters of a development in advance of permit applications. The intent of this approach is that potentially contentious issues are resolved at the Master Plan stage not on a permit-by-permit basis. The panel process is established as part of the process to resolve any outstanding issues. Applications which do not meet all of the Incorporated Plan’s requirements **will not** be exempt from public notice and appeal process. This ensures that any development outcome not envisaged by the Incorporated Plan will need to go through formal notice with surrounding residents.**Council officer recommendation:*****Support Panel recommendation 1*** |
| 2. In Clause 2.03-5 Housing, correct the references to the ‘Economic Development Framework Plan’ to the ‘Housing Framework Plan’. | During the preparation of Council’s Part B submission to the Panel Hearing an error was identified in the drafting of a strategy currently in the Planning Scheme at Clause 2.03-5 Housing. The strategy incorrectly references the *Economic Development Framework Plan* as showing industrial areas identified as Transition Residential Areas. However, the *Economic Development Framework Plan* only shows Core Industry and Employment Areas, Employment Areas, and Activity and Neighbourhood Centres. The correct framework plan reference should be the *Housing Framework Plan.* This plan identifies areas of significant change, incremental change, minimal change, and Transition-Residential Areas.The error was determined to be administrative in nature. Council officers requested that the Panel recommend that the error be corrected as part of C201more. The Panel found the change to be appropriate and that it has no bearing on the type or scale of development permitted.**Council officer recommendation:*****Support Panel recommendation 2*** |
| 3. In the Incorporated Plan, make the changes shown in Appendix B.2, which generally reflect Council’s preferred version of the document. | Several changes were proposed to the text of the Incorporated Plan by the urban design and urban planning experts called by the Proponent during the Panel Hearing. These changes were predominantly refinements to the text of the Incorporated Plan to ensure clarity in the requirements for development sought by Council. Council officers consider that these changes are policy neutral and do not change the intent or any built form requirements in the Incorporated Plan. A revised Incorporated Plan showing the changes is included at Attachment 2.**Council officer recommendation:*****Support Panel recommendation 3*** |

**Other matters discussed at the Panel Hearing**

The Panel found that the affordable housing requirements are appropriate and that the redevelopment will not have a significant impact on the transport system. The Panel did not identify any defects in procedure with the amendment process.

In relation to the interface with Hosken Reserve, the Panel Member reviewed the Hosken Reserve Master Plan and inspected the reserve and concluded that the requirements in the incorporated plan will reinforce positive aspects of the reserve and are appropriate.

**Community impact**

The proposal has the potential to impact positively on the community with respect to a reduction in adverse amenity and traffic impacts from residual industry on the land; the availability of affordable housing; access for alternative transport and service vehicles; and an improved interface with Hosken Reserve.

**Climate emergency and environmental sustainability implications**

Redevelopment of the precinct, including proposed requirements for tree planting on the lots, will increase permeable space on the land and reduce the urban heat island effect in this location. New dwellings on the land will be required to meet Council’s Environmentally Sustainable Design Policy as part of any future planning application.

**Economic sustainability implications**

Council recognises the need to maintain and expand employment floorspace and the ‘A Job in Moreland’ report details the employment floorspace that the municipality needs now and into the future to provide space for jobs in the municipality. The report found that the City’s activity centres and Category 1 and 2 precincts should be the focus for this floorspace. Implementation of the MILS for Category 3 precincts remains appropriate.

**Legal and risk considerations**

The Hosken Reserve Car Park has occupied two allotments and part of the land at 16-20 Sheppard Street for several decades. The Incorporated Plan seeks to resolve this issue and notes that the siting of buildings should facilitate the transfer of this portion of the site to Council.

Without this being resolved at this point in time, the land can’t be included within the Public Park and Recreation Zone, and as a result this amendment proposes to include these parcels within the Mixed-Use Zone. As part of future development proposals, the ownership question can be resolved and at that point the land could be transferred to Council and rezoned to reflect its ongoing use in association with the Reserve.

**Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities and there are no adverse impacts. The human rights considered as part of the preparation of this report relate specifically to freedom, dignity, and equity.

The most relevant section of the Victorian Charter of Human Rights to the preparation of this report is property rights. This report does not deprive any party of any legal or proprietary interest in land, or the ability to use and develop that land in accordance with the planning regulatory framework.

**4. Community consultation and engagement**

The Amendment was publicly exhibited from 7 April 2022 to 13 May 2022 as part of the formal statutory exhibition process for the Amendment. To support consultation the following occurred:

 Letters of notice were sent to prescribed Ministers, relevant public authorities, owners and occupiers of land affected by the amendment, including properties directly adjoining the subject site and over 140 other properties surrounding the precinct area, sports clubs based at Hosken Reserve and members of clubs that formed part of the Hosken Reserve Masterplan Refresh Group and the Merlynston Resident Group.

 Notice of the preparation of the Amendment in the Government Gazette and *The Age* and *Herald Sun* newspapers.

 Making copies of Amendment documentation, including background material, available on Council’s website, at the Coburg Citizens Service Centre and Coburg Library, and in hard copy by post to residents upon request.

 Strategic Planning officers were also available during the public exhibition process to provide advice.

Council officers also engaged extensively with the proponent in preparation of the amendment. A face-to-face meeting was held with interested landowners of the precinct which also resulted in ongoing dialogue with the purchaser of one allotment. The Department of Environment, Land, Water and Planning was also consulted on the proposed Amendment.

**5. Officer Declaration of Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**6. Financial and Resources Implications**

The landowner will meet statutory fees and costs associated with the amendment. This includes all costs to exhibit and administer the amendment and costs resulting in the matter being considered by a Planning Panel appointed by the Minister.

Administrative costs associated with facilitating the amendment and Council officer resourcing will be met by the Strategic Planning Unit operating budget.

 **7. Implementation**

The following timelines for the Amendment are broken down into the key ‘decision gateways.’

**Decision Gateway 1: Authorisation and Exhibition (Completed)**

**Decision Gateway 2: Submission Review and Panel Request (Completed)**

**Decision Gateway 3: Review Panel report and consider adoption of the Amendment (current stage)**

The following timeframes may change as it is subject to Ministerial approval times.

 October 2022: Submission of the Amendment to the Minister for Planning for approval.

 December 2022/January 2023: Anticipated approval by the Minister for Planning.

**Attachment/s**

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Moreland C201more Panel Report | D22/422921 |  |
| **2**  | C201more Planning Scheme Amendment Documents | D22/423969 |  |

**7.3 2022 Planning Scheme Review Report**

**Director Place and Environment Joseph Tabacco**

**City Strategy and Economy**

**Officer Recommendation**

That Council:

1. Endorses the Planning Scheme Review 2022 report, at Attachment 1 to this report.

2. Submits the Planning Scheme Review 2022 report to the Minister for Planning in accordance with section 12B (1) of the *Planning and Environment Act* 1987.

**REPORT**

**Executive Summary**

A Planning Scheme Review is a technical evidence-based assessment of the operation and efficiency of a planning scheme. The review analyses how a planning scheme is performing and aims to highlight what is working well and what areas could be improved. It is a requirement of Section 12B(1) of *Planning and Environment Act* 1987, which requires a municipal Council to review its planning scheme no later than one year after the date by which it is required to approve the Council Plan. The review must therefore be complete by 31 October 2022 and then submitted to the Minister for Planning without delay.

A review of Merri-bek’s Planning Scheme has been completed, and a report outlining the findings of the review is included at Attachment 1. The review has found that the Scheme is operating well and has been improved in recent years. These improvements include:

 Translating and simplifying our planning scheme into the new state-wide structure.

 Introducing new canopy tree planting requirements for developments in our residential areas.

 Rezoning of land in the Brunswick Major Activity Centre and in Hadfield to release land for residential uses in line with the Moreland Industrial Land Strategy 2015-2030.

 Protecting over 500 new heritage places by including them in the heritage overlay.

 Introduction of the Heritage Permit Exemptions Incorporated Plan to reduce the burden on landowners by exempting minor works from planning permit requirements

The review makes recommendations that align with Council’s vision and adopted strategies and initiatives, including actions to tackle the climate emergency for a Zero Carbon Planning Scheme and addressing population growth and the need to grow employment opportunities in the municipality. The key recommendations of the review are summarised as:

 Elevate ESD requirements in the scheme to achieve zero carbon development and climate resilient buildings.

 As part of the refresh of the Open Space Strategy, update associated planning controls and design guidance to support the creation of new parks (including through a review of open space contributions), ensure the long-term protection and enhancement of our waterways, parks and valued vegetation, and to manage impacts from adjacent development, including overshadowing.

 Update the Scheme to recognise the latest stormwater modelling from state and local drainage catchments.

 Update the built form and land use controls for the Brunswick Major Activity Centre to strengthen employment outcomes and simplify the controls.

 Prepare an evidence base to support a Residential Development Framework and a Commercial & Industrial Development Framework to holistically plan for the housing and economic growth forecasted for the municipality.

 Continue to advocate for state-wide affordable housing planning provisions and explore ways to imbed local requirements for our activity centres and when rezoning land to allow residential uses.

 Investigate a new Developer Contribution Plan to help establish funds for new and upgraded community facilities and infrastructure needs of the municipality.

 Update the Scheme to strengthen Neighbourhood Character and help facilitate better housing design outcomes for our residential areas.

 Review and update local heritage policy and the Permit Exemptions Incorporated Document to ensure it is consistent with state policy and easy to understand and apply.

Work to action the recommendations will occur over the next 4 years.

**Previous Council Decisions**

**5.1 Adoption of the Moreland Community Vision 2021-2031, Moreland Council Plan 2021-2025 and Moreland Council Action Plan 2021-2022 –** 20 October 2021

*That Council:*

*1. Adopts Moreland Community Vision 2021-2031 (provided as Attachment 1) in accordance with legislative requirements of the Local Government Act 2020.*

*2. Adopts Moreland Council Plan 2021–2025 (provided as Attachment 2) in accordance with legislative requirements of the Local Government Act 2020 and the Public Health and Wellbeing Act 2008, noting that it incorporates the Municipal Public Health and Wellbeing Plan 2021-2025.*

*3. Adopts Moreland Council Action Plan 2021-2022 (provided as Attachment 4) as the first year of actions to deliver against the Moreland Council Plan 2021-2025.*

*4. Authorises the Director Business Transformation to finalise the Moreland Community Vision 2021-2031, Moreland Council Plan 2021-2025 and Moreland Council Action Plan 2021-2022, including any minor administrative changes, professional design of the documents and online versions, distribution and implementation.*

*5. Acknowledges and thanks the Moreland community for its contribution to the development of the Moreland Community Vision 2021-2031 and Moreland Council Plan 2021-2025 through the Imagine Moreland engagement program.*

*6. Notes that a summary of Imagine Moreland Stage 4 outcomes will be made available on Council’s website, noting that all submitters who provided feedback as part of the public exhibition process will receive an email advising of the outcomes of Council’s decision.*

*7. Thanks the members of the Community Panel for their contribution and advise them in writing of the outcome of Council’s decision.*

**DED38/18 Statutory Requirement – Planning Scheme Revies –** 13 June 2018

*That Council:*

*1. Endorses the Moreland Planning Scheme Review 2018 Report, at Attachment 1 to this report.*

*2. Submits the Moreland Planning Scheme Review 2018 report to the Minister for Planning in accordance with section 12B (1) of the Planning and Environment Act 1987.*

**1. Policy Context**

**Planning and Environment Act 1987**

Section 12B of the *Planning and Environment Act* 1987 (the *Act*) requires a planning authority to review its planning scheme no later than one year after each date by which it is required to approve a Council Plan. The review must therefore be complete by 31 October 2022 and then submitted to the Minister for Planning without delay.

**Smart Planning Reforms**

In 2018, Amendment VC148 introduced widespread changes to the Victorian Planning Provisions as part of Department of Environment, Land, Water and Planning (DELWP) Smart Planning Program through setting up a new planning scheme structure with:

 Introduction of a new Planning Policy Framework (PPF)

 A new section for Councils to add their Municipal Planning Strategy (MPS)

 A new policy structure that themes state, regional and local policies

 Modified schedules to some existing zones, overlays and provisions to allow extra local content

 Creation of new operational provisions

Amendment C200more translated our local policy into the new structure introduced by VC148. This included removing duplicated policies and arranging local planning policy with state and regional policy of the same theme.

**Council Plan**

The current Council Plan was adopted by Council on the 20 October 2021. The plan includes the Community Vision 2021-2031 and outlines what Council seeks to achieve in its term of office in line with the vision and that is consistent with the requirements of the *Local Government Act* 2020.

It is the role of the Planning Scheme Review (PSR) to assess the planning scheme against the Council Plan and make recommendations to ensure alignment between the Council Plan and planning scheme. Relevant to Merri-bek’s Planning Scheme (the Scheme) are the following high-level strategies and initiatives within the Council Plan:

|  |
| --- |
| 1. Strategies relevant to Planning
 |
| 1. 1.2
 | 1. Protect existing trees and plant more trees through development controls on private land and plant and nurture canopy trees on public land where needed most
 |
| 1. 4.3
 | 1. Design Moreland’s neighbourhoods to be safe, pleasant, inviting places for all to visit and live
 |
| 1. 4.4
 | 1. Create a sense of place while retaining what is valued about heritage including First Nations
 |
| 1. 4.8
 | 1. Influence the delivery of better-quality private developments through providing clearer guidance for environmentally responsive design, promoting and negotiating improved quality of development through the planning permit application process and ensuring the outcomes are delivered through proactive enforcement of planning permits
 |
| 1. 5.6
 | 1. Significantly progress efforts to secure more developer funding towards Council’s response to population growth
 |
| 1. **Major Initiatives and Priorities relevant to Planning**
 |
| 1. 3
 | 1. Review and implement the Moreland Open Space Strategy, integrating it with plans for nature, water and tree planting as well as articulating a framework for use of open space that helps prioritise investment in new land and upgraded park facilities, playgrounds, dog parks, BMX and skate parks, fitness facilities, community and memorial gardens and nature walks
 |
| 1. 27
 | 1. Review and implement the Affordable Housing Action Plan including the development of affordable housing on council land
 |
| 1. 28
 | 1. Deliver Zero Carbon in the Planning Scheme (formally ESD version 2)
 |
| 1. 29
 | 1. Review and prepare an implementation plan for the Moreland Planning Scheme
 |
| 1. 43
 | 1. Prepare and implement a revised Open Space Levy
 |
| 1. 46
 | 1. Develop and implement a new Development Contributions Plan
 |

**2. Background**

**Review methodology**

The PSR methodology is based on the Practice Note 32 titled ‘Review of Planning Schemes’ prepared by DELWP in June 2015.

Consistent with the practice note, the PSR 2022 report evaluates the Scheme to:

 Identify major issues facing the municipality

 Demonstrate how the planning scheme implements state policy

 Assess the strategic performance of the Scheme

 Document the work that has been completed or carried out since the last review of the Scheme and any additional work required to strengthen the direction of the Scheme

 Outline the monitoring and review that has been carried out

 Outline the consultation process and its outcomes

 Make recommendations from the PSR including:

 Suggested changes to the local objectives and strategies of the MPS and PPF

 Suggested changes to the Victoria Planning Provision (VPP) tools to achieve the strategies and ensure the objectives and outcomes are being met

 New strategic work needed for future policy development or changes to the provisions of the Scheme

 Suggested changes to improve the schemes operation and planning processes

 Identifying any planning application or other data that may need to be collected to inform the next review.

**Review inputs**

Extensive background work has been undertaken to inform the PSR Report. The seven key inputs informing this PSR include:

 Seeking feedback from internal officers who use the Scheme

 Seeking feedback with the community on their thoughts and experience in using the Scheme and engaging with planning processes

 The local planning policy monitoring findings

 Audit of the previous Planning Scheme Review Report prepared in 2018

 Review of policy and legislative reforms, including major planning scheme amendments (State and Local) since the Scheme underwent major change in 2018

 Audit of all planning scheme provisions including zones, overlays and particular provisions

 A review of influential Planning Panel Reports and VCAT decisions.

A summary of these inputs is contained in Section 5 and the appendices of the PSR 2022 Report (Attachment 1).

**3. Issues**

**Review findings**

This review has found that the Scheme is operating well, displaying a streamlined model supported by a set of zones, overlays and particular provisions.

The PSR makes recommendations to make sure the Scheme aligns with the Council Plan and adopted strategies and initiatives, including actions to tackle the climate emergency for a Zero Carbon Planning Scheme. The major findings of the PSR are as follows:

| 1. Theme
 | 1. Recommendation
 | 1. Purpose
 |
| --- | --- | --- |
| 1. Activity Centres
 | 1. Update the built form and land use controls for the Brunswick Major Activity Centre.
2. Review the built form and land use controls for the Coburg and Glenroy Major Activity Centres.
 | To simplify controls and strengthen housing and employment outcomes in our major activity centres. |
| 1. Affordable Housing
 | 1. Continue to advocate for state-wide affordable housing planning requirements.
2. Investigate ways to include affordable housing requirements in local planning provisions for our activity centres and when rezoning land to allow residential uses.
 | To help deliver social and affordable housing. |
| 1. Character & Building Design
 | 1. Update neighbourhood character and design policy for residential development.
2. Investigate how planning can improve the accessibility of dwellings.
 | To improve housing design and neighbourhood character outcomes in our residential areas and Neighbourhood Centres. |
| 1. Community Infrastructure
 | 1. Investigate a new Development Contributions Plan.
2. Review and update as necessary the public open space contribution rates in the scheme.
 | 1. To help establish funds for new and upgraded open spaces, community facilities and infrastructure needs of the municipality.
 |
| 1. Covid-19 response
 | 1. Preliminary investigation into neighbourhoods through a 20-minute neighbourhood lens
 | 1. To understand what the priorities might be for even better neighbourhoods, where residents and workers can access all their daily needs.
 |
| 1. Heritage
 | 1. Review and update local heritage policy and the Heritage Permit Exemptions Incorporated Plan.
2. Undertake projects in line with the Heritage Action Plan.
 | 1. To ensure Council continues to recognise and protect our local heritage and that our heritage policies are consistent with state policy, easy to understand and apply.
 |
| 1. Managing Growth
 | 1. Prepare an evidence base for a Residential Development Framework and a Commercial & Industrial Development Framework
 | 1. To plan for housing and economic growth for the municipality.
 |
| 1. Open Space
 | 1. Update planning controls and design guidelines as part of the Open Space Strategy refresh.
 | 1. To support the creation of new parks, ensure the long-term protection and enhancement of our waterways, parks and valued vegetation, and to manage impacts from adjacent development.
 |
| 1. Stormwater
 | 1. Update the Special Building Overlay.
 | 1. To recognise the latest stormwater modelling from state and local stormwater catchments.
 |
| 1. Sustainability
 | 1. Elevate Environmentally Sustainable Design (ESD) requirements in the scheme.
2. Continue to advocate for a State ESD policy.
 | To achieve zero carbon development and climate resilient communities. |

The full details of all the recommendations are included at **Attachment 1**.

**Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities. Of note is Section 15 (Freedom of Expression) and Section 18 (Taking part in public life) of the charter. Council undertook a public engagement process through Conversations Merri-bek, where anyone was able to provide their views on the planning scheme and planning processes.

**4. Consultation and engagement**

**Internal Council Officer Consultation**

A survey was prepared to capture initial feedback from Council Officers on their experience with using the scheme and involvement in planning processes. Meetings were also held with Officers from various branches including Community Development and Inclusion, Community Well-Being, Economic Development, Sustainable Communities, Open Space Design and Development, Property and Place, Strategic Planning, Strategy and Research, Transport, Urban Design, Urban Forest and Urban Planning from April 2022 to August 2022 to understand the feedback raised in the survey and other issues with using the scheme.

The Strategic Planning team have also been collating feedback from Council Officers on the scheme’s performance as they have come up through planning decisions and processes since the last Planning Scheme Review in 2018.

**Public Consultation**

Council sought the public’s feedback on their experience in using the planning scheme and planning processes via Conversations Merri-bek engagement portal. This engagement ran for four weeks from 31 May 2022 to 27 June 2022.

A survey was used to capture feedback, guided by questions included in the Victorian Governments 2006 Continuous Improvement Review Kit. The Conversations Merri-bek Planning Scheme Review project page also offered an option to upload a document to provide less structured feedback.

Council received 26 entries to the Planning Scheme Review Survey. Two of these submissions uploaded a document to provide further feedback. Council has also received additional submissions through email correspondence and meetings where requested.

**Attachment 1** summarises the community feedback.

**5. Officer Declaration of Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**6. Financial and Resources Implications**

The funds required to carry out most of the actions of the 2022 Planning Scheme Review are budgeted from within the Strategic Planning Unit budget.

Actions relating to the refresh of our Open Space Strategy are funded through a specific budget for the life of the project to the Open Space – Design and Development Unit.

Budget bids may be required to carry out some of the actions in future years. This would be determined as part of scoping the further work required to respond to these actions.

**7. Implementation**

Each of the recommendations in the PSR Report includes a target timeframe for delivery of each recommendation. A full list of the recommendations and this target timeframe is included in Section 2 of the report at **Attachment 1**.

**Attachment/s**

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Planning Scheme Review 2022 Report | D22/440367 |  |

7.4 Right of Way Discontinuance and Sale adjoining 50 & 52 Breese Street Brunswick

**Director Place and Environment Joseph Tabacco**

**Property, Place and Design**

## Officer Recommendation

That Council:

1. Having considered the submission received pursuant to section 223 of the *Local Government Act* 1989, in respect of the proposed discontinuance and sale of the right of way (road) adjoining 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick, resolves to discontinue the road in accordance with section 206 and Schedule 10, Clause 3 of the *Local Government Act* 1989.

2. Publishes a notice of this decision in the Victoria Government Gazette.

3. Sells the resultant land to owners of 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick by private treaty in accordance with section 206 and Schedule 10, Clause 3 of the *Local Government Act* 1989, section 114 of the *Local Government Act* 2020 and Council’s Rights of Way Associated Policies 2011 and Rights of Way Strategy 2011.

4. Authorises the Director Place and Environment to execute the Transfer of Land documents and any other documents required to formalise the sale of the land.

5. Notifies the submitter of Council’s decision and the reasons for the decision, as follows:

 The road, in Council’s opinion, is not reasonably required for public use; and

 The formal procedures under the *Local Government Act* 1989, the *Local Government Act* 2020 and Council’s Rights of Way Associated Policies 2011 and Rights of Way Strategy 2011 for the discontinuance and sale of the road have been followed.

**REPORT**

**Executive Summary**

Council received a request from the owner of 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick to acquire a 61m² section of right of way (road) between these three properties, to assist with a development of the property, shown in blue in **Attachment 1**.

This Right of Way is a short, dead-end road and forms part of the internal roads for the car park on the corner of Breese Street and William Street, servicing Brunswick Market.

On 9 March 2022 Council resolved to commence the procedure for the discontinuance and sale of the subject section of road and public notice of the proposal was given in the Herald Sun and on Council’s website on Monday 21 March 2022 for the consultation period.

One submission was received in response to this public notice primarily relating to where the public notice should appear and if it was in accordance with statutory process and procedure. The submitter wished to be heard in support of their submission and the details of the issues raised by the submitter, are shown in the Hearing of Submissions Committee Summary of Proceedings in **Attachment 2**.

The process for considering this matter followed the requirements set out in section 223 of the *Local Government Act* 1989 and was carried out in accordance with Council’s Community Engagement Policy.

Internal and external referrals were also undertaken, and the subject section of road is considered to be no longer reasonably required for public use.

This report recommends that the right of way (road) be formally discontinued and sold by private treaty to the owners of 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick in accordance with the *Local Government Act* 1989, the *Local Government Act* 2020 and Council’s policies.

**Previous Council Decisions**

**Proposed Road Discontinuance Adjoining 50-52 Breese Street Brunswick** – 9 March 2022

*That Council:*

*1. Commences the procedures to discontinue and sell the road adjoining 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick, in accordance with Section 206 and clause 3 of Schedule 10 of the Local Government Act 1989 and Section 114 of the Local Government Act 2020.*

*2. Gives public notice of the proposed discontinuance in accordance with section 223 and 207A of the Local Government Act 1989 and Section 114, clause 2 of the Local Government Act 2020 in the Herald Sun newspaper and on Council’s website, and invite written submissions from Monday 21 March 2022 until Friday 22 April 2022. The notice will state that Council proposes to sell the land adjoining 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick to the owner of those properties, in accordance with Council’s Rights of Way Associated Policies 2011 and the Rights of Way Strategy 2011.*

*3. Appoints Cr Conlan as Chair, and Cr Tapinos and Cr Riley to a Committee to hear any submitters requesting to be heard in support of their written submission.*

*4. Authorises the Chief Executive Officer to set the time, date and place of the meeting of the committee to hear submissions in relation to Council’s intention to discontinue and sell the road adjoining 50 and 52 Breese Street Brunswick and 665-661 Sydney Road Brunswick.*

*5. Receives a further report outlining any submissions received, including a summary of proceedings of the Hearing of Submissions Committee, and presenting a recommendation in regard to whether to proceed with the proposal to discontinue the road adjoining 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick.*

## 1. Policy Context

The Council Plan 2021-2025 sets out strategic objectives through delivery of major initiatives and priorities and ways to achieve these objectives. The Council Plan also outlines how the Council will protect, improve and promote public health and wellbeing within the municipality. The Council Plan includes the Moreland Community Vision and part of the key themes to achieve the community vision is to manage assets that meet changing needs over the long term.

Council’s Rights of Way Associated Policies 2011 and Rights of Way Strategy 2011 and Council’s Community Engagement Policy 2020 have been used in assessing and processing this proposal.

## 2. Background

Council received a request in June 2020 from the incoming owner of 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick to acquire a section of road (Right of Way), measuring approximately 20.06 metres in length and 3.05 metres in width with a total of 61m², shown in blue in **Attachment 1**.

This Right of Way is a dead-end road and forms part of the internal roads for the car park on the corner of Breese Street and William Street, servicing the Brunswick Market. All three of these surrounding properties are owned by the applicant.

The road adjoining 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick, is found on General, or Old Law Conveyance Title: Book 426, Number 396.

At its meeting held on 9 March 2022 Council resolved to commence the procedures for the discontinuance and sale of the right of way.

Public notice of the proposed discontinuance and sale was given in the Herald Sun newspaper on Monday 21 March 2022 and on Council’s website. Submissions to be received within 28 days of the date of the notice.

One submission of objection was received during the public notice period. The concerns raised by the objector were regarding the application process and procedures, mainly in relation to the public notice and specifically, the advertising appearing on Council’s website and not on Council’s Conversations Moreland website. No issues were raised regarding the appropriateness or otherwise of the proposal itself to discontinue the road and sell the land.

The submitter requested to be heard in support of their submission and a Hearing of Submissions Committee was held on 17 August 2022.

The only adjoining property owners are the three adjoining properties owned by the applicant therefore no adjoining properties have objected to the proposed discontinuance and sale.

The ROW is a dead-end and does not continue beyond 655-661 Brunswick Road or provide access to any other abutting properties.

No assets are located in the right of way and no objections have been received from the relevant service authorities to the discontinuance.

Having considered the submitter’s objections and given that this application is being undertaken in accordance with the *Local Government Act* 1989, the *Local Government Act* 2020 and Council’s policies, this report recommends that the right of way (road) be formally discontinued and sold by private treaty to the owners of 50 and 52 Breese Street, Brunswick and 665-661 Sydney Road, Brunswick.

## 3. Issues

One submission was received during the public notice period.

On 17 August 2022, the submitter who requested to be heard was invited to attend a Hearing of Submissions Committee meeting with the appointed Councillors to elaborate on their written submission.

The submitter provided no comments in relation to the proposed road discontinuance and sale.

The process for considering this matter complied with the requirements set out in section 223 of the *Local Government Act* 1989 and was carried out in accordance with Council’s Community Engagement Policy.

### Human Rights Consideration

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities and Property rights (section 20), protecting rights of persons to not be deprived of property, including land and possessions. This right also makes sure someone is not deprived of their property by someone else.

## 4. Community consultation and engagement

The following Council units and officers have been consulted with respect to the proposal:

 Senior Development Engineer

 Drainage Engineer

 Transport

 Asset Management

 Place Manager Brunswick

 City Development and Planning

 Building Services

 Open Space Maintenance and Street Cleansing

 Open Space Design and Development.

No objections have been received from these units. There are no Council assets located in the section of right of way proposed to be discontinued and sold.

The relevant service authorities have also been consulted and no objections have been received. No public or private service assets have been found in this right of way and the subject section of right of way is considered to be no longer reasonably required for municipal public purposes.

Public notice of the proposed discontinuance and sale was given in the Herald Sun newspaper on Monday 21 March 2022 and on Council’s website for the duration of the 28 day consultation period. Abutting property owners and occupiers and the registered proprietor of the land were also notified in writing of the proposal, with submissions to be received within 28 days of the date of the notice.

This consultation process was undertaken in accordance with section 223 of the Local Government Act 1989 and Council’s Community Engagement Policy.

## 5. Officer Declaration of Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

## 6. Financial and Resources Implications

In accordance with Council’s Rights of Way Associated Policies, for property owners with a commercial interest, ROW shall be sold at market rates plus administration costs.

The current market value of the road has been assessed at $275,000 inclusive of GST. The applicant has agreed to meet Council’s associated costs with discontinuing the road, estimated at $18,200.

Once discontinued and sold the land will become rateable.

## 7. Implementation

If Council resolves to discontinue the road and sell the resultant land, a notice will be published in the Victoria Government Gazette. Following which, the land will be sold and transferred to the owners of the adjoining properties by private treaty in accordance with Council policy.

## Attachment/s

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | 50-52 Breese Street ROW aerial | D21/543393 |  |
| **2**  | Hearing of Submissions Committee - Summary of Proceedings - 17 August 2022 - Breese St Brunswick | D22/365124 |  |

**7.5 Permanent Road Closures - Oak Park Laneways**

**Director City Infrastructure Anita Curnow**

**Transport**

**Officer Recommendation**

That Council:

1. Following consideration of the report from the Department of Transport and the written and verbal submissions from the public submitted under Section 223 of the Local Government Act:

Resolves under Section 207, Schedule 11, Clause 9 of the Act to block the passage or access of vehicles, other than bicycles and pedestrians, by maintaining the existing permanent barriers (bollards) within the five laneways shown in Attachment 1and located between

a) John Pascoe Fawkner Reserve and Sylvester Street, Oak Park.

b) Sylvester Street and John Street, Oak Park

c) John Street and Gregory Street, Oak Park

d) Gregory Street and Ethel Street, Oak Park

e) Ethel Street and Margaret Street, Oak Park

1. Notifies all those who previously received a circular letter in relation to the proposal, including those who made written submissions and the Department of Transport, of Council’s decision.

**REPORT**

**Executive Summary**

At the August 2022 Council meeting (Item 7.6), Council resolved to commence the process under Section 207, Schedule 11, Clause 9 of the *Local Government Act 1989* (the Act) to block the passage or access of vehicles, other than bicycles and pedestrians, by maintaining the existing permanent barriers (bollards) within five laneways shown in **Attachment 1** and located between:

a) John Pascoe Fawkner Reserve and Sylvester Street, Oak Park.

b) Sylvester Street and John Street, Oak Park

c) John Street and Gregory Street, Oak Park

d) Gregory Street and Ethel Street, Oak Park

e) Ethel Street and Margaret Street, Oak Park

These bollards were installed in 2010.

Council officers then advertised a call for submissions as required by Section 223 of the Act, in *The Age*,on Council’s website and sent circular letters to owners and occupiers of all properties in the area bounded by and including Sylvester Street, Winifred Street, Margaret Street and Moonee Ponds Creek Linear Park, Oak Park. The 28-day consultation period took place in August and September 2022 and provided the public with the opportunity to inform Council of the impact of the permanent closures.

120 written submissions were received. Of those:

a) 105 submitters directly supported the proposal,

b) 10 submitters did not explicitly state their support or opposition to the proposal but shared ideas that aligned with the proposal

c) Two submitters opposed the proposal for reasons provided

d) Three submitters opposed the proposal but from their submission it is likely that they misunderstood Council’s proposal to close the laneway for all road users rather than just to vehicle traffic. Clarification was sought from each submitter, but no responses were received at the time of preparing this report.

On 13 September 2022, submitters who requested to be heard were invited to attend a Hearing of Submissions Committee meeting with the appointed Councillors to elaborate on their written submissions. Four submitters spoke to the committee.

Victoria Police, Fire Rescue Victoria and Ambulance Victoria were notified of the formal roadclosures and were given opportunity to provide comments.

This report summarises the submissions received from the public which overwhelmingly supports the formal road closures of the five laneways in Oak Park.

The report from the Department of Transport offers no objection to the formal road closures.

**Previous Council Decisions**

**Permanent Road Closures - Oak Park Laneways** – 10 February 2010

*Council resolved to:*

*1) To give public notice in the Moreland Leader Newspaper pursuant to Schedule 11, Clause 9, sections 207A and 223 of the Local Government Act 1989 regarding its intention to permanently place barriers across the laneways as noted in* ***Attachment 1****.*

*2) That the laneways shown in* ***Attachment 1*** *are not reasonably required for vehicular traffic.*

*3) That a report be presented to Council following the completion of the consultation period to make a final determination on the matter.*

**Proposal to place permanent barriers across laneways in the Oak Park area to prevent vehicle access** -13 October 2010

*Council resolved to:*

*Place permanent bollards preventing vehicle access in the laneways which are located between John Pascoe Fawkner Reserve and Sylvester Street, Sylvester Street and John Street, John Street and Ethel Street and Ethel Street and Margaret Street, Oak Park to prevent vehicle access.*

**Permanent Road Closures – Laneways in Oak Park** – 10 August 2022

*That Council:*

*1) Approves the commencement of the process under Section 207, Schedule 11, Clause 9 of the Local Government Act 1989 (the Act) to block the passage or access of vehicles, other than bicycles and pedestrians, by maintaining the existing permanent barriers (bollards) within the laneways located between:*

*a) John Pascoe Fawkner Reserve and Sylvester Street, Oak Park.*

*b) Sylvester Street and John Street, Oak Park*

*c) John Street and Gregory Street, Oak Park*

*d) Gregory Street and Ethel Street, Oak Park*

*e) Ethel Street and Margaret Street, Oak Park*

*2) Gives public notice of the proposal to permanently block the passage of vehicles, other than bicycles, and calls for submissions under Section 223 of the Act as required by Section 207A of the Act, in The Age, on Council’s website and notice to owners and occupiers of all properties in the area bounded by and including Sylvester Street, Winifred Street, Margaret Street and Moonee Ponds Creek Linear Park, Oak Park.*

*3) Appoints the Mayor as Chair and ward Councillors Cr Davidson, Cr Harte, Cr Panopoulos and Cr Yildiz to a Committee to hear any submitters requesting to be heard in support of their written submission.*

*4) Authorises the Chief Executive Officer to set the date and time and location for the Hearing of Submissions Committee meeting following consultation with the appointed Councillors and submitters requesting to be heard.*

*5) Following the consultation process, receives a report outlining any submissions received in relation to the proposal to formally block the passage of vehicles permanently.*

*6) Notes that Council resolved to place permanent barriers in these laneways in Oak Park in 2010, but due to an administrative oversight, a report from the Roads Corporation was not requested at the time.*

*7) Notes that these barriers have been in place since 2010 which restrict through vehicular movement and this report seeks to formalise their existing placement.*

**1. Policy Context**

The Local Government Act (the Act) gives Council the authority to place obstructions or barriers on a road permanently.

The proposal to formally close the laneway aligns with Council’s adopted Moreland Integrated Transport Strategy (2019) Headline Strategies 2 and 4 being:

1. Reallocate road space and car parking according to the road user hierarchy.

2. Prioritise access by walking, cycling and public transport over car-based travel.

The existing laneway provides a safe environment for people that walk and ride to access the local area and the proposal to formally close the laneway will maintain this arrangement.

**2. Background**

At the February 2010 Council meeting (DCI6), Council resolved to commence the process to close five laneways in Oak Park to prevent future developments from gaining vehicle access from these laneways which provide a safe pedestrian and cycle connection within the area. The five laneways are shown in **Attachment 1** and located between:

a) John Pascoe Fawkner Reserve and Sylvester Street, Oak Park.

b) Sylvester Street and John Street, Oak Park

c) John Street and Gregory Street, Oak Park

d) Gregory Street and Ethel Street, Oak Park

e) Ethel Street and Margaret Street, Oak Park

In 2022, Council officers investigated the history of the road closures following a planned development in the area and discovered that there is no evidence that a report was ever received from the state road authority (Department of Transport and formerly VicRoads). This error meant that the process outlined in the Act to formally close the laneways was not comprehensively followed and that the laneways remain as public roads.

Council officers are now seeking to correct this administrative error from 12 years ago and formally close the subject laneways in line with the full requirements in the Act.

**3. Issues**

**Community impact**

**Written submissions – summary**

120 submissions were received. Of those:

 105 submitters directly supported the proposal,

 10 submitters did not explicitly state their support or opposition to the proposal but shared ideas that aligned with the proposal

 Two submitters opposed the proposal for reasons provided

 Three submitters opposed the proposal but from their submission it is likely that believed Council was proposing to close the laneway for all road users rather than just to vehicle traffic. Clarification was sought but no responses were received.

**Written submissions - support**

**Laneways provide safe access for people to walk and ride**

Fifty submitters stated in their submissions that, as the laneways currently provide a safe environment for people to walk and ride to nearby local schools, sports clubs and the Moonee Ponds Creek Trail, that the laneways are valuable and should be permanently closed to vehicle traffic. Similarly, there were concerns that if vehicles could access the laneways, this would create safety issues and result in less people walking and riding through the laneways.

**Prioritise community use over developer profits**

It was stated in 11 submissions that granting private vehicle access from the laneways would likely benefit private developers of the adjacent properties at the expense of communities who have been using these laneways as vehicle free access routes for years.

**Traffic congestion is increasing in the area**

Six submitters stated that as more town houses are being constructed in the area, vehicle traffic is becoming more congested on the local streets which is making these areas less safe for people to walk and ride. As the laneways offer a safe passage for people to walk and ride, the over development of Oak Park was stated as a reason to formally close the laneways.

**Grateful to Council**

Five submitters stated that they were grateful that Council have taken the time to undertake the process to formally close these laneways to vehicle traffic.

**Laneways enhance community connection**

Four submitters stated that the laneways should be closed to vehicle traffic as they currently enhance community connection by providing a space to allow people to walk their dogs, ride bikes and stop to talk to neighbours.

**Too narrow for vehicles**

Two submitters stated that the laneways are too narrow to be used by vehicles.

**Protection of Indigenous heritage**

One submitter stated that closing the laneways to vehicle traffic will further protect the heritage land on which Oak Park stands.

**Suggestion – create green space in the laneways**

One submitter who is supportive of the proposal suggested that Council should look to improve the laneways by installing planter boxes and community art.

Council officers note this suggestion and depending on the support from the community and available budgets, may investigate opportunities to introduce green space and art work within the laneway in the future.

**Suggestion – provide lighting in the laneway**

It was suggested by a submitter who is supportive of the proposal to install lighting within the laneways.

Council officers note this suggestion. Given the proximity to the adjacent residential dwellings, the energy required and the likely low demand for people to use these laneways in the evenings, Council officers does not support installing lights within the laneways at this time.

**Written submissions - objections**

**Concern that proposal will block all access to the laneways**

Three submitters objected to the proposal, due to a possible misunderstanding that Council were looking to permanently close the laneways to all users (including bicycles and pedestrians). Clarification was sought but the submitters did not respond.

**Provide access for all users**

One submitter who objected to the proposal stated that laneways provide important access routes for walkers, cyclists and vehicles and that for these reasons the laneways should be open for all to use.

Council officers understand that many laneways across Merri-bek do provide access to people who walk, ride and drive but these laneways have not provided access for vehicles since 2010 and there is a strong community desire to permanently block vehicle access to these laneways.

**Provide maintenance and emergency access**

One submitter objected to the proposal on the basis that the laneways have not needed to be closed before now and that they should be retained to allow vehicle access to fix fences and prune trees. They also stated that emergency vehicles would need to use the laneways to access the creek and nearby parks.

In 2010, Council did undertake the process to formally close the laneways to vehicle traffic, but a clerical error meant that the process outlined in the Act to formally close the laneways was not properly followed and that the laneways remain as public roads.

On an occasion where a fence or tree that overhangs the laneway needs to be tended to, people will still be able to access these areas by walking along the laneway. Most properties in Merri-bek do not have direct laneway access along all frontages so it is expected that fences and trees can be accessed and maintained from within the property boundary.

A letter outlining Council’s proposal was sent to Victoria Police, Fire Rescue Victoria and Ambulance Victoria and no responses were received. It is noted that over the last ten years when bollards have been in place in these laneways, officers have not received any communication from emergency providers of issues with access.

**Roads Corporation Report**

The legislation requires Council to consider a report from the “Roads Corporation” before deciding on implementing a permanent road closure. The Roads Corporation (previously known as VicRoads) is now part of the Department of Transport. The report has been received. The report from the Department of Transport show in **Attachment 3** offers no objection to the road closure of 5 laneways.

**Human Rights Consideration**

The implications of this report have been considered in accordance with the requirements of the Charter of Human Rights and Responsibilities. The proposal to use Section 223 consultation will ensure people’s rights to participate in public life are protected.

The recommendations for the closure of the subject laneway does not limit or interfere with any Human Rights, in particular ‘section 12 - right to freedom of movement’ as residents will continue to have access to their properties*.* Additionally, the proposed road closure will contribute positively to the freedom of movement by making walking and bike riding safer modes of transport.

**4. Community consultation and engagement**

Public notices via circular letter were sent to owners and occupiers of all properties bounded by and including Sylvester Street, Winifred Street, Margaret Street and Moonee Ponds Creek Linear Park, Oak Park on 11 August 2022.

Public notices of the proposed formal laneway closures were placed in *The Age* newspaper and on Council’s (then) Conversations Moreland website on 15 August 2022.

The consultation period closed on 12 September, satisfying the legislated minimum of 28 days.

In response to the calls for submissions, Council received in writing, 120 submissions in total, 105 of which supported the laneway closures.

Those who requested to be heard in support of their written submissions, gave their verbal submission to the Hearing of Submissions Committee on 13 September 2022. A summary of proceedings of the hearing of submissions committee is at (**Attachment 2**) to this report and the issues considered outlined in the issues section of this report.

The Victoria Police, Fire Rescue Victoria and Ambulance Victoria were also notified via letter.

The above consultation meets the requirements of Section 223 of the *Local Government Act 1989.*

**5. Officer Declaration of Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**6. Financial and Resources Implications**

Given that the bollards that are installed can be retained, no physical works are proposed at this stage.

**7. Implementation**

After consideration of the written and verbal submissions, and the report from the Department of Transport (VicRoads), Council can decide whether to proceed with the trial road closures as proposed.

If Council determines to proceed with the permanent closures, officers will proceed to:

 Notify all those who previously received a circular letter in relation to the proposal, including those who made written submissions and the Department of Transport, of Council’s decision.

 Given that the existing bollards can be retained, no physical works are proposed.

**Attachment/s**

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Oak Park Laneways - Proposed Permanent Road Closure | D22/322596 |  |
| **2**  | Hearing of Submissions - Summary of Proceedings - Oak Park Laneway Closures - 13 September 2022 | D22/401980 |  |
| **3**  | Report from the Department of Transport - Road Closure - 5 laneways in Oak Park- no objection | D22/415903 |  |

**7.6 Proposed land rent fee for Scouts and Girl Guides Leases**

**Director Place and Environment Joseph Tabacco**

**Property, Place and Design**

**Officer Recommendation**

That Council

1. Having followed the required statutory procedures pursuant to section 115 of the *Local Government Act* 2020 notes that renewal of the Scout and Girl Guides leases was included as part of the advertising for the 2022 – 2023 budget process and that no submissions to the proposed lease renewals were received.

2. Notes that an amount of $300.00 + GST is the proposed annual rental for each of the 9 leases (8 year term with 2% annual increase) which partly covers Council’s expenses which are estimated at $2000.00 per site per annum.

3. Authorises the Director Place and Environment to do all things necessary to formalise the leases of the seven Scouts Association of Australia - Victorian Branch sites and the two Girl Guides Association Victoria sites for a term of 8 years at:

a) 9th Brunswick Scout Hall, Allard Park 174B Donald Street Brunswick East

b) Fawkner Scout Hall, Evans Reserve 20 Victory Street Fawkner

c) 1st Moreland 1st Coburg Scout Hall, Merri Creek Linear Reserve 20B Carr Street Coburg North

d) 1st 2nd Glenroy, Hoa Lu, Scout Hall Mott Reserve, 3 Cromwell Street Glenroy

e) Hoadley Regional Training Centre, Cole Reserve Pascoe Vale 177B Cumberland Road Pascoe Vale

f) Moreland - Oak Park Scout Hall 687 Pascoe Vale Road Glenroy

g) 1st Oak Park Scout Hall, Kingsford Smith Ulm Reserve 81A Loongana Avenue Glenroy

h) Raeburn Reserve 8-42 Landells Road Pascoe Vale

i) Vanderloo Reserve 3 Strachan Street Oak Park

**REPORT**

**Executive Summary**

Council leases land to the Scouts Association of Australia - Victorian Branch (Scouts) and Girl Guides Association Victoria (Guides) for the purposes of providing scouting and guides activities to the Merri-bek community. The associations lease land only, and keep and maintain their own buildings on the leased land. There are currently seven Scout leases and two Guide leases in Merri-bek that are in overholding and that officers recommend are renewed.

The Property Leasing Policy provides the process for leasing a Council asset on Council’s land. The current policy does not detail the process when Council is leasing land only.

The rent associated with the leases would also be set as part of the process of renewal. If Council were to renew the leases under the current Lease Policy, there would be a significant jump in rent for the Scouts and Guides due to the increase in land value in Merri-bek since they were last considered.

This report proposes to introduce a land lease rate, which can then be used to renew the Scout leases and Guide leases. Benchmarking has been undertaken against other councils and it is proposed to commence the land lease rate at $300+ GST per annum.

This would represent an increase in rent on the current levels, but one that officers consider to be reasonable following a benchmarking exercise.

The following lease terms are proposed for Council’s consideration:

Rent $300 plus GST per annum (total $2,700)

Term 8 years

Rent review 2% increase per annum compounding

Permitted use Scouting /Girl Guides activities

Council advertised its intention to lease sites to both the Scouts and Guides as part of the advertising for the 2022 – 2026 budget process. Having satisfied its statutory requirements, Council is now in a position to make a decision regarding the renewal of the seven Scout leases and two Guide leases in Merri-bek.

**1. Policy Context**

The Council Plan 2021-2025 sets out strategic objectives through delivery of major initiatives and priorities and ways to achieve these objectives. The Council Plan outlines how the Council will protect, improve and promote public health and wellbeing within the municipality. The Council Plan also references the Moreland Community Vision and part of the key themes to achieve the Community Vision is to manage assets that meet changing needs over the long term.

The process councils must follow when considering leasing property is provided in Section 115 of the Local Government Act 2020.

Council’s Property Leasing Policy also provides guidance on maximising the use of Council’s leased assets.

**2. Background**

Council leases land to the Scouts Association Victoria (Scouts) and Girl Guides Association Victoria (Guides) for the purposes of providing scouting and guides activities to the Merri-bek community. The Scouts and Guides lease land only and own and maintain the buildings on the leased land. Council undertakes the Essential Safety Measures (ESM) for the sites. Merri-bek has nine scout halls, two of which are under a current lease and two guide halls.

|  |  |
| --- | --- |
| Guides | Raeburn Reserve 8-42 Landells Road Pascoe Vale Vic 3044 |
| Guides | Vanderloo Reserve 3 Strachan Street Oak Park Vic 3046 |
| Scouts | 9th Brunswick Scout Hall, Allard Park 174B Donald Street Brunswick East Vic 3057 |
| Scouts | Fawkner Scout Hall, Evans Reserve 20 Victory Street Fawkner Vic 3060 |
| Scouts | 1st Moreland 1st Coburg Scout Hall, Merri Creek Linear Reserve 20B Carr Street Coburg North Vic 3058 |
| Scouts | 1st 2nd Glenroy, Hoa Lu, Scout Hall Mott Reserve, 3 Cromwell Street Glenroy Vic 3046  |
| Scouts | Hoadley Regional Training Centre, Cole Reserve Pascoe Vale 177B Cumberland Road Pascoe Vale Vic 3044 |
| Scouts | Moreland - Oak Park Scout Hall 687 Pascoe Vale Road Glenroy Vic 3046 |
| Scouts | 1st Oak Park Scout Hall, Kingsford Smith Ulm Reserve 81A Loongana Avenue Glenroy Vic 3046 |
| *Scouts* | *4th Brunswick Scout Hall, Jacobs Reserve, 14A Jolley Street Brunswick Vic 3056 (under a current lease)* |
| *Scouts* | *Formally Moreland District Ventures and Rovers Scout Hall, Morris Reserve 11 Brentwood Avenue Pascoe Vale 3044 (not to be renewed)* |

Council officers are proposing to renew seven Scout leases and two Guide leases. Of the remaining two scout halls, one is already under a long term 21 year lease (4th Brunswick Scout Hall, Jacobs Reserve, 14A Jolley Street Brunswick Vic 3056) and the other is no longer required for scouting purposes (formally Moreland District Ventures and Rovers Scout Hall, Morris Reserve 11 Brentwood Avenue Pascoe Vale). The future of this Scout building will be addressed in a separate Council Report.

Council’s current Leasing Policy provides the process for leasing a Council asset on Council’s land. It does not detail the process when Council is leasing land only. When Council leases its land only the rent is determined by either an Open Space Temporary Occupation Permit or by undertaking a current valuation for the proposed leased area.

The Scouts and Girl Guide land leases were prepared under the previous policy, which proposed an approximate rent fee of $104. The leases have remained in overhold since 2014 while maintenance concerns raised by Council officers were addressed for the various sites. The seven Scouts and two Guides leases are now ready to be renewed.

**3. Issues**

**Community impact**

Scouts and Guides deliver community activities to young people aged from 5 to 25, focusing on leadership, confidence-building, self-reliance, and team building skills. Their leaders contribute thousands of volunteer hours to their local communities each year.

**Economic sustainability implications**

Council’s adopted fees and charges schedule does not currently include a land lease rent value. If Council officers were to renew the Scouts and Guides leases under the current Lease Policy, there would be a general increase in rent, see **Table 1**. This is due to increases in land value across Merri-bek.

**Table 1**

| Tenant | Current Rent pa (overholding) | Rent calculation pa (current policy) | Proposed Rent (pa) |
| --- | --- | --- | --- |
| **Girl Guides** |  |  |  |
| Raeburn Reserve 8-42 Landells Road Pascoe Vale  | $115.57 | $810.68 | $300.00 |
| Vanderloo Reserve 3 Strachan Street Oak Park  | $119.70 | $398.89 | $300.00 |
| **Scouts** |  |  |  |
| 9th Brunswick Scout Hall, Allard Park 174B Donald Street Brunswick East  | $122.88 | $221.10 | $300.00 |
| Fawkner Scout Hall, Evans Reserve 20 Victory Street Fawkner  | $122.36 | $472.59 | $300.00 |
| 1st Moreland 1st Coburg Scout Hall, Merri Creek Linear Reserve 20B Carr Street Coburg North  | $127.03 | $202.67 | $300.00 |
| 1st 2nd Glenroy, Hoa Lu, Scout Hall Mott Reserve, 3 Cromwell Street Glenroy  | $169.69 | $580.38 | $300.00 |
| Scouts - Hoadley Regional Training Centre, Cole Reserve Pascoe Vale 177B Cumberland Road Pascoe Vale  | $169.69 | $494.70 | $300.00 |
| Scouts - Moreland - Oak Park Scout Hall 687 Pascoe Vale Road Glenroy  | $171.67 | $183.33 | $300.00 |
| Scouts - 1st Oak Park Scout Hall, Kingsford Smith Ulm Reserve 81A Loongana Avenue Glenroy  | $349.84 | $1,005.99 | $300.00 |
| **Total** | **$1,468.43** | **$4,370.33** | **$2,700.00** |

Before undertaking the process to renew the Scout and Guides leases, Property Officers have been investigating a land lease rate to be included in Council’s fees and charges schedule.

Benchmarking has been undertaken with other councils detailed in **Table 2**. Council officers are proposing a nominal land rate charge of $300+ GST per annum for Scouts leases and Guides leases. The $300 fee will go some way to cover Council’s Essential Safety Measures costs (estimated at $2,000 per site and carried out by an external contractor) and administration costs.

**Table 2**

| Council  | Lease fee / charge (pa) | Comments |
| --- | --- | --- |
| Monash City Council  | $250  | Recently renewed 9 scouts leases at this rate, noting Scouts undertake ESMs.  |
| Port Phillip City Council  | $104 | Old land rate from DELWP |
| Hume City Council  | $10-$50 | Peppercorn rate (payment on demand) |
| Brimbank City Council | $200 |  |
| Banyule City Council | $1,287 | Head lease for all (11) scout properties  |
| Port Phillip City Council  | $104 | Old land rate from DELWP |
| Hobson Bay City Council  | $1 | Peppercorn rate (payment on demand) |
| Frankston City Council  | $162 |  |
| Maroondah City Council  | $810 | Administration fee charged for all community tenants including scouts/guides with 2.5% annual increment |
| Casey City Council  | $150 |  |
| Kingston City Council  | $104 | Old land rate from DELWP |
| Knox City Council  | $10 | Peppercorn rate (payment on demand) |
| Manningham City Council  | $30 | Peppercorn rate (payment on demand) |

**Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities there are no adverse impacts. The human rights considered as part of the preparation of this report relate specifically to freedom, dignity and equity. The most relevant section of the Victorian Charter of Human Rights to the preparation of this report is property rights.

**4. Community consultation and engagement**

Relevant Council units were consulted regarding the renewal of the Scout and Guides leases including Open Space Design and Development, Capital Works Planning and Delivery (Asset Management), Recreation and Strategy and Research.

Scouts Association of Australia, Victorian Branch and Girl Guides Association Scouts Victoria have been consulted with the proposed new fee.

Statutory requirements have been met with the proposed renewal of the Scouts and Guides leases were included in the 2022 – 2023 Council Budget and its consultation process.

As there is no detrimental impact or public disadvantage resulting from the proposed leases, no further community consultation is proposed.

**Affected persons rights and interests**

Before making a decision that affects a person’s rights, Council must identify whose rights may be directly affected and provide an opportunity for that person (or persons) to convey those views regarding the effect on their rights and consider those views.

**5. Officer Declaration of Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**6. Financial and Resources Implications**

The leases combined have an annual net value of $2,700 and approximately $22,000 over an 8-year lease term with no maintenance obligations for Council. A further (est.) $18,000 annually will be allocated toward Council’s Essential Safety Measures obligations for each of the 9 leases referred to in this report.

**7. Implementation**

If resolved by Council, the seven Scout leases and two Guides leases detailed in this report will be renewed for an 8 year term.

**Attachment/s**

There are no attachments for this report.

7.7 Draft Grounds and Pavilions Allocations Policy

**Director Community Eamonn Fennessy**

**Community Wellbeing**

## Officer Recommendation

That Council:

1. Approves the release of the Allocation and Use of Sporting Facilities, Grounds and Pavilions Policy review Discussion Paper (Attachment 2) for stakeholder engagement.

2. Requests a report for the December 2022 Council meeting that outlines consultation findings and provides a new policy for Council consideration prior to the commencement of the 2023 Winter allocations process.

**REPORT**

**Executive Summary**

Council has a strong commitment to providing its community with active sport and recreation opportunities, offering a wide range of sporting facilities and support to residents and visitors. Council’s Allocation and Use of Sporting Facilities, Grounds and Pavilions Policy 2016 provides a framework for the annual and seasonal allocation of sporting grounds and pavilions to clubs through a tenancy agreement.

Annual and seasonal (Winter) allocations open in January, close in February, and are reported to the March Council Meeting for endorsement annually. At the 9 March 2022 Council meeting Council endorsed the proposed allocations and requested that a review of the existing policy be undertaken for Council consideration in 2022.

In August 2022, the Victorian State Government released the ‘Fair Access Policy Roadmap’ which includes specific requirements for all Councils to adhere to in order to be eligible to receive grant funding. At the 14 September 2022 Council also resolved to review its policies regarding trans and gender diverse inclusion, anti-discrimination, and diversity and inclusion.

These recent decisions and other factors have been considered in a review of the Allocations and Use of Sporting Facilities, Grounds and Pavilions Policy (the Policy).

A Discussion Paper has been prepared that provides key points of consideration to ensure Council continues to meet obligations across various policy drivers and provides suggests to be incorporated into a new policy.

It is recommended that the Discussion Paper is released for stakeholder engagement in October, with outcomes to be reported at the December 2022 Council Meeting.

**Previous Council Decisions**

**2022 Annual and Winter Sports Facilities and Grounds Tenancy Allocations -** 9 March 2022

*1. Allocates sports grounds and pavilions for the 2022 annual and winter season to the nominated clubs shown in Attachment 2 to this report with the exception of Hosken Reserve EAST sports field, as its future use is to be decided at the April Council meeting, noting that the Pascoe Vale Soccer Club have used this field informally for many years.*

*2. Authorises the Director Community to make any changes necessary to the allocation of facilities for the 2022 annual and winter season.*

*3. Notes any club owing ground and pavilion fees from previous seasons, or owing any other debt to Council, as outlined in Confidential Attachment 2 to this report, will be informed that no ground allocation will be granted until payment is made or a payment plan has been agreed to.*

*4. Notes clubs must provide all required documentation to Council prior to receiving an allocation of sports grounds and pavilions for the 2022 annual and winter season.*

*5. Notes current junior and female participation levels at sports clubs contained within this 2022 Annual and Winter Sports Ground Tenancy Allocations report.*

*6. Requests officers to undertake a review of the Allocations and Use of Sporting Facilities, Grounds and Pavilions Policy (February 2016) for Council consideration in 2022.*

**Supporting Trans and Gender Diverse People -** 14 September 2022

*1. Releases a public statement of support for the inclusion of trans and gender diverse inclusion in all sports in Merri-bek, and in opposition to transphobia and transmisogyny.*

*2. Reviews its policies regarding trans and gender diverse inclusion, anti-discrimination, and diversity and inclusion, in consultation with the LGBTIQA+ Reference Group.*

3. *Requests the Chief Executive to prepare a report that considers the development of an LGBTIQA+ Action Plan and provides for timeline, budget allocation requirement and other governance details, and requests that the report be presented to Council by no later than November 2022.*

## 1. Policy Context

## The Allocation and Use of Sporting Facilities, Grounds and Pavilions Policy 2016 (the Policy), together with the Sporting Facilities, Grounds and Pavilions User Guide (the User Guide) provide a framework for the allocation for Council’s sports facilities and outline the terms and conditions of use.

## Council’s Sport and Active Recreation Strategy 2020 guides the strategic intent of the Policy and is closely aligned to the Council Plan where it continues to have outcomes for increasing participation in sport and active recreation:

## • Theme: A Healthy and Caring Merri-bek

Strategy 3.3 “Ensure Merri-bek residents are more active more often at all stages of life by providing a diverse range of accessible and affordable recreation opportunities that reflect our diverse community and develop and maintain partnerships to enhance participation options”

## 2. Background

## In 2009, Council began research and consultation to identify the key challenges and inequities in the provision of sport, leisure and active recreation for women and girls within the municipality. This resulted in the development of the ‘Active Women and Girls Strategy’ in 2009, subsequently updated in 2011 and 2015.

## To address identified inequities and challenges, Council also introduced a Sportsground and Pavilion Allocation Policy in 2010. The policy required clubs to be inclusive of women, juniors, people with a disability and people from culturally diverse communities, or risk losing allocation of a ground. Merri-bek was the first council in Victoria to prioritise the allocation and use of sporting grounds and pavilions to clubs which demonstrated proactive inclusion of women and girls.

## In November 2012, Council reviewed the policy and renamed it the ‘Allocation and Use of Sporting Facilities, Ground and Pavilions Policy’. The scope was broadened to include not only sports ground users but also sports leasing council facilities (e.g., tennis, lawn bowls and cycling). The requirement also stated clubs must offer:

## • junior sides and registered community sport development programs for juniors

## • girls and women sides and/or registered community sport development programs for females.

## A policy review in March 2016 further strengthened Council’s position, stating that leasing and allocation of council facilities would only be provided to clubs whose membership provided opportunities within the club’s respective sporting codes for junior sides, female sides, female development programs and initiatives, and female representation on club committees and/or boards. Clubs had been granted a three-year phase-in period to work toward achieving the policy objectives.

## Among many successful outcomes, the Strategy and Policy has seen female participation increase from 8 per cent in 2009 to 21 per cent in 2016, 23 per cent in 2018, and 26 per cent in 2022.

## Merri-bek is the first Council in Victoria to prioritise the allocation and use of sporting grounds and pavilions to clubs which demonstrate inclusiveness of women and girls in particular. Merri-bek has drawn significant praise across industry and is seen as a leader in female participation Australia wide.

## The proposed 2022 sporting allocations were considered by Council in March, ahead of the Winter season beginning in April. Thirty-one annual and seasonal tenancy applications were received from clubs, with an additional application received from an external club seeking a seasonal allocation in Merri-bek and reviewed by Council officers in line with the Policy.

At its 9 March 2022 Council resolved to endorse the proposed allocations and requested that a review of the policy be undertaken for Council consideration in 2022.

## 3. Issues

**Key findings**

The Discussion Paper reviews Council’s existing Policy, benchmarks practices against other Councils, and identifies several issues and opportunities including:

• Vague terminology: The existing policy contains several instances of ambiguous wording that leaves policy positions and criteria open for interpretation.

• Poor clarity in criteria assessment: While the intent of the nominated criteria within the existing policy is somewhat clear, the method of assessing an applicant against the criteria lacks detail and does not provide scope to compare applications in the event of competing requests.

• Repetitive and inconsistent wording: Different sections of the existing policy reference similar outcomes in alternative wording, leading to confusion of application of policy conditions.

• Conflicting policies: There are occasions where other policies have interrelated, and sometimes competing requirements are placed on applicants.

• Lack of policy representation: There are numerous instances where statements and policy from various other strategies and Council documentation is not reflected in the existing policy.

• Reinforce Council policies: There are a number of existing Council strategies, plans and other documentation that provide the impetus to include new and/or updated provisions within a reviewed policy.

• Strengthen policy intent: There are also good examples in the current policy that demonstrate Council’s intent and objectives in a clear and concise manner. The terminology used is strong, transparent and leaves very little room for interpretation, which should be used throughout.

In undertaking benchmarking, it became clear that there are three ‘domains’ that Council’s utilise to apply policy criteria which should also be considered in a revised policy:

• Eligibility criteria: Mandatory requirements that applicants MUST adhere to in order to be eligible for an allocation.

• Priority criteria: Elements of Council policy that may be interpretive in nature and provide scope to compare applications in the event of competing requests.

• Incentive criteria: Actions and/or outcomes that are beyond core principles but still desirable and rewarded via fee subsidies or other incentives.

The Discussion Paper also introduces the ‘4P’s for Participation Framework’ to ensure that Council can successfully achieve positive outcomes across all areas, including:

• Policy: Commitment to good governance

• People: Demonstrated inclusivity of all people

• Programs: Championing equity in participation

• Places: Promoting healthy and safe local environments

Both the policy criteria domains and 4p’s for Participation Framework were adopted in developing the suggested policy criteria (p28 of Attachment 2, the Discussion Paper).

**Capacity of sporting grounds**

Tenancy and allocation applications are considered firstly in relation to the capacity of sporting grounds, and secondly with respect to the club’s compliance to the Policy. As with previous seasons, Council’s facilities (grounds and pavilions) are being fully utilised/occupied, with any vacancies being utilised throughout the season to spread training loads and fixtures away from grounds where the condition of the surface may be deteriorating. With capacity maximised and no new facilities available, Council officers are mindful to ensure allocations do not exceed ground carrying capacity.

Excessive allocations result in overused and damaged playing surfaces. On average, most grounds can sustain 11-15 hours of use per week. Hours above this may create unsafe playing conditions, especially throughout the winter months which leads to temporary ground closures for all users. This can impact upon the community in the short term, club utilisation in the medium term and create additional maintenance requirements to ensure appropriate standards for training and competition.

**Community impact**

Merri-bek is the first Council in Victoria to prioritise the allocation and use of sporting grounds and pavilions to clubs which demonstrate inclusiveness of women and girls in particular. Among many successful outcomes, the Policy has seen female participation increase from 8 per cent in 2009 to 21 per cent in 2016, 23 per cent in 2018, and 26 per cent in 2022. Merri-bek has drawn significant acclaim across industry and is a leader in female participation.

**Climate emergency and environmental sustainability implications**

Council officers from recreation and maintenance areas works closely to monitor the hours of use to manage the sustainability and fit for purpose use of each sports field. Recommended hours of use for each playing surface have been determined by Council maintenance area. Ground carrying capacity will vary depending on several factors including, but not limited, to: the type of grass; soil profile; suitable sports field lighting; infrastructure for drainage and irrigation; and grade of sport being played. The management of each sports facility is also discussed regularly with clubs, to educate and facilitate the appropriate use of each sports field, pavilion, and other sports infrastructure (e.g. sports field lighting and turf wickets).

Council, in partnership with clubs, has adopted proactive sustainability initiatives including several reserves having rainwater tanks in place to reduce the consumption of water for irrigation programs and several pavilions having solar panels installed through club initiative and grants programs to support renewable energy.

The Discussion Paper outlines ways to further strengthen Council commitment to embedding sustainable practices in club culture, particularly referencing a requirement for clubs to implement Council’s Plastic Wise Policy and will include guidance about fossil fuel advertising at Council facilities as per previous Council resolutions.

**Economic sustainability implications**

The clubs and associations applying for annual and winter allocations are non-for-profit organisations, predominantly operated by volunteers. Clubs and associations are often experiencing volunteer fatigue, where the work of many fall on a few. The burnout of volunteers is a regular occurrence, impacting the information, skills and knowledge needed to maintain club operations. Officers are working with club committee members to address this and provide as much support as practical.

The Discussion Paper suggests the implementation of a number of new policy conditions. It is acknowledged that policy and operational change can at times be difficult, particularly for predominantly not-for-profit, volunteer run organisations like sporting clubs. Where significant change is proposed, a ‘step change’ model will be considered whereby incremental changes are introduced over time in order to minimise the administrative burden placed on sports clubs.

Importantly, the Discussion Paper also considers changes to the subsidies available to sporting clubs to reduce applicable fees and charges through their commitment to implementing a range of actions and/or outcomes that are beyond the Policy’s core principles but still desirable outcomes for Council and the community. This may increase or decrease costs to clubs depending on their application and classification.

**Legal and risk considerations**

A key component of the suggested policy criteria in the Discussion Paper is centred around the ‘Policy’ theme, which seeks to encourage a commitment to good governance practices through various activities including, but not limited to: maintaining adequate Public Liability insurance, being aligned to a recognised State Sporting Association or other relent governing body, and being a registered legal entity. This ensure appropriate legal and risk management is embedded in club practices, for example the requirement for incorporation: State Sporting Association insurance policies would deny indemnity to clubs that have allowed their incorporation to lapse putting Council at risk to cover injury claims.

**Human Rights Consideration**

The implications of this report have been considered in accordance with the requirements of the Charter of Human Rights and Responsibilities and access to sport and physical activity reflects Sections 12 and 18 of the Human Rights Charter which relate to freedom of movement and taking part in public life.

## 4. Community consultation and engagement

**Communications**

It is recognised that a reviewed and updated policy may have significant impacts on existing users. To ensure a complete understanding of the potential effects of the proposed changes Council will undertake an impact evaluation process inclusive of:

• Reviewing club data regarding participation numbers, affiliation, junior development, governance etc. that Council used to inform 2022 allocations (~31 applicants)

• Source additional club information/data as required

• Review stakeholder feedback received

• Document impact of revised Policy conditions/criteria on existing tenants (i.e., those that do/do not meet requirements) and Council officers (i.e., documentation/ assessment)

Following consideration by Council, it is proposed that the Discussion Paper is released for public exhibition with a series of engagement opportunities afforded to stakeholders.

This engagement will focus on utilisation of the Conversations Merri-bek website which will host:

• The discussion Paper and any other documentation

• Project FAQs

• An engagement survey

• Invite formal feedback responses

Opportunities for providing direct feedback to Council Officers will also be made available upon request of stakeholders.

The following key stakeholders have been identified for engagement on the suggested policy criteria:

• Sports clubs

• State Sporting Associations

• Sport and Recreation Victoria

• General public/ residents

• Council committees and reference groups (e.g. Human Rights Advisory Committee, LGBTIQA+ and Disability Reference Groups)

## 5. Officer Declaration of Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

## 6. Financial and Resources Implications

The estimated fees and charges income for the 2022 annual and winter sports ground and pavilion allocations was $195,420.42. Officers monitor the payment of fees, and clubs with outstanding debts are advised that these debts could affect future ground allocations. All clubs with outstanding debts receive in writing a request to finalise payment. Relevant state sporting associations are also advised.

The Discussion Paper suggests the implementation of a number of new policy conditions that may increase the administrative burden placed on sports clubs and Council Officers in their management. It is not expected that this will impact Council budget and/or formal staff resourcing requirements.

The Discussion Paper also considers changes to the subsidies available to sporting clubs which may increase or decrease costs to clubs depending on their application and classification. It is not believed that these changes will make a significant difference to the fees outlined above.

## 7. Implementation

Subject to Council approval, it is intended that the Discussion Paper is released and stakeholder engagement begins from 17 to 31 October via the Conversations Merri-bek platform as outlined in the report.

A report will proceed to the December 2022 Council meeting that outlines consultation findings and provides a revised Allocation and Use of Sporting Facilities, Grounds and Pavilions Policy for Council consideration and endorsement.

It is also noted that under the *Gender Equality Act 2020* local councils and public sporting bodies are obliged to apply a gender lens and conduct gender impact assessments (GIA) to understand how policies, programs and services can impact people of different genders in different ways, and ensure inequalities aren’t being reinforced. A GIA will be completed prior to a reviewed policy proceeding to Council for consideration.

## Attachment/s

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Discussion Paper Overview - Allocation & use of sporting facilities, grounds & pavilion policy review | D22/441464 |  |
| **2**  | Discussion Paper - Allocation & use of sporting facilities, grounds & pavilion policy review | D22/441585 |  |

7.8 Investment Policy

**Director Business Transformation Sue Vujcevic**

**Finance and Procurement**

## Officer Recommendation

That Council adopts the revised Investment Policy, at Attachment 1 to this report.

**REPORT**

**Executive Summary**

The purpose of this report is to seek Council endorsement of a revised Investment Policy, shown at Attachment 1. The current Investment Policy was approved by Council in February 2012 and was due for review in March 2015.

The revised policy provides guidance on the effective and responsible utilisation of Council’s surplus cash funds within the government legislative framework, conforming to Federal and State regulations.

Particular emphasis is directed towards ethical investment decisions that limit unnecessary exposure to risk and optimise return on investment whilst ensuring sufficient liquidity for Council’s ongoing operating commitments.

This policy applies when Council is considering and determining the 4-year budget and will be adhered to when reviewing Council’s 10-year Financial Plan.

The revised policy was considered by the Audit and Risk Committee at its meeting on 6 September 2022, with no changes recommended by the committee.

Previous Council Decisions

**Moreland City Council Investment Policy –** 8 February 2012

*Council resolve to adopt the Investment Policy as at Attachment 1 to this report.*

## 1. Policy Context

The revised Investment Policy is in alignment with the Moreland Council Plan 2021-2025 Theme - *An empowered and collaborative Moreland* and related Council plan Strategy - *Sustainable, equitable and transparent management of funds.*

This document aligns with the following legislation and policies:

 The Local Government Act 2020 (The Act) Section 103 stipulates where Council can invest money

 Relevant regulations guidelines or directions issued by the Victorian Local Government Minister or Local Government Victoria

 Australian Accounting Standards

 Fossil Fuel Divestment Strategy 2015 – 2025.

The Victorian Government established the Local Government Performance Reporting Framework (LGPRF) in 2014. It outlines the measures Council must report in its performance report, which forms part of Council’s Annual Report.

## 2. Background

The revised policy seeks to provide guidance to Council on how it invests with an emphasis towards ethical investments. The current Investment policy was due to be reviewed in March 2015. The revised policy has been prepared to reflect legislation changes as well as including the key components of the Fossil Fuel Divestment Strategy 2015 – 2025 within the Investment Policy.

The proposed policy seeks to ensure that as custodians of public money, Council aims to balance the security of investments with interest earning potential and supporting environmentally and socially responsible investments.

Section 103 of the Local Government Act 2020 states that A Council may invest any money—

a) in Government securities of the Commonwealth; and

b) in securities guaranteed by the Government of Victoria; and

c) with an ADI; and

d) with any financial institution guaranteed by the Government of Victoria; and

e) on deposit with an eligible money market dealer within the meaning of the Corporations Act; and

f) in any other manner approved by the Minister, either generally or specifically, to be an authorised manner of investment for the purposes of this section.

## 3. Issues

The purpose of the revised policy is to provide the appropriate parameters for Council to balance the security of investments with interest earning potential and supporting environmentally and socially responsible investments.

The key changes to the policy are summarised below:

**Amendment of the legislative framework to align with updates to the Local Government Act.**

The revised policy has been updated to reference the *Local Government Act 2020*.

**Incorporates the key principles of the Fossil Fuel Divestment Strategy 2015 – 2025**

The revised policy is not seeking to replace the Fossil Fuel Divestment Strategy 2015 – 2025. The revised policy has been drafted to include the key principles of the divestment strategy into the Investment Policy. This includes, but is not limited to:

 A minimum of 70 per cent of all short term and long-term investments are held are a green investment; and

 Council will exclude investment in companies that are directly engaged in the production of fossil fuels and coal mining and electronic gaming machines.

**Introduces a minimum threshold of $20 million of the investment portfolio that can be converted into cash within a 60-day notice period**

The introduction of a threshold is to ensure that Council maintains a minimum level of cash to service its operating expenditure at any point of the year. Council’s cashflow is heavily dependent on the rates instalment periods (September, November, February, May), therefore Council needs to have the ability to convert an investment into cash within a 60-day period.

**Increases the maximum maturity of term deposits from 2-years to 5-years**

The revised Investment Policy has increased the maximum maturity of term deposits from 2-years to 5-years. This aligns with the long-term nature of some of Council’s reserves and increases the ability to maximise the return on investments.

### Community impact

Adopting the revised Investment Policy will provide clear principles to ensure that a structured and disciplined approach to investing is established. The revised policy also incorporates the key principles from the Fossil Fuel Divestment Strategy 2015 – 2025.

### Human Rights Consideration

### The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities.

## 4. Community consultation and engagement

**Affected persons rights and interests**

Council's Community Engagement Policy 2020 states that for policy matters related to Council’s internal organisational operations Council will not engage the community. Therefore, as this revised Investment Policy has a negligible impact on the community, nor can the policy be influenced significantly by the community; Council has not carried out any community engagement.

## 5. Officer Declaration of Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

## 6. Financial and Resources Implications

The Investment Policy incorporates the 70% green investment target which is a part of the Fossil Fuel Divestment Strategy 2015 – 2025. By having a green investment target, this may impact the return on investment that Council receives.

As custodians of public money Council aims to balance the security of investments with interest earning potential and supporting environmentally and socially responsible investments.

## 7. Implementation

Subject to Council’s decision, when endorsed, the revised policy will be uploaded to the internet as a public policy and communicated to relevant Council officers.

## Attachment/s

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Draft Investment Policy | D22/326255 |  |

**7.9 Contract RFT-2022-329 - South Street, Hadfield Road Reconstruction Works Between East Street and Sussex Street**

**Director City Infrastructure Anita Curnow**

**Capital Works Planning and Delivery**

**Officer Recommendation**

That Council:

1. Authorises the Chief Executive Officer to:

a) Make a formal offer to MJ Construction Group Pty Ltd and ACN 092 432 730 (Contractor) to award to the Contractor Contract RFT-2022-329 for road reconstruction works along South Street, Hadfield between East Street and Sussex Street (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:

i. For the sum of $748,152.00 (excluding GST) plus provisional sum of $136,900.00 (excluding GST), totaling $885,052.00 (excluding GST).

ii. Allocate a contingency amount of $132,758.00 (15 per cent) to the project bringing the total expenditure for Contract RFT-2022-329 for road reconstruction works along South Street, Hadfield between East Street and Sussex Street to $1,017,810.00 (excluding GST).

b) Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:

i. the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and

ii. other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;

2. Conditional on acceptance of the Contract by the Contractor in accordance with the terms of this Resolution:

a) Authorises the Chief Executive Officer to do all things necessary to execute the Contract and any required documentation for Contract RFT-2022-329, including authorising any cost overruns within the project budget, provided that the overall Road Budget within the Capital Works Program allocation is not exceeded;

b) Advises all tenderers of Council's decision in relation to the Contract.

3. Notes that savings in the roads budget have been declared within financial year 2022‑2023 as follows;

a)

|  |  |  |
| --- | --- | --- |
| Project | GL number | Savings declared |
| Claremont Street, Coburg North | 52390201 | $   50,500.00 |
| Peterson Avenue, Coburg North | 52390343 | $  55,910.00 |
| TOTAL | $  106,410.00 |

b) Authorises the reallocation of this funding to the road reconstruction works along South Street, Hadfield between East Street and Sussex Street, providing the additional funding required as noted in Section 6 of this report, and notes that this movement of funds will be reflected in the 2022-2023 Q2 budget review.

**REPORT**

**Executive Summary**

Road reconstruction works along South Street, Hadfield between East Street and Sussex Street are identified in the 2022-2023 Capital Works Program. The works are required to address the poor condition of the kerb and channel and road pavement and provide underground drainage along this section of South Street. Provision for bicycle facilities is not required as this section of South Street does not play a strategic cycling role in the network.

An advertisement was placed in *The Age* newspaper on Saturday, 13 August 2022 inviting tenders via the e-tender portal from suitably experienced contractors to undertake the road reconstruction works along South Street, Hadfield between East Street and Sussex Street.

Tenders closed on Tuesday 6 September 2022 and 6 tenders were received.

Funding was allocated to this project before the detailed design was complete. Detailed design since the setting of the budget has revealed that the budget of $911,400 may be inadequate, and this has proven to be the case through the public tenders received.

MJ Construction Group Pty Ltd achieved the highest score through the evaluation process. MJ Construction Group Pty Ltd has previously undertaken road reconstruction works for Council and successfully delivered the works to a very good standard.

The project will be utilising recycled crushed concrete as bedding material under all new concrete paving and as backfill to the new drainage pipes along the street. The use of recycled crushed concrete will reduce the need for raw materials by approximately 210 cubic metres.

The tender complies with section 109(1) of the *Local Government Act 2020.*

**Previous Council Decisions**

There has been no prior Council decision in relation to this specific contract or project.

**1. Policy Context**

This report is in keeping with Council’s commitment to accountability and sound financial management. It also addresses the requirement under Section 109(1) of the *Local Government Act 2020* which requires Council to conduct a public tender for goods, services and works where once-off or ongoing cumulative spend over the life of the contract is expected to exceed $300,000 (incl GST) as well as the policy commitments contained in the Procurement Policy.

**2. Background**

Road reconstruction works along South Street, Hadfield between East Street and Sussex Street are identified in the 2022-2023 Capital Works Program.

The works are required to address the poor condition of the kerb and channel and road pavement and provide underground drainage along this section of South Street.

An advertisement was placed in The Age newspaper on Saturday, 13 August 2022 inviting tenders via the e-tender portal from suitably experienced contractors to undertake the road reconstruction works along South Street, Hadfield between East Street and Sussex Street.

Tenders closed on Tuesday 6 September 2022, with 6 tenders received from the following contractors:

 ADP Constructions Pty Ltd

 Melbourne Civil Works Pty Ltd

 Metro Asphalt Pty Ltd – Trading as Cole Civil

 MJ Construction Group Pty Ltd

 Novacon Group Pty Ltd

 Rapid Paving Construction Co Pty Ltd

**Tender Evaluation**

Tenders were evaluated in accordance with Council’s Procurement Policy.

A Procurement Plan has been developed for this project.

The membership of the tender evaluation panel was as follows:

|  |  |  |
| --- | --- | --- |
| **Title** | **Speciality** | **Full Voting / Advisory Member** |
| Unit Manager Engineering Services | Design and Construction (Chair) | Full |
| Principal Urban Designer | Streetscape | Full |
| Senior Construction Engineer | Construction | Full |

In assessing the tenders, consideration was given to the following predefined evaluation criteria:

|  |  |
| --- | --- |
| **Evaluation Criteria** | **Weighting** |
| Tender Price | 40% |
| OHS Requirements | 9% |
| Traffic Management and Works Program | 12% |
| Capability, Experience and Past Performance and Capacity | 12% |
| Quality Management System | 7% |
| Customer Service | 7% |
| Social Sustainability | 5% |
| Environmental Sustainability | 4% |
| Economic Sustainability | 4% |
| **Weighted result:** | **100%** |

The evaluation process identified MJ Construction Group Pty Ltd as the preferred tenderer based on the results of the evaluation matrix, included as Confidential **Attachment 1**.

A telephone interview was conducted with MJ Construction Group Pty Ltd to determine its current and future commitments, workforce and understanding of the works required under this contract. During the interview process, MJ Construction Group Pty Ltd indicated it has adequate resources to successfully complete the project within the specified time frame and revised lump sum amount.

MJ Construction Group Pty Ltd has previously undertaken road reconstruction works for Council and successfully delivered the works to a very good standard.

**3. Issues**

**Collaboration**

Section 109(2) of the *Local Government Act 2020* requires that any report to the Council that recommends entering into a procurement agreement must include information in relation to any opportunities for collaboration with other Councils or public bodies which may be available.

Under this contract there are no opportunities to collaborate with other Councils or public bodies as:

 This is a locally based stand-alone road reconstruction project for which there is a healthy local market of contractors

 The nature of the works are not dependent on works being undertaken by other Councils or public bodies.

Informal discussions between neighbouring Councils on collaborative procurement have identified these types of programmed works as less attractive for collaboration that some other types of procurement given the health of the local contractor industry for works of this size and nature.

**Environmental Implications**

The specification for the road reconstruction works requires the contractor to submit a Site/Environmental Management Plan prior to the commencement of the works outlining procedures for erosion control, sediment transport control, sediment retention measures, transportation of excavated materials to recycling facilities, tree protection and general site management.

The project will be utilising recycled crushed concrete under all new concrete paving and as backfill to the new drainage pipes along the street. The use of recycled crushed concrete will reduce the need for raw materials by approximately 210 cubic metres.

The project does not include any bicycle facilities, nor provision of future bicycle facilities, and this is consistent with Council’s strategic thinking about bike facilities in this area, as follows:

 There are currently no plans for upgraded cycling infrastructure in 10-year bike and pedestrian capital works plan for the section of South Street between East Street and Sussex Street.

 There is an existing link from Derby Street into East Street which already has painted cycling infrastructure, and this will be maintained.

**Social Implications**

MJ Construction Group Pty Ltd has a Social Procurement Policy in place. The policy is designed to address disadvantage and principles of diversity, acceptance, fairness, compassion, inclusiveness and access for all people and abilities.

**Economic Implications**

MJ construction Group Pty Ltd has indicated that most of its material suppliers for this project will be located within Merri-bek and surrounding municipalities.

**Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities.

**4. Consultation / Recommendation from Management**

Consultation with owners/residents along South Street, Hadfield between East Street and Sussex Street was undertaken via a letter drop in July 2022. Several residents responded advising they are in agreeance and support the proposed works.

Owners and residents will also be informed prior to the works commencing on site via a letter drop from Council and the Contractor.

**5. Declaration of Conflict of Interest**

Council Officers, external consultants and all other parties involved in the preparation of this report have no conflict of interest in this matter.

**6. Financial and Resources Implications**

An amount of $911,400 has been allocated in 2022-2023 Capital Works Program for road reconstruction works along South Street, Hadfield between East Street and Sussex Street.

The table below shows the overall expenditure for the project.

|  |  |
| --- | --- |
| **Item** | **Amount (excluding GST)** |
| MJ Construction Group Pty Ltd – tendered lump sum amount | $ 748,152.00 |
| MJ Construction Group Pty Ltd – tendered provisional sum amount | $ 136,900.00 |
| Project contingency amount (15%)15% is required due to potential latent ground conditions which may be encountered along the drainage line in South Street | $ 132,758.00 |
| **Total** | **$1,017,810.00** |
| Budget amount 2022-2023 | $ 911,400.00 |
| Budget Shortfall | $ 106,410.00 |

The budget allocation for 2022-2023 was set prior to undertaking the design and drainage analysis and was therefore before a full understanding of the scope of work required was established.

The total estimated cost of the road reconstruction works prior to tender was $998,880 (excluding contingency amount) and therefore, the tender submitted by MJ Construction Group Pty Ltd is considered reasonable.

The shortfall in funding can be managed from savings within the overall roads program. A total of $10.97 million has been allocated to these programs in 2022‑2023. Two projects have declared savings that will match the shortfall for Contract RFT-2022-329 for road reconstruction works along South Street, Hadfield between East Street and Sussex Street. The savings are a result of tendering at a competitive time when contractors were looking for projects to commence in the last quarter of 2021-2022 and the first quarter of 2022-2023.

|  |  |  |
| --- | --- | --- |
| **Project** | **GL number** | **Savings declared** |
| Claremont Street, Coburg North | 52390201 | $   50,500.00 |
| Peterson Avenue, Coburg North | 52390343 | $  55,910.00 |
| **TOTAL** | **$  106,410.00** |

It is recommended that these two amounts be reallocated away from their existing project to Contract RFT-2022-329 for road reconstruction works along South Street, Hadfield between East Street and Sussex Street and noted that this will be reflected in the 2022-2023 Q2 budget review

**7. Implementation and Timeline**

It is proposed that the Chief Executive Officer be authorised to do all things necessary to execute the contract and any other required documentation, including authorising any cost overruns within the project budget, provided that the overall roads budget within the Capital Works Program allocation is not exceeded.

Works are planned to commence in January 2023 and be completed in May 2023.

**Attachment/s**

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Contract RFT-2022-329 - South Street, Hadfield - Tender Evaluation Summary*Pursuant to section 3(1)(g(i))(g(ii)), and of the Local Government Act 2020, this attachment has been designated as confidential because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets, and 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.* | D22/407813 |  |

7.10 Contract RFT-P-2021-210 for Provision of Services for Open Space and Bushland Services

**Director City Infrastructure Anita Curnow**

**Open Space and Environment**

## Officer Recommendation

That Council:

1. Authorises the Chief Executive Officer to:

a) Make a formal offer to the panel of contractors listed below according to the various categories for Contract RFT-P-2021-210 – Open Space and Bushland Services, on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:

i. for the submitted Schedule of Rates of Tenders,

ii. for a period of three (3) years from 1 November 2022 to 31 October 2025, with an option for a further two (2) by two (2) year extensions, until end term of 31 October 2029.

b) Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:

i. the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and

ii. other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;

**Landscape Consultant:**

 JF Studio Pty Ltd ABN 38 633 408 170

 Hutchison Parks Services ABN 78 122 582 416

 McGregor Coxall Australia Pty Ltd ABN 55 639 279 655

 Michael Smith and Associates ABN 65 742 475 072

**Landscape Materials including horticultural and arboricultural supplies**

 Australian Ecosystems ABN 36 080 253 096

 Ecodynamics Services ABN 14 772 744 278

 Repurpose It ABN 85 617 095 413

 The Mint Garden Centre P/L (Mickleham Soils) ABN 75 125501 475

**Earthworks**

 Australian Ecosystems ABN 36 080 253 096

 EarthPro Bobcat and Truck Hire ABN 19 879 935 996

 Naturelinks ABN 22 097 146 426

 Sevron ABN 41 165 444 011

**Supply of advanced trees and other vegetation**

 Australian Ecosystems ABN 36 080 253 096

 Plantmark ABN 59 006 483 254

 Specialty Trees ABN 79 135 772 315

 UDL Group ABN 30 610 979 309

**Supply of park furniture and fencing**

 Sevron ABN 41 165 444 011

 Supreme Wire Fence and Gate ABN 41 568 532 751

 Urban Design Group ABN 13 709 164 085

**Landscape construction contractors for planting, furniture installation and general landscape works including electrical supply**

 Australian Ecosystems ABN 36 080 253 096

 Cityworks Construction and Maintenance ABN 25 309 611 060

 Sevron ABN 41 165 444 011

 UDL Group ABN 30 610 979 309

**Open Space Maintenance**

 Acacia Environmental Management Pty Ltd ABN 881 081 91 466

 Asphlundh Tree Expert Australia Pty Ltd ABN 83 055 140 424

 Australian Ecosystems ABN 36 080 253 096

 Felix Botanica ABN 84 171 259 468

 TREC Land Services ABN 13 623 160 305

 UDL Group ABN 30 610 979 309

 Webster Contracting Pty Ltd ABN 75 119 383 130

**Bushland services (rates for schedules B2-B4 only)**

 Acacia Environmental Management Pty Ltd ABN 881 081 91 466

 Felix Botanica ABN 841 712 59 468

 Haas and Gray Indigenous Horticulture Pty Ltd ABN 33 681 411 296

 Habitat Land Management ABN 46 605 063 492

 Indigenous Design Environmental Management ABN 64 081 044 144

 Merri Creek Management Committee ABN 13 025 599 242

 Naturelinks ABN 22 097 146 426

 TREC Land Services ABN 13 623 160 305

2. Conditional on acceptance of the Contracts by the Contractors in accordance with the terms of this Resolution:

a) Authorises the Chief Executive Officer to do all things necessary to execute the contracts, and any required documentation for the Contracts, and

b) Authorises the Chief Executive Officer to execute future option for the two (2) by two (2) years contract extensions beyond the initial term, as set out in part 1 of this resolution, and

c) Advises all tenderers of Council's decision in relation to the Contract.

REPORT

## Executive Summary

The tender complies with section 109(1) of the *Local Government Act 2020.*

Council has in-house open space maintenance and design and development teams that deliver a wide range of services relating to maintenance, landscape design, construction and bushland services. Council purchases products to facilitate this work and contractors and consultants are required at times to supplement Council resources for successful delivery of these services.

To facilitate procurement of these products and services and in the light of the expiry of the previous Contract 527T, Merri-bek City Council is establishing a new panel of contractors with competitively sourced schedules of rates to provide service and materials in the following categories:

a) Landscape consultants

b) Landscape materials including horticultural and arboricultural supplies

c) Earthworks

d) Supply of advanced trees and other vegetation

e) Supply of park furniture and fencing

f) Landscape construction contractors for planting, furniture installation and general landscape works including electrical supply

g) Open space maintenance

h) Bushland services.

Council sought tenders from suitably qualified contractors for each of these categories and assessed the tenders in accordance with Council’s Procurement Policy. The tender complies with section 109(1) of the *Local Government Act 2020.*

**Previous Council Decisions**

**DCI62/16 Contract No 527T- Provision of Open Space Landscape and Bushland services and management including Design, Materials, Construction and Maintenance supplies** -7 December 2016

**DCI9/17 Contract No 527T- Provision of Open Space Landscape and Bushland services and management including Design, Materials, Construction and Maintenance supplies – Contractors** – 8 February 2017

## 1. Policy Context

This report is in keeping with Council’s commitment to accountability and sound financial management. It also addresses the requirement under Section 109(1) of the *Local Government Act 2020* which requires Council to conduct a public tender for goods, services and works where once-off or ongoing cumulative spend over the life of the contract is expected to exceed $300,000 (incl GST) as well as the policy commitments contained in the Procurement Policy.

## 2. Background

The maintenance and management of Open Space also includes general maintenance to all parks and reserves, garden beds, trees, playgrounds, weed control, sports fields, kindergartens and childcare centers. In addition to regular maintenance of its public open space, Council has an extensive annual capital works program dedicated to Open Space renewal and development, driven by Council’s Open Space Strategy, Street Landscape Strategy and Nature Plan. The scope of these works includes upgrades to playgrounds, sports field and natural drainage and irrigation, specific landscape projects and bushland natural resource management projects.

Procurement for the materials and complementary services to deliver these works are currently being contracted under panel *Contract 527T – Provision of Open Space Landscape and Bushland services and management including Design, Materials, Construction and Maintenance supplies* which is due to expire. The purpose of the report is to award a new tender for the provision of these materials and services, which will allow Council staff to continue to deliver these outcomes in an effective- and efficient manner.

The tender was advertised in The Age newspaper on 11 April 2022. It closed at 3pm on 12 May 2022, after a further extension of 1 week was granted.

Council officers also notified all providers that have existing relationships with Merri‑bek City Council to advise them of this tender opportunity via the Procurement Portal.

28 conforming tenders were received. These are listed below including ABN.

| **Vendor** | **ABN** |
| --- | --- |
| Acacia Environmental Management Pty Ltd | 881 081 91 466 |
| Asplundh Tree Expert Australia Pty Ltd | 83 055 140 424 |
| Australian Ecosystems Pty Ltd | 36 080 253 096 |
| Cityworks Construction and Maintenance | 25 309 611 060 |
| EarthPro Bobcat & Truck Hire | 19 879 935 996 |
| Ecodynamics Services | 14 772 744 278 |
| Felix Botanica | 841 712 59 468 |
| Future Flora | 507 895 31 976 |
| Haas and Gray Indigenous Horticulture Pty Ltd | 33 681 411 296 |
| Habitat Land Management | 46 605 063 492 |
| Hutchison Parks Services | 78 122 582 416 |
| Indigenous Design Environmental Management | 64 081 044 144  |
| JF STUDIO PTY LTD | 38 633 408 170 |
| McGregor Coxall Australia Pty Ltd | 55 639 279 655 |
| Merri Creek Management Committee | 13 025 599 242 |
| Michael Smith and Associates | 65 742 475 072 |
| Naturelinks | 22 097 146 426  |
| Plantmark | 59 006 483 254 |
| Practical Ecology Pty Ltd | 88 082 911 377 |
| Repurpose It | 85 617 095 413 |
| Sevron  | 41 165 444 011  |
| Speciality Trees | 79 135 772 315 |
| Supreme Wire Fence and Gates | 41 568 532 751 |
| The Mint Garden Centre P/L (Mickleham Soils) | 75 125 501 475 |
| TREC Land Services | 13 623 160 305 |
| UDL Group | 30 610 979 309 |
| Urban Design Group | 13 709 164 085 |
| Webster Contracting | 75 119 383 130  |

No non-conforming tenders were received.

**Tender Evaluation**

The tenders were evaluated in accordance with Council’s Procurement Policy and in accordance with the Strategic Procurement and Probity Plan. Details of the assessments of tenders for each service required are provided in Confidential **Attachment 1**.

The tender evaluation criteria included cost, capacity, capability and social, environmental and local sourcing considerations. As well as providing a schedule of rates, tenderers were asked to address questions covering their capacity and capability and social, environmental and local sourcing attributes.

The tender panel consisted of relevant members from Council Open Space Design & Development and Open Space Maintenance Units.

In assessing the tenders, consideration was given to the following criteria grouped and weighted, under six categories. These were reviewed by the Tender Panel, assessed and scored with percentage weightings (refer to table below):

| **Category** | **Assessment area** | **Weighting** |
| --- | --- | --- |
| Price - (Part 3.2) | Schedule of rates for each category of service will be scored based on the following formula:Score = (Lowest Tender Price / Tender Price) x Weighting % x Max. ScoreTenderer who do not provide a price schedule for an item will get a score of "nil' for that item Schedule will be assessed using Each item schedule will be weighted from 1 - 10 (So the schedule items that has the most important because they are utilised so often during the contract will get highest score of 10. While items that has rare use will be have a score of 1). This method if you have too many line items of schedules (>10 schedule items).  | 35 |
| Capability, Experience and Past Performance - (Part 3.3) | The capability of the contractor to undertake the project or works for each service category. (Part 3.3)Experience in successfully undertaking projects/works of a similar nature and scale, delivered on time and budget.The performance confirmed through reference checks with new contractor. Incumbent reference check will be considered from the Council users | 30 |
| Resources and Capacity - (Part 3.4) | Project Team, resource structure and availability for each service category. Relevant skills, background, resource commitment, plant and equipment schedule, subcontractors and internal resources allocated to this project | 20 |
| Customer Service (Part3.9 and Part 3.5B) | Tenderer to provide evidence or explanation to demonstrate how they will comply with the Council’s Complaint Policy (Part 3.5B).Tenderer to provide a Customer Service and Community engagement statement or plan (Part 3.9) or similar.The plan or process should aim to:1. Establish an effective working relationship with Contractor and show good community consultation and engagement.2. It should encourage the pro-active communication of issues as they may arise.3. Provide a clear reporting mechanism to Council staff or contract representativeProvide example from previous or current contracts or at least address how you are going to proactively manage such challenges.Community means: Moreland residents, council officers, or interested / affected parties. | 5 |
| Social Sustainability (Part 3.8) | Meet all Social Sustainability requirements, such as:• MCC Gender Equality• Fair Work Act• Child Safe• NBIA (No Business in Abuse)Does the contractor have a social procurement policy what social sustainable procurement is proposed by the tenderer on delivering these services?Does the Tenderer have specific social procurement approaches that can be applied to works delivered under this engagement?i.e.: Creating new jobs and opportunities for people who may be struggling to find work or support local community groups. | 4 |
| Environmental Sustainability (Part 3.8) | What process has the contractor in place to ensure that service delivery methods address energy/climate change, waste and recycling. (i.e., Reduce greenhouse gases, reduce waste to landfill and take excavated items to recycle centres).Does the tenderer have specific approaches to the environment that will be applied to works delivered under this engagement? | 4 |
| Economic Sustainability (Part 3.8) | Is the Contractor located in Moreland or adjoining municipalities? Will the contractor be using local businesses, suppliers and/or personnel to deliver this project? (State location and local suppliers)  | 2 |

The membership of the tender evaluation panel was as follows.

|  |  |  |
| --- | --- | --- |
| **Title** | **Role** | **Full Voting / Advisory Member** |
| Unit Manager, Open Space Design & Development  | Project Mgr (Chair) | Full |
| Open Space Area Maintenance Coordinator | Specialist | Full |
| Natural Resource Management Officer (x2) | Specialist | Full |
| Landscape Architect | Specialist | Full |
| Unit Manager Open Space Maintenance | Generalist | Advisory Only |
| Senior Procurement Partner | Procurement | Advisory Only |

**Evaluation Outcome**

Each of the tenderers was assessed individually for the various services, that they tendered for (referred to under categories A to H). The table below highlights in green each preferred panel tenderer and the service recommended that they will provide under contract RFT-P-2021-210.

|  | A. Landscape consultants | B. Landscape materials including horticultural and arboricultural suppliesSynthetic turf supply, covers and repair | C. Earthworks | D. Supply of advanced trees and other vegetation | E. Supply of park furniture and fencingSupply of irrigation parts | F. Landscape construction contractors for planting, furniture installation and general landscape works including electrical supplyConsultants for irrigation design, sportsground auditing & drainage design | G. Open space maintenance | H. Bushland Services |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| KEY | Successful | Unsuccessful | Not tendered |  |  |  |
| Company Name |  |
| Acacia Environmental Management Pty Ltd |  |  |  |  |  |  |  |  |
| Asplundh Tree Expert Australia P/L |  |  |  |  |  |  |  |  |
| Australian Ecosystems Pty Ltd |  |  |  |  |  |  |  |  |
| Cityworks Construction and Maintenance |  |  |  |  |  |  |  |  |
| EarthPro Bobcat & Truck Hire |  |  |  |  |  |  |  |  |
| Ecodynamics Services |  |  |  |  |  |  |  |  |
| Felix Botanica |  |  |  |  |  |  |  |  |
| Future Flora |  |  |  |  |  |  |  |  |
| Haas and Gray Indigenous Horticulture Pty Ltd |  |  |  |  |  |  |  |  |
| Habitat Land Management |  |  |  |  |  |  |  |  |
| Hutchison Parks Services |  |  |  |  |  |  |  |  |
| Indigenous Design Environmental Management |  |  |  |  |  |  |  |  |
| JF Studio PTY LTD |  |  |  |  |  |  |  |  |
| Mcgregor Coxall |  |  |  |  |  |  |  |  |
| Merri Creek Management Committee |  |  |  |  |  |  |  |  |
| Michael Smith and Associates |  |  |  |  |  |  |  |  |
| Naturelinks |  |  |  |  |  |  |  |  |
| Plantmark |  |  |  |  |  |  |  |  |
| Practical Ecology Pty Ltd |  |  |  |  |  |  |  |  |
| Repurpose It |  |  |  |  |  |  |  |  |
| Sevron |  |  |  |  |  |  |  |  |
| Speciality Trees |  |  |  |  |  |  |  |  |
| Supreme Wire Fence and Gates |  |  |  |  |  |  |  |  |
| The Mint Garden Centre Pty Ltd (Mickleham Soils) |  |  |  |  |  |  |  |  |
| TREC Land Services |  |  |  |  |  |  |  |  |
| UDL Group |  |  |  |  |  |  |  |  |
| Urban Design Group |  |  |  |  |  |  |  |  |
| Webster Contracting |  |  |  |  |  |  |  |  |

## 3. Issues

A low number of submissions were received across the majority of categories (A-G). In these cases, unless the tenderer was considered inappropriate (could not meet Council’s specifications) it has been recommended they be appointed to the panel as all have different specialties/benefits. Whilst some larger companies may be able to provide all services, this appears to come at a cost both financially and in quality detail. As it is a panel contract, officers will be able to target contractors to the relevant project/requirement at hand.

Fourteen submissions were received for category H (bushland services) of which the majority were of very high quality in meeting Council’s requirements. Key differences included some contractors’ clear commitment to sustainability, including carbon neutrality and social procurement, particularly previous working relationships with Traditional Owner groups.

For the bushland services category (H), tenderers were asked to submit rates/100m2 (or other) for maintenance of various different vegetation classes both using standard methodologies and without chemicals. However, costs varied quite substantially across the tenderers which suggests the methodology used was not coherent enough and/or it is not an appropriate measure given the large variation in quality/terrain and climate impacting on the work. Therefore, these schedules (B1 and B6) will be removed from the contract and a the hourly/item rates (schedules B2-B4) will be applied throughout the contract.

Whilst the rates for land management varied between contractors, there was some consistency between how the contractors priced maintenance using existing methodologies and chemical free methods with 150-200% increases in price common amongst contractors.

**Collaboration**

Section 109(2) of the *Local Government Act 2020* requires that any report to the Council that recommends entering into a procurement agreement must include information in relation to any opportunities for collaboration both internally and with other Councils or public bodies which may be available.

The following units across Council were involved in the tender evaluation process or were consulted as part of the process: Open Space Design and Development, Open Space Maintenance, Urban Forest, Procurement.

Merri-bek already utilises the Municipal Association of Victoria (MAV) Contract No D060125 - Panel For Park And Playground Equipment, which is complementary to the works and services offered by the proposed panel contract process however, as the nature of this panel contract is for specific works and materials to be delivered for Merri-bek City Council, there were limited opportunities to collaborate with other Councils. Therefore, Council did not pursue any opportunities for external collaboration in relation to this specific procurement process.

**Interviews**

Interviews were not conducted as part of the process, however reference checks were conducted for responders who have not worked previously with Council.

### Social / Environmental / Local Implications

Considerations for social, environmental and economic impacts were assessed as part of the tender assessment process as detailed previously.

### Human Rights Consideration

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities.

## 4. Consultation / Recommendation from Management

The Open Space Design and Development Unit, as the leading service unit for this tender process, consulted other relevant business units with respect to tender evaluation based on specialist knowledge of contractors and service areas. Engagement of external parties including community groups was not required.

## 5. Declaration of Conflict of Interest

All members of the Tender Assessment Panel completed Conflict of Interest declarations. Council Officers and all other parties involved in the preparation of this report have no conflict of interest in this matter.

## 6. Financial and Resources Implications

The anticipated expenditure to Council of appointing these recommended vendors, is approximately $4 million dollars annually. The expenditure for these works will come from Annual Base Budgets, Operating and Capital Budgets (‘Opex’/’Capex’) provided for the Open Space Maintenance and Design and Development Units. As well as Council funding, external grant funding is often applied to the types of services delivered through these contracts.

## 7. Implementation and Timeline

It is proposed that the Chief Executive Officer be authorised to do all things necessary to execute the contracts and any other required documentation, with the Chief Executive Officer authorised for the execution of the future optional contract extensions. The contracts will commence as soon as possible following Council endorsement.

## Attachment/s

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Tender Evaluation Matrix Summary - Contract RFT-P-2021-210 - Categories A B C D E F G H*Pursuant to section 3(1)(g(i))(g(ii)), and of the Local Government Act 2020, this attachment has been designated as confidential because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that relates to trade secrets, and 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.* | D22/442160 |  |

**7.11 2021-22 Moreland City Council Annual Report**

**Director Community Eamonn Fennessy**

**Community Engagement**

**Officer Recommendation**

That Council:

1. Formally receives the Merri-bek City Council Annual Report 2021-22 (as Moreland City Council), provided here as Attachment 1.

2. Allows for officers to make minor changes if needed to the report.

**REPORT**

**Executive Summary**

The Merri-bek City Council Annual Report 2021-22 (as Moreland City Council) contains Council’s audited Financial and Performance Statements and provides information on Council operations and services delivered to and for the community for the 2021-22 financial year.

The report, at Attachment 1, contains the key highlights and achievements of Council for the year. The report also discusses how Council has managed its response to the COVID-19 pandemic.

A summary micro-website is currently in production to share Council’s achievements over the past year with the community in an engaging and accessible way. This micro-website will be published later this year and will be promoted widely via Council’s communications channels.

**Previous Council Decisions**

Council formally received Moreland City Council’s 2020-21 Annual Report at its 13 October 2021 meeting.

**1. Policy Context**

Sections 98, 99 and 100 of the Local Government Act 2020 and the Local Government (Planning and Reporting) Regulations 2020 provide the statutory framework for Council to prepare and consider its annual report for 2021-22.

**2. Background**

****

**3. Issues**

The intent of the Annual Report 2021-22 is to inform the Moreland community and stakeholders of Moreland Council’s performance in 2021-22 against the strategic indicators, major initiatives and priorities outlined in the Council Plan 2021-2025.

**Changing from Moreland City Council to Merri-bek City Council**

Council decided in December 2021 to in principle support the renaming of Moreland City Council. In line with the resolution, Council representatives then worked closely with the Traditional Owners (Elders), Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, to design a community consultation process on options for new names. In late June, Council announced that the result of the community survey was clear majority support for Merri-bek City Council as the new name. Council officially became Merri-bek City Council on 26 September 2022.

The reporting period for the 2021-22 annual report is between 1 July 2021 and 30 June 2022. Therefore, Council was named Moreland City Council for the entire reporting period. However, Council became Merri-bek City Council before the annual report was presented to Council at this October Council meeting.

This report is Merri-bek City Council reporting on 2021-22 financial year, during which Council was named Moreland City Council. Therefore, the name of the annual report is Merri-bek City Council Annual Report 2021-22 (as Moreland City Council). This rationale is also explained on the first page of the annual report.

**Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities.

**Community impact**

This version of the annual report is a statutory obligation. It will be available on request from Moreland Council offices.

The summary micro-website will share the key information from this report with the community in plain English. This will better enable the community to understand Moreland’s achievements and how to evaluate the organisation’s performance for 2021-22.

The website will also be Web Content Accessibility Guidelines 2.0 Double AA compliant, which is the top standard for websites and is a standard government websites should adhere to.

**Climate emergency and environmental sustainability implications**

No longer printing a long, professionally designed and printed version has environmental benefits.

**Economic sustainability implications**

There are no economic sustainability implications associated with this report.

**Legal and risk considerations**

There are no legal and risk considerations applicable.

**4. Community consultation and engagement**

The annual report will be summarised and published in an accessible summary micro-website. This will be available to the public later in the year.

**5. Officer Declaration of Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**6. Financial and Resources Implications**

The funds required to prepare and publish Moreland Council’s Annual Report 2021-22 are included in the approved operating budget for 2021-22.

**7. Implementation**

The Annual Report will be published on Council’s website shortly.

**Attachment/s**

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Merri-bek City Council Annual Report 2021-22 (as Moreland City Council) | D22/430547 |  |

7.12 Financial Management Report for the Period Ended 31 August 2022

**Director Business Transformation Sue Vujcevic**

**Finance Management**

## Officer Recommendation

That Council notes the Financial Management Report for the period ended 31 August 2022, at Attachment 1 to this report.

REPORT

**Executive Summary**

This report presents the Financial Management Report for the financial year to date period ending 31 August 2022.

The August Income Statement shows the Council surplus is $0.7 million better than the year-to-date budget as a result of higher overall revenue and lower overall expenditure. These differences are considered largely timely in nature.

Council has spent $5.1 million on capital expenditure which is line with the year-to-date forecast.

**Previous Council Decisions**

## 2021-22 Financial Statements and Performance Statements – 14 September 2022

*That Council, in accordance with the recommendations of the Audit and Risk Management Committee, and having considered Council’s Financial and Performance Statements for 2021/2022 Statements at Attachments 1 and 2 to this report:*

*1. Approves ‘in principle’ the Financial and Performance Statements 2021/2022;*

*2. Authorises the Mayor, Cr Mark Riley, Deputy Mayor, Cr Lambros Tapinos, and the Chief Executive Officer, Cathy Henderson, to certify the Financial and Performance Statements for 2021/2022 in their final form;*

*3. Notes the unrestricted cash surplus of $1.004 million transfers to the Significant Projects Reserve;*

*4. Carries forward the $2.066 million of tied grant funding or contributions that were not spent as at 30 June 2022;*

*5. Carries forward the $102,000 of operating projects into the 2022/23 Operating Projects Expenditure Program;*

*6. Carries forward the $25.089 million of capital project funds into the 2022/23 Capital Expenditure program;*

*7. Authorises the Principal Accounting Officer to implement any minor administrative changes to the Financial and Performance Statements for 2021/22 if recommended by the Auditor-General upon final review, for approval by the Chief Executive Officer.*

## 1. Policy Context

This report supports Council’s continuing commitment to open and accountable management of the financial resources of Merri-bek on behalf of its ratepayers.

## 2. Background

The Financial Management Report at **Attachment 1** provides Council’s financial statements for the year to date (YTD) period ending 31 August 2022. The actual results are compared to the adopted budget.

## 3. Issues

Council ended August 2022 with a surplus operating result of $9.5 million which is $0.7 million (8%) better than the YTD Budget of $8.8 million. These differences are considered largely timely in nature.

Significant variance explanations are provided below to clarify where the current YTD variances are expected to be a timing or permanent difference by 30 June 2023. A timing variance is a current difference between actual result and budget which is expected to be resolved before the end of the financial year. A permanent variance is a current difference between actual result and budget which will continue to the end of the financial year.

The main items contributing to the overall variance are:

### Revenue

 **Statutory Fees and Fines** ended $0.9 million (29%) favourable primarily due to higher than anticipated Domestic Animal Act Infringements(permanent).

 **User Fees** ended $0.2 million (16%) unfavourable primarily due to timing of Food Safety Permit income and delayed invoicing of Council Meals on Wheels charges (timing).

 **Contributions Monetary** ended $1.3 million (45%) unfavourable due to lower than anticipated receipt of subdivider/open space contributions (timing).

 **Grants Operating** ended$0.9 million (31%) unfavourable primarily due to Commonwealth funding (CHSP) now being paid monthly in arrears in lieu of beginning of quarter (timing).

 **Other Revenue** ended $0.3 million (45%) favourable primarily due to higher than anticipated interest income on treasury investments (permanent).

### Expenditure

 **Contracts, Materials and Services** ended $1.7 million (14%) favourable compared to the YTD revised budget primarily due to:

 A number of favourable variances in operating projects across the organisation ($0.3 million) (timing);

 Kerbside waste collection and disposal ($0.5 million) due to lower than anticipated costs (permanent);

 Hard waste ($0.2 million), being the first year of the booking system, it is difficult to estimate when the collections will occur (timing);

 Urban forest ($0.2 million) due to delays in receiving invoices (timing); and

 Risk & insurance ($0.2 million) due to lower than anticipated insurance premiums (permanent).

### Key Definitions

**Comprehensive operating surplus –** the comprehensive operating surplus reflects the anticipated annual performance of the organisation’s day to day operations based on recurrent income and expenditures.

**Underlying operating result –** the underlying operating result is an important measure of financial sustainability as it excludes income which is to be used for capital from being allocated to cover operating expenses.

### Environmental Upgrade Agreements

No new Environmental Upgrade Agreements were approved in the quarter from 1 April 2022 to 30 June 2022. There are currently seven agreements in operation, with a total value of $621,906 Environmental Upgrade Agreement payments that have not yet fallen due.

### Capital Projects – Capital Expenditure

The Capital Expenditure program year to date has an actual spend of $5.1 million which is tracking below the YTD forecast of $5.4 million (4%). The revised forecast includes the adopted budget plus the $25.1 million of carried forward projects from 2021-22.

### Cash

At the end of August, Council had cash and short-term investments of $104.0 million. This is $10.0 million lower than the cash position at the beginning of the financial year. Cash fluctuates frequently over the year due to a number of factors including the timing of payments and receipts. Council’s cash assets will also be impacted by COVID-19 and is currently being monitored on a daily basis to ensure liquidity ratios are maintained. At the time of drafting this report, cash levels have remained on track.

### Solvency Assessment

Council’s liquidity ratio (current assets divided by current liabilities) is 1.6 as at 31 August 2022. The Victorian Auditor-General's Office recommends that this ratio be 1.5 or higher. The current ratio is similar to this time last year.

### COVID-19 Financial Impacts

The annual budget was adopted at the June 2022 Council meeting.

### Community Impact

There are no community impacts identified in this report.

### Climate Emergency and Environmental Sustainability Implications

There are no climate emergency and environmental sustainability implications identified in this report.

### Economic Sustainability Implications

There are no economic sustainability implications identified in this report.

### Legal and Risk Considerations

There are no legal and risk considerations identified in this report.

### Human Rights Consideration

The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities.

## 4. Community Consultation and Engagement

This report has been prepared based on information provided by managers and reviewed by directors.

## 5. Officer Declaration of Conflict of Interest

Council officers involved in the preparation of this report have no conflict of interest in this matter.

## 6. Financial and Resources Implications

The overall corporate objective is to deliver the 2022/23 budget with the best possible outcome for Council and the community and in line with the adopted budget targets.

## 7. Implementation

The financial position of Council will continue to be monitored and managed.

## Attachment/s

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Council EOM Financial Report - August 2022 | D22/420602 |  |

7.13 Governance Report - October 2022 - Cyclical Report

**Director Business Transformation Sue Vujcevic**

**Governance and Strategy**

## Officer Recommendation

That Council:

1. Notes the summary of minutes from the Audit and Risk Committee to Council, at Attachment 1 to this report.

2. Notes the Records of Meetings, at Attachment 2 to this report.

3. Notes responses to questions taken on notice during Public Question Time at the May, June, August and September Council meetings, at Attachment 3 to this report.

4. Endorses the Moreland City Council Audit and Risk Committee Performance Report 2021/22, at Attachment 4 to this report.

5. Notes the Moreland City Council Audit and Risk Committee Recommendations and Findings Report 2021/22, at Attachment 5 to this report.

6. In the exercise of the power conferred by s 437(2) of the *Environment Protection Act 2017* and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, delegates to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Sub-Delegation to members of Council staff* (Attachment 6), the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.

a) The instrument comes into force immediately the common seal of Council is affixed to the instrument and remains in force until Council determines to vary or revoke it.

b) Authorises the affixing of Council’s common seal.

c) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

**REPORT**

**Executive Summary**

The Governance report is prepared as a monthly standing report to Council which provides a single reporting platform for a range of statutory compliance, transparency, and governance related matters.

This Governance report includes:

 The summary of minutes from the Audit and Risk Committee held 6 September 2022.

 Records of Meetings, with a recommendation that Council notes the records.

 Responses to a Public Question Time item taken on notice at the 11 May, 8 June, 10 August and 14 September 2022 Council meetings, with a recommendation that Council notes the responses.

 An endorsement of the Moreland City Council Audit and Risk Committee Performance Report 2021/22 and the Audit and Risk Committee Recommendations and Findings Report 2021/22 in accordance with the Audit and Risk Committee Charter.

 A recommendation that Council sub-delegates powers under the *Environment Protection Act 2017* to Council officers referred to in the Instrument of Sub-Delegation under the Act.

**Previous Council Decisions**

Nil

**1.** **Policy Context**

Reports from Advisory Committees to Council provided in accordance with the Terms of Reference.

The *Local Government Act 2020* (the Act) and the Governance Rules set out the requirements for keeping and reporting records of meetings held under the auspices of Council.

Council’s Governance Rules contains provisions which enable the Chairperson to take a question On Notice, with a considered written response being provided to the questioner, in circumstances including where the question requires information that is either not available or accessible at the time of that meeting, or where the time allowed for Public Question Time has elapsed.

The Audit and Risk Committee’s Charter requires that the annual performance report and a biannual report of recommendations and findings must be presented to Council.

Sub-delegation under the *Environment Protection Act 2017* to Council officers is done in accordance with said Act.

## 2. Background

The Governance Report is prepared as a monthly report to Council to provide a single reporting platform for a range of statutory compliance, transparency, and governance related matters.

In accordance with best practice principles and good governance practice, and to ensure compliance with the requirements of the Act, this report incorporates matters including reporting of Advisory Committees, records of meetings held under the auspice of Council, items relating to the delegation of Council powers and duties, and policy and strategy reporting.

## 3. Issues

**Audit and Risk Committee minutes**

A summary of the minutes from the Audit and Risk Committee meeting held 6 September 2022 is provided at **Attachment 1**.

**Records of Meetings held under the auspice of Council**

Records of matters discussed at meetings organised or hosted by Moreland that involve Councillors and Council officers are kept in accordance with the Governance Rules.

Meeting Records must include meeting attendees, including organisations represented by external presenters; the title of matters discussed; and any conflicts of interests disclosed and whether the declarant of a conflict of interests recused themselves from the meeting.

Some examples include Councillor Briefings, meetings with residents/developers/ clients/organisations/Government departments/statutory authorities and consultations.

Records of Meetings received since the September Council Meeting are presented at **Attachment 2** as follows:

 Audit and Risk Committee – 6 September 2022

 Councillor Briefing – 7 September 2022

 Councillor Briefing – 12 September 2022

 Councillor Briefing – 21 September 2022

 Planning Briefing – 26 September 2022.

### On Notice responses – 11 May, 8 June, 10 August and 14 September 2022 Council meetings

At Council Meetings, questions and/or statements are taken On Notice during Public Question Time, including in circumstances where persons submitting questions are not in attendance or where the maximum allowable time for public questions has elapsed.

Questions taken On Notice are provided with a written response following the meeting for which they are submitted and reported to Council at the next practicable meeting. The questions are recorded in the meeting minutes. Statements taken On Notice are provided to Councillors for information, with an abbreviated/summarised version recorded in the meeting’s minutes.

The on notice responses at **Attachment 3** to this report relate to questions from the 11 May, 10 August and 14 September 2022 Council meetings regarding:

 Council Action Plan 2021-22 Third Quarter Performance Report

 Minutes of Special Council Meeting held of 13 December 2021

 Proposed Minutes of the Special Council Meeting of 14 May 2022

 Role of Council

 Planning Scheme Amendment C201more

 Hosken Reserve

 Heritage Overlay

 Governance Report – September 2022

 Provision of an Integrated Parking Management System.

**Moreland City Council Audit and Risk Committee Performance Report 2021/22**

The Audit and Risk Committee is required to report its performance annually to Council.

At the Audit and Risk Committee meeting on 6 September 2022, the Moreland City Council Audit and Risk Committee Performance Report 2021/22 was endorsed by the Committee for presentation to Council for endorsement.

The message from the independent Chair contained in the Moreland City Council Audit and Risk Committee Performance Report 2021/22 includes:

*I wish to express my appreciation to the Councillor and independent members of the Moreland City Council Audit and Risk Committee together with Council staff for their continuing contribution and support of the committee during the year.*

*The level of commitment and support that the Committee receives from the Chief Executive Officer and the management team continued to distinguish the committee as amongst the most effective and high performing audit and risk committees I have had the opportunity to work with. The committee continues to see and support the development of a positive organisational culture that is necessary to foster and grow accountability, integrity, and compliance.*

*I am pleased to again report it is the view of the Committee that the governance culture of Moreland City Council supports a robust risk, control and compliance framework which continues to strengthen and adapt to change.*

*The committee has noted the community supported council decision to change the name of the city to Merri-bek and sees the initiative as an opportunity to further develop a sense of pride in a cohesive and effective organisation.*

The Moreland City Council Audit and Risk Committee Performance Report 2021/22 is shown at **Attachment 4.**

**2021/22 Audit and Risk Committee Recommendations and Findings Report**

The Audit and Risk Committee is required to report the recommendations it has made to Council, biannually.

At the meeting of the Audit and Risk Committee on 6 September 2022, the 2021/22 Recommendations and Findings Report was endorsed by the Committee for presentation to Council for endorsement. The report lists the recommendations and findings for all reports presented to the Audit and Risk committee in the 2021/22 period and has been prepared for reporting to Council as **Attachment 5.**

**Instrument of Sub-Delegation under the *Environment Protection Act 2017***

As part of changes to the *Environment Protection Act 2017* and the *Environment Protection Regulations 2021*, the Environment Protection Authority have delegated to all councils the power to exercise the EPA’s powers and functions under the *Environment Protection Act 2017* as they related to the regulating of onsite waste water management systems and noise from the construction, demolition or removal of residential premises.

Council’s role as a regulator has not changed, the Act has changed how local governments obtain powers to regulate certain issues. Instead of explicitly setting out certain Council powers in the Act, they are now conferred by the EPA through delegation.

The Instrument of Sub-Delegation has been drafted using the model document provided by Maddocks Lawyers as **Attachment 6**.

Endorsement of the Instrument of Sub-Delegation will provide Council officers holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Sub-Delegation, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.

**Human Rights Consideration**

The implications of this report have been assessed in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

## 4. Community consultation and engagement

Public Question Time provides an opportunity for the community to engage with and direct their questions and statements directly to the Council.

## 5. Officer Declaration for a Conflict of Interests

Council officers involved in the preparation of this report have no conflicts of interest in the matters contained therewith.

## 6. Financial and Resources Implications

There are no financial and/or resource implications as a result of this report.

## 7. Implementation

Governance activity, including reports of Committees to Council, Records of Meetings and Community Question Time items will continue to be reported to Council monthly.

Subject to Council’s decision the next steps include:

 Moreland City Council Audit and Risk Committee Performance Report 2021/22 will be published on Council’s website by 30 October 2022.

 The Instrument of Sub-Delegation under the *Environment Protection Act 2017* will be executed and the Register of Delegations updated and published on Council’s website.

## Attachment/s

|  |  |  |  |
| --- | --- | --- | --- |
| **1**  | Summary of Audit and Risk Committee Minutes 6 September 2022 | D22/411784 |  |
| **2**  | Records of Meetings - October 2022 | D22/442056 |  |
| **3**  | Responses to questions taken On Notice | D22/443623 |  |
| **4**  | Audit and Risk Committee Performance Report 2021/22 | D22/362816 |  |
| **5**  | Audit and Risk Report (Recommendations and Findings 2021/2022) | D22/300941 |  |
| **6**  | S18 Instrument of Sub-Delegation under the Environment Protection Act 2017 | D22/407138 |  |

**8. Notices of Motion**

**8.1 What's in a name? Moreland to Merri-bek**

**Cr Lambros Tapinos**

**Motion**

That Council:

1. Writes to the Wurundjeri Council and the Minister for Local Government Melissa Horne thanking them for their contribution to the historic name change of the city.

2. Prepares a report documenting the name change process and preserving information, minutes, documents, objects, photos and recordings of the process for historical prosperity.

3. In July 2023 and July 2024 present a report to council detailing the implementation actions of the name change and associated costs in the previous financial years.

4. Acknowledges that council has no intention of changing the name of Moreland Road or other non-Council controlled spaces and places called Moreland within the City of Merri-bek and council acknowledges that many community organisations and businesses use the name Moreland and council will not be advocating a change of name for these organisations and business, although some of them may choose to change the name to align with the municipal name.

5. Prepares a report to be presented to council about how council can assist rebranding of community organisations and businesses, if they choose to change their name with special support grants and other measures.

**1. Background**

Cr Tapinos’s background:

On Monday 26 September the City of Moreland was renamed the City of Merri-bek.

The renaming process took about ten months from the time of the first letter to the Mayor in November 2021 informing him of the connection to slavery of the previous Moreland name. The council decided to ask the State Government to change the name of the municipality in consultation with Wurundjeri elders. The elders recommended 3 names which were put to community consultation, resulting in Merri-bek being the favourite. Merri-bek means rocky country in Woi-wurrung language and is a reference to the bluestone basalt plains in the north of Melbourne and specifically along the Merri Creek.

There was some opposition to the name change both on the council and in the community. There is also some confusion about the costs of the name change despite previous council reports setting out the costs. There are also many places and spaces along with community organisations and businesses which are named Moreland in the City of Merri-bek.

**2. Policy Context**

Officer’s comments:

This Notice of Motion is aligned with Council Plan 2021-2025 and the
Statement of Commitment to Wurundjeri Woi-wurrung People and Aboriginal and Torres Strait Islander Communities.

**3. Financial Implications**

Officer’s comments:

On 13 December 2021 Council resolved to refer to the budget process an additional $250,000 per year for two financial years ($500,000 total) to update Council’s digital platforms, signs at significant Council buildings and facilities and municipal entry signs and noted that updating Council assets such as street and park signs, smaller facilities signage, staff uniforms and vehicles will be addressed incrementally within existing budget allocations and asset renewal programs over a 10-year timeframe. On 23 June 2022 Council adopted the Annual Budget 2022-26. ‘Finalise and begin change of the municipal name’ is included in the budget as a Major Initiative in the Community Engagement section and includes a $250,000 allocation for the first year. The indicative budget for year 1 implementation which is underway is as follows:

|  |  |
| --- | --- |
| **Item**  | **Cost**  |
| Update digital platforms (e.g corporate website, Conversations Moreland, retaining Goof search rankings)  | $27,000 |
| IT infrastructure (e.g domain change/URL, email addresses, SSL certificates, Office 365) | $30,000 |
| Community awareness information of new name (e.g. social media advertising, advertising in CALD publications)  | $3,000 |
| Development of templates (posters, flyers, email banners, social media tiles, branded resources, update brand guidelines | $13,000 |
| Stationary (lanyards, Authorised Officer ID cards, infringement notices) | $20,000 |
| Uniforms for front facing staff  | $25,000 |
| Signage, banners, portable signage, Council Chambers signs/logo | $75,000 |
| Contingency on escalations (additional infrastructure and supply chain costs) | $57,000 |
| **Total**  | **$250,000** |

**4. Resources Implications**

Officer’s comments:

Implementation of this motion can be accommodated within existing resource allocations.

**8.2 Elevated Rail and the Upfield Corridor Vision – Brunswick**

**Cr Lambros Tapinos**

**Motion**

That Council:

1. Welcomes the announcement of the elevation of the Upfield line in Brunswick removing 8 level crossings from Albion Street in Brunswick to Park Street in Parkville and write to the Premier Dan Andrews, the Minister for Transport Infrastructure, Jacinta Allan thanking them for the investment in Brunswick and offering to collaborate and work together with the LXRP to realise the best possible community outcome from the removal of the crossings.

2. Receives a report about developing a Strategic Plan for the Upfield Corridor in consultation with the local community which includes the following:

a) An Upfield Corridor Community Vision for the land beneath the elevated rail including opportunities for more open space, cycling paths, tree plantings, urban sports infrastructure, public art, increased amenity, and more pedestrianised spaces. Identification of council and state-owned land within the corridor; and, in particular adjacent to the railway which could be incorporated into the community vision.

b) A Strategy to protect and interpret the railway’s cultural and historical objects, materials and buildings of the Upfield line with a focus also on social history, identifying the people who worked on the railway line and finding interpretive methods to tell their story.

c) A Strategy to identify the future population needs, including but not limited to community facilities and public whelm improvements with more activation, safety-measures, open-space and parklets; where possible, more pedestrianisation and beautification of walkways, laneways, and small streets; including an assessment and costing of streetscape improvements and further pedestrianisation and beautification works on (i) Breese Street and Anstey Precinct (ii) Saxon Street and (iii) Wilson Avenue, when construction works are completed.

d) A Strategy to increase street plantings and green open space in the corridor recognising the increased future population growth and high-density development requiring mitigating against the heat island affect – refers the importance of future planning in the corridor to the ‘Open Space Review’ and the review of ‘A Park Close to Home’

**1. Background**

Cr Tapinos’s background:

The Victorian Government has announced the removal of the level crossings on the Upfield Line in Brunswick by 2027. This means more benefits for local communities and a better transport network for all Victorians. 5 crossings are already gone in Coburg and they are now removing another 8 including Albert Street, Albion Street, Brunswick Road, Dawson Street, Hope Street, Union Street, Victoria Street, and Park Street. Removing these crossings will improve safety, reduce congestion and allow more trains, more often. These crossings sit in the middle of our local community creating a safety hazard for vehicles and pedestrians every day. In the future, The Metro Tunnel will free up space in the City Loop to allow for more trains on the Upfield Line.

Removing these level crossings now will prevent even longer boom gate downtime in the future. The area below the elevated rail provides an opportunity to deliver the brand new separated bike and pedestrian paths and continue the much-loved linear open space along the corridor created in nearby Coburg when the rail was elevated.

Plan Melbourne and previous metropolitan planning strategies have established Brunswick as an important activity center within the context of inner metropolitan Melbourne. Plan Melbourne seeks to enable 20-minute neighbourhood's by providing access to a wide range of goods and services in centers that are planned and coordinated by local governments. Plan Melbourne also identifies focus areas for accommodating population and employment growth, with Jewell Station and the Brunswick to Batman corridor identified as the only urban renewal areas within the City of Merri-bek. Amendment C134 was adopted in 2016 into the Moreland Planning Scheme which rezoned previously industrial land in the corridor to a commercial zone in accordance with the Moreland Industrial Land Strategy. The character of the corridor is undergoing a large degree of transition to an area typified by higher-density residential development. In the corridor there are many recently constructed buildings, and buildings currently under construction or recently approved building permits, ranging in height, meaning significant population growth in the corridor between Sydney Road and the railway in the future.

There are several Key Pedestrian Streets that run east and west in this corridor which offer important east-west connections; however, most of these streets display a relatively poor-quality pedestrian environment. This is primarily because of the previous and current industrial and commercial land uses along them and the general lack of activation and interaction at the street level. There is generally a lack of public open space and limited urban public spaces within the corridor – these require activation, beautification, and safety improvements. The corridor is also home to the Brunswick Civic and Cultural Precinct including the future Saxon Street Arts Centre, Brunswick Library, Brunswick Pools, and other much-loved community facilities which are well placed in terms of public transport and accessibility servicing the municipality and future growth of the corridor. The corridor has been the major activity and civic center of Brunswick for over a century and includes significant heritage places and spaces of significance, including but not limited to the railway, industry, civic and public places.

The City of Merri-bek has an opportunity to develop a future vision for the corridor which includes an assessment of the future community facilities required in the corridor and investigates the potential for more pedestrian spaces, more green open space, more parklets, beautification works, graffiti murals and public art. The future elevation of the rail provides an opportunity to develop a community vision for not just the area below the elevated rail but also the corridor which includes the potential rethinking of how to maximize and improve community benefit from the council and state land and facilities in the corridor.

**2. Policy Context**

Officer’s comments:

Council plan theme 4: Vibrant Places and Spaces provides relevant guidance to this item.

* The eight nominated level crossing removals in the City of Merri-bek are within the Activity Centre of Brunswick. The aspirations of Council for the Activity Centre are described within the Brunswick Structure Plan (2016). The Brunswick Structure Plan does not directly anticipate level crossing removals, however, provides guidance on public realm outcomes that can be applied to new level crossing removals.
* The Brunswick Design District partnership, between Merri-bek, Creative Victoria and RMIT provides a strategic partnership to advance the evolution of Brunswick towards being a place of creative activity and design excellence.
* In 2017, Council endorsed **DED11/17** the following design principles for level crossings within the municipality, these remain relevant for the Brunswick removal projects:

**Design principles and place specific outcomes**

In order to facilitate good outcomes across the Moreland level crossing projects, it is recommended that Council endorse the following high level principles and place specific outcomes to form the basis of Council Officers’ advocacy to the LXRA.

***Local identity***

Each project should seek to enhance local identity through design, materials, public art and a celebration of local distinctiveness.

***Place integration***

Each project should seek to integrate with and enhance the surrounding activity centre. In relation to the Upfield line, Council should advocate for a ‘whole of line’ response, as the Upfield line is designated as a significant growth corridor for the metropolitan area.

***Increased activity***

Each project should seek to enhance activity around each new station precinct. This will involve creation of quality, safe public spaces and potential commercial and community opportunities, consistent with the relevant Structure Plan.

***Greening and sustainability***

Each project should integrate best practice sustainability in design and delivery. Trees should be retained where possible. Significant planting for amenity and shading should be provided. If retention of trees and planting is not feasible within project boundaries, offset tree planting within the relevant Activity Centre should be provided for.

***Connectivity***

Each project should integrate pedestrian, bike and bus connectivity in and around the new station precinct and across the rail line. Universal accessibility should be provided for.

***Minimise impacts on adjoining properties***

Each project should minimise negative impact on adjoining properties in terms of noise and visual impact.

***Whole of life management and maintenance***

Council will be a key stakeholder in the long-term management and maintenance of new public spaces created through the level crossing removal projects. Ensuring a whole of life approach to sustainable management and funding of maintenance is a central concern of Council.

**3. Financial Implications**

Officer’s comments:

There are no financial implications associated with the preparation of an officer report outlining options.

**4. Resources Implications**

Officer’s comments:

An officer report can be prepared with existing staffing resources.

**8.3 Support for animal rescue groups**

**Cr Sue Bolton**

**Motion**

That Council:

1. Considers providing support to animal rescue groups that must adopt animals from the Epping Animal Welfare Facility, as part of Merri-bek’s budget process.

2. Considers providing a referral support service linking Merri-bek residents to community animal adoption services for the first 6-12 months of the Animal Welfare Services Agreement with City of Whittlesea.

3. Makes public its decision regarding the policy on direct adoptions to the public from the Epping Animal Welfare Shelter and reflect the decision in clear language on the council website.

**1. Background**

Cr Bolton’s background:

Over the years, many people who care about animals, have formed animal rescue groups to re-home animals that are difficult to re-home from animal shelters in order to avoid the animals being killed in the shelters. These animal rescue groups are not funded and are run entirely by volunteers who are also trying to hold down jobs and manage their other caring responsibilities.

While the state government does provide some funding, the totality of the funding isn’t very large and it mostly goes to large not-for-profit groups rather than the volunteer animal rescue groups. The animal rescue groups have to pay for animals to have a full health check, vaccinations and de-sexing by a veterinary surgeon before they can organise foster care or adoption. This veterinary care is very expensive for animal rescue groups. Given that the animal rescue groups are helping local councils by re-homing animals, some councils provide financial assistance to animal rescue groups. One benchmark is the state government funding model of $200 per cat and $500 per dog.

**2. Policy Context**

Officer’s comments:

**Referral to Council’s budget process of proposed grant for rescue groups**

With respect to Cr Bolton’s first recommendation, the decision made by Council in September 2021 to work collaboratively towards having the Epping Animal Welfare Facility (EAWF) operated by the City of Whittlesea was driven in part by the desire of rescue and animal welfare groups to have greater access to animals available for adoption and foster care. The RSPCA, under the existing contract, has not operated the facility in partnership with local rescue groups, instead, unclaimed animals unable to be rehomed from the EAWF were typically moved to other RSPCA sites and adopted from there. Rescue groups have raised this with Darebin, Merri-bek and Whittlesea Councils as an issue.

The Domestic Animal Management Plan 2021-2025 (DAMP) was developed based on the outcomes of engagement with community members and key stakeholders including animal welfare groups, environmental groups and industry experts. Community groups, advocacy groups and key stakeholders suggested Darebin, Merri‑bek and Whittlesea Councils establish partnerships with rescue groups to improve outcomes for animals and ensure as many animals as possible are rehomed.

One of the key objectives in the DAMP is to minimise the number of animals euthanised by encouraging partnerships between shelters and rescue groups through section 84Y agreements (*Domestic Animals Act)* and by partnering with rescue groups and animal welfare agencies to provide a neonatal program.

The City of Whittlesea, in preparing to operate the EAWF, has entered into section 84Y agreements with 28 rescue groups/welfare agencies of varying size, capacity, resourcing and financial viability. A section 84Y agreement facilitates the transaction of unowned pets from the EAWF to shelters/welfare groups who in turn care for them until they are adopted.

Officers advise that the model proposed within the Whittlesea/Merri-bek contract for animal welfare services envisaged that the bulk number of animal placements and subsequent adoptions would occur from large capacity animal shelters/welfare groups, with small scale rescue groups taking on a smaller number of animals based on their capacity. In establishing this model, it was always anticipated that this would be an opt-in model whereby City of Whittlesea staff would circulate a list of animals available for placement and the rescue/welfare groups would express interest based on their capacity at that given point in time. Any animal that cannot be placed with a rescue/welfare group would remain at the EAWF until such time as it is either adopted directly from the facility or a rescue/welfare group has the capacity to take on the placement of that animal.

There is no financial support built into the section 84Y agreement however, the rescue groups/welfare agencies have the ability to charge adoption fees to recover costs incurred.

State Government grants are available for not-for-profit and community organisations who rehome pets. These include grants for animal shelters and foster carers to purchase equipment or upgrade or expand their services; support animal rehoming services to meet the costs of veterinary treatments; enable delivery of free or low-cost desexing programs etc. As part of the Individual Pet Rehoming grant which closed on 1 September 2022, eligible organisations were able to apply to be reimbursed $500 per dog and $200 per cat for costs incurred for veterinary treatment, purchase of equipment and/or services to deliver training or rehabilitation for a dog or cat. Grants of up to $200,000 have been awarded to various animal welfare organisations in 2022.

Should Councillors resolve to refer this matter for consideration in the Merri-bek budget process, it is recommended that this be accompanied by an evaluation of the likely distribution of these funds.

**Referral support for prospective pet owners**

Cr Bolton’s second recommendation can be achieved using existing resources. Council officers can provide residents with information about adoption services over the telephone, online and at customer service centres.

**Publicising the decision**

With respect to Cr Bolton’s third recommendation, officers sought at the 12 September 2022 Council meeting approval to award the contract for the City of Whittlesea to operate the Epping Animal Welfare Facility after the RSPCA contract finishes on 16 October 2022. This matter was considered in the confidential part of the meeting, given the complexities of timing of this consideration between Merri-bek and Darebin Councils and the need for the two Councils to have a common form of contract with the City of Whittlesea in its operation of the Facility.

The report presented at the 12 September 2022 meeting included a resolution that Council’s decision would be made public after the associated decisions had been made by other Councils.

Officers suggest that a summary of confidential decisions relating to the award of the Operating Contract be included in the open minutes of the 12 October 2022 Council meeting.

**3. Financial Implications**

Officer’s comments:

There are no financial implications with recommendations 2 and 3.

While the presentation of recommendation 1 to the budget process is able to be achieved with relatively minor expenditure, should the decision be made to commit to this proposal following the budget process, this would have significant budget implications and would add considerable cost to the ongoing operation of the EAWF and the overall cost of the animal management service.

**4. Resources Implications**

Officer’s comments:

Cr Bolton’s recommendations can be achieved within existing resources.

**8.4 Revitalisation of Sydney Road**

**Cr Helen Pavlidis**

**Motion**

That Council calls for a report which outlines options for the preparation of a guidance document and action plan for improving the amenity and appearance along the Sydney Road corridor from Brunswick to Coburg, with consideration given to how matters like the lack of greenery, proliferation of signage and infrastructure, graffiti, shopfront improvements and public art could contribute to an improved and consistent appearance of the corridor.

**1. Background**

Cr Pavlidis’s background:

The Sydney Road retail and commercial corridor stretches from Park Street in the south to Bell Street in the north. It is the focus of both the Brunswick and Coburg Major Activity Centres. The Planning Scheme’s vision for these Major Activity Centres is to provide a broad mix of retail uses, commercial and cultural activity, employment options, administrative and civic centre functions, government investment and regional facilities and to accommodate substantial residential/mixed-use growth and change to create a new character of increased density and scale of built form.

Implementation of Council-led Place Action Plans in past years has seen a number of streetscape projects delivered, including the Sydney Road Coburg streetscape upgrade, the Mechanics Institute forecourt and Dawson Street streetscape upgrade.

Development of a comprehensive long-range plan that seeks to explore strategic opportunities and require collaboration and coordination. A report unpacking opportunities along the corridor will provide Council with a roadmap to consider and aspire toward and subsequently action in partnership with identified stakeholders and the broader community.

**2. Policy Context**

Officer’s comments:

The role of Merri-bek’s Major Activity Centres as detailed in the Planning Scheme aligns with state policy direction for Major Activity Centres - To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. Strategies to implement this objective include (amongst other things) to improve access by walking, cycling and public transport to services and facilities and to improve the environmental performance and amenity of activity centres.

The Brunswick Traders Association and Central Coburg Business Association each deliver promotional activities as well as projects to improve the amenity and appearance of their respective shopping strips through a special charge scheme. In the past, this has included delivering programs in partnership with Council.

Planning permits issued for development along the corridor also typically include a requirement to contribute to public realm upgrades and may include footpath renewal and new street furniture.

**3. Financial Implications**

Officer’s comments:

The cost of preparing the report can be met within existing budget. The report that will be presented to Council will outline approximate costs of preparing an action plan and/or guidance documents.

**4. Resources Implications**

Officer’s comments:

The resources required to prepare the report can be met within relevant Units. The report that will be presented to Council will outline the resourcing implications of preparing an action plan and/or guidance documents.