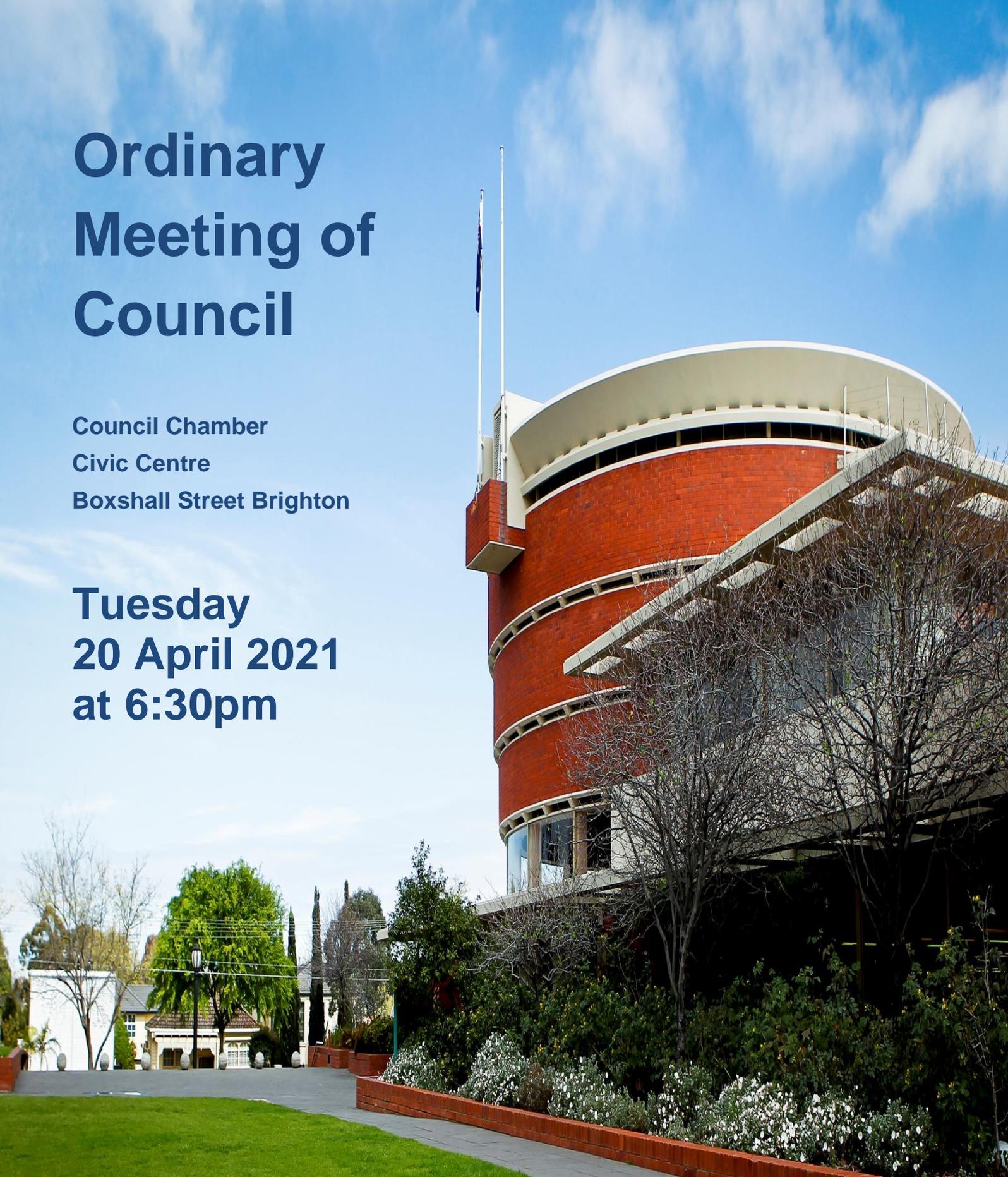


Ordinary Meeting of Council

Council Chamber
Civic Centre
Boxshall Street Brighton

Tuesday
20 April 2021
at 6:30pm



Agenda

Chair: Cr Laurence Evans OAM (Mayor)

Councillors: Cr Sonia Castelli (Deputy Mayor)
Cr Alex del Porto
Cr Hanna El Mouallem
Cr Clarke Martin
Cr Jo Samuel-King MBBS
Cr Fiona Stiffold

Important Notice

Council is closely monitoring the State Government's directives in response to the ongoing COVID-19 pandemic.

Due to density and distancing requirements for indoor public spaces, temporary meeting procedures remain in effect whereby **Council and Committee meetings will be held without members of the public present; however, meetings will be live-streamed via Council's website:**

[Live Council Meetings](#)

This protocol is currently under review as a result of the recent relaxation of Victoria's COVIDSafe settings.

Alternative arrangements are in place for members of the community to **be heard** in relation to eligible items listed on the agenda, or to **submit a public question**, via the following links:

[Requests to be heard \(Provide a Written Statement\)](#)

[Ask a question at an Ordinary Meeting of Council](#)

For further queries, please speak with the Governance office on 9599 4444

Order of Business

1. Prayer
2. Acknowledgement of Original Inhabitants
3. Apologies
4. Disclosure of any Conflict of Interest of any Councillor
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1. Prayer

O God
Bless this City, Bayside,
Give us courage, strength and wisdom,
So that our deliberations,
May be for the good of all,
Amen

2. Acknowledgement of Original Inhabitants

We acknowledge that the original inhabitants of this land that we call Bayside were the Boon wurrung people of the Kulin nation.

They loved this land, they cared for it and considered themselves to be part of it.

We acknowledge that we have a responsibility to nurture the land, and sustain it for future generations.

3. Apologies

4. Disclosure of any Conflict of Interest of any Councillor

5. Adoption and Confirmation of the minutes of previous meeting

5.1 Confirmation of the Minutes of the Ordinary meeting of Bayside City Council held on 16 March 2021.

6. Public Question Time

7. Petitions to Council

7.1 PETITION REQUESTING SAFE ACCESSIBILITY TO THE SKATE PARK AT DONALD MACDONALD RESERVE

Environment, Recreation and Infrastructure - Open Space, Recreation & Wellbeing
File No: PSF/21/23 – Doc No: DOC/21/104731

An online petition has been received from residents requesting safe accessibility to the skate park at Donald MacDonald Reserve.

(108 valid signatories – 58 residents of suburbs within or partly within Bayside; and 50 residents of suburbs outside of Bayside)

'We, the undersigned, hereby petition Bayside City Council to keep the skate park at Donald McDonald Reserve safely accessible to the general public during the construction of the pavilion or to provide an alternative temporary option'.

Further rationale provided with petition:

Bayside City Council have decided to close the skate park (and playground, basketball court and bbq area) at Donald McDonald Reserve for a full year during construction of the new pavilion. After the 2020 Covid-19 park closures, the youth in the area will now have to go without a valuable mental health, physical fitness and social resource, due to Bayside Councils inability to look at alternative options during construction of the pavilion. Bayside Council approve numerous residential builds within metres (and sometimes centimetres) of existing dwellings that are carried out safely. This decision, while under the premise of being a decision for the safety of the community, appears an overly cautious, knee jerk reaction, that will be to the detriment of the local youth community, and community as a whole. No alternative options, temporary structures, or second opinions have been sought by the council when enquiry was made.

Petition Requirements

The submitted online petition containing 108 valid signatories meets the required format of an online petition in accordance with Chapter 2, Section 58 of Council's Governance Rules 2020.

Officer Comments

The Donald Macdonald Reserve pavilion and surrounds are incredibly tight with little-to-no room between the pavilion site and the adjacent skate park.

As required as part of any building project, the builder constructing the Donald MacDonald Reserve pavilion has developed a comprehensive Construction Management Plan (CMP) that has a focus on maintaining the safety of workers and would-be users of the reserve.

The CMP requires the adjacent skate park to be closed during construction while large cranes are used for deliveries of building materials and work is carried out especially close to the skate park area.

Construction will also require a section of concrete on the fringe of the skate park to be demolished as builders access an easement containing water and sewer infrastructure.

While an inconvenience to users of the skate park, personal safety must be the highest priority and the builder has identified a high risk associated with using the skate park during the construction of the new two storey pavilion. Following further discussions with the builder,

officers have determined that the skate park will be required to be closed during construction of the pavilion.

Given the need for skateparks to be located on a large and accessible smooth concrete surface and to have equipment properly secured, the identification of a suitable site and the establishment of any temporary facilities is challenging, and no suitable site has been found.

It is anticipated that construction will be completed by November 2021 following which the skate park will be reopened for use. Officers will work with the builder to look at opportunities for the skate park and other associated facilities to be opened earlier if at all possible. With construction completed by November 2021 then the longest period the skate park will be closed will be six to seven months.

The nearest skate park that can be accessed is the skate bowl at Royal Avenue, Sandringham

Recommendation

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

Support Attachments

Nil

8. Minutes of Advisory Committees

8.1 MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 22 FEBRUARY 2021

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/66677

The minutes of the Audit and Risk Committee meeting which forms an attachment are presented in camera in accordance with Section 66(2)(a) of the Local Government Act 2020 (the Act) and pursuant to Section 3(1) of the Act (confidential information) (a), as it contains Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

Should Councillors wish to discuss the content of the minutes it would be appropriate that Council resolves to consider the matter in camera.

Executive summary

Purpose and background

To advise Council of the business transacted at the Audit and Risk Committee held on 22 February 2021.

The Audit and Risk Committee is an independent Advisory Committee to Council appointed by Council pursuant to Section 53 of the *Local Government Act 2020* (the Act).

The Audit and Risk Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any delegated financial responsibilities. The Committee does not have any management function and is therefore independent of management.

As part of Council's governance obligations to its community, the Committee was established to assist the Council to discharge its responsibilities under the Act to:

- monitor the compliance of Council policies and procedures with:
 - the overarching governance principles
 - the Act and the regulations and any ministerial directions
 - other relevant laws and obligations
- monitor internal controls
- monitor Council financial and performance reporting
- monitor and provide advice on risk management and fraud prevention systems and controls
- oversee internal audit function
- oversee external audit functions; and monitor related party transactions.

The internal, external auditors and other assurance providers support the Committee by providing independent and objective assurance on internal corporate governance, risk management, internal control and compliance.

Key issues

A meeting of the Audit and Risk Committee was held on 22 February 2021 to consider the following matters:

- Business Brought Forward summary from the previous meeting
- Audit and Risk Committee Work Plan
- Chief Executive Officer's Report
- Strategic Risk Register Review
- Risk Management Policy Review
- Executive Team Risk Management Meeting Minutes
- Victorian Auditor-General's Audit Strategy for the Financial Year ended 30 June 2021
- Victorian Auditor-General's Annual Plan 2021–22
- Internal Audit Status Report
- Status Report on Statutory Compliance Reporting for the second quarter for 2020/21
- Ombudsman Victoria Parliamentary Report - Investigation of alleged improper conduct by Executive Officers at Ballarat City Council
- Ombudsman Victoria Parliamentary Report - Investigation into three councils' outsourcing of parking fine internal reviews
- Ombudsman Victoria Parliamentary Report - Investigation into corporate credit card misuse at Warrnambool City Council
- Ombudsman Victoria Parliamentary Report - Investigation into review of parking fines by City of Melbourne
- VAGO Parliamentary Report: Sexual Harassment in Local Government
- December 2020 Finance and Capital Report
- Annual Performance Assessment of Audit and Risk Committee.

Recommendation

That Council:

1. notes the minutes of the Audit and Risk Committee meeting held on 22 February 2021 and
2. adopts the recommendations of the Audit and Risk Committee meeting held on 22 February 2021 specifically relating to:

Item 9.1.1. – Strategic Risk Review

That the Audit and Risk Committee:

1. notes the six monthly review of the Strategic Risks and the associated treatment actions

2. for the purposes of Section 12, Schedule 1 of the Local Government (Planning and Reporting) Regulations, notes the review of the 12 strategic risks and recommends to Council that the review of the Strategic Risks be noted.

Item 9.1.2 – Risk Management Policy

That the Audit and Risk Committee recommends to Council that the Risk Management Policy be adopted.

Support Attachments

1. Minutes - 22 February 2021 - Audit and Risk Committee (separately enclosed) (confidential)

8.2 MINUTES OF THE BAYSIDE ARTS AND GALLERY ADVISORY COMMITTEE MEETING HELD ON 24 FEBRUARY 2021

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/66682

Executive summary

Purpose and background

To present the minutes of the Bayside Arts and Gallery Advisory Committee meeting held on 24 February 2021 to Council for noting.

The Bayside Arts and Gallery Advisory Committee was established in 2020 as a result of the implementation of the *Local Government Act 2020*. The committee replaced the former Bayside Arts Board established in 2016 under the *Local Government Act 1989*.

The Bayside Arts and Gallery Advisory Committee is constituted for the purpose of providing advice and supporting Council in the development and presentation of an innovative and creative arts program for the City of Bayside including exhibitions and programs at the Bayside Gallery.

The functions of the Committee are to provide advice and recommendations to Council on the following matters:

- the annual exhibition program for the Bayside Gallery
- the annual arts program of public events and activities
- the proposed artists for the annual Studio Artists program at Billilla
- the public art and wall/mural art program across the municipality
- the acquisition and de-accession to the Bayside Council Art and Heritage Collection in accordance with the Bayside Arts and Heritage Collection Policy
- provide advice on the care and preservation of the Bayside Council Art and Heritage collection for future generations
- provide input and guidance into Council's Strategic Plan for the Arts
- contribute, to and support the establishment of mutual beneficial partnerships
- provide advice and evaluate the marketing strategy for arts programming including the Bayside Gallery.

The Arts and Gallery Advisory Committee membership comprises two Councillors appointed by Council and six ordinary members appointed through a public expression of interest process.

Key issues

A meeting of the Bayside Arts and Gallery Advisory Committee was held on 24 February 2021 to consider the following matters:

- Business Outstanding Report
- Quarterly Report October - December 2020
- Collection Activity Report 2020
- Bayside Art and Heritage Collection Acquisition Report
- Acquisition Proposal Bayside Art and Heritage Collection
- Acknowledgement of donation of works of art by artists.

A copy of the 24 February 2021 minutes of the Bayside Arts and Gallery Advisory Committee meeting is attached for Council's information.

Recommendation

That Council notes the minutes of the Bayside Arts and Gallery Advisory Committee meeting held on 24 February 2021.

Support Attachments

1. Minutes - 24 February 2021 - Bayside Arts and Gallery Advisory Committee ↓

Minutes of the Bayside Arts and Gallery Advisory Committee Meeting

held in the via Teams
on Wednesday 24 February 2021

The Meeting commenced at 6:00pm

1. Welcome and opening of the meeting

The Chairperson Cr Castelli declared the meeting opened at 6.00pm and welcomed members of the Committee to the meeting.

2. Present

Councillors: Cr Sonia Castelli (Deputy Mayor) (Chair)
Cr Alex del Porto

External Members Ms Angelina Beninati
Ms Tiziana Borghese
Mr Brian Hewitt
Ms Sarah Morris
Ms Bo Rutecki
Mr Arvind Vasan

Officers in attendance

Bryce Craggs – Director Community and Customer Experience
Terry Callant – Manager Governance and Corporate Reporting
Giacomina Pradolin – Arts and Culture Program Coordinator
Joanna Bosse – Curator Bayside Gallery

3. Apologies

There were no apologies submitted to the meeting.

4. Disclosure of any Conflict of Interest

There were no conflicts of interest submitted to the meeting.

Bayside City Council Bayside Arts and Gallery Advisory Committee - 24 February 2021

5. Adoption and Confirmation of the minutes of previous meeting

- 5.1 Confirmation of the Minutes of the Bayside Arts and Gallery Advisory Committee Meeting held on 14 October 2020.

Moved: Ms Borghese

Seconded: Ms Rutecki

That the minutes of the Bayside Arts and Gallery Advisory Committee Meeting held on 14 October 2020, as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

6. Reports

6.1 BUSINESS OUTSTANDING REPORT

Community and Customer Experience - Customer & Cultural Services
File No: PSF/21/498 – Doc No: DOC/21/23532

Moved: Mr Hewitt

Seconded: Cr del Porto

That the Committee notes the business outstanding report.

CARRIED

6.2 QUARTERLY REPORT OCTOBER - DECEMBER 2020

Community and Customer Experience - Customer & Cultural Services
File No: PSF/21/498 – Doc No: DOC/21/23047

Moved: Mr Hewitt

Seconded: Ms Borghese

That the Bayside Arts and Gallery Advisory Committee notes the quarterly report.

CARRIED

6.3 COLLECTION ACTIVITY REPORT 2020

Community and Customer Experience - Customer & Cultural Services
File No: PSF/21/498 – Doc No: DOC/21/28901

Moved: Mr Hewitt

Seconded: Ms Beninati

That the Bayside Arts and Gallery Advisory Committee notes the Collection Activity report.

CARRIED

6.4 BAYSIDE ART AND HERITAGE COLLECTION ACQUISITION REPORT

Community and Customer Experience - Customer & Cultural Services
File No: PSF/21/498 – Doc No: DOC/21/37873

Moved: Cr del Porto

Seconded: Ms Borghese

That the Bayside Arts and Gallery Advisory Committee notes the Art and Heritage Collection Acquisition report and formally approves the acquisition of the Sybil Craig art work titles "Half Moon Bay".

CARRIED

6.5 ACQUISITION PROPOSAL BAYSIDE ART AND HERITAGE COLLECTION

Community and Customer Experience - Customer & Cultural Services
File No: PSF/21/498 – Doc No: DOC/21/37879

The Committee discussed the opportunity to display artworks out in the community.

Moved: Ms Beninati

Seconded: Ms Borghese

That the Bayside Arts and Gallery Advisory Committee recommends that Council:

1. accepts the proposed donation of *Sandringham 20* by Craig Gough for the Bayside Arts and Heritage Collection;
2. approves the purchase of four charcoal drawings on paper and one acrylic painting on paper from the 'Sandringham series' by Craig Gough for the total cost of \$16,640 and its acquisition into the Visual Arts collection of the Bayside Art & Heritage Collection; and
3. investigate various options to display Council's art collection at locations within the community.

CARRIED

6.6 ACKNOWLEDGEMENT OF DONATION OF WORKS OF ART BY ARTISTS

Community and Customer Experience - Customer & Cultural Services
File No: PSF/21/498 – Doc No: DOC/21/23019

Moved: Mr Vasan**Seconded: Ms Borghese**

That the Bayside Arts and Gallery Advisory Committee recommends that following Council's approval of an artwork donated by an artist that:

1. a letter of acknowledgment and thanks from the Mayor will be sent within two weeks of the donation being accepted
2. credit for the work online and in print when exhibited or reproduced will include the acknowledgement : Gift of the artist on the label/caption
3. when the work is publicly exhibited the accompanying label will also acknowledge the donation as follows:

KATHERINE HATTAM

born 1950 Melbourne Lives
Melbourne

*William Buckley forgot how to speak
English2018*

gouache, charcoal and book spines
on collaged book pages on linen
Bayside Art & Heritage Collection. Gift of the artist.

CARRIED**7. General Business****7.1 Hawthorn Road Sub-station****Moved Cr del Porto****Seconded Ms Borghese**

That Council write to Yarra Trams to discuss a mural partnership opportunity at the Hawthorn Road sub-station.

CARRIED

7.2 Process for new members

The Committee requested information on the recruitment of new members. It was agreed that the recruitment process for new members would be discussed at the May meeting.

8. Confirmation of date of future meetings

The next meeting is scheduled to be held on Wednesday 12 May at 6:00pm.

The Chairperson declared the meeting closed at 7:10pm.

8.3 ASSEMBLY OF COUNCILLORS RECORD

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/104726

Executive summary

Purpose and background

To formally report to Council on the Assembly of Councillors records in accordance with the *Local Government Act 1989*.

Key issues

This report fulfils the requirements of reporting an Assembly of Councillors to the next practical Ordinary Meeting of Council in accordance with the *Local Government Act 1989*.

Recommendation

That Council notes the Assembly of Councillors record/s submitted as required by the *Local Government Act 1989*:

- 10 March 2021 Budget Briefing
- 17 March 2021 Budget Briefing
- 23 March 2021 Budget Briefing
- 30 March 2021 Councillor Briefing.

Support Attachments

1. Record of Assembly of Councillors - 10 March 2021 Budget Briefing ↓
2. Record of Assembly of Councillors - 17 March 2021 Budget Briefing ↓
3. Record of Assembly of Councillors - 23 March 2021 Budget Briefing ↓
4. Record of Assembly of Councillors - 30 March 2021 Councillor Briefing ↓



Record of Assembly of Councillors

Record in accordance with section 80A(1) of the *Local Government Act 1989*

<i>Meeting Information</i>		
<i>Meeting Name/Type</i>	Budget Briefing	
<i>Meeting Date</i>	10 March 2021	
<i>Start Time</i>	6:30pm	
<i>Matters discussed</i>	<ul style="list-style-type: none"> • Capital Program 	
<i>Attendees</i>		
<i>Councillors</i>	Mayor, Cr Laurence Evans OAM Cr Sonia Castelli Cr Alex del Porto Cr Clarke Martin Cr Hanna El Mouallem Cr Jo Samuel-King MBBS Cr Fiona Stitfold	
<i>Staff</i>	Mick Cummins – Chief Executive Officer Jill Colson – Director Corporate Services Bryce Craggs – Director Community and Customer Experience Adam McSwain – Director Environment, Recreation & Infrastructure Bill Shanahan – Manager Finance	
<i>Apologies</i>		
<i>Councillors</i>	Nil	
<i>Conflict of Interest disclosures</i>		
<i>Matter No</i>	<i>Councillor making disclosure</i>	<i>Councillor left meeting</i>
	Nil	



Record of Assembly of Councillors

Record in accordance with section 80A(1) of the *Local Government Act 1989*

<i>Meeting Information</i>		
<i>Meeting Name/Type</i>	Budget Briefing	
<i>Meeting Date</i>	17 March 2021	
<i>Start Time</i>	5:30pm	
<i>Matters discussed</i>	<ul style="list-style-type: none"> • Capital Budget • Council Plan • New Initiatives • Fees & Charges • Capital Program 	
<i>Attendees</i>		
<i>Councillors</i>	Mayor, Cr Laurence Evans OAM Cr Sonia Castelli Cr Alex del Porto Cr Clarke Martin Cr Hanna El Mouallem Cr Jo Samuel-King MBBS Cr Fiona Stitfold	
<i>Staff</i>	Mick Cummins – Chief Executive Officer Jill Colson – Director Corporate Services Bryce Craggs – Director Community and Customer Experience Adam McSwain – Director Environment, Recreation & Infrastructure Terry Callant – Manager Governance and Corporate Reporting Bill Shanahan – Manager Finance	
<i>Apologies</i>		
<i>Councillors</i>	Nil	
<i>Conflict of Interest disclosures</i>		
<i>Matter</i>	<i>Councillor making disclosure</i>	<i>Councillor left meeting</i>
New Initiatives	Cr Alex del Porto	Yes
New Initiatives	Cr El Mouallem	Yes
Fees & Charges	Cr Evans	Yes



Record of Assembly of Councillors

Record in accordance with section 80A(1) of the *Local Government Act 1989*

<i>Meeting Information</i>		
<i>Meeting Name/Type</i>	Budget Briefing	
<i>Meeting Date</i>	23 March 2021	
<i>Start Time</i>	4pm	
<i>Matters discussed</i>	<ul style="list-style-type: none"> • Operating Services • Financial Plan 	
<i>Attendees</i>		
<i>Councillors</i>	Mayor, Cr Laurence Evans OAM Cr Sonia Castelli Cr Alex del Porto Cr Clarke Martin Cr Hanna El Mouallem Cr Jo Samuel-King MBBS Cr Fiona Stitfold	
<i>Staff</i>	Mick Cummins – Chief Executive Officer Jill Colson – Director Corporate Services Bryce Craggs – Director Community and Customer Experience Adam McSwain – Director Environment, Recreation & Infrastructure Bill Shanahan – Manager Finance	
<i>Apologies</i>		
<i>Councillors</i>	Nil	
<i>Conflict of Interest disclosures</i>		
<i>Matter No</i>	<i>Councillor making disclosure</i>	<i>Councillor left meeting</i>
	Nil	



Record of Assembly of Councillors

Record in accordance with section 80A(1) of the *Local Government Act 1989*

<i>Meeting Information</i>		
<i>Meeting Name/Type</i>	Councillor Briefing	
<i>Meeting Date</i>	30 March 2021	
<i>Start Time</i>	4:00pm	
<i>Matters discussed</i>	4.1 Governance Rules 2020 - (2021 Review) 4.2 Warm Water Pool update 4.3 Discussion concerning Councils interest in Higinbotham Hall and adjoining land and building 4.4 Road Management Plan 2021 4.5 Nature strip tree planting along Beach Road - 2022 4.6 Surrender of Disused Road/Walk-thru at Elsternwick Primary School	
<i>Attendees</i>		
<i>Councillors</i>	Mayor, Cr Laurence Evans OAM Cr Sonia Castelli Cr Alex del Porto Cr Hanna El Mouallem Cr Jo Samuel-King MBBS Cr Fiona Stitfold	
<i>Staff</i>	Mick Cummins – Chief Executive Officer Jill Colson – Director Corporate Services Bryce Craggs – Director Community and Customer Experience Adam McSwain – Director Environment, Recreation & Infrastructure Terry Callant – Manager Governance and Corporate Reporting Keryn Fisher – Manager Communication and Engagement Jason Stubbs – Manager Commercial Services Damien Van Trier – Manager Open Space, Recreation and Wellbeing Robert Lamb – Governance Officer	
<i>Apologies</i>		
<i>Councillors</i>	Cr Clarke Martin	
<i>Conflict of Interest disclosures</i>		
<i>Matter No</i>	<i>Councillor making disclosure</i>	<i>Councillor left meeting</i>
	Nil	

9. Reports by Special Committees

There were no reports by special committees submitted to the meeting.

10. Reports by the Organisation

10.1 PUBLIC PARTICIPATION AND ATTENDANCE AT COUNCIL AND COMMITTEE MEETINGS

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/100128

Executive summary

Purpose and background

The purpose of this report is to review the temporary meeting procedures relating to public participation and attendance at Council and Committee meetings.

Council, at its March 2020 Ordinary meeting, resolved to introduce temporary meeting procedures in response to the COVID-19 pandemic to continue public participation at meetings whilst maintaining public health and physical distancing:

The *Local Government Act 2020* was amended on 1 May 2020 to direct that the requirement for a Council and Delegated Committee meeting to be open to the public is satisfied if the meeting is streamed live on the internet site of the Council. This provision was later extended, allowing for meetings to be held in this manner, including via electronic means, until 27 April 2022 – if required.

Council has been conducting its meetings in the Councillor Chamber, and remotely via electronic media when required, without members of the public present since this time.

Key issues

Relaxation of 'COVIDSafe' settings

On 26 March 2021, Victoria further relaxed its 'COVIDSafe' settings. The State Government directives that apply to the Council Chamber allow for no patron caps; however, a density quotient of 1 per 2sqm applies.

Based on the usable space of the Council Chamber, up to 40 people including Councillors and officers could be accommodated. The number of Councillors/officers attending meetings is typically between 12-15 persons. Therefore, 25 to 30 members of the public could be present in the public gallery at any given time.

Public participation pursuant to Council's Governance Rules 2020

This report coincides with another report on the agenda which introduces a review of Council's Governance Rules 2020 outlining a number of alternative options for public participation at Council and Committee meetings.

Whilst the reintroduction of speakers at Council and Committee meetings pursuant to section 57 (public question time) and section 62 (limitations upon speakers) of Council's Governance Rules 2020 could be accommodated now, this would require limitations on the number of speakers present and further health measures to be put in place such as physical distancing, maintaining the quota of people present in the Chamber at any one time, and sanitisation of seating when members of the public exit and enter the Chamber. Additional sanitisation of the microphones and speaker seating would also be required.

Given the review of the Governance Rules 2020 is expected to be completed and resolved upon at the June 2021 Council meeting, it is proposed to continue with the current temporary meeting procedures until this time as officers are of the view that defaulting to the yet-to-be-used system enacted upon the establishment of the Governance Rules (in September 2020) only to potentially move to a new system in the coming weeks (upon completion of the review) would be disruptive and potentially confusing for the community.

It should be noted that members of the community have been continually engaged in the Council decision making process during the interim procedures with a total of 1407 written statements received during the pandemic compared to 550 speakers in attendance pre-pandemic. This is an increase in engagement of 155% over the same time period.

Public attendance in the Gallery for Council and Committee meetings

Officers are however proposing a limited re-introduction of public attendance at all Council and Committee meetings held in the Council Chamber. This is proposed to commence from the Planning & Amenity Delegated Committee meeting to be held on 11 May 2021 (subject to any further changes in public health directions that may occur before that time). This will require interested parties to be present only for a specific item, after which they would be requested to vacate the Chamber.

COVIDSafe Plan

Revision of Council's existing COVIDSafe Plan for the Council Chamber would be required in line with the six principles of COVIDSafe workplaces with a number of distancing and hygiene measures in place.

Under the present guidelines for community facilities, it is a requirement to use electronic record keeping through the Services Vic app.

Recommendation

That Council:

1. acknowledges the relaxation of Victoria's 'COVIDSafe' settings and reintroduces limited public attendance (with a maximum number of 40 persons present at any given time) at all Council and Committee meetings held in the Council Chamber commencing from the 11 May 2021 Planning & Amenity Delegated Committee Meeting (subject to any further changes in public health directions that may occur before that time)
2. reserves the right, where required, under the *Local Government Act 2020* to conduct Council and Committee meetings remotely via electronic means on the basis that all meetings are live-streamed online
3. continues to follow the temporary Council and Committee meeting procedures enacted at the March 2020 Ordinary Meeting of Council (and later adapted) concerning public participation until such time as the 2021 review of its Governance Rules are completed, as follows:

Section 57 - Public Question Time

- Questions must be received by 11:00am on the day prior to the meeting.
- Up to 15 minutes will be set aside for Public Question Time at the meeting.
- All questions received and responses will be read out at the meeting.
- All questions and responses will be recorded in the minutes.

Section 62 - Individual Presentations

- In place of speaking in-person at a Council / Committee meeting, members of the public may submit a written statement (maximum of four (4) A4 single pages) which must be sent electronically, or delivered to Council's Corporate Centre, by 9:00am on the day of the meeting.
- Written statements received after 9:00am on the day of the meeting will not be considered by the meeting.
- A person may only make a written statement to a Council Meeting or Special Committee Meeting in relation to an item listed in the agenda under Reports by the Organisation, and even then not if the item is in the nature of a report summarising a decision already made by another body; or if the report relates to a Tender Report relating to the awarding of a contract.
- In accordance with Chapter 2, Section 83(1) of Council's Governance Rules 2020, any statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community may not be accepted.
- Where a person has formally made a written statement in relation to an item on the agenda, the statement will be provided to all councillors in advance of the meeting
- Written statements are not confidential and, following the closure for receipt of statements, will be published (including first and last names only) on Council's website as an attachment to the Agenda for the relevant meeting: Agendas
- Written statements will not be read out at the meeting; however, the Chair will advise the meeting of the number of statements received to each item.

Support Attachments

Nil

Considerations and implications of proposition

Liveable community

Social

Given the relaxation of Victoria's 'COVIDSafe' settings, restoring in-person public attendance at Council and Committee meetings is an important step toward re-engaging face-to-face with the community. Live online streaming of Council and Committee meetings has continued throughout the pandemic period enabling accessibility of Council meetings to the public.

Natural Environment

There are no natural environment implications associated with this report.

Climate Emergency

There are no Climate Emergency implications associated with this report.

Built Environment

There are no built environment implications associated with this report.

Customer Service and Community Engagement

Facilitation of restoring in-person public attendance at Council and Committee meetings would be overseen by the Governance team.

Continuing to follow the temporary meeting procedures until the 2021 review of Council's Governance Rules is completed is viewed as an appropriate measure to limit disruption to the Council and Committee meeting process.

Human Rights

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

There are no legal implications associated with this report.

Finance

There are no financial implications associated with this report.

Links to Council policy and strategy

This report has a direct link to Goal 8 of the Council Plan – providing good governance and transparency of the Council's decision making processes.

10.2 GOVERNANCE RULES 2020 – (2021 REVIEW)

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/100122

Executive summary

Purpose and background

The purpose of this report is to conduct a review of Council's Governance Rules 2020.

The 2016–20 Council, at its Special meeting on 25 August 2020, adopted the Governance Rules 2020 as required by the *Local Government Act 2020* (the Act). The Governance Rules replaced Council's Local Law No:1 – 2013 (Governance Local Law).

At the Special Council meeting, Council resolved that (its Governance Rules)

... will be reviewed by Council within 12 months of a general election; and at such times as Council, in its absolute discretion, determines.

The 2021 review of the Governance Rules 2020 will seek the views of the community and provide the newly elected 2020–24 Council an opportunity to refine and enhance the existing Governance Rules.

Key issues

Development

The development of Council's Governance Rules 2020 considered the provisions of the Council's former Local Law No:1 – 2013 (Governance Local Law), an assessment against the Model Governance Rules developed by Local Government Victoria (LGV), and Maddocks Lawyers' Governance Rules template.

Key considerations / changes proposed

Governance Rules 2020: Chapter 2 – Meeting Procedure for Council Meetings

Limitations upon Speakers (members of the public) for Council and Delegated Committee meetings (Section 59 to 63)

Existing provisions:

Time limits and number of speakers

Section 62 of the existing Governance Rules provides that members of the public, where permitted, be afforded up to two (2) minutes (with no extension to be granted) and no limit on the number of speakers per item, to speak in response to reports by the organisation on the Agenda.

It should be noted that this provision is yet-to-be tested due to COVID-19. Temporary meeting procedures have instead been in place allowing for written statements to be provided.

Benchmarking against neighbouring councils:

Council	Council Meetings:	Planning and Amenity (or equivalent) Meetings:
Hobsons Bay City Council	Council may allocate reasonable time to each person who wishes to address Council, having regard to: <ul style="list-style-type: none"> the nature of the matter to be discussed priorities in relation to other Council business other members of the community present who also wish to address Council, whether such an opportunity has already been provided 	
City of Kingston	No speakers permitted	Speakers permitted three (3) minutes however limited to two (2) speakers per item (the applicant and one (1) objector)
Maribyrnong City Council	No speakers permitted	Speakers all permitted (3) three minutes, or five (5) minutes if speaking for group of more than ten (10) people
Glen Eira City Council	A maximum of 15 minutes allocated at the beginning of the meeting for speakers (or extended at the Chair's discretion). No time limits on speakers Planning items are heard as part of the Ordinary Council meeting	
City of Port Phillip	Speakers allowed three (3) minutes however if more than five (5) speakers, the Chair has discretion to limit to two (2) minutes	

Option 1 – Speakers not permitted – Written Statements only

The temporary 'Requests to be Heard' arrangements currently in place as a result of COVID-19 have been extremely successful, providing the community the opportunity to lodge a written statement. In some instances the statements have been very comprehensive, and the number of statements has increased compared with the requests to be heard on general items. There has been an increase in engagement of 155% in respect of Council and Committee meetings through the provision of written statements.

The current arrangements of written statements could be adopted on a permanent basis with some minor enhancements:

- cut-off time for receipt of written statements would be **9:00am the day before the meeting** providing more time for Councillors to read through all submissions
- Council agenda document to be published 24 hours earlier
- web form enhanced to include a consent checkbox for residents open to being contacted by Councillors who may have questions in relation to particular submissions
- web form also enhanced to identify properly authorised representatives of groups – i.e. president, secretary, principal etc.

Pros	<ul style="list-style-type: none"> • community is now used to this system which has been in place for over 12 months and broadly accepted • statements allow up to four (4) A4 pages and can include photos allowing more information to be provided than a verbal presentation • significantly higher number of written statements as opposed to the typical number of speakers – likely due to the ease of providing a statement instead of attending the meeting in person • submitters can consent (via the web form) to being contacted by Councillors who may have questions in relation to their submission (replicating this element of the present Council Chamber environment) • moving the cut-off time for written statements to 9am the day before the meeting would enable the statements to be circulated to Councillors the day before the meeting, allowing them more reading time to consider the issues raised in written statements • makes the process ‘pandemic-proof’ as written statements can easily be submitted in or outside of a health emergency – online or via traditional methods • data analysis (Attachment 2) suggests significant average time saving of approximately 1 hour and 13 minutes per meeting
Cons	<ul style="list-style-type: none"> • possible community dissatisfaction with the change given many community members have valued the opportunity to speak in-person over a number of years • officer resources to compile material – though this would be eased if the cut-off time was moved to 9am the day before the meeting

Option 2 – Limit of ten (10) speakers per item

Council Meetings

(up to ten (10) speakers per item – (up to five {5} speakers in favour of the recommendation, and up to five {5} speakers against the recommendation) – speaking time limited to two (2) minutes only

- Council to consider requests from the first ten registered speakers per item (up to five {5} in favour of the recommendation and up to five {5} against) with a speaking time of two (2) minutes.
- Cut-off time for Request to be Heard to be **9:00am the day before the meeting.**
- List of speakers published as attachment on the Agendas page by **noon the day before the meeting.**
- Auto-acknowledgement message amended to direct those registering to check the final speakers list to determine if they are in the first five (5) registered for/against per item.

Planning and Amenity Committee Meetings

(up to ten (10) speakers per item – (up to five {5} objectors, and five (5) supporters – speaking time limited to two (2) minutes only

This option provides more of a balance of speakers. However, history indicates that rarely does an application have more than 3 individuals speaking in support of the application.

- Committee to consider requests from the first ten registered speakers per item (up to five {5} objectors, and up to five {5} supporters) with a speaking time of two (2) minutes.
- Cut-off time for Request to be Heard to be **9:00am the day before the meeting.**
- List of speakers published as attachment on the Agendas page by **noon the day before the meeting.**
- Auto-acknowledgement message amended to direct those registering to check the final speakers list to determine if they are in the first five (5) objectors / supporters per item.

Pros	<ul style="list-style-type: none"> • limits the amount of speakers per item which may stop groups stacking speaking rights at a meeting • provides a balanced discussion with five speakers for and against • limits repetitive submissions • data analysis (Attachment 2) suggests average time saving of approximately 25 to 30 minutes per meeting • many community members value the opportunity to speak in-person • significant one-off time savings for outlier items with significant public interest • similar system has been employed successfully at other Councils
Cons	<ul style="list-style-type: none"> • various groups may still stack the process by registering all at once, or a single request with multiple names • places the task of communicating to those speakers not afforded the opportunity to speak back onto Council officers • members of the community who are not afforded a speaking opportunity may be dissatisfied with this outcome

Additional comments

Officers also considered a hybrid approach of speakers / written statements over and above the threshold of 10 speakers:

This would however be quite difficult and would require significant modification of the web form to allow for the disablement of each item when its threshold has been reached – with the user then directed to a secondary web form to provide a written statement. This would also be onerous to coordinate on a rolling basis and ‘catching’ when a certain item has reached its threshold. On this basis a hybrid approach is not recommended. However, members of the community can still communicate directly with Councillors with commentary.

Option 3 – Status Quo – speaking time of two (2) minutes permitted

Speaking time limited to two (2) minutes as per the existing Governance Rules 2020.

Unlimited number of speakers.

Pros	<ul style="list-style-type: none"> • duration of meetings decreased on all items • data analysis (Attachment 2) suggests average time saving of approximately 22 minutes per meeting
Cons	<ul style="list-style-type: none"> • possible community dissatisfaction once put in to effect given speakers have been permitted three (3) minutes for many years • will likely result in very long meetings

Data Analysis on Speakers / Written Statements

An analysis of the Council and Delegated Committee meetings in the 12 months both during and before the COVID-19 was conducted (Attachment 2) showed:

- a total of **1407 submissions** were received (during the pandemic period) or an **average of 56** per meeting, compared to **550 speakers** (pre-pandemic) in attendance or an **average of 22** speakers per meeting

(an increase in engagement of 155%)

- average time per meeting allotted for the hearing of speakers (pre-pandemic) is 1 hour and 6 minutes per meeting.
- average meeting duration with speakers is 3 hours and 24 minutes; compared to 2 hours and 11 minutes without speakers

(an average 1 hour and 13 minutes {36%} reduction to meeting duration).

Public Question Time (Section 57)

No changes are proposed to Public Question Time processes unless the opportunity for individual presentations at meetings was to be replaced with written statements – in which case, it would be proposed that public questions must also be submitted by **9am the day before the relevant meeting** instead of 11am to avoid any confusion.

At times where members of the public may not be permitted to attend the Council Chamber for their public question to be read out, the temporary meeting procedures currently in place could easily be re-enacted, needing only the removal of the requirement for the submitter to be present at the meeting in order to have their question read out.

Community Consultation

A 'Have Your Say' campaign will be conducted online for 28 days (from 22 April to 19 May 2021 inclusive) to assess community interest / concerns regarding the proposed amendments, with a further report to be considered by Council at the June Council Meeting.

Conclusion

Whilst it is acknowledged that the opportunity to speak in person at Council meetings is a long-held tradition by some members of the Bayside community, the data analysis of Council and Delegated Committee meetings in the 12 months both during and before the COVID-19 pandemic points to the engagement benefits of Council moving permanently to a system where written statements (Option 1) is the fairest and most appropriate means for the community to be heard by Councillors.

This is supported by Principle 6 of Council's Community and Stakeholder Engagement Policy 2021 which was adopted by Council at the February 2021 Council Meeting which states: '*A community engagement process must be designed to promote fairness and equality*' as it is biased towards the participation of those who are easy to communicate with, have a pre-existing relationship with Council, and are vocal and reasonably comfortable speaking in a public setting.

Minor changes to Public Question Time procedures in relation to the time in which questions must be submitted and the publishing of questions and responses are also recommended.

Recommendation

That Council:

1. notes the proposed amendments to the Governance Rules 2020 marked in bold in Attachment 1 to this report as follows:

Chapter 2 – Meeting Procedure for Council Meetings

Individual Presentations (members of the public)

(Sections 59 to 63) – Governance Rules

Proposed: Option 1 – Written Statements

It is proposed to make permanent the temporary procedures with respect to Individual Presentations at Council and Delegated Committee meetings currently in effect as a result of the COVID-19 pandemic and amend Sections 59 to 63 to reflect that members of the public have the opportunity to provide written statements.

Requests to be heard in person would not be permitted.

A related clause concerning Petitions and Joint Letters (Section 58 Clause 11) would also require updating to reflect that written statements are the permitted method for members of the public to address a report that may later arise as a result of a petition.

Public Question Time

(Section 57) – Governance Rules

Proposed:

*In the event that individual presentations (speakers) at meetings were to be replaced with written statements (to be submitted by 9am the day before the relevant meeting), it is proposed that Section 57, Clause 4 (b) be amended to indicate that the **public questions also must be submitted by 9am the day before the relevant meeting** (instead of 11am).*

Section 57, Clauses 15 to 16 are also proposed to be enhanced for clarity in relation to the publishing of public questions and responses.

2. commences community consultation, as required under section 60 (4) of the Local Government Act 2020, via Council's 'Have Your Say' web page for 28 days (from 22 April to 19 May 2021 inclusive) to assess community interest / concerns regarding the proposed amendments
3. receives a further report to the June 2021 Council Meeting summarising the feedback and proposing further recommendations if required, with the view to Council adopting the revised Governance Rules 2020 at that meeting.

Support Attachments

1. Governance Rules 2020 (Proposed 2021 Amendments) ↓
2. Data Analysis on Speakers and Written Statements ↓

Considerations and implications of proposition

Liveable community

Social

The review of the Governance Rules 2020 will provide positive benefits to the Council decision-making process through clear and concise enhancements to the Governance Rules.

Natural Environment

There are no natural environmental implications associated with this report.

Climate Emergency

There are no climate emergency implications associated with this report.

Built Environment

There are no built environmental implications associated with this report.

Customer Service and Community Engagement

A 'Have Your Say' campaign be conducted online for 28 days (from 22 April to 19 May 2021 inclusive) to assess community interest / concerns regarding any changes proposed Governance Rules 2020.

Human Rights

The options outlined in this report have been assessed against the principles of the *Victorian Charter of Human Rights and Responsibilities Act 2006* and are considered to be compatible with the Charter.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

There are no legal implications associated with this report.

Finance

There are no financial implications associated with this report.

Links to Council policy and strategy

This report has a direct link to Goal 8 of the Council Plan – providing good governance and transparency of the Council's decision making processes.



Governance Rules 2020

(inclusive of Proposed Amendments – April 2021)



Bayside City Council – Governance Rules 2020

August 2020

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Bayside City Council – Governance Rules 2020

August 2020

Bayside City Council has established Governance Rules in accordance with section 60 of the Local Government Act 2020

Commitment

Good governance, integrity and accountability are central to the *Local Government Act 2020* (the *Act*), to underpin local government democracy, accountability, conduct and enable our community to hold the Council to account. Council is committed to embedding the principles of good governance throughout its decision making, corporate governance and democratic governance by establishing and adhering to the Governance Rules established. The principles of good governance incorporate the principles outlined in the *Act*, including overarching principles as well as the public transparency, community engagement, strategic planning, service performance and financial management principles.

Council decision making will be founded on good governance and conducted with transparency. The process by which decisions will be made is transparent and clearly articulated in these Governance Rules for the scrutiny of our community and accountability of Councillors and Council officers. Council recognises that accountability, integrity and transparency are of fundamental importance to our community and are critical for enhancing good governance.

Council seeks to apply good governance in order to:

- engage our community in decision making;
- achieve the best outcomes for the Bayside community, including future generations;
- ensure transparency of Council decisions, actions and information;
- ensure the ongoing financial viability of Council;
- increase our performance; and
- spend public monies wisely.

INTRODUCTION

1. Purpose

These Governance Rules determine the way in which Council will:

- make decisions:
 - in the best interest of the Bayside community;
 - fairly and on the merits of the matter before Council; and
 - in a way that ensures any person whose rights will be directly affected by a decisions will be entitled to communicate their views and have their interests considered;
- elect its Mayor and Deputy Mayor;
- conduct Meetings of Council and Delegated Committees;
- give notice of Meetings and record and make available Meeting records (Minutes and live streamed Meetings);
- be informed in its decisions making through community engagement advisory committees and Council officer reports; and
- require the disclosure and management of conflicts of interest.

The Governance Rules also include:

- rules for the conduct of Council and Councillors during election periods through the Election Period Policy; and
- provision for the use of Council's Common Seal.

Section 60(2) Local Government Act 2020

The Governance Rules must provide for a Council to -

- (a) *consider and make decisions on any matter being considered by the Council fairly and on the merits; and*
 - (b) *institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.*
-

2. Principles

Council must, in the performance of its role, give effect to the overarching governance principles outlined in the *Local Government Act 2020*. These principles are:

- (a) council decisions are to be made and actions taken in accordance with the relevant law;
- (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- (d) the municipal community is to be engaged in strategic planning and strategic decisions making;
- (e) innovation and continuous improvement is to be pursued;
- (f) Collaboration with other councils and governments and statutory bodies is to be sought;
- (g) the ongoing financial viability of the Council is to be ensured;
- (h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making; and
- (i) the transparency of Council decisions, actions and information is to be ensured.

In giving effect to the overarching governance principles, Council must take into account the following supporting principles –

- (a) community engagement principles;
- (b) public transparency principles;
- (c) strategic planning principles;
- (d) financial management principles; and
- (e) service performance principles.

3. Nature of Rules

These are the Governance Rules of Bayside City Council, made in accordance with section 60 of the *Local Government Act 2020*.

4. Date of Commencement

These Governance Rules commence on 1 September 2020.

5. Contents

These Governance Rules are divided into the following Chapters for ease of reading:

Chapter	Name
Chapter 1	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Meeting Procedure for Delegated Committees
Chapter 4	Meeting Procedure for Community Asset Committees
Chapter 5	Meeting Procedure for Advisory Committees
Chapter 6	Meeting Procedure for Joint Council Meetings
Chapter 7	Disclosure of Conflicts Of Interest
Chapter 8	Miscellaneous
Chapter 9	Use of Council's Common Seal
Chapter 10	Council Records
Chapter 11	Election Period Policy

6. Definitions

In these Rules:

Act	means <i>Local Government Act 2020</i>
Advisory Committee	means a committee established by the Council, that provides advice to — (a) the Council; or (b) a member of Council staff who has been delegated a power, duty or function of the Council; and which is not a Delegated Committee or Community Asset Committee.
Agenda	means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting.
Audit and Risk Committee	means the Audit and Risk Committee established by a Council under section 53.
Authorised Officer	has the same meaning as in the Local Government Act 1989.
Chairperson	means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson.
Chamber	means any room where the Council holds a Council Meeting.
Chief Executive Officer	means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office.
Committee Meeting	means a Meeting of a Delegated Committee.
Common Seal	means the common seal of Council.
Council	means Bayside City Council.
Councillor	means a Councillor of Council.
Council Meeting	means a Meeting of the Council convened in accordance with these Governance Rules and includes a scheduled (fixed) Meeting and unscheduled (Special Council) Meeting.

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Delegate	has the same meaning as in the Act.
Delegated Committee	has the same meaning as in the Act.
Delegated Committee Meeting	means a Meeting of a Delegated Committee.
Deputy Mayor	means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor.
Director	means a senior member of Council staff holding the position of Director or another position (however designated) which reports directly to the Chief Executive Officer.
Disorder	means any disorderly conduct of a member of the Gallery or a Councillor and includes: <ul style="list-style-type: none"> • interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order; • making comments that are defamatory, malicious, abusive or offensive; • refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with the Act and these Rules; and • engaging in any other conduct which prevents the orderly conduct of the Meeting.
Foreshadowed Motion	means a matter raised in the relevant section of the Council Meeting that a Councillor intends to put forward a Motion.
Majority of Votes	means a majority of Councillors present at the time of a vote voting in favour of a matter.
Mayor	means the Mayor of Council and any person elected or appointed by Council to be acting as Mayor.
Meeting	means a Council Meeting or a Delegated Committee Meeting.
Member	means a member of any committee to which these Rules apply.
Minutes	means the official record of the proceedings and decisions of a Meeting.
Motion	means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted.
Notice of Motion	means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting.
Notice of Rescission	means a Notice of Motion to rescind a resolution made by Council.
On Notice	means held or deferred to enable preparation of a response.
Point of Order	means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting.
Procedural Motion	means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure.
Rule or Sub-rule	means a rule or sub-rule included in these Governance Rules.
Urgent Business	means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next Meeting.

CHAPTER 1 – GOVERNANCE FRAMEWORK

1 Context

These Rules should be read in the context of and in conjunction with:

- (a) the overarching governance principles specified in section 9(2) of the Act; and
- (b) the following documents adopted or approved by Council:
 - Community Engagement Policy;
 - Public Transparency Policy;
 - Conflict of Interest Guide for Councillors and Staff;
 - Good Governance Framework;
 - Councillor Code of Conduct;
 - Staff Code of Conduct; and
 - Other relevant policies.

Guidance and overview notes within these rules are intended to be explanatory and included for guidance and do not form part of these Rules. These Rules will be monitored and updated to reflect changes to legislation or to assist interpretation and understanding.

2. Decision Making

- (a) In any matter in which a decision must be made by Council (including persons acting with the delegated authority of Council), Council must consider the matter and make a decision:
 - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations;
- (b) Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered); and
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (i) before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
 - (ii) if a report to be considered at a Council Meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;

- (iii) if a report to be considered at a Delegated Committee Meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
- (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

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Part A – Introduction

1. Title

This Chapter will be known as the 'Meeting Procedure Chapter'.

2. Purpose of this Chapter

The purpose of this Chapter is to:

- (1) provide for the election of the Mayor and any Deputy Mayor;
- (2) provide for the appointment of any Acting Mayor; and
- (3) provide for the procedures governing the conduct of *Council Meetings*.

3. Definitions and Notes

- (1) In this Chapter:

'Agenda' means the notice of a Meeting setting out the business to be transacted at the Meeting;

'Chair' means the Chairperson of a Meeting and includes a Councillor who is appointed by resolution to chair a Meeting under section 61(3) of the Act;

'minute book' means the collective record of proceedings of Council;

'municipal district' means the municipal district of Council;

'Notice of Motion' means a notice setting out the text of a Motion, which it is proposed to move at the next relevant Meeting;

'Notice of Rescission' means a Notice of Motion to rescind a resolution made by Council; and

'written' includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, and writing has a corresponding meaning.

- (2) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

Part B – Election of Mayor

Introduction: This Part is concerned with the annual election of the Mayor. It describes how the Mayor is to be elected.

4. Election of the Mayor

The Chief Executive Officer or delegate must facilitate the election of the Mayor in accordance with the provisions of the Act.

5. Method of Voting

The election of the Mayor must be carried out by a show of hands.

6. Determining the Election of the Mayor

- (1) The Chief Executive Officer must open the Meeting at which the Mayor is to be elected, and invite nominations for the office of Mayor.
- (2) Any nominations for the office of Mayor must be:
 - (a) in writing and in a form prescribed by the Chief Executive Officer; and
 - (b) seconded by another Councillor.
- (3) Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:
 - (a) if there is only one nomination, the candidate nominated must be declared to be duly elected;
 - (b) if there is more than one nomination, the Councillors present at the Meeting must vote for one of the candidates;
 - (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
 - (d) in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the Meeting must then vote for one of the remaining candidates;
 - (e) if one of the remaining candidates receives an absolute majority of votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of votes. That candidate must then be declared to have been duly elected;

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- (f) in the event of two or more candidates having an equality of votes and one of them having to be declared:
 - (i) a defeated candidate; and
 - (ii) duly electedthe declaration will be determined by lot.
- (g) if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
 - (i) each candidate will draw one lot;
 - (ii) the order of drawing lots will be determined by the alphabetical order of surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by alphabetical order of the Councillors' first names; and
 - (iii) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word 'Defeated' shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word 'Defeated' written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

- (1) any office of Deputy Mayor; or
- (2) Chair of a Delegated Committee

will be regulated by Rules 4-6 (inclusive) of this Chapter, as if the reference to the:

- (3) Chief Executive Officer is a reference to the Mayor; and
- (4) Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

8. Appointment of Acting Mayor

If Council has not established an office of Deputy Mayor and it becomes required to appoint an Acting Mayor, it can do so by:

- (1) resolving that a specified Councillor be so appointed; or
- (2) following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.

Part C – Meeting Procedure

Introduction: This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a Meeting. Collectively, the Divisions describe how and when a Meeting is convened, when and how business may be transacted at a Meeting.

Division 1 – Notices of Meetings and Delivery of Agendas

9. Dates and Times of Meetings Fixed by Council

Subject to Rule 11, Council must from time to time fix the date, time and place of all Council Meetings.

10. Council May Alter Meeting Dates

Council may change the date, time and place of any Council Meeting which has been fixed by it and must provide reasonable notice of the change to the public.

11. Meetings Not Fixed by Council (Special Council Meetings)

- (1) The Mayor or at least 3 Councillors may by a written notice call a Special Council Meeting.
- (2) The notice must specify the date and time of the Special Council Meeting and the business to be transacted.
- (3) The notice to be delivered or sent electronically to the Chief Executive Officer in sufficient time to enable reasonable notice of the Special Council Meeting to be given to all Councillors.
- (4) The Chief Executive Officer must convene the Special Council Meeting as specified in the notice.
- (5) Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council Meeting.

Explanatory note:

Council is also able to call a Special Council Meeting. This must be done by resolution. The Chief Executive Officer can call a Special Council Meeting to be held within 14 days of the result of the Council election being declared.

12. Council / Committee Meeting Location

- 12.1 Council Meetings, and Delegated Committee Meetings will be held in the Council Chambers, or any building within the Civic Centre Precinct as determined by the Mayor, or another location outside the Civic Centre Precinct by resolution of the Council.
- 12.2 Special Council Meetings may be held at the Council Chambers or the Corporate Centre as determined by the Mayor or by the formal notice calling the Special Meeting of Council.

13. Notice of Meeting

- (1) A notice of Meeting, incorporating or accompanied by an Agenda of the business to be dealt with, must be delivered or sent electronically to every Councillor for all Council Meetings no fewer than 48 hours before the Meeting.
- (2) Notwithstanding sub-Rule (1), a notice of Meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any Meeting during the period of his or her absence.
- (3) Reasonable notice of each Council Meeting must be provided to the public. Council may do this:
- (a) for Meetings which it has fixed by preparing a schedule of Meetings annually, twice yearly or from time-to-time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council Meeting; and
- (b) for any Meeting by giving notice
- (i) on its website;
- (ii) the Corporate Centre;/or
- (iii) in at least one daily newspaper generally circulating in the municipal district; and
- (iv) or unless time does not allow this to occur in a newspaper, in which case the posting of a notice setting out the details must be displayed on Council's website and the entrance of the Council Chambers and Corporate Centre.

Division 2 – Quorums

14. Quorums

The quorum for Council Meetings or Special Council Meetings is the presence of a majority of the Councillors.

15. Inability to Obtain a Quorum

If after 30 Minutes from the scheduled starting time of any Council Meeting, a quorum cannot be obtained:

- (1) the Meeting will be deemed to have lapsed;
- (2) the Mayor must convene another Council Meeting, the Agenda for which will be identical to the Agenda for the lapsed Meeting; and
- (3) the Chief Executive Officer must give all Councillors written notice of the Meeting convened by the Mayor.

16. Inability to Maintain a Quorum

- (1) If during any Council Meeting, a quorum cannot be maintained then Rule 14 will apply as if the reference to the Meeting is a reference to so much of the Meeting as remains.
- (2) Sub-Rule (1) does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

17. Inability to Achieve or Maintain a Quorum due to Conflicts of Interest of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one or more Councillors, the Chair must:

- (a) defer the item of business in respect of which there is or is likely to be a disclosure of a conflict of interest by one or more Councillors, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council Meeting; or
- (b) adjourn the Meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act.

18. Adjourned Meetings

- (1) Council may adjourn any Meeting to another date or time but cannot in the absence of Disorder or a threat to the safety of any Councillor or member of Council staff adjourn a Meeting in session to another place.
- (2) The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the Meeting stands adjourned and of the business remaining to be considered.
- (3) If it is impracticable for the notice given under sub-Rule (2) to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

19. Time limits for Meetings

- (1) A Council Meeting or a Special Council Meeting or Delegated Committee Meeting must not continue after 11:00pm unless a majority of Councillors present vote in favour of it continuing.
- (2) A Meeting cannot be continued for more than 30 Minutes (or a further 30 Minutes, if a majority of Councillors has already voted to continue it for 30 Minutes).
- (3) If a matter before the Meeting has not concluded by the time the 30 minute time extension has expired, the matter before the Meeting may continue until such time as the matter has been resolved. No further matters may be considered after the conclusion of the matter before the Meeting.
- (4) In the absence of such continuance, the Meeting must stand adjourned to a time, date and place announced by the Chair immediately prior to the Meeting standing adjourned. In that event, the provisions of sub-Rules 18(2) and 18(3) apply.

20. Cancellation or Postponement of a Meeting

- (1) The Chief Executive Officer may, in the case of an administrative matter or an emergency necessitating the cancellation or postponement of a Council Meeting or Special Council Meeting, cancel or postpone a Council Meeting or Special Council Meeting.
- (2) The Chief Executive Officer must present to the immediately following Council Meeting a written report on any exercise of the power conferred by sub-Rule (1).

Division 3 – Business of Meetings

21. Agenda and the Order of Business

The Agenda for and the order of business for a Council Meeting is to be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective processes of government.

22. Change to Order of Business

Once an Agenda has been sent to Councillors, the order of business for that Council Meeting may be altered with the consent of Council.

23. Urgent Business

If the Agenda for an Council Meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council and only then if it:

- (1) relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- (2) cannot safely or conveniently be deferred until the next Council Meeting.

24. Reports of Delegates

- (1) A Councillor or member of Council staff who is a delegate may present to Council on the deliberations of the external body, association, group or working party in respect of which he or she is a delegate or an attendee at a Council approved conference / seminar.
- (2) In presenting, the Councillor may for up to 3 Minutes:
 - (a) address Council on the contents of any written report which the Councillor has submitted for inclusion in the Agenda; or
 - (b) provide a verbal report on any matters otherwise arising out of the deliberations of the external body, association, group or working party.

Division 4 – Motions and Debate

25. Councillors May Propose Notices of Motion

Councillors may ensure that an issue is listed on an Agenda by lodging a Notice of Motion.

26. Notice of Motion

- (1) A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- (2) A Notice of Motion must be in writing signed by a Councillor, (including by electronic means) and be lodged with or sent to the Chief Executive Officer no later than 12 noon 6 days before the day of the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.

Explanatory note:

For avoidance of confusion, if a Meeting is to be held on a Tuesday, a Notice of Motion must be signed and lodged no later than 12 noon on the previous Wednesday.

- (3) The notice of Motion submitted to the Chief Executive Officer must include the words for the proposed Motion, and include a written rationale for the proposed Motion to be submitted.
- (4) The Chief Executive Officer may reject any Notice of Motion which:
 - (a) is vague or unclear in intention;
 - (b) relates to a matter that can be addressed through the operational service request process;
 - (c) relates to a matter that has been previously resolved by Council within the previous 6 months, or is acted upon;
 - (d) is beyond Council's power to pass; or
 - (e) if passed would result in Council otherwise acting invalidly;but must:
 - (f) give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - (g) notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- (5) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda.

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- (6) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council Meeting.
- (7) The Chief Executive Officer must cause all Notices of Motion to be numbered, dated and entered in the Notice of Motion register in the order in which they were received.
- (8) Except by leave of Council, each Notice of Motion before any Meeting must be considered in the order in which they were entered in the Notice of Motion register.
- (9) If a Councillor who has given a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chair, any other Councillor may move the Motion.
- (10) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

27. Chair's Duty

Any Motion which is determined by the Chair to be:

- (1) defamatory;
- (2) objectionable in language or nature;
- (3) vague or unclear in intention;
- (4) outside the powers of Council; or
- (5) irrelevant to the item of business on the Agenda and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the Chair.

The Chair of the Council Meeting or Special Council Meeting or Delegated Committee Meeting must acknowledge and recognise the first Councillor to rise to his/her feet as the first speaker to address the Chair in order to move a Motion, unless for reasons of sickness or disability where a raised hand will be accepted by the Chair.

For the purpose of Special Committee Meetings, the Chair of the Meeting must acknowledge and recognise the first Councillor to raise his/her hand as the first speaker to address the Chair in order to move a Motion.

28. Introducing a Motion or an Amendment

The procedure for moving any Motion or amendment is:

- (1) the mover must state the Motion without speaking to it;
- (2) the Motion must be seconded and the seconder must be a Councillor other than the mover. If a Motion is not seconded, the Motion lapses for want of a seconder;
- (3) if a Motion or an amendment is moved and seconded the Chair must ask:
"Is the Motion or amendment opposed? Does any Councillor wish to speak to the Motion or amendment?"
- (4) if no Councillor indicates opposition or a desire to speak to it, the Chair may declare the Motion or amendment carried without discussion;
- (5) if a Councillor indicates opposition or a desire to speak to it, then the Chair must call on the mover to address the Meeting;
- (6) after the mover has addressed the Meeting, the seconder may address the Meeting;
- (7) after the seconder has addressed the Meeting (or after the mover has addressed the Meeting if the seconder does not address the Meeting,) the Chair must invite debate by calling on any Councillor who wishes to speak to the Motion, providing an opportunity to alternate between those wishing to speak against the Motion and those wishing to speak for the Motion;
- (8) if, after the mover has addressed the Meeting, the Chair has invited debate and no Councillor speaks to the Motion, then the Chair must put the Motion to the vote;
- (9) no discussion on the item being considered may take place until such time as a Motion is before the Chair. Questions of clarification may be asked of the Chairperson or members of Council staff present at the Meeting;
- (10) the chair is unable to move or second a Motion, and may only if necessary debate a Motion when all Councillors who wish to speak to it have done so, and just before closure of debate by the mover of the Motion; and
- (11) if the chair wishes to move, or second a Motion then the Mayor or Deputy Mayor must take the Chair or, if there is no Mayor or Deputy Mayor, the Meeting must elect a temporary Chair where upon the Chair must vacate the Chair and not return to it until the Motion has been resolved upon.

29. Right of Reply

- (1) The mover of a Motion has a right of reply to matters raised during debate.
- (2) After the right of reply has been taken but subject to any Councillor exercising his or her right to ask any question concerning or arising out of the Motion, the Motion must immediately be put to the vote without any further discussion or debate.
- (3) Except for the mover of a Motion who has the right of reply, all other Councillors can only speak once to the Motion before the Chair.

30. Moving an Amendment

- (1) Subject to sub-Rule (2) a Motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the Motion.
- (2) A Motion to confirm a previous resolution of Council cannot be amended.
- (3) An amendment must not be directly opposite to the Motion.
- (4) The mover of an amendment cannot exercise any right of reply.

31. Who May Propose an Amendment

- (1) An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original Motion.
- (2) Any one Councillor cannot, without the leave of the Chair, move more than two amendments in succession.
- (3) Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original Motion.
- (4) Debate on an amendment must be restricted to the terms of the amendment.

32. How Many Amendments May be Proposed

- (1) Any number of amendments may be proposed to a Motion but only one amendment may be accepted by the Chair at any one time.
- (2) No second or subsequent amendment, whether to the Motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

33. An Amendment Once Carried

- (1) If the amendment is carried, the Motion as amended then becomes the Motion before the Meeting, and the amended Motion must then be put.
- (2) The mover of the original Motion retains the right of reply to that Motion.

34. Foreshadowing Motions

- (1) At any time during debate, a Councillor may foreshadow a Motion so as to inform Council of his or her intention to move a Motion at a later stage in the Meeting, but this does not extend any special right to the foreshadowed Motion.
- (2) A Motion foreshadowed may be prefaced with a statement that in the event of a particular Motion before the Chair being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.
- (3) The Chief Executive Officer or person taking the Minutes of the Meeting is not expected to record foreshadowed Motions in the Minutes until the foreshadowed Motion is formally moved.
- (4) A foreshadowed Motion has no procedural standing and is merely a means of assisting the flow of a Meeting. The Chair is not obliged to accept foreshadowed Motions.

35. Withdrawal of Motions

- (1) Before any Motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of Council, in which case, the Chair must call for a substitute mover and seconder and, if no such substitute is forthcoming, the Motion will lapse.
- (2) If the majority of Councillors objects to the withdrawal of the Motion, it may not be withdrawn.

36. Separation of Motions

Where a Motion contains more than one part, a Councillor may request the Chair to put the Motion to the vote in separate parts.

37. Chair May Separate Motions or Allow Motions to be Moved in Block

- (1) The Chair may decide to put any Motion to the vote in several parts.
- (2) The Chair may allow or request a Councillor to move 'items' in block.

38. Priority of Address

In the case of competition for the right of speak, the Chair must decide the order in which the Councillors concerned will be heard.

39. Motions in Writing

- (1) The Chair may require that a complex or detailed Motion be in writing.
- (2) Council may adjourn the Meeting while the Motion is being written or Council may defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.

40. Repeating Motion and/or Amendment

The Chair may request the person taking the Minutes of the Council Meeting to read the Motion or amendment to the Meeting before the vote is taken.

41. Debate Must be Relevant to the Motion

- (1) Debate must always be relevant to the Motion before the Chair, and, if not, the Chair must request the speaker to confine debate to the Motion.
- (2) If after being requested to confine debate to the Motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to be seated and not speak further in respect of the Motion then before the Chair.
- (3) A speaker to whom a direction has been given under sub-Rule (2) must comply with that direction.

42. Speaking Times

- (1) A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:
 - a) the mover of a Motion or an amendment which has been opposed: 4 Minutes;
 - b) the seconder of a Motion or an amendment: 4 Minutes;
 - c) any other Councillor: 4 Minutes;
 - d) the mover of a Motion exercising a right of reply: 2 minute;
 - e) a Councillor's answer to a question by another Councillor: 1 minute; and
 - f) a Councillor when clarifying a matter or giving a personal explanation: 1 minute.

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- (2) Only one extension is permitted for each speaker.
- (3) A Motion to extend the speaking time cannot be moved:
 - (a) until the original speaking time has expired; and
 - (b) if another speaker has already commenced his or her contribution to the debate;
 and must be seconded.
- (4) Any extended speaking time must not exceed 1 minute.
- (5) All speakers must be timed, and a warning signal sound when 30 seconds of the allocated time is remaining.

43. Addressing the Meeting

If the Chair so determines:

- (1) any person addressing the Chair must refer to the Chair as:
 - (a) Madam Mayor; or
 - (b) Mr Mayor; or
 - (c) Madam Chair; or
 - (d) Mr Chair
 as the case may be;
- (2) all Councillors, other than the Mayor, must be addressed as
Cr(name);
- (3) all members of Council staff, must be addressed as Mr or Ms
.....**(name)** as appropriate or by their official title;
- (4) except for the Chair, any Councillor who addresses the Meeting at a Council Meeting or Special Council Meeting must stand and direct all remarks through the Chair;
- (5) it will not be necessary for Councillors to rise when speaking to the Chair at a Delegated Committee Meeting or matters considered in a closed Meeting of Council (Confidential Business) in accordance with section 66(2)(a) of the *Local Government Act 2020*; and
- (6) despite sub-clause (4), the Chair may permit any Councillor or person to remain seated while addressing the Chair at a Council or Special Council Meeting for reasons of sickness, infirmity, disability or otherwise at his or her discretion.

44. Right to Ask Questions

- (1) A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the Motion or amendment before the Chair.
- (2) The Chair has the right to limit questions and direct that debate be commenced or resumed.

Division 5 – Procedural Motions

45. Procedural Motions

- (1) Unless otherwise prohibited, a procedural Motion may be moved at any time and must be dealt with immediately by the Chair.
- (2) Procedural Motions require a seconder.
- (3) The mover of a procedural Motion must not have moved, seconded or spoken to the question before the Chair or any amendment of it.
- (4) The mover of a procedural Motion does not have a right of reply.
- (5) Notwithstanding any other provision in this Chapter, procedural Motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Second	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original Motion or otherwise spoken to the original Motion	(a) During the election of a Chair; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original Motion or otherwise spoken to the original Motion	(a) During the election of a Chair; (b) When another Councillor is speaking; or (c) When the Motion would have the effect of causing Council to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later Meeting if on the Agenda	Debate continues unaffected	Yes
Closure of Debate	That the Motion be now put	Any Councillor who has not moved or seconded the original Motion or otherwise spoken to the original Motion	During nominations for Chair	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this Motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the Motion	Debate continues unaffected	No

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Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Alter the order of business	That item xx list on the Agenda be brought forward and dealt with at this point of the Meeting.	/any Councillors	At a Meeting to elect the Mayor or During any debate	Alters the order of business for the Meeting	Items continue to be considered in the order as listed.	No
Suspension of Standing Orders	That Standing Orders be suspended .. (reason to be provided)	Any Councillor		The rules of the Meeting are temporarily suspended for the specific reason given in the Motion. No debate or decision other than a Motion to resume Standing Orders is permitted	The Meeting continues unaffected.	No
Resumption of Standing Orders	That Standing Orders be resumed	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the Meeting is removed.	The Meeting cannot continue	No
Consideration of confidential matters(s) (Close the Meeting to members of the public)	That in accordance with Section 66(2)(a) of the LGA 2020 the Meeting be closed to members of the public for the consideration of item xx is confidential as it relates to (insert reason)	Any Councillor	During the election of the Mayor / Deputy Mayor	The Meeting is closed to members of the public	The Meeting continues to be open to the public	Yes
Reopen the Meeting	That the Meeting be reopened to members of the public	Any Councillor		The Meeting is reopened to the public	The Meeting remains closed to the public.	No

Division 6 – Rescission Motions

46. Notice of Rescission

- (1) A Councillor may propose a Notice of Rescission provided:
- (a) it has been signed and dated by at least three Councillors;
 - (b) the resolution proposed to be rescinded has not been acted on; and
 - (c) the Notice of Rescission is delivered to the Chief Executive Officer within 48 hours of the resolution having been made setting out -
 - (i) the resolution to be rescinded; and
 - (ii) the Meeting and date when the resolution was carried.

Explanatory note:

It should be remembered that a Notice of Rescission is a form of notice of Motion.

Accordingly, all provisions in this Chapter regulating Notices of Motion equally apply to Notices of Rescission.

- (2) A resolution will be deemed to have been acted on if:
- (a) its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
 - (b) a statutory process has been commenced
- so as to vest enforceable rights in or obligations on Council or any other person.

Explanatory note:

If Council resolves to give Notice of a Decision to Grant a Planning Permit and the Notice is physically issued to the planning permit applicant (or the applicant's agent) or a letter or email is sent to the planning permit applicant (or the applicant's agent) advising of Council's decision, the resolution will have been 'acted on'. Its contents will have been formally communicated to a person whose interests are materially affected so as to vest enforceable rights in the applicant and any objectors wishing to appeal, as well as obligations on Council to comply with its duties under the Planning and Environment Act 1987.

- (3) The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- (a) has not been acted on; and
 - (b) is the subject of a Notice of Rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule (1)(c),
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

Explanatory note:

By way of example, assume that, on a Tuesday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Tuesday. Assume also that, immediately after that resolution is made, a Councillor lodges a Notice of Motion to rescind that resolution. Finally, assume that the Notice of Rescission would not be dealt with until the next Tuesday evening (being the evening of the day on which the planning appeal is to be heard).

In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the Notice of Rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the Notice of Rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.

Sub-Rule (3) would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

47. If Lost

If a Motion for rescission is lost, a similar Motion may not be put before Council for at least three months from the date it was last lost, unless Council resolves that the Notice of Motion be re-listed at a future Meeting.

48. If Not Moved

If a Motion for rescission is not moved at the Meeting at which it is listed, it lapses and a similar Motion may not be put before Council for at least 90 days from the date on which it lapsed.

49. May be Moved by Any Councillor

A Motion for rescission listed on an Agenda may be moved by any Councillor present but may not be amended.

50. When Not Required

- (1) Unless sub-Rule (2) applies, a Motion for rescission is not required where Council wishes to change policy.
- (2) The following standards apply if Council wishes to change policy:
 - (a) if the policy has been in force in its original or amended form for less than 12 months, a Notice of Rescission must be presented to Council; and
 - (b) any intention to change a Council policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

Division 7 – Points of Order**51. Chair to Decide**

The Chair must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.

52. Chair May Adjourn to Consider

- (1) The Chair may adjourn the Meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- (2) All other questions before the Meeting are suspended until the point of order is decided.

53. Dissent From Chair's Ruling

- (1) A Councillor may move that the Meeting disagree with the Chair's ruling on a point of order, by moving:

"That the Chair's ruling [setting out that ruling or part of that ruling] be dissented from".
- (2) When a Motion in accordance with this Rule is moved and seconded, the Chair must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary Chair elected by the Meeting) must take his or her place.
- (3) The Deputy Mayor or temporary Chair must invite the mover to state the reasons for his or her dissent and the Chair may then reply.
- (4) The Deputy Mayor or temporary Chair must put the Motion in the following form:

"That the Chair's ruling be dissented from."
- (5) If the vote is in the negative, the Chair resumes the Chair and the Meeting proceeds.
- (6) If the vote is in the affirmative, the Chair must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- (7) The defeat of the Chair's ruling is in no way a Motion of censure or non-confidence in the Chair, and should not be so regarded by the Meeting.

54. Effect of Ruling

If the Chair:

- (a) rules in favour of the point of order, the speaker may continue and no Councillor must do or say anything which would cause another like point of order to be raised; or
- (b) rules against the point of order the speaker may continue.

55. Procedure for Point of Order

A Councillor raising a point of order must:

- (1) state the point of order; and
- (2) state any section, Rule, paragraph or provision relevant to the point of order before resuming his or her seat.

56. Valid Points of Order

A point of order may be raised in relation to anything which:

- (1) a Motion, which, under Rule 27, or a question which, under Rule 57, should not be accepted by the Chair;
- (2) a question of procedure;
- (3) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
- (4) debate that is irrelevant to the matter under consideration;
- (5) constitutes a tedious repetition of something already said;
- (6) a matter that is outside the powers of Council;
- (7) is offensive; or
- (8) any act of Disorder.

Explanatory note:

Rising to express a difference of opinion or to contradict a speaker is not a point of order.

Division 8 – Public Question Time**57. Question Time**

- (1) There must be a public question time at every Council Meeting fixed under Rule 9 to enable members of the public to submit questions to Council.
- (2) Sub-Rule (1) does not apply during any period when a Meeting is closed to members of the public in accordance with section 66(2) of the Act.
- (3) Public question time will not exceed 15 Minutes in duration.
- (4) Questions submitted to Council must be:
 - (a) in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and
 - (b) lodged at the Council offices by ~~11:00 am~~ 9:00 am on the day immediately preceding the day of the Council Meeting, or be lodged electronically at the email address prescribed by Council prior to ~~11:00 am~~ 9:00 am on the day immediately preceding the day of the Council Meeting.
- (5) No person may submit more than 2 questions at any 1 Meeting. A question may be split into a maximum of two parts only. If more than two parts to a question are received, only the first two parts will be considered. Similarly, if more than two questions are received, only the first two questions will be considered. All parts of the question must be relevant to the same subject of enquiry.
- (6) The Chair must read to those present at the Meeting a question which has been submitted in accordance with this clause.
- (7) The Chair or a member of Council staff nominated by the Chair may read to those present at the Meeting a question which has been submitted in accordance with this Rule.
- (8) Notwithstanding sub-Rule (6), the Chair may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.
- (9) A question may be disallowed by the Chair if the Chair determines that it:
 - (a) relates to a matter outside the duties, functions or powers of Council;
 - (b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - (c) deals with a subject matter already answered;
 - (d) is aimed at embarrassing a Councillor or a member of Council staff;
 - (e) relates to personnel matters;
 - (f) relates to the personal hardship of any resident or ratepayer;

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- (g) relates to industrial matters;
 - (h) relates to contractual matters;
 - (i) relates to proposed developments;
 - (j) relates to legal advice;
 - (k) relates to matters affecting the security of Council property; or
 - (l) relates to any other matter which Council considers would prejudice Council or any person.
- (10) Any question which has been disallowed by the Chair must be made available to any other Councillor upon request.
- (11) All questions and answers must be as brief as possible, and no further questions arising out of anything said will be allowed, and no discussion may be allowed other than by Councillors for the purposes of clarification.
- (12) Like questions may be grouped together and a single answer provided.
- (13) The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question.
- (14) The Chair or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.
- (15) The name of the questioner, the question and the response (if the question and response are read out at the meeting) must be recorded in the Minutes, as an official record of the questions submitted to the Meeting.**
- (16) Where a questioner is not present in the Chamber at the time of Public Question Time (or the 15 minutes allotted has expired) the question and response will not be read at the Meeting and will not be recorded in the Minutes of the Meeting. A written response will be forwarded provided to the all questioners. with the response.**

Division 9 – Petitions and Joint Letters**58. Petitions and Joint Letters**

- (1) Unless Council determines to consider it as an item of urgent business, no Motion (other than a Motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next Council Meeting after that at which it has been presented.
- (2) It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to Council.
- (3) Every Councillor presenting a petition or joint letter to Council must confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request :
- (4) Every hard copy petition or joint letter presented to Council must be in writing (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 15 people.
- (5) A petition must include a prayer on every page of a petition, consisting of the following words: *“We the undersigned hereby petition Bayside City Council....”*
- (6) Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- (7) Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.
- (8) Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- (9) The only Motions that may be moved in relation to petitions set out in the Agenda are:
 - (a) That the petition be received;
 - (b) That the petition be received and a report be submitted to a specific Meeting cycle for consideration;
 - (c) That the petition be considered at a specific time or in conjunction with a specific item;
 - (d) That the petition be dealt with in conjunction with another item on this Agenda or any other Council or Special Committee Agenda; and
 - (e) That the petition be referred to the Chief Executive Officer for consideration and response.

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- (10) If a petition, joint letter, memorial or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer or relevant Director for consideration and response.
- (11) No member of the public is permitted to speak to the petition when presented at a Council Meeting. Individuals may ~~request to speak~~ submit a written statement in relation to the petition if a report on the item is considered by Council at a later Meeting.
- (12) The Chief Executive Officer or delegate may determine that an electronic or online petition will be submitted to a Council Meeting. An online or electronic petition may be submitted to a Council Meeting.
- (13) The online or electronic petition must contain a petition prayer, consisting of the following words: *"We the undersigned hereby petition Bayside City Council...."* The electronic or online petition must include the name, suburb and postcode of each petitioner and must be submitted via Bayside's specific online petition template.
- (14) The number of signatories to an online or electronic petition (must be a minimum of 50 electronic signatories), and will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council Meeting.
- (15) An online or electronic petition will not be presented to a Council Meeting if it contains content that appears to be false or misleading.

Division 10 – Individual Presentations Representations**59. Individual Presentations Representations to Delegated Committee Meetings, Council and Special Council Meetings**

An individual (or authorised representative of a group or association) wishing to make representations present to a designated Meeting of a Delegated Committee or at a Council Meeting or Special Council Meeting may ~~make a~~ submit a written request statement to the Chief Executive Officer or his or her delegate. Requests to be heard in person are not permitted.

60. Time of Request

- (1) A written request statement must be sent electronically or delivered to Council's Corporate Centre before 9:00 am on the day of the designated Delegated Committee or Council Meeting.
- (2) The request to be heard written statement must specify the name, address and contact telephone number of the person requesting to be heard and the item to which he or she wishes to speak their submission relates to.
- (3) Requests Written Statements received after 9:00am on the day of the Meeting will not be considered by the Delegated Committee or Council (as the case may be).

61. When a Presentation Representations Can Be Made

A person may only present make representations to:

- (a) a Council Meeting in relation to an item listed in the Agenda under 'Reports by the Organisation', and even then not if the item is in the nature of a report summarising a decision already made by another body; or if the report relates to a Tender Report relating to the awarding of a contract;
- (b) a Special Council Meeting in relation to an item in the Agenda under 'Reports by the organisation' and even then, not if the item is in the nature of a report summarising a decision already made by another body; or if the report relates to a Tender Report relating to the awarding of a contract; or
- (c) a Delegated Committee in relation to an item listed on the Agenda for the Meeting of the Delegated Committee, and even then not if the item is in the nature of a report summarising a decision already made by another body.

62. Limitations Upon Speakers - Written Statements

If at a Delegated Committee or Council Meeting determines to hear from an individual:

- (1) the person addressing the Delegated Committee or Council Meeting cannot speak for more than 2 Minutes and no further extension of time can be granted;
- (2) where an individual has requested that another individual speak on his or her behalf, the spokesperson must not have spoken or be listed to speak in relation to that item;
- (3) where a member of the public has requested to be heard in relation to an item on the Agenda, and he or she is not present at the time of calling his or her name to the microphone, and subsequently arrives in the gallery after his or her name has been called or once the debate on the item has commenced, the person previously called will not be afforded the opportunity to speak to the item;
- (4) where a group or association wishes to be heard at a Meeting, they must nominate only one spokesperson for the group or association to speak for an issue upon which the group or association may wish to be heard; and
- (5) a Councillor must not ask the speaker to continue the speaking opportunity after the two (2) Minutes has expired. Only questions to the speaker relating to clarification of points raised by the speaker may be asked of the speaker.

In respect of items on the Agenda for a Council Meeting, Special Council Meeting, or Delegated Committee Meeting (subject to clause 61 (a), (b) and (c) of Council's meeting procedure:

- (1) An individual (or authorised representative of a group or association) may submit a written statement (maximum of four (4) A4 single pages) which must be sent electronically via Council's 'Representations to Council or Delegated Committee meetings' web form, or delivered to Council's Corporate Centre, by 9:00am on the day of the meeting.
- (2) Any statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community may not be accepted.
- (3) Where a person has formally made a written statement in relation to an item on the agenda, the statement will be provided to all councillors in advance of the meeting.
- (4) Written statements are not confidential and, following the closure for receipt of statements, will be published on Council's website as an attachment to the Agenda for the relevant meeting.

**Note – only first and last names (and/or group/association) are published unless otherwise provided by the submitter in the body of their written statement; however, in the interest of privacy, additional personal details such as addresses and phone numbers are sought to be omitted where possible).*

- (5) Written statements will not be read out at the relevant meeting; however, the Chair will advise the meeting of the number of statements received to each item. The names of the names of the submitters will be published in the Minutes of the meeting.

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63. Questions But No Discussion Permitted to submitters

Following the circulation of written statements, a speaker's presentation, Councillors, members of a Delegated Committee, or Councillors at of a Council Meeting or Special Council Meeting or members of Council officers at either meeting may (if the submitter consents) ~~only ask the speaker~~ contact the submitter to ask questions that seek clarification of issues raised by the ~~speaker~~ submitter in their ~~presentation~~ written statement which may assist in the deliberations prior to the elected body making a decision. ~~but no discussion will be allowed.~~

**Note – Council's 'Representations to Council or Delegated Committee meetings' web form includes a checkbox for individuals to consent, if they wish, to being contacted by Councillors, members of a Delegated Committee, or Council Officers who may have questions in relation to particular submissions*

64. Individual Presentations Pursuant to Section 223 of the *Local Government Act 1989* (Delegated Committee – Hearing of Submissions)

- (1) Council from time-to-time will establish a Delegated Committee pursuant to Section 223 of the *Local Government Act 1989* to provide an opportunity to hear from community members in a formal setting on key issues.
- (2) A Hearing Committee will be comprised only of Councillors.
- (3) Where an issue affects a large proportion of the Bayside community, all Councillors will be appointed to the Hearing Committee.
- (4) Where an issue affects a ward related matter, up to three Councillors to be appointed to the Hearing Committee, one of which must be the ward councillor.
- (5) Community members will be provided with reasonable notice of the date and time that they will be invited to address a Hearing Committee.
- (6) Council may resolve that the Hearing Committee Meetings will be held electronically and make provisions for community members to address the committee by a video conferencing tool.
- (7) Council may resolve a Hearing Committee will be livestreamed.
- (8) A summary of proceedings of all Hearing Committee Meetings held will be reported to Council.
- (9) Where a request to be heard has been received in accordance with section 223 of the *Local Government Act 1989*, the speaker must be afforded a reasonable opportunity to speak in support of their submission for up to a maximum period of **10 Minutes**, with no further extension of time to be granted. Councillors may through the Chair, question or seek clarification of any submitter in relation to his or her submission.
- (10) Where a submitter has been heard in accordance with section 223 of the *Local Government Act 1989* at a Delegated Committee established for that purpose, or where there are no submitters at a section 223 hearing, no further opportunity will be afforded to speak again on the subject matters when it is considered at the Council Meeting or Special Council Meeting.

65. Relaxation of Requirement

Nothing in this Division prevents:

- (a) the Chief Executive Officer determining which Delegated Committee Meeting will consider the request for the individual to be heard;
- (b) arranging for a deputation or individual to meet with a group of Councillors;
- (c) Council from resolving to hear from a deputation or individual at any time; or

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- (d) Council from:
- (i) terminating the appointment of or not appointing any Delegated Committee; or
 - (ii) resolving that a Delegated Committee empowered to hear an individual wishing to be heard, to no longer hear from the individuals wishing to be heard.

In which case any reference in clauses 60-64 (inclusive) and sub-clause (1) to a Delegated Committee will be read as a reference to Council.

Division 11 – Voting

66. How Motion Determined

To determine a Motion before a Meeting, the Chair must first call for those in favour of the Motion and then those opposed to the Motion, and must then declare the result to the Meeting.

67. Silence

Voting must take place in silence.

68. Recount

The Chair may direct that a vote be recounted to satisfy himself or herself of the result.

69. Casting Vote

In the event of a tied vote, the Chair must exercise a casting vote.

Explanatory note:

In accordance with Section 61(6) of the Local Government Act 2020, the Chairperson does not have a casting vote in the election of Mayor or Deputy Mayor as these positions must be elected by an absolute Majority of Councillors. In the event of a tied vote on these circumstances, the matter is to be determined by lot.

70. By Show of Hands

Voting on any matter is by show of hands.

71. Procedure for a Division

- (1) Immediately after any question is put to a Meeting and before the next item of business has commenced, a Councillor may call for a division.
- (2) When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, Motion or amendment.
- (3) When a division is called for, the Chair must:
 - (a) first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The Chair must then state, and the Chief Executive Officer or any Authorised Officer must record, the names of those Councillors voting in the affirmative; and
 - (b) then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the negative.

72. No Discussion Once Declared

Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:

- (1) a Councillor requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the Minutes or a register maintained for that purpose; or
- (2) foreshadowing a Notice of Rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

Explanatory note:

For example, Rule 73 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a Notice of Rescission to rescind that resolution.

Equally, Rule 73 would permit discussion about a matter which would otherwise be left in limbo because a Notice of Rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule (2), to discussion about a positive Motion were a resolution has just been rescinded.

Division 12 – Minutes**73. Confirmation of Minutes**

- (1) At every Council Meeting the Minutes of the preceding Meeting(s) must be dealt with as follows:
 - (a) a copy of the Minutes must be delivered to each Councillor no later than 48 hours before the Meeting;
 - (b) if no Councillor indicates opposition, the Minutes must be declared to be confirmed;
 - (c) if a Councillor indicates opposition to the Minutes:
 - (i) he or she must specify the item(s) to which he or she objects;
 - (ii) the objected item(s) must be considered separately and in the order in which they appear in the Minutes;
 - (iii) the Councillor objecting must move accordingly without speaking to the Motion;
 - (iv) the Motion must be seconded;
 - (v) the Chair must ask:
"Is the Motion opposed?"
 - (vi) if no Councillor indicates opposition, then the Chair must declare the Motion carried without discussion and then ask the second of the questions described in sub-Rule (c)(xi);
 - (vii) if a Councillor indicates opposition, then the Chair must call on the mover to address the Meeting;
 - (viii) after the mover has addressed the Meeting, the seconder may address the Meeting;
 - (ix) after the seconder has addressed the Meeting (or after the mover has addressed the Meeting if the seconder does not address the Meeting), the Chair must invite debate by calling on any Councillor who wishes to speak to the Motion, providing an opportunity to alternate between those wishing to speak against the Motion and those wishing to speak for the Motion;
 - (x) if, after the mover has addressed the Meeting, the Chair invites debate and no Councillor speaks to the Motion, the Chair must put the Motion; and

- (xi) the Chair must, after all objections have been dealt with, ultimately ask:
 - "The question is that the Minutes be confirmed" or
 - "The question is that the Minutes, as amended, be confirmed",and he or she must put the question to the vote accordingly;
- (d) a resolution of Council must confirm the Minutes and the Minutes must, if practicable, be signed by the Chair of the Meeting at which they have been confirmed;
- (e) the Minutes must be entered in the minute book and each item in the minute book must be entered consecutively; and
- (f) unless otherwise resolved or required by law, Minutes of a Delegated Committee requiring confirmation by Council must not be available to the public until confirmed by Council.

74. No Debate on Confirmation of Minutes

No discussion or debate on the confirmation of Minutes is permitted except where their accuracy as a record of the proceedings of the Meeting to which they relate is questioned.

75. Deferral of Confirmation of Minutes

Council may defer the confirmation of Minutes until later in the Council Meeting or until the next Meeting if considered appropriate.

76. Form and Availability of Minutes

- (1) The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the Meeting and to take the Minutes of such Meeting) must keep Minutes of each Council Meeting, and those Minutes must record:
 - (a) the date, place, time and nature of the Meeting;
 - (b) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
 - (c) the names of the members of Council staff present;
 - (d) any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
 - (e) arrivals and departures (including temporary departures) of Councillors during the course of the Meeting;

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- (f) each Motion and amendment moved (including Motions and amendments that lapse for the want of a seconder);
 - (g) the vote cast by each Councillor upon a division;
 - (h) the vote cast by any Councillor who has requested that his or her vote be recorded in the Minutes;
 - (i) questions upon notice;
 - (j) the failure of a quorum;
 - (k) any adjournment of the Meeting and the reasons for that adjournment; and
 - (l) the time at which standing orders were suspended and resumed.
- (2) The Chief Executive Officer must ensure that the Minutes of any Council Meeting are:
- (a) published on Council's website; and
 - (b) available for inspection at Council's office during normal business hours.
- (3) Nothing in sub-Rule (2) requires Council or the Chief Executive Officer to make public any Minutes relating to a Council Meeting or part of a Council Meeting closed to members of the public in accordance with section 66 of the Act.

77. Recording of Meetings

- (1) The Chief Executive Officer, or his/her delegate may record the Meetings via webcast camera and audio all proceedings of a Council Meeting, Special Council Meeting or a Delegated Committee Meeting except where the Meeting is closed to the public in accordance with Section 66(2)(a) of the *Local Government Act 2020*.
- (2) Recordings of proceedings will be retained and available to the public for viewing or listening for a period of 12 months from the date of the Meeting.
- (3) Members of the public are to be advised that the Meeting is being recorded or filmed and may be streamed live and as an archive on Council's website. Members of the public are to be advised by appropriate signage that while care is taken through filming to maintain a person's privacy as an attendee in the gallery, they may be recorded on camera and audio.
- (4) Subject to part 1 above, members of the public must not operate photographic, audio or video recording equipment or any other recording device that may disrupt the Meeting proceedings.

Division 13 – Behaviour

78. Display of Placards and Posters

- (1) A person must not display any placards or posters in the Council Chamber or in any building where a Council Meeting or a Delegated Committee Meeting is being or about to be held, other than outside the entrance to the building and even then only if it does not obstruct the entrance of the building.
- (2) A person must not:
 - (a) display any offensive, indecent, insulting or objectionable item or words in the Council Chamber; or
 - (b) obstruct the entrance to the Council Chamber or a building where a Council Meeting or a Delegated Committee Meeting is being or about to be held.

79. Public Addressing the Meeting

- (1) Members of the public do not have a right to address Council and may only do so with the consent of the Chair or by prior arrangement.
- (2) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.
- (3) A member of the public present at any Meeting of Council must not disrupt the Meeting.

80. Chair May Remove

The Chair may order and cause the removal of any person, other than a Councillor, who disrupts any Meeting or fails to comply with a direction given under sub-Rule 79(2).

Explanatory note:

It is intended that this power be exercisable by the Chair, without the need for any Council resolution. The Chair may choose to order the removal of a person whose actions immediately threaten the stability of the Meeting or wrongly threatens his or her authority in chairing the Meeting.

81. Chair May Adjourn Disorderly Meeting

If the Chair is of the opinion that Disorder at the Council table or in the gallery makes it desirable to adjourn the Council Meeting, he or she may adjourn the Meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 18(2) and 18(3) apply.

82. Removal from Chamber

The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 81.

Division 14 – Additional Duties of Chair**83. The Chair's Duties and Discretions**

In addition to the duties and discretions provided in this Chapter, the Chair:

- (1) must not accept any Motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community;
- (2) may demand retraction of any inappropriate statement or unsubstantiated allegation;
- (3) must ensure silence is preserved in the public galley during any Meeting;
- (4) must call to order any member of the public who approaches the Council or Committee table during the Meeting, unless invited by the Chair to do so; and
- (5) must call to order any person who is disruptive or unruly during any Meeting.

Division 15 – Suspension of Standing Orders

84. Suspension of Standing Orders

- (1) To expedite the business of a Meeting, Council may suspend standing orders.

Explanatory note:

The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal Meeting procedure.

Its purpose is to enable the formalities of Meeting procedure to be temporarily disposed of while an issue is discussed.

- (2) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate Motion would be:

"That standing order be suspended to enable discussion on....."

- (3) No Motion can be accepted by the Chair or lawfully be dealt with during any suspension of standing orders.

- (4) Once the discussion has taken place and before any Motions can be put, the resumption of standing orders will be necessary. An appropriate Motion would be:

"That standing orders be resumed."

Division 16 – Miscellaneous**85. Meetings Conducted Remotely**

If:

- (1) by law a Meeting may be conducted electronically; and
- (2) Council decides that a Meeting is to be conducted electronically,

the Chair may, with the consent of the Meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the Meeting.

86. Procedure Not Provided in this Chapter

In all cases not specifically provided for by this Chapter, resort must be had to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to Council proceedings).

87. Criticism of Members of Council Staff

- (1) The Chief Executive Officer may make a brief statement at a Council Meeting in respect of any statement by a Councillor made at the Council Meeting criticising him or her or any member of Council staff.
- (2) A statement under sub-Rule (1) must be made by the Chief Executive Officer, through the Chair, as soon as it practicable after the Councillor who made the statement has resumed his or her seat.

CHAPTER 3 – MEETING PROCEDURE FOR DELEGATED COMMITTEES

1. Meeting Procedure Generally

If Council establishes a Delegated Committee:

- 1.1 all of the provisions of Chapter 2 apply to Meetings of the Delegated Committee; and
- 1.2 any reference in Chapter 2 to:
 - 1.2.1 a Council Meeting is to be read as a reference to a Delegated Committee Meeting;
 - 1.2.2 a Councillor is to be read as a reference to a member of the Delegated Committee; and
 - 1.2.3 the Mayor is to be read as a reference to the Chair of the Delegated Committee.

2. Meeting Procedure Can Be Varied

Notwithstanding Rule 1, if Council establishes a Delegated Committee that is not composed solely of Councillors:

- 2.1 Council may; or
- 2.2 the Delegated Committee may, with the approval of Council

resolve that any or all of the provisions of Chapter 2 are not to apply to a Meeting of the Delegated Committee, in which case the provision or those provisions will not apply until Council resolves, or the Delegated Committee with the approval of Council resolves, otherwise.

3. Adoption Of Recommendation

- 3.1. If a recommendation of a Delegated Committee is adopted by Council, what has been recommended becomes a resolution of Council.

CHAPTER 4 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

Explanatory note:

The Act provides for Council to establish a community asset committee for the management of a community asset such as a hall. Council may appoint members of the community to the committee and delegate to it powers, duties and functions. The powers delegated to a community asset committee must be limited in the amount and purpose of any financial delegation.

Section 65 of the Local Government Act provides: Community Asset Committee

- (1) A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).
- (2) A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.

*Delegation of Powers, Duties or Functions to a Community Asset committee is provided for in **Section 47 of the Act** which provides:*

- (1) The Chief Executive Officer may by instrument of delegation delegate any power, duty or function of the Council that has been delegated to the Chief Executive Officer by the Council to:
 - (a) a member of Council staff; or
 - (b) the members of a Community Asset Committee.

This means Council may not delegate directly to a Community Asset committee.

1. Introduction

In this Chapter, 'Instrument of Delegation' means an instrument of delegation made by the Chief Executive Officer under section 47(1)(b) of the Act.

2. Meeting Procedure

Unless anything in the instrument of delegation provides otherwise, the conduct of a Meeting of a Community Asset Committee is in the discretion of the Community Asset Committee.

CHAPTER 5 – MEETING PROCEDURE FOR ADVISORY COMMITTEES

Explanatory note:

Advisory Committees play a key role in connecting community views and expert with the decision-making processes of Council. These committee provide advice to Council and to Council officers exercising delegation to make decisions or implement policy.

These committee, usually comprises of community members and Councillors, and may sometimes include representative of community organisations. These committee are essential forums to provide input to the development of Council policy and decision making in their area of focus.

Reporting of these committee to Council is a transparency mechanism.

1. Meeting Procedure Generally

If Council establishes an Advisory Committee:

- 1.1 all of the provisions of Chapter 2 apply to Meetings of an Advisory Committee; and
- 1.2 any reference in Chapter 2 to:
 - 1.2.1 a Council Meeting is to be read as a reference to an Advisory Committee Meeting;
 - 1.2.2 a Councillor is to be read as a reference to a member of an Advisory Committee; and
 - 1.2.3 the Mayor is to be read as a reference to the Chair of the Advisory Committee.

2. Meeting Procedure Can Be Varied

Notwithstanding Rule 1, if Council establishes an Advisory Committee that is not composed solely of Councillors:

- 2.1 Council may; or
- 2.2 the Advisory Committee may, with the approval of Council

resolve that any or all of the provisions of Chapter 2 are not to apply to a Meeting of the Advisory Committee, in which case the provision or those provisions will not apply until Council resolves, or the Advisory Committee with the approval of Council resolves, otherwise.

3. Adoption Of Recommendation

- 3.1. If a recommendation of a Advisory Committee is adopted by Council, what has been recommended becomes a resolution of Council.
- 3.2. Minutes of Advisory Committees will be presented to Council for adoption. Recommendations or decisions contained in such Minutes will not become resolutions of Council unless the matter is the subject of a separate resolution of Council.

CHAPTER 6 – MEETING PROCEDURE FOR JOINT COUNCIL MEETINGS

Explanatory note:

Local and regional collaboration provides benefits to the Bayside community through collection procurement opportunities, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it is possible for the participating Councils to hold their own decisions and determination, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for the Act.

- (1) Council may resolve to participate in a Joint Council Meeting.
- (2) If Council has resolved to participate in a Joint Council Meeting, the Chief Executive Officer (or delegate) will agree on governance rules with the participating Councils.
- (3) Where the participating Councils agree that Council will chair a Joint Council Meeting, the Mayor will be nominated to chair the Joint Council Meeting.

Section 62 Local Government Act 2020 – Joint Meetings of Council

- (1) *Two or more Councils may determine to hold a joint Meeting.*
 - (2) *A joint Meeting is a Council Meeting of each Council for the purposes of this Act and the provisions of this Act, except section 61(3),(4) and (5)(d), apply accordingly.*
 - (3) *A joint Meeting is to be constituted by the Councillors of the Council holding the joint Meeting consisting of-*
 - (a) *The total number of Councillors determined by the Councils holding the joint Meeting; and*
 - (b) *At least 3 Councillors from each of the Councils holding the joint Meeting.*
 - (4) *A quorum of a joint Meeting is constituted by the number of Councillors that is equal to at least a majority of the Councillors from each of the Councils holding the joint Meeting.*
-

CHAPTER 7 – DISCLOSURE OF CONFLICT OF INTEREST

1. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed.¹

2. Definition

In this Chapter:

- 2.1 'Meeting conducted under the auspices of Council' means a Meeting of the kind described in section 131(1) of the Act, and includes a Meeting referred to in Rule 1 of Chapter 6 and in Chapter 8 (whether such a Meeting is known as an 'Advisory Committee' or 'Councillor Briefing' or by some other name); and
- 2.2 a member of a Delegated Committee includes a Councillor.

3. Disclosure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest in a matter being considered at a Council Meeting at which he or she:

- 3.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council Meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 3.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council Meeting commences a written notice:
 - 3.2.1 advising of the conflict of interest;
 - 3.2.2 explaining the nature of the conflict of interest; and
 - 3.2.3 detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (c) nature of that other person's interest in the matter,

and then immediately before the matter is considered at the Meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

¹At the time of making these Rules the date on which Division 1A of Part 4 of the *Local Government Act 1989* is expected to be repealed is 24 October 2020.

Bayside City Council - Governance Rules

The Councillor must, in either event, leave the Council Meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the Meeting until after the matter has been disposed of.

4. Disclosure of Conflict of Interest at a Delegated Committee Meeting

A member of a Delegated Committee who has a conflict of interest in a matter being considered at a Delegated Committee Meeting at which he or she:

- 4.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee Meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 4.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Delegated Committee Meeting commences a written notice:
 - 4.2.1 advising of the conflict of interest;
 - 4.2.2 explaining the nature of the conflict of interest and indicating whether the conflict of interest is a general conflict of interest or a material conflict of interest; and
 - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 4.2.4 nature of that other person's interest in the matter;

and then immediately before the matter is considered at the Meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

The member of a Delegated Committee must, in either event, leave the Delegated Committee Meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the Meeting until after the matter has been disposed of.

5. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting

A Councillor who has a conflict of interest in a matter being considered at a Community Asset Committee Meeting at which he or she:

- 5.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Community Asset Committee Meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 5.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee Meeting commences a written notice:
 - 5.2.1 advising of the conflict of interest;
 - 5.2.2 explaining the nature of the conflict of interest; and
 - 5.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 5.2.4 nature of that other person's interest in the matter;

and then immediately before the matter is considered at the Meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.

The Councillor must, in either event, leave the Committee Asset Committee Meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the Meeting until after the matter has been disposed of.

6. Disclosure at a Meeting Conducted Under the Auspices of Council (Advisory Committees)

A Councillor who has a conflict of interest in a matter being considered by a Meeting held under the auspices of Council at which he or she is present must:

- 6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Meeting immediately before the matter is considered;
- 6.2 absent himself or herself from any discussion of the matter; and
- 6.3 as soon as practicable after the Meeting concludes provide to the Chief Executive Officer a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the Meeting.

7. Disclosure by Members of Council Staff Preparing Reports for Meetings

- 7.1 A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:
- 7.1.1 Council Meeting;
 - 7.1.2 Delegated Committee Meeting; or
 - 7.1.3 Community Asset Committee Meeting,
- must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer disclosing the conflict of interest and explaining the nature of the conflict of interest and indicating whether the conflict of interest is a general conflict of interest or a material conflict of interest.
- 7.2 The Chief Executive Officer must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- 7.3 If the member of Council staff referred to in sub-Rule 7.1 is the Chief Executive Officer:
- 7.3.1 the written notice referred to in sub-Rule 7.1 must be given to the Mayor; and
 - 7.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

8. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power

- 8.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest and indicating whether the conflict of interest is a general conflict of interest or a material conflict of interest.
- 8.2 If the member of Council staff referred to in sub-Rule 8.1 is the Chief Executive Officer the written notice must be given to the Mayor.

9. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function

- 9.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest and indicating whether the conflict of interest is a general conflict of interest or a material conflict of interest.
- 9.2 If the member of Council staff referred to in sub-Rule 9.1 is the Chief Executive Officer the written notice must be given to the Mayor.

10. Retention of Written Notices

The Chief Executive Officer must retain all written notices received under this Chapter for a period of three years.

CHAPTER 8 – MISCELLANEOUS

1. Informal Meetings of Councillors

Introduction: This Chapter describes the nature and procedure for some informal Meetings of Councillors.

Councillors meet on a number of occasions monthly at 'Councillor Briefings and Strategic Issues Discussions'. This Chapter provides for these informal Meetings, and explains why and how they are held.

Discussion arrangements

As part of Council's governance arrangements, Councillors may meet regularly at an informal gathering of Councillors known as a 'Councillor Briefing or Strategic Issues Discussion' or such other names as Council from time to time adopts.

- 1.1 The purpose of such gatherings is for the organisation to provide advice to Councillors on items of a complex nature or of significant community impact. The briefing enables open discussion between the organisation and Councillors and assists both Council staff and Councillors develop better understanding of the matter for consideration. The Strategic Issues Discussion is similar to a briefing but also provides greater opportunity to develop ideas and discuss options on a range of matters.
- 1.2 The gatherings are not a decision-making forum.
- 1.3 The gatherings are not open to the public and will generally be held in the Corporate Centre or in such other locations as Council nominates from time to time.
- 1.4 The operating Meeting protocols and arrangements in relation to these gatherings will be reviewed from time-to-time and be subject to resolution of Council.

Record of matters discussed

If there is a gather or meeting of Councillors that:

- 1.5 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- 1.6 is attended by at least one member of Council staff; and
- 1.7 is not a Council Meeting, Delegated Committee Meeting or Community Asset Committee Meeting or Advisory Committee meeting

the Chief Executive Officer must ensure that a summary of the matters discussed at the gathering or meeting are:

- (a) tabled at the next convenient Council Meeting; and
- (b) recorded in the Minutes of that Council Meeting.

2. Confidential Information

- 2.1 If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the Chief Executive Officer is of the opinion that information relating to a Meeting is confidential information within the meaning of the Act, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 Information which has been designated by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

3. Review of these Rules

- 3.1 These rules will be reviewed by Council:
 - (a) Within 12 months of a general election; and
 - (b) At such other times as Council, in its absolute discretion, determines.
- 3.2 A delay in reviewing, or failure to review, these Rules in accordance with this Rule will not affect the validity of these Rules.

4. COVID-19 pandemic and other emergencies of a similar nature

- 4.1 Council may, by resolution:
 - (a) suspend or limit the operation of part or whole of; and/or
 - (b) make alternative arrangements to give effect to
Public Participation at Council Meetings and Public Question Time at Council Meetings, provided that such suspension or limitation is necessary to:
 - (i) protect Councillors, employees or the public consistent with state or federal government guidelines or public health considerations; or
 - (ii) otherwise to comply with relevant laws, regulations or instruction from relevant authorities in the event of an emergency.
- 4.2 If Council makes a resolution described in Sub-Rule 4.1:
 - (a) the circumstances justifying the resolution must be clearly detailed in the Minutes of the Meeting; and
 - (b) the suspension, limitations or alternative arrangement must be reviewed within six months.

Bayside City Council - Governance Rules

CHAPTER 9 – USE OF COUNCIL’S COMMON SEAL

Explanatory note:

The purpose of this Section is to provide for the security and proper use of the Common Seal. The Common Seal is the corporate signature of Council, and exists in the form of a stamp. It evidences Council's corporate will and authenticates decisions taken and acts performed by Council

As many of the powers, duties and functions of Council are delegated to the Chief Executive Officer and other members of Council staff, the Common Seal of Council is only use on legal documents such as local laws, contracts, agreements, transfer of land, significant letters, and other documents where required by legislation or where

- (1) The Chief Executive Officer must ensure the security of the Common Seal at all times.
- (2) The affixing of the Common Seal to any document must be attested to by not less than two persons, comprising both:
 - (a) the Mayor and Chief Executive Officer; or
 - (b) in the absence of the Mayor, by one Councillor and the Chief Executive Officer or a member of Council staff delegated this function by Council.
- (3) Where Council authorises the Common Seal to be affixed to any document, the Chief Executive Officer must record the description of the document sealed is entered into the seal register.
- (4) Where the Common Seal is affixed to a document on the authority of Council, the sealing clause must contain the following words:

The Common Seal of **BAYSIDE CITY COUNCIL**
 was affixed this (no. of day).....(month)
(year) in the presence of:

.....Mayor/Councillor

.....Chief Executive Officer

CHAPTER 10 – COUNCIL RECORDS

10.1 Records of Meetings held under the auspices of Council

- (1) A record of the matters discussed at Meetings organised or hosted by Council that involve Councillors and Council staff will be kept.
- (2) Records kept in accordance with sub-Rule (1) will include:
 - (a) the attendees at the Meeting
 - (b) the title of matters discussed
 - (c) any conflicts of interest disclosed and whether the person with the conflict of interest left the Meeting.
- (3) Where Minutes are kept of a Meeting and made available to the community an additional record is not required to be kept.

Section 131 of the Local Government Act 2020

Provides that in respect of a conflict of interest of a matter at a Meeting conducted under the auspices of the Council that is not a Meeting specified in section 130(1)(a), (b) or (c).

- (2) *A Councillor who has a conflict of interest in respect of a matter must:*
 - (a) *Disclose the conflict of interest in the manner required by the Council's Governance Rules; and*
 - (b) *Comply with the procedures specified in the Council's Governance Rules for the purposes of this section.*
- (3) *If a Councillor fails to comply with subsection (2), an application may be made under section 154 to a Councillor Conduct Panel alleging serious misconduct.*

'Under the auspices of Council' is taken to mean in any way resourced by Council.

10.2 Councillor attendance records

- (1) Council will maintain a register of Councillor attendance at Council Meetings, Delegated Committee Meetings and Meetings arranged to brief Councillors.
- (2) The register of Attendance kept in accordance with sub-Rule (1) will be published on Council's website.

CHAPTER 11 – ELECTION PERIODS

Explanatory note:

The Election Period Policy governs the conduct of Council, Councillors and members of Council staff during an election period to ensure appropriate decision-making in the lead up to a Council election.

The Election Period prohibits the use of Council resources for any election campaign and puts in place a procedure to ensure Council doesn't print, publish or distribute any material that may influence the outcome of the election.

Additionally, the Election Period Policy addresses Councillors and staff standing as candidates in Council, State or Federal elections.

11.1 Election Periods Generally

- (1) Council will have in place an election period policy that:
 - (a) governs decision making during a local government election period, including what may be considered at a Council Meeting;
 - (b) prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
 - (c) sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committee established by Council;
 - (d) sets out the requirements for any Council publications during a local government election period – including website, social media, newsletter and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
 - (e) defines roles and responsibilities in relation to who is the spokesperson for Council during an election period; and
 - (f) sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- (2) At least once in each Council term, and not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- (3) The Election Period Policy forms part of these Governance Rules.
- (4) The operation of Council Advisory Committees shall be suspended upon the commencement of an election period ahead of a general Council election.
- (5) Any outstanding Delegate's Reports may still be reported to an Ordinary Meeting of Council during this period.
- (6) Council Committees shall resume Meeting following the election and the appointment by the incoming Council of Councillors to each committee.

Bayside City Council - Governance Rules

Section 69 of the Local Government Act 2020 provides:

- (1) *A Council must include an election period policy in its Governance Rules.*
- (2) *An election period policy must prohibit any Council decisions during the election period for a general election that:-*
 - (a) *Relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or*
 - (b) *Commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service relates and charges in the proceeding financial year; or*
 - (c) *The Council considers could be reasonably deferred until the next Council is in place; or*
 - (d) *The Council considers should not be made during an election period.*
- (3) *An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council resources in a way that is intended to influence, or is likely to influence, voting at the election.*

Refer to Council adopted Election Period Policy over the page.

12 mths pre-pandemic: 3 mins per speaker – under former Governance Local Law				12 mths during pandemic: Written statements – temporary meeting procedures				
Ordinary Council (O)	Items (with speakers)	Total speakers	Speaking time afforded	Meeting duration	Ordinary Council	Items (with statements)	Total statements received	Meeting duration
19 February 2019 (O)	7	15	45 mins	4 hrs 17 mins	24 March 2020 (O)	6	20	1 hr 54 mins
19 March 2019 (O)	6	23	1 hr 9 mins	4 hrs 8 mins	28 April 2020 (O)	4	18	2 hrs 23 mins
23 April 2019 (O)	6	34	1 hr 42 mins	4 hrs 27 mins	19 May 2020 (O)	5	7	2 hrs 5 mins
21 May 2019 (O)	4	19	57 mins	3 hrs 46 mins	23 June 2020 (O)	3	75	2 hrs 54 mins
25 June 2019 (O)	12	28	1 hr 24 mins	1 hr 46 mins	28 July 2020 (O)	1	1	2 hrs 40 mins
23 July 2019 (O)	4	19	57 mins	4 hrs 13 mins	18 August 2020 (O)	11	89	4 hrs 46 mins
20 August 2019 (O)	6	20	1 hr	4 hrs 29 mins	15 September 2020 (O)	7	192	4 hrs 55 mins
17 September 2019 (O)	3	7	21 mins	2 hrs 57 mins	20 October 2020 (O)	1	26	2 hrs 42 mins
15 October 2019 (O)	5	16	48 mins	4 hrs 22 mins	17 December 2020 (*SC)	1	134	1 hr 32 mins
19 November 2019 (O)	7	38	1 hr 54 mins	4 hrs 22 mins	22 December 2020 (O)	5	129	1 hr 56 mins
17 December 2019 (O)	8	44	2 hrs 12 mins	4 hrs 20 mins	16 February 2021 (O)	3	122 (+423 proforma)	2 hrs 49 mins
18 February 2020 (O)	7	29	1 hr 27 mins	4 hrs 14 mins	16 March 2021 (O)	2	49	2 hrs 16 mins
Totals: (12 meetings)	75 (avg: 6)	292 (avg: 24)	14 hrs 36 mins (avg: 1 hr 12 mins)	47 hrs 21 mins (avg: 3 hrs 57 mins)	Totals: (12 meetings)	47 (avg: 4)	860 (avg: 72)	32 hrs 52 mins (avg: 2 hr 44 mins)
Planning & Amenity Committee (P)	Items (with speakers)	Total speakers	Speaking time afforded	Meeting duration	Planning & Amenity Committee (P)	Items (with statements)	Total statements received	Meeting duration
16 April 2019 (P)	3	6	18 mins	1 hr 18 mins	7 April 2020 (P)	8	19	1 hr 47 mins
30 April 2019 (P)	6	21	1 hr 3 mins	3 hrs 38 mins	12 May 2020 (P)	6	17	1 hr 41 mins
14 May 2019 (P)	2	2	6 mins	34 mins	9 June 2020 (P)	11	78	2 hrs 41 mins
11 June 2019 (P)	9	17	51 mins	3 hrs 22 mins	21 July 2020 (P)	10	39	2 hrs 30 mins
16 July 2019 (P)	7	23	1 hr 9 mins	4 hrs 4 mins	11 August 2020 (P)	12	145	3 hrs 35 mins
13 August 2019 (P)	9	30	1 hr 30 mins	3 hrs 59 mins	8 September 2020 (P)	6	22	1 hr 47 mins
10 September 2019 (P)	5	13	39 mins	2 hrs 11 mins	22 September 2020 (P)	10	53	1 hr 25 mins
8 October 2019 (P)	8	33	1 hr 39 mins	3 hrs 56 mins	13 October 2020 (P)	6	51	1 hr 51 mins
12 November 2019 (P)	4	15	45 mins	2 hrs 26 mins	1 December 2020 (P)	10	28	1 hr 8 mins
9 December 2019 (P)	6	17	51 mins	3 hrs 36 mins	15 December 2020 (P)	9	45	1 hr 9 mins
21 January 2020 (P)	9	30	1 hr 30 mins	4 hrs 14 mins	28 January 2021 (P)	5	13	50 mins
11 February 2020 (P)	7	12	36 mins	2 hrs 47 mins	9 February 2021 (P)	2	6	21 mins
10 March 2020 (P)	8	49	2 hrs 27 mins	1 hr 25 mins	9 March 2021 (P)	4	31	55 mins
Totals: (13 meetings)	81 (avg: 6)	268 (avg: 21)	13 hrs 24 mins (avg: 1 hr)	37 hrs 30 mins (avg: 2 hrs 53 mins)	Totals: (13 meetings)	99 (avg: 8)	547 (avg: 42)	21 hrs 40 mins (avg: 1 hr 40 mins)
Overall: (25 meetings)	156 (avg: 6)	550 (avg: 22)	28 hrs (avg: 1 hr 6 mins)	84 hrs 51 mins (avg: 3 hrs 24 mins)	Overall: (25 meetings)	146 (avg: 6)	1407 (avg: 56)	54 hrs 32 mins (avg: 2 hrs 11 mins)

(*5) denotes a Special meeting that was effectively a second Ordinary meeting that month.



10.3 2021 AUSTRALIAN LOCAL GOVERNANCE ASSOCIATION (ALGA) NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/106285

Executive summary

Purpose and background

To advise Council of the Australian Local Government Association 2021 National General Assembly of Local Government to be held in Canberra from 20 - 23 June 2021.

The Australian Local Government Association (ALGA) is the national peak advocacy body for local government. The ALGS's work includes, but is not limited to, the establishment of national policy and extensive liaison and lobbying with departments, Ministers and other parliamentarians at the Commonwealth level to achieve better outcomes for local communities.

The Assembly is the major event on the annual local government events calendar and typically attracts more than 800 Mayors, Councillors and senior officers from Councils across Australia.

The Australian Government is increasingly looking at local government to play a role as a partner in tackling the major issues facing the nation and the Assembly is the opportunity to make sure that the views of local governments are represented.

The Annual General Assembly is also a great opportunity for Council to present various motions for consideration by the Assembly that have a national sector impact. Over the last few years Council has submitted motions to the National Assembly. All motions have been accepted and successfully carried by the Assembly. The motions raised are generally sector driven motions.

Key issues

Council has been represented at previous National General Assemblies in Canberra. All Councillors have been advised of the National Assembly and to date The Mayor Cr Evans, Cr del Porto, Cr Stiffold and Cr Martin, have expressed a desire to attend. This year the Assembly is offering a hybrid event, that is, attendance at Assembly in Canberra and fully participate in the plenary sessions/keynotes speaker opportunities and debate motions at a cost of \$989 per registration, or a virtual delegate where participants can view the NGA live from a purpose built platform from your home at a cost of \$689 per registration.

The approximate cost for accommodation in the range of \$975 for a total of three nights. Airfares to Canberra during this peak period is approximately \$650 return.

Whilst a number of Councillors are present in Canberra, it is a wonderful opportunity to meet with the Federal Minister for Environment to further advocate for funding for the Elsternwick Park Nature Reserve.

It is also a great opportunity to meet the Victorian Senators to engage with them on the funding provided by the federal government for additional car parking on Vic Track land seek their involvement to progress the matter further.

Recommendation

That Council approves the attendance of the Mayor Cr Evans, and Cr del Porto, Cr Stitfold and Cr Martin at the ALGA National Assembly to be held in Canberra from 20 to 23 June 2021.

Support Attachments

Nil

Considerations and implications of recommendation

Liveable community

Social

There are no social implications associated with this report.

Natural Environment

There are no natural environment implications associated with this report.

Climate Emergency

There are no climate emergency implications associated with the proposition contained in this report.

Built Environment

There are no built environment implications associated with this report.

Customer Service and Community Engagement

There are no customer services or community engagement implications associated with this report.

Human Rights

The implications of this report have been assessed and not considered likely to breach or infringe upon the human rights contained in the *Victorian Charter of the Human Rights and Responsibilities Act 2006*.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

There are no legal implications associated with this report.

Finance

The cost associated with the attendance of three councillors at the National Assembly is provided within the current 2020–21 budget.

Links to Council policy and strategy

In accordance with Council's Reimbursement, Support, Resources, Reimbursement and Accountability Policy each Councillor is able to attend one interstate conference per annum. To date during the 2020–21 financial year no councillor has attended an interstate conference. The attendance of councillor presentation at the National Assembly is in accordance with Council's policy.

10.4 DISABILITY ACCESS AND INCLUSION ADVISORY COMMITTEE - ADOPTION OF TERMS OF REFERENCE AND CODE OF CONDUCT

Environment, Recreation and Infrastructure - Open Space, Recreation & Wellbeing
File No: PSF/21/19 – Doc No: DOC/21/108618

Executive summary

The purpose of this report is to present the Terms of Reference (Attachment 1) and Code of Conduct (Attachment 2) to support the conduct of the Disability Access and Inclusion Advisory Committee (DAIAC).

At the Ordinary meeting of 17 December 2020, it was resolved that Council:

- 1) *endorses the formation of a Disability Access and Inclusion Advisory Committee*
- 2) *adopts the draft Terms of Reference for the Disability Access and Inclusion Advisory Committee as set out in Attachment 1 and seeks feedback from the Committee prior to their finalisation.*
- 3) *adopts the draft Code of Conduct for the Disability Access and Inclusion Advisory Committee as set out in Attachment 2 and seeks feedback from the Committee prior to their finalisation*
- 4) *appoints Councillors Martin and El Mouallem as members of the Disability Access and Inclusion Advisory Committee.*

Committee members and Council staff held an induction meeting on 12 April 2021 to discuss the conduct of meetings and to finalise the Terms of Reference and Code of Conduct. The versions attached to this report were supported by the Committee.

Key issues

Membership and Appointment

The membership of the DAIAC includes:

- ten community members with lived experience of disability (a person with a disability, a carer, or a person involved in disability access/ inclusion programs in Bayside)
- two Councillors.

To support the Committee the following Council staff will attend meetings, take minutes, source information for and provide advice to Committee members:

- Community Wellbeing Coordinator
- Inclusion Officer
- Manager Open Space, Recreation and Wellbeing
- Manager Community Services
- Manager Governance
- Governance Officer

Code of Conduct

A Code of Conduct (Attachment 2) has been drafted. The code of conduct is a guide to appropriate behaviour of members to ensure a safe, respectful and inclusive meeting space. The DAIAC will be most effective in achieving change if all members are able to contribute equitably in sharing their perspectives and experiences. The key themes of the code of conduct

are respect, honesty, confidentiality, communication and preparation. It will be a requirement for members to review, agree and sign a code of conduct contract prior to participating in the DAIAC.

Term of DAIAC

The DAIAC will be appointed for one year, concluding in May 2022. A minimum of six meetings will be held during this time on a bi-monthly basis. The DAIAC will be evaluated following the 12-month period with outcomes of the evaluation and recommendations for future committees and/or other advisory structures presented at a future Council meeting.

Recommendation

That Council:

1. adopts the Terms of Reference for the Disability Access and Inclusion Advisory Committee as set out in Attachment 1
2. adopts the Code of Conduct for the Disability Access and Inclusion Advisory Committee as set out in Attachment 2.

Support Attachments

1. Attachment 1 - DAIAC - Terms of Reference ↓
2. Attachment 2 - DAIAC - Code of Conduct ↓

Considerations and implications of recommendation

Social

The DAIAC will assist in ensuring that the access and inclusion needs and aspirations of all members of the Bayside community, regardless of ability, are considered. A sense of belonging in a community is critical for physical and mental health.

Natural Environment

There are no natural environment implications associated with the proposition contained in this report. The DAIAC may provide advice to improve physical access which may have impacts on the environment.

Climate Emergency

There are no climate emergency implications associated with the proposition contained in this report.

Built Environment

There are no built environment implications associated with the proposition contained in this report. The DAIAC may provide advice to improve physical access which may have impacts on the built environment.

Customer Service and Community Engagement

The introduction of the DAIAC would provide a formal mechanism to engage with the community and seek advice on local barriers and priorities and assist in exploring potential solutions.

Human Rights

The implications of the report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*. The DAIAC has the potential to assist Council in ensuring it fulfils some of its obligations under the act.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

There are no legal implications associated with the recommendation included in this report.

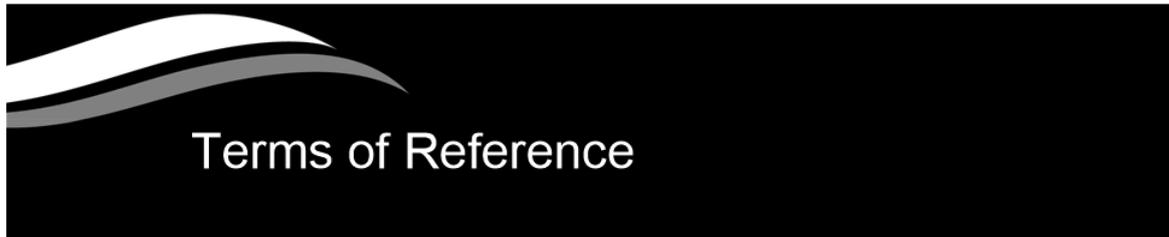
Finance

There are likely to be some costs associated with the conduct of this committee and Council will be expected to cover costs of enabling participation in meetings such as transport, reasonable adaptation technology and Auslan interpreters. Once the membership is endorsed and individual needs are assessed, an overall cost will be determined. If the expected costs

are not able to be met within Council's current operational budget, it is proposed Council allocates this amount from cash reserves. Links to Council policy and strategy

Council's Wellbeing for All Ages and Abilities Strategy (2017–21) notes that Council values the unique contribution that all people make to their community and recognises the complex physical, social and emotional challenges that can exist for differing groups.

Council's Community Vision 2050 acknowledges the importance of community cohesion and a sense of belonging for all.



Disability Access and Inclusion Advisory Committee

1. Introduction

Council recognises that decision making is enhanced, services are better delivered, and strategies and policies are likely to result in better outcomes for the community when community members are involved in decisions which affect them.

The Disability Access and Inclusion Advisory Committee (DAIAC) is designed to encourage and support community member's involvement in Council's decision-making processes through the direct perspective of people with lived experience of disability.

The Terms of Reference have been developed to be consistent with the principles of Council's Community and Stakeholder Engagement Policy (currently in draft).

2. Purpose

The DAIAC will provide advice on the development of the Municipal Public Health and Wellbeing Plan (MPHWP) from the perspective of people with lived experience of disability. Members may be a person with a disability, a carer, or a person involved in disability access/ inclusion program in Bayside.

Every council in Victoria is required to develop and implement a MPHWP to set the broad mission, goals and priorities to enable people living in the municipality to achieve maximum health and wellbeing. At Bayside, disability access and inclusion actions are integrated into the MPHWP, recognising that people with a disability will have the same general health and wellbeing needs as other members of the community and some more disability-specific needs.

3. Objectives

The objectives of the DAIAC are to support the development of the MPHWP by:

- Considering the outcomes of the community health and wellbeing survey and other sources of community health information;
- Identifying issues of access to the built, natural and social environments;
- Identifying barriers to inclusion in community and economic life in Bayside;
- Discussing potential solutions (actions) to identified issues;
- Assisting in prioritising actions to be included in the MPHWP; and
- Assisting in monitoring implementation.

In addition, the DAIAC will also be available to provide specific advice from a disability perspective on nominated Council strategies, masterplans, programs and infrastructure priorities.

4. Membership

Membership will comprise:

- Ten community members with lived experience of disability; and
- Two Councillors.

To support the conduct of meetings the following Council officers will also attend DAIAC meetings:

- Community Wellbeing Coordinator (Bayside City Council);
- Inclusion Officer (Bayside City Council);
- Manager Open Space, Recreation and Wellbeing;
- Manager Community Services;
- Manager Governance; and
- Governance Officer

5. Term of Appointment

DAIAC members will be appointed for one year, concluding in May 2022. Should a member resign before the expiry of their term, the vacancy will either be filled for the remainder of the term, or if the vacancy occurs after six months of the term Council may choose not to fill the vacancy.

The DAIAC will be evaluated following the 12-month period with outcomes of the evaluation and recommendations for future committees and/or other advisory structures presented at a future Council meeting.

6. Appointments

Members will be appointed by Council following a public advertisement process. Selection will be based on the preference for DAIAC to be representative of the diversity of disability, as well as the individual merit presented by those nominating.

Selection criteria will include community members who:

- are residents of the City of Bayside or have strong links to Bayside (work, play, study, or own property in Bayside); and
- can demonstrate active and broad connections in the community.

Membership will aim for a group representing a range of abilities, ages, gender, cultures, geographic locations across the municipality and a range of areas of interest/expertise. To facilitate the participation of members with a disability we will remove or reduce barriers to participation such as transport, care requirements and technology. Council is committed to creating an accessible and inclusive environment for all members and will work with members to consider any supports required.

Council will advertise for nominations for community members through Council's website, and key communication channels such as social media and e-newsletters. Information on nominating will also be shared with local networks including Community Centres and disability-specific organisations.

Delegations

The DAIAC will provide advice to Council with no specific delegations.

7. Accountability

Members will:

- have an active role in seeking and communicating community views to Council;
- be respectful of other members' views and sign a code of conduct contract;
- participate in discussions at meetings, listen actively, and encourage others to participate;
- be responsible for reading all minutes and material provided; and
- be able to participate in at least five of the six meetings.

8. Meeting Procedures

8.1 Meetings

DAIAC will meet on at least six occasions on a bi-monthly basis. Additional meetings will be determined on a needs basis in accordance with work being undertaken by Council. Feedback and input from members may be sourced through means other than meetings. The structure of the meetings shall be flexible and determined by the makeup and needs of the committee, to ensure equal participation. A meeting quorum will be a minimum of half of the membership plus one, the majority of members present must not be Bayside City Council employees or Councillors.

8.2 Invited Guests or Co-opted Members

The DAIAC may invite guests or co-opt members to join the DAIAC from time to time in either an expert advisory capacity or for a specified purpose and/or for a specific period.

8.3 Chairperson and Minute-taker

Meetings will be chaired by a Councillor. The role of the Chairperson includes, but is not limited to:

- Chairing of meetings of the DAIAC in accordance with the meeting agenda;
- Conducting meetings in a manner that is consistent with the code of conduct;
- Providing time during meetings for any DAIAC Member to raise any issue they believe is relevant;
- Has a casting vote on occasions where there is an equal number of votes on a matter.

Minutes will be taken by a Council staff member and presented to Council for adoption.

8.4 Meeting Agenda

Agenda and associated material will be prepared and provided to members one week prior to the meeting. DAIAC members may propose agenda items for consideration. Agenda items should be submitted to the Inclusion Officer two weeks before the next scheduled meeting, to allow time to prepare information for the meeting.

8.5 Conflict of Interest

A member with a conflict of interest, or perceived conflict of interest, in a matter before the DAIAC must declare their interest prior to discussion of the item. This will be a standing item on the agenda.

8.6 Code of Conduct

A code of conduct will be enforced to ensure safe participation and enable a respectful and equitable sharing of ideas. All members will be required to sign a code of conduct contract.

Any breaches of the Code of Conduct will be addressed by the Chair. Severe breaches may result in removal from the DAIAC.

9. Reporting

The minutes of the DAIAC will be presented for adoption to the subsequent Ordinary Meeting of Council. As the focus of the DAIAC will be disability access and inclusion considerations for the (MPHWP, recommendations from the group will be provided to the MPHWP Working Group and Project Control Group.

Where other access issues are raised, they will be referred to the relevant area of Council for consideration, or to other responsible public authority, as appropriate.

10. Review of the Terms of Reference

The Terms of Reference will be reviewed as part of the 12-month evaluation.



Disability Access and Inclusion Advisory Committee

1. Introduction

The Code of Conduct is a guide to appropriate behaviour of members to ensure a safe, respectful and inclusive meeting space. The committee will be most effective in achieving change if all members are able to contribute equitably in sharing their perspectives and experiences. The Code of Conduct is complemented by the Disability Access and Inclusion Advisory Committee (DAIAC) Terms of Reference, which notes the primary purpose of the Committee is to contribute to the development of the Municipal Public Health and Wellbeing Plan.

All DAIAC members will treat one another with respect, dignity and honesty in the spirit of co-responsibility. This will be achieved by:

Respect

- Members will acknowledge and respect the diversity of views, beliefs and culture within the DAIAC and the broader community;
- Members will allow others to speak without interruption;
- Members will foster an environment of inclusion and collaboration through listening to each other's opinions in a non-biased and non-judgemental manner;
- Members will engage in respectful language and conversations; and
- Members will ensure that personal views about Council policy or other matters which are outside DAIAC business are raised and discussed outside of the DAIAC meeting environment.

Honesty

- Members will declare any conflicts of interest that may arise during meetings; and
- Members will provide honest and constructive feedback on topics discussed.

Confidentiality and communication

- Members will need to comply with Council Privacy Policy including:
 - Members will not disclose private and personal information about other members;
 - Members will not speak on behalf of the Committee, or Council, without permission; and
 - Members will not disclose the details of DAIAC discussions, without permission.

Preparation

- Members will prepare for meetings by reading all papers and seeking clarification if needed;
- Members will ensure they arrive promptly to allow the meeting to commence on time;
- Members will respond to contact from the Chair within a reasonable time; and
- Members will make an apology, as soon as they are aware, they cannot attend a meeting and provide comments on papers if unable to attend a meeting.

2. Code of Conduct breaches

Any breaches of the Code of Conduct will be addressed by the Chair. The role of the Chair is to encourage participation, moderate and enable respectful and equitable sharing of ideas. Breaches of the Code of Conduct may result in:

- A request for the member to rectify the breach or apologise;
- A warning to the member;
- Removal from the DAIAC meeting; or
- In cases of multiple or severe breaches, the member may be removed from the DAIAC.

Concerns about the actions of Council staff or Councillors should be directed to the Director Environment, Recreation and Infrastructure.

Resignation

DAIAC members can cease membership at any time by notifying their intention to the Chair in writing. All memberships will cease at the end of the DAIAC 12-month term.

I (name).....

agree to abide by the Code of Conduct as a member of the Disability Access and Inclusion Advisory Committee

Date.....

Signature.....

10.5 BAYSIDE CITY COUNCIL SUBMISSION TO HOMES VICTORIA DISCUSSION PAPER - ESTABLISHING A 10-YEAR STRATEGY FOR SOCIAL AND AFFORDABLE HOUSING

City Planning and Amenity -
File No: PSF/21/27 – Doc No: DOC/21/88956

Executive summary

Purpose and background

To present Council with the joint submission that was prepared by the Regional Local Government Charter Group (including Bayside City Council) and provided to Homes Victoria as a response to its Discussion Paper – Establishing a 10-Year Strategy for Social and Affordable Housing.

Homes Victoria has prepared the Discussion Paper which sets out the draft directions of a 10-Year social and affordable housing strategy with feedback being sought by the State Government Department between 9 February and 9 April 2021.

Council is a member of the Regional Local Government Charter for Homelessness and Social Housing Group (the Charter group) alongside 12 other Councils in the South-east and East Melbourne region. The endorsement of the Charter was resolved at its Ordinary Meeting on 28 July 2020, and Council also committed to being part of an implementation process that integrates and aligns organisational planning, health planning, and housing advocacy platforms.

Key issues

Regional Local Government Charter Group

Since the endorsement of the Charter, Council has been involved in the progression of projects and advocacy undertaken by the Charter group, and more recently has been involved in the preparation of the joint submission to Homes Victoria.

Through the joint submission, the Charter Group has applauded Homes Victoria on its preparation of the Discussion Paper and has provided feedback under each focus area identified in the Discussion Paper as; Pathways, Communities, Growth, Partnerships and Engagement. This feedback makes various recommendations with the interest that 10-Year Social and Affordable Housing Strategy for Victoria is holistically planned for and provides high standardised outcomes for the future.

Bayside Draft Affordable Housing Strategy

Currently, Bayside City Council is engaging with the community on its Draft Affordable Housing Strategy and will continue to until 25 April 2021. Through this community engagement, Council is testing the levels of support on the various actions that Council would seek to undertake as part of the Final adopted version of the Strategy.

Through the Charter Group submission, the importance of proceeding with an effective planning tool like inclusionary zoning has been conveyed. The submission from the Charter group generally aligns with the direction in Council's draft Strategy, noting that this is yet to be considered by Council. Council is currently testing the community's support for inclusionary zoning and will consider the outcomes from the community engagement at its Ordinary Meeting on 15 June 2021.

Next steps

Homes Victoria will utilise the feedback received to develop the Ten-Year Strategy and launch the final version by late 2021.

It is also envisaged that Homes Victoria will soon be releasing its 'Social and Affordable Housing Compact' which has been earmarked as an action part of the Big Housing Build State Government initiative. Homes Victoria has stated that it anticipates the Compact will set out:

- a set of 10-year strategic priorities for social and affordable housing in Victoria
- a governance framework with defined roles, responsibilities and decision-making processes
- a new financial arrangement between local and state government
- protocols for information sharing between Homes Victoria and local government
- an integrated and collaborative approach to planning matters
- mechanisms for Local Governments and Homes Victoria to prioritise housing projects.

Recommendation

That Council:

1. notes the joint submission made to Homes Victoria by the Regional Local Government Charter Group which provides feedback on the Discussion Paper – Establishing a 10-Year Strategy for Social and Affordable Housing.
2. notes the next steps Homes Victoria anticipates to occur in 2021.

Support Attachments

1. Regional Local Government Charter Group Submission to Homes Victoria Discussion Paper ↓

Considerations and implications of recommendation

Liveable community

Social

The Homes Victoria Discussion Paper discusses the importance of affordable housing within appropriate locations that allow residents to have access to social and economic opportunities and are within diverse, inclusive and vibrant communities. Council supports this view and has similarly presented this view through the Draft Affordable Housing Strategy and through the Regional Local Government Charter Group joint submission to Homes Victoria.

Natural Environment

There are no natural environment implications associated with this report.

Climate Emergency

The Homes Victoria Discussion Paper identifies the need to provide for environmentally sustainable housing and ensuring housing is built for Victoria's climate future as a key outcome for social and affordable housing communities. Through the joint submission from the Regional Local Government Charter Group to Homes Victoria, the need for State Government to enforce a high standard for environmentally sustainable social and affordable housing is conveyed.

Built Environment

The Charter seeks systemic change to increase the supply of permanent, safe, appropriate and timely housing for the most vulnerable members of our community and to embed 'Housing First' as key foundational principle, fundamental to health, recovery and safety.

The Discussion Paper sets outcomes for social and affordable housing to be environmentally sustainable, built for Victoria's climate future and is safe, quality housing that meets the needs of residents. Through its joint submission to Homes Victoria, the Regional Local Government Charter Group has relayed the need to embed a high standard for both environmentally sustainable design and accessibility to ensure the outcomes the Discussion Paper sets are able to be met.

Customer Service and Community Engagement

Homes Victoria's Discussion Paper was open for community engagement from 9 February to 9 April 2021. Simultaneously, Council has been engaging with the community on the preparation of the Bayside Draft Affordable Housing Strategy. Through both engagement periods, stakeholders have been provided the opportunity to provide feedback in relation to affordable housing in Victoria, and Bayside.

Human Rights

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

There are no legal implications associated with this report.

Finance

There are no financial implications associated with this report.

Links to Council policy and strategy

As outlined above, the joint submission to Homes Victoria from the Regional Local Government Charter Group are actions that align with previous endorsement by Council and its commitment to strengthening its advocacy to State and Federal Government on the affordable housing and homelessness crisis that Victoria is facing. The submission aligns with Council's existing policies, plans and commitments associated with planning, housing, human rights, resilience, health, and wellbeing. These include:

- Community Plan 2025
- Council Plan 2017–21
- Regional Local Government Homelessness and Social Housing Charter 2020
- The Bayside Planning Scheme
- Bayside Housing Strategy 2019
- Improving Housing Affordability and Social Housing Options in the City of Bayside – Advocacy Action Plan 2018
- Strategic Advocacy Framework
- Wellbeing for All Ages and Abilities Strategy 2017–21.



1 April 2021

Dear Homes Victoria

The *Regional Local Government Charter Homelessness and Social Housing Group (Charter Group)* applauds the government for developing a 10 Year Social and Affordable Housing Strategy for Victoria, and the generational opportunity that the Big Housing Build represents. The *Charter Group* welcomes the opportunity to contribute to this important consultation and respond to the 'Establishing a 10- Year Strategy for Social and Affordable Housing for Victoria' Discussion Paper.

The CEO-endorsed Charter Group comprises 13 Councils from Melbourne's East and South-East who joined together in late 2019 in a unified voice calling for urgent action for more social housing to end homelessness. The Charter Group's combined residential population is over two million. Of the 22,000 Victorians experiencing homelessness, over a third of these (7,916) are in our Council areas.¹

The Charter Group Councils are Bayside, Casey, Cardinia, Frankston, Greater Dandenong, Knox, Kingston, Manningham, Monash, Maroondah, Mornington Peninsula, Whitehorse and Yarra Ranges. The group is supported by the Municipal Association of Victoria, the Department of Families, Fairness and Housing, Eastern Region Group of Councils and Eastern Affordable Housing Alliance. Our work has sparked interest among other Victorian local governments.

Members of Homes Victoria participated in recent Charter Group meetings in December 2020 and February and March 2021 to present to the details of the 'Big Housing Build' roll-out. Strategic discussions have also been held between the Charter Leadership Group and Homes Victoria to explore partnership opportunities.

The Charter Group seeks systemic change to increase the supply of permanent, safe, appropriate and timely housing for the most vulnerable members of our community and to embed 'Housing First' as a key foundational principle for health, recovery and safety.

Our advocacy platform is in the form of a [Regional Local Government Homelessness and Social Housing Charter \(Charter\)](#) (Appendix 1). The Charter prioritises three levers to reduce homelessness and increase social housing. Our shared priorities are:

1. Work in partnership with federal and state government, public and private sector partners to coordinate our approach and deliver meaningful outcomes to increase the provision of social housing and respond to homelessness in South and East Melbourne;
2. Scope land within each LGA that has the potential to be re-purposed for adaptable housing needs, and to share these insights on a regional scale with the intention of identifying suitable sites for the development of social housing; and

¹ ABS 2016

3. Advocate for inclusive housing growth, including through mandatory inclusionary zoning

A Regional Charter Implementation Framework 2020 – 2021 has been endorsed by the Charter Group and is currently in implementation mode. The Charter Group comprised of CEO-nominated 'Charter Champions' meet every two months and the Charter Coordination Group and Charter sub-working groups meet fortnightly.

The Charter Group's feedback is organised under the categories of *Pathways*, *Communities*, *Growth*, *Partnerships* and *Engagement* as per the Homes Victoria Discussion Paper.

Pathways

Greater provision of social housing across the Housing Spectrum, including crisis accommodation and pathways for single people to exit rooming houses and crisis accommodation

The Charter Group notes that there is limited consideration of the demand for crisis accommodation in the Discussion Paper, which is a key lever in supporting community members and addressing the bottleneck of demand across Victoria and locally in the East and South-East regions that the Charter Group represents. The epidemic of homelessness in Melbourne's East and South-East is strongly gendered and tied to the prevalence of family violence, meaning that crisis options must be suitable for families and available locally in order to provide the support for families to quickly recover and avoid the debilitating effects of extended stays in crisis accommodation.

Further, there is a significant shortfall in pathways for single persons to exit crisis and low-quality rooming house accommodation. We lack properties suitable for lone person households causing increased reliance on unsuitable forms of housing and shelter for very low-income households. Reliance on Rooming House accommodation is increasing across our region. The precarious tenant mix of many rooming houses mean, for example, that women and children fleeing from family violence may reside next to those exiting from prison. Again, we are overrepresented in Victoria, with over a third of Victorians who live in rooming houses, and 37% of Victorians who reside in overcrowded conditions being concentrated in our region.

The Charter Group further advocates that the Youth Foyer model be extended and scaled up in the East and South-East regions to better support young people experiencing and at-risk of homelessness with positive housing and support pathways.

In order to ensure the ongoing provision of key social housing assets responsive to local needs and across the housing spectrum, the Charter Group advocates that any assessment of needs should also include an assessment of needs for different types of social and affordable housing (e.g. public housing, youth foyers, crisis accommodation for young people, crisis accommodation for victims of family violence, Specialist Disability Accommodation, shared housing with support for enduring mental illness). This should be reflected in the inclusion of a standardised methodology for assessing social and affordable housing needs that has sensitivity to geographic differences between municipalities in the 10- Year Social and Affordable Housing Strategy for Victoria.

Fund homeless and housing services with flexible support periods and the ability to partner with specialist services to prevent further homelessness of families and individuals.

The sector needs to be adequately resourced to provide enough services to prevent the bottle-neck of social housing which leaves many people without services and subsequently homeless. In light of findings over recent weeks from separate inquiries into mental health and homelessness, there is an obvious need for clear pathways from mental health services, prisons, residential health services such as rehab, out-of-home based care services and family violence services to be able to access

both crisis and long-term accommodation for their clients. Currently the system is streamlined so that access to crisis and transitional housing is via a front door service for each region. Unfortunately, this has created more gaps in the system than it has helped. The separation that community services have from housing has widened due to access being via one entry point which screens out many clients due to demand and strict eligibility for housing programs.

Current community support funding from different government programs provide different periods of support. Support for people to maintain their accommodation requires on-going flexible periods of support – the ‘cookie cutter’ model does not work as most agencies cannot meet the requirements Transitional Housing Management demand to get access to housing. It also assumes that the determinants that have led to an individual’s homelessness can be ‘fixed’ within a short period, which is an unreasonable expectation.

Adequately resource Tenancy Support agencies to ensure all tenants needing support have access to it.

Currently, there is a waiting list for support through Tenancy Plus services. The Charter Group notes that targeted support to maintain tenancies can prevent homelessness and avoid further bottlenecks and community members being thrown into an under-developed crisis accommodation sector. Issues around tenancy can often be addressed with a quick intervention and support to prevent tenants being evicted or from being victimised in their own property. This early intervention should be prioritised.

Address the Social Housing Bottleneck and ‘Future-Proof’ the Sector Against Bottlenecks

The Charter Group commends the Victorian Government for the significant boost to social housing via the Big Housing Build, and advocates that the 10 Year Social and Affordable Housing Strategy for Victoria make explicit commitments to eliminating the ‘bottleneck’ of social housing demand and maintaining a steady balance between in-flow and out-flow.

‘Functional Zero’ is a concept often used in the homelessness service sector, but is applicable to addressing the bottleneck: the provision of social housing assets responsive to local needs and creating regional ecosystems of support across the housing spectrum are needed. A target should aim to provide social and affordable housing to satisfy all need as expressed by the Victorian Housing Register [VHR] so that the VHR has a “functional zero” or “reasonable waiting time target”.

Communities

Build social housing close to services, transport options, parks and open space, civic infrastructure and retail areas

The 10 Year Social and Affordable Housing Strategy for Victoria should include clear guidance and policy to support the provision of social housing near essential services and in close proximity to transport and quality-of-life amenities. Per the recommendations above, the development of an assessment tool responsive to local context would ensure that social housing developments meet the parameters around transport and social and physical infrastructure while taking advantage of local opportunities across a range of contexts. The introduction of universal design standards is further required to ensure social and affordable housing is designed to meet industry standards and is environmentally sustainable, adaptable and accessible to all needs.

Create the foundations for strong and resilient social housing communities through programming

Funding for community development and place-based programs to promote community inclusion and support residents of social housing developments would enhance the connections of new residents into community life. The programs could include gardening and cooking programs, parenting support programs, recreation opportunities with local sporting clubs, social & support groups.

Local Councils are well placed to support this kind of community development activity through connecting and networking but resources are needed to facilitate involvement.

Engaging clients to participate in planning and governance of social and affordable housing provision, as well as delivery of programs

The engagement of residents in the design and planning for the programs will be a key element to building thriving and integrated social housing communities and should be reflected in the 10 Year Strategy. The neighbourhood house program is well placed to deliver these programs but would require additional resourcing to provide outreach programs to this vulnerable group. Long-term connection to mainstream programs and an improved sense of place and community could be achieved. The Charter Group notes that engaging clients will require incentives and must be funded appropriately.

A state-wide communications campaign to address stigma and strengthen connections between social housing residents and the wider community

The Charter Group notes a key role for State Government in providing community engagement resources and support, potentially via MAV, to support local governments to take part in and deliver a state-wide communications campaign to address stigma around social housing and promote inclusion and participation for social housing residents.

Local government has seen first-hand the potential for opposition to proposed social housing developments from representatives of the community and at times, even within Council. This opposition has the power to stop projects in their tracks.

Via the 10 Year Social and Affordable Housing Strategy for Victoria, the State Government has the opportunity to commit to state-wide consultation and communications that will ensure that clear and consistent messages are delivered across Victoria which are attuned to local needs and context.

To consolidate support for social housing as a legitimate and needed form of housing communities, adequate services and supports are needed. This would ensure that residents needing support get it and successful tenancies follow.

Growth**Clear direction and framework to activate surplus State Government land**

Un-utilised and under-utilised State Government land is a key asset for addressing the current social housing shortfall when planning for the future needs of Victoria. The Charter Group strongly recommends that the 10 Year Strategy articulate a clear position on surplus Government Land and a framework for collaboration between relevant stakeholders to activate these assets (including, but not limited to, land made available from level-crossing removal projects).

Further investigations into inclusionary zoning and a consistent approach as to how to apply this at a local level

The Charter Group joins the longstanding call from Local Government to investigate and deliver a state-wide approach to mandatory social housing contributions. The 10 Year Social and Affordable Housing Strategy for Victoria should deliver a clear framework to investigate and operationalise Mandatory Inclusionary Zoning across Victoria that is responsive to the opportunities and challenges across the range of local government contexts.

Align the 10 Year Social and Affordable Housing Strategy for Victoria with the 30 Year Infrastructure Strategy

The Charter Group notes the importance of aligning these strategies and ensuring that the 10- Year Social and Affordable Housing Strategy for Victoria has clear lines of sight and input into the 30 Year Infrastructure Strategy.

Plan for and fund mixed-use developments

In order to support social and affordable housing growth across Victoria, the 10 Year Social and Affordable Housing Strategy for Victoria should clearly articulate frameworks to deliver social housing in mixed-use developments and a partnership framework for collaboration with local governments to do so.

Partnerships**Data collection and sharing with local government partners**

The Charter Group underscores the importance of shared action and accountability principles and the identification of targets across geographical areas to meet the social housing shortfall. Meeting these targets will require close collaboration and data-sharing, particularly with local governments and through existing partnership structures such as the Charter Group. The sharing of datasets to provide strategic justification for social and affordable housing policies and provisions in planning schemes will be vital, as will be the collection and sharing of Victorian Housing Register data with local governments.

Grow and strengthen partnerships

The 10 Year Social and Affordable Housing Strategy for Victoria should provide an expansive partnership framework to engage broadly across the relevant sectors, build on current strengths and grow capacity of organisations to deliver Victoria's significant social housing needs. State government can play a key role in developing and brokering relationships between local governments, community housing providers and other key stakeholders. A clear template for capacity and relationship-building across sectors would strengthen the 10 Year Strategy and ensure consistency and shared direction across LGAs. These stakeholders include:

- Local Government
- Registered Housing Associations/Providers and other community providers
- People with lived experience of homelessness and the housing system
- Developers and social entrepreneurs
- Peak bodies representing people with lived experience of homelessness
- Traditional owners and custodians
- Health research institutes
- Cultural and faith-based inclusion consultants

- Philanthropic groups, charities, community development organisations
- Homes for Homes and The Big Issue
- Hospitals and Health providers
- Artists, architects, landscapers, engineers, town planners and lawyers
- Child-care, aged care, disability services
- VCOSS
- Ethical developers
- Nurses and locum health professionals

Engagement

Timely communication channels between state and local government to ensure project delivery

There is an opportunity to strengthen and formalise communication channels between Homes Victoria and local governments to ensure that local government is aware and able to provide critical support for the Big Housing Build's social and affordable housing projects as they arise. Currently, this information is shared unevenly and sporadically leading to missed opportunities for shared approaches to planning and community engagement. The data-sharing indicated above is also a key facet of this recommendation.

Engage with local government coalitions at a regional scale to build strategic alignment and capitalise on key opportunities to deliver needed social housing assets

The Charter Group is a mobilised coalition of 13 Councils representing the East & South-East of metropolitan Melbourne and over 2 million residents. We have established a clear mandate and shared priorities through our [Regional Local Government Homelessness & Social Housing Charter](#) which supports and complements the 'Big Housing Build' agenda. The genesis of this Group is based on a shared commitment as a collective of Councils to seek to influence and affect systemic, long-term change and solutions across the homelessness and housing service provision sectors.

The Charter Group welcomes ongoing direct engagement with Homes Victoria and the exploration of social and affordable housing development within region that the Charter Group represents.

We look forward to ongoing support from Homes Victoria through our established Charter Group meetings and would also welcome the opportunity to speak directly to this submission to with Homes Victoria representatives at an upcoming Charter Group meeting.

Contact Details - *Regional Local Government Charter Homelessness and Social Housing Group (Charter Group)*

Contact details are provided below of the key Charter Group representatives to engage with for future discussions.

- Spokesperson: Dr Andi Diamond, Chief Executive Officer, Monash Council, Andi.Diamond@monash.vic.gov.au & 0412 692 198
- Chair: Fee Harrison, Manager Community Strengthening, Monash Council, feeh@monash.vic.gov.au & 0411 104 618
- Deputy Chair: Nick Grant-Collins, Coordinator Inclusion & Wellbeing Connected Communities, City of Casey, NGCollins@casey.vic.gov.au & 0407 726 956

- Executive Support: Emily Halliburton, Social Policy & Health Planning Coordinator, Monash Council, Emily.Halliburton@monash.vic.gov.au & 0417 784 744

Website: [13 Councils, 2million-plus residents: a unified voice to tackle homelessness \(monash.vic.gov.au\)](https://www.monash.vic.gov.au/13-Councils-2million-plus-residents-a-unified-voice-to-tackle-homelessness)

Thank you again for the opportunity to respond to the 'Establishing a 10- Year Strategy for Social and Affordable Housing' Discussion Paper and we look forward to a strong partnership with Homes Victoria.

Yours Sincerely,



Fee Harrison

CHAIR

Regional Local Government Charter Homelessness and Social Housing Group (Charter Group)

10.6 SURRENDER OF DISUSED ROAD/WALK-THRU AT ELSTERNWICK PRIMARY SCHOOL

Environment, Recreation and Infrastructure - City Assets & Projects
File No: PSF/21/21 – Doc No: DOC/21/100331

Executive summary

Purpose and background

The purpose of this report is to facilitate formal surrender of the disused road (now a right-of-way or ROW) intersecting Elsternwick Primary School in order to allow the school to address child safety concerns.

In 2005, a section of Brickwood Street, Brighton between Montrose Avenue and Elster Canal Path was discontinued by Council. The discontinued portion of road was subsequently reserved that same year under the Crown Land (Reserves) Act 1978 for 'State School and Car Parking' purposes and incorporated into the adjoining land managed by the Department of Education (DET).

As part of the above process, a 110 metre long, 3 metre wide section of Brickwood Street was preserved as an ROW for the purpose of pedestrian access to the canal for the local community.

That ROW retains the status of a local government road under the management of Bayside City Council pursuant to the Road Management Act 2004 (refer Map in Attachment 1).

Elsternwick Primary School (EPS) has approached the Department of Environment, Land, Water and Planning (DELWP) with concerns around the safety of their students arising from the ROW providing uncontrolled public access through the school grounds during school hours. It is the position of EPS that public access through the school during school hours is in conflict with their duty of care to their students.

Therefore, EPS is asking that the ROW be discontinued as a formal road by Council, and incorporated into the surrounding land managed by DET.

EPS is supportive of the ROW remaining open outside of school hours to enable the community to retain the pedestrian access as well as utilise the school's outdoor sporting facilities when students are not present on site. EPS has provided a letter of support in this regard (refer Attachment 2).

Following discussions between DELWP and Council officers, on 16 February DELWP submitted a formal proposal to Council requesting Council support in implementing the above by surrendering the ROW to DELWP.

Key issues

Impact on local Community

With the proposal implemented, and the ROW closed during school hours, users will need to take a 270 metre detour via Cochrane Street and Montrose Avenue.

Council has no data on actual usage levels. The school principal estimates current use at between 0 and 5 users per day. The number was higher (2 to 12 users) before recent closure of the nearby New Street Housing Estate.

The school circulated a letter to nearby residents in 2020 advising of the potential change and seeking comment. Council received one enquiry as a result; one user was supportive of the change but insistent that the ROW remain open at all other times (outside school hours).

Council subsequently sought direct feedback from path users between 9 March and 6 April 2021 with signage placed at the ROW to advise users of the proposed change in access hours and Committee of Management. As at 6 April no feedback was received.

Impact of appointing DET as Committee of Management

DET, which has a more direct interest in the ROW's daily use, is a more logical Committee of management.

Council's involvement with the ROW has been to respond to occasional enquiries from the school or users. Council has not actively maintained the ROW, nor sought to influence its use or status other than to maintain the status quo. This last point is becoming increasingly difficult with new child safety legislation.

As a result, Officers support the proposal to surrender the control of the ROW to DELWP in order to appoint DET as Committee of Management. This is under the provision that the ROW is only closed to the public during school hours, and otherwise open at all other times.

Legal processes

In its current status as a local government road, the school is not permitted to close the right-of-way during school hours.

Whilst DELWP has the power to close a government road under the Land Act 1958, Council must consent to the closure on the basis that Council is the responsible local road authority.

Accordingly, DELWP proposes the following process be undertaken in conjunction with Council:

1. Bayside City Council formally declares the road / right-of-way to be unused and consent to its closure by execution of the following documents:
 - a. S.400 Unused Road Declaration
 - b. S.349 Consent to Road Closure.
2. DELWP then formally tables a provision under S.349 of the Land Act 1958 to remove the current road status from the right-of-way.
3. DELWP engages the Surveyor-General to survey the discontinued road to create a new parcel for the land.
4. DELWP reserves the land under the Crown Land (Reserves) Act 1978 for 'State School and Car Parking' purposes, in alignment with the adjoining Crown land.

5. DELWP appoints DET as the Committee of Management of the land, with the express requirement in the Certificate of Appointment that the land must be open for public access outside of school hours.
6. In the lead up to the Steps 4 and 5 above, EPS will erect suitable signage at either end of the current right-of-way for a 4-week period to advise users of the path of the impending closure during school hours. EPS will invite feedback from concerned residents and will liaise with DELWP in the event any strong objections are received. As Council has already undertaken engagement, Step 6 may not be required.

Recommendation

That Council:

1. formally surrenders the disused road (ROW) to the Department of Environment, Land, Water and Planning (DELWP) in order to appoint Department of Education (DET) as Committee of Management
2. consents to the road's closure by execution of the following documents:
 - a. S.400 Unused Road Declaration
 - b. S.349 Consent to Road Closure
3. approves these actions under the provision that the ROW is only closed to the public during school hours, and otherwise open at all times.

Support Attachments

1. Attachment 1 - Plan of Road Adjacent to CA2003 Prahran ↓
2. Attachment 2 - Elsternwick Primary School Letter to DELWP ↓

Considerations and implications of recommendation

Liveable community

Social

The school's increasing requests for more direct control of public access to schoolgrounds during school hours is consistent with the increasing requirements imposed by Victorian Child Safe Standards, compulsory minimum standards for all Victorian schools. Standard 6 requires *schools to develop strategies to identify and reduce or remove risks of child abuse*.

Natural Environment

The proposal would have no negative impact on the natural environment.

Climate Emergency

The proposal would have no negative impact in relation to the climate emergency.

Built Environment

There will be no impact on the built environment.

Customer Service and Community Engagement

No objections were received from the community regarding a change in hours of access. The community does support continued out of hours access.

Human Rights

The implications of the report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

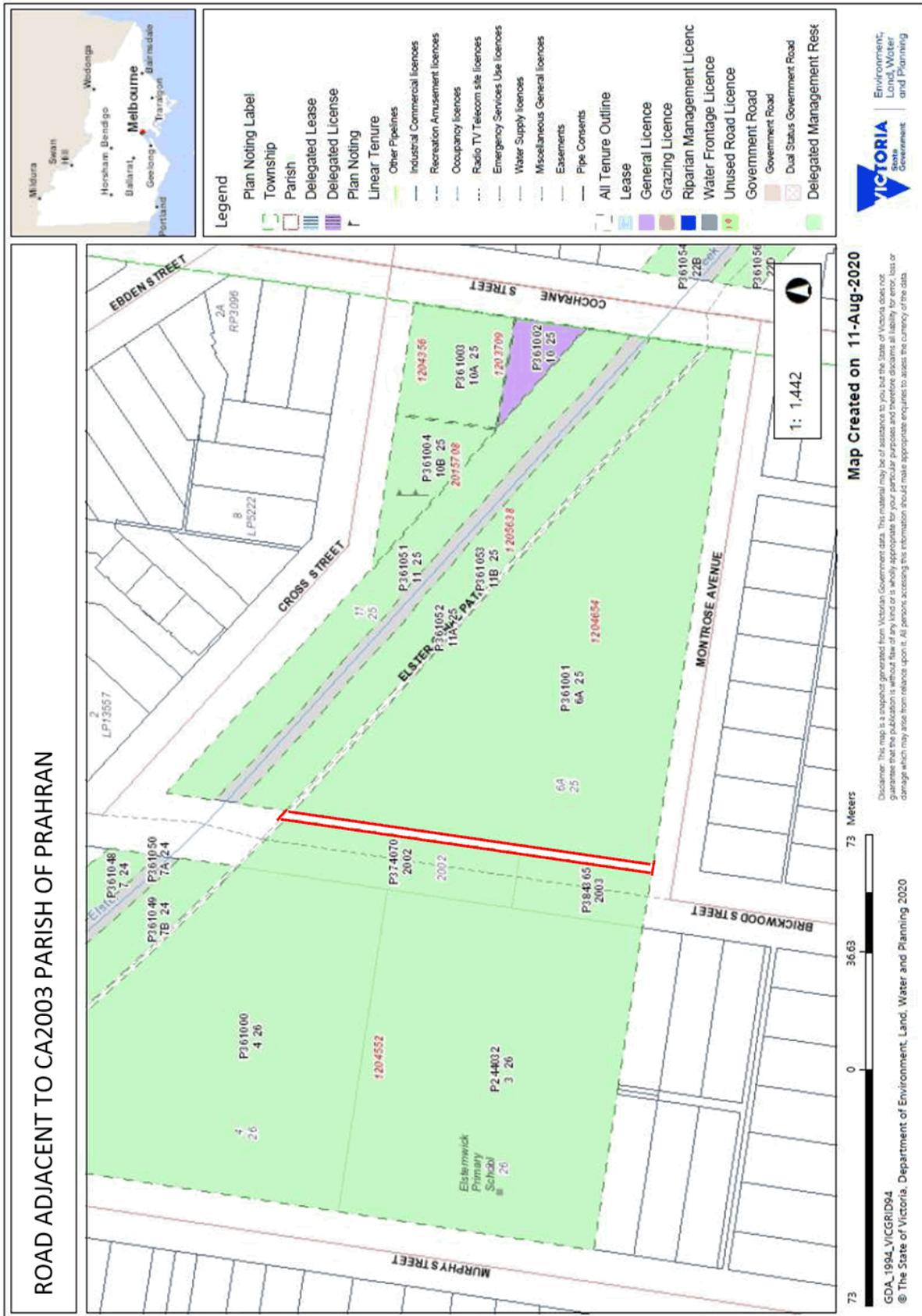
It is the position of EPS that public access through the school during school hours is in conflict with their duty of care to their students (i.e. Victorian Child Safe Standards).

Finance

Surrender of the former road to DELWP has no financial implications on Council. Council does not actively maintain the former road.

Links to Council policy and strategy

Not applicable to this report.





44 Murphy Street, Brighton VIC 3186
P: 03 8534 6100 F: 03 9596 2320
E: elsternwick.ps@edumail.vic.gov.au
W: www.elsternwick.vic.edu.au

29th January 2021

David Adeson
Program Manager | Land and Built Environment, Port Phillip
609 Burwood Hwy,
Knoxfield, VIC 3180

Dear David,

Elsternwick Primary School Council accepts that the discontinued road that runs across the site on which Elsternwick Primary School is situated, from the corner of Montrose Avenue and Brickwood Street and Elwood Canal, will continue to be open to the public outside of the school hours of 8.45am to 3.45pm as a condition of the proposed appointment of the Department of Education and Training as committee of management for afore mentioned discontinued road.

Regards,

Michael Portaro
School Principal

Gill Cashion
School Council President

OFFICIAL

10.7 PROPOSED CONSTRUCTION AND LEASE OF TELCOMMUNICATION SITE TO TELSTRA

Corporate Services - Commercial Services
File No: PSF/21/26 – Doc No: DOC/21/76241

Executive summary

Purpose and background

The report seeks Council resolution in accordance with Sections 190 and 223 of the *Local Government Act 1989* (Act) to enter into a new Lease Agreement (Lease) with Telstra Corporation Limited (Telstra) for the occupation of one new telecommunications site, being part of the Brighton Golf Course, situated at Dendy Street, Brighton.

The proposed Lease at the Brighton Golf Course is intended to provide for the construction and operation of one new Telstra telecommunications facility.

Telstra has advised that there is a requirement for this facility in order to provide coverage to an area of Bayside experiencing a transmission gap. Telstra has also advised that there is increased consumption and reliance upon telecommunication facilities, due to the impacts of COVID-19 and the increased number of people working from home. The proposal supports this need.

Telstra has signed a 'Heads of Agreement' with Council for the new Lease at the Brighton Golf Course and have agreed to a commencing rent that is consistent with the market. Attachment 1 provides full details of the Heads of Agreement.

Below is a summary of the commercial terms that have been accepted by Telstra for this site:

Brighton Golf Course- Dendy Street, Brighton

Commencement Date: 1 January 2021

Term: 10 years

Options for a further term: 1 further term of 10 years

Commencing Annual Rent: \$30,000 plus GST

Rental Escalation: Fixed 3% on the anniversary of the commencement date

Council, at its 16 February 2021 Ordinary Meeting, considered a report regarding this proposal and resolved:

That Council:

- 1. commences the statutory procedures under Sections 190 and 223 of the Local Government Act 1989, to enter into a new Lease with Telstra Corporation Limited in accordance with the Heads of Agreements provided in Attachment 1, for the occupation of one new site at the Brighton Golf Course*

2. *directs that under Section 190 and 223 of the Local Government Act 1989, public notice of the proposal to lease the new site described in Clause 1 above be given*
3. *authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to the new Lease proposed*
4. *establishes a Special Committee of Council and determines the membership of the Committee (with a minimum of three {3} councillors) to hear any submitters that wish to be heard*
5. *in the event that submission/s are received, convenes a Special Committee of Council meeting on Wednesday 7 April 2021 at 6:30pm, to be held at the Council Chamber, Boxshall Street, Brighton, or held remotely via electronic media, to hear any submitters that wish to be heard*
6. *receives a further report after the completion of the above statutory processes, in order for Council to consider and make a decision about whether to grant the Lease described in Clause.*

Public Notice was subsequently provided in accordance Section 223 of the *Local Government Act 1989* whereby one submission was received and has been discussed within the 'Submission' section of this report.

Key issues

Submission

Council received one submission in support of the proposal in support of the proposal and referencing the benefit of improving telecommunication services in this area.

Land Occupation

The Brighton Golf Course is currently leased to Leisure Management Services (LMS). Should Council agree to enter into the proposed lease with Telstra at this site, the land Telstra intends to occupy will need to be excised from the Lease to LMS. The process for this is expected to commence following Council's resolution, provided it is supportive of the proposal.

LMS have provided consent in writing to Council for the location of the proposed facility on this site as identified in Attachment 2, indirectly supporting this requirement. Officers have subsequently agreed to a 50/50 rent share with LMS, to compensate them for this.

Location

Officers have consulted with both representatives from Service Stream on behalf of Telstra, as well as Leisure Management Services (LMS) on behalf of the Brighton Golf Course regarding the location of the proposed facility.

Telstra and LMS have identified a suitable location within the Brighton Golf Course, adjacent to the public carpark to the east as identified in Attachment 2.

The proposed location is surrounded by 20 to 25 mature trees, which will assist to provide visual screening from the public. Council's Open Space team has confirmed that this is also their preferred location. Officers have advised Telstra that there must be no removal or disturbance of vegetation as a result of the new Lease. Council's Open Space team are supportive of the proposal location in principle, advising that it is their preferred area of installation.

In the view of both Telstra and Council officers, the proposed location will have the least impact on vegetation and the surrounding residential development, whilst still being able to provide coverage to the area experiencing a transmission gap. Attachment 3 provides a photomontage of what the Facility will look like upon completion from various angles.

Construction

The new lease will allow for the operation of a new telecommunication network facility and telecommunication service, located at the Brighton Golf Course.

All works associated with the construction, operation and maintenance of the Facility and its associated infrastructure will be required to be carried out by Telstra, at Telstra's expense, in line with the Council's provisions and corresponding local laws.

It will also be necessary for Telstra to obtain a planning permit from Council for the construction of the new Facility. A detailed investigation into the potential impact on any vegetation as a result of the construction of this Facility will be carried out during the assessment of the planning permit.

Conclusion

The commencement of the new lease to Telstra will provide for an all-in rent worth in excess of \$800,000 over the 20-year lease period, to be divided equally between Council and LMS.

Officers recognise the importance of telecommunication facilities in the Bayside Community, in order to provide essential telecommunication services. They therefore deem it appropriate to proceed with the proposal.

Recommendation

That Council:

1. authorises the Director of Corporate Services to obtain agreement with Leisure Management Services to excise the subject land from the current lease for the Brighton Golf Course and to then execute a new Lease to Telstra Corporation Limited for the Facility for the excised land at the Brighton Golf Course under the following key terms:

Tenant: Telstra Corporation Limited

Purpose: Construction, maintenance and operation of a telecommunications network and telecommunications service

Premises: Part of the Land at 214-254 Dendy Street, Brighton

Commencement Date: 1 January 2021

Term: 10 years

Further Term: One Further Term of Ten Years

Commencing Rent to be Shared equally with the Tenant of the Golf Course: \$30,000+GST per annum

Rent Escalation: An annual increase of 3% of the rent payable during the prior year

2. advises the party who lodged a submission in relation to the proposal of Council's decision.

Support Attachments

1. Attachment 1 - Heads of Agreement ↓
2. Attachment 2 - Proposed Location of Telstra Facility ↓
3. Attachment 3 - Photomontages of Proposed Telstra Facility ↓

Considerations and implications of proposition

Liveable community

The proposed location of the telecommunications facility has been determined with careful consideration given to the surrounding residential community and users of the Brighton Golf Course. The view of both Telstra and Council officers is that the proposed location has the least impact on these parties, whilst still being able to provide coverage to the area experiencing a transmission gap.

The facility is proposed to be constructed amongst 20-to-25-year-old mature trees, to assist in providing visual screening from the public.

The proposal will not have a detrimental impact on the local environment but rather it is expected to benefit an area in need of this facility, providing telecommunication network services as required. The proposal will also secure ongoing tenure for Telstra, leading to a greater investment in the infrastructure of this site.

Social

The proposed Facility will meet the telecommunication needs of the affected location and therefore expect that the proposal will benefit many individuals and businesses within the area, particularly in the context of increased home-based work arrangements.

Natural Environment

Officers have advised Telstra that there should not be any removal or disturbance of vegetation as a result of the new lease. Council's Open Space team are supportive of the proposal location in principle, advising that it is their preferred area of installation. A detailed investigation into the potential impact on any vegetation as a result of the construction of this facility will be carried out during the assessment of the planning permit.

Climate Change

There are no climate change implications associated with this report.

Built Environment

The proposed location of the facility is within an area of the Brighton Golf Course that is currently utilised for soil storage and the disposal of vegetation trimmings. The proposed location is adjacent to the public carpark, towards the east, as identified in Attachment 2.

Telstra has proposed to construct a separate gate entry from the car park allowing for access for servicing and maintenance the Facility. Officers will require Telstra to select a location for the vehicle crossing and construction method with the least impact on any existing vegetation, which will be assessed by all relevant Council officers during the planning permit application process.

Customer Service and Community Engagement

Council gave notice in the Age and on its website of its intention to enter into the new lease. Council received one submission in favour of the proposal which has been considered in this report.

Consultation has been undertaken with all relevant Council departments and external service authorities. No objections have been received from either internal or external service authorities.

Human Rights

There are no Human Rights issues or implications identified in relation to this report.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

In the instance where Council does not approve the Lease, Telstra may choose to utilise its powers under the *Telecommunications Act 1997*, which allows them to enter on land and install a facility, if that facility constitutes a low-impact facility, as authorised by the Telecommunications (Low-impact Facilities) Determination 2018.

Officers anticipate it is likely that Telstra would utilise its powers in that instance, which, in effect, may produce a similar outcome to what is currently proposed, only with a negative impact on Council from a financial perspective.

Finance

The proposed rent has been agreed following a market valuation conducted on behalf of Council. If Council approves the proposal, Council will generate in excess of \$800,000 over the 20-year Lease term, through leasing of this site, to be divided equally between Council and LMS.

Links to Council policy and strategy

The Council Plan contains three strategies that link to the property related matters as follows:

Goal 3 - A liveable City

3.2.1 Ensuring community assets and infrastructure meet current and expected needs.

Goal 7 - Financial Responsibility and Good Governance

7.1.1 Developing alternative income sources to take pressure off rate increases and improve long term financial viability

7.1.3 Maximising community utilisation of Council assets to improve financial and/or social return.

The Long-Term Financial Plan and Strategic Resource Plan

Identified the development of a Property Strategy as a key guide to drive better community value from Council's property assets.

23 July 2020

Mike Packett
National Transaction Manager – Telstra Corporation Limited
242 Exhibition Street
MELBOURNE VIC 3000

By email: mike.packett@team.telstra.com

Dear Mike,



76 Royal Avenue, Sandringham
PO Box 27 Sandringham VIC 3191
T (03) 9599 4444
F (03) 9598 4474
enquiries@bayside.vic.gov.au
www.bayside.vic.gov.au

HEADS OF AGREEMENT

Premises at: 214-254 Dendy Street, Brighton (a.k.a Brighton Golf Course)

Proposed Lease: Bayside City Council ("**Council**") to Telstra Corporation Limited ("**Tenant**")

Council proposes the following Heads of Agreement for Lease for your review and approval.

This Heads of Agreement and the Lease are subject to and conditional upon:

1. **Approved internally by Council departments as part of an internal consultation process.**
2. **Approval by Council (it being acknowledged that these Heads of Agreement have been prepared by a Council officer, and formal Council approval is required);**
3. **Telstra acknowledging that this site is speculative and requires a planning permit which will include extensive consultation with the community.**
4. **Council, as landlord, giving notice of its intention to grant the lease pursuant to section 190 of the *Local Government Act 1989* and resolving to enter into the lease pursuant to section 223 of that Act;**

It is the intention of the parties that, upon the tenant's acceptance of the terms set out in this Heads of Agreement, the tenant will be legally bound and the terms of this Heads of Agreement will amount to an enforceable agreement between the parties, subject only to the approvals and conditions referred to above.

1 Landlord

Bayside City Council of 76 Royal Avenue, Sandringham Victoria 3191

2 Tenant

Telstra Corporation Limited. of 242 Exhibition Street, Melbourne VIC 3000

3 Premises

Part of the land being 214-254 Dendy Street, Brighton (a.k.a Brighton Golf Course) with the location to be determined by mutual agreement and identified in the Lease Agreement

- 4 Term**
10 years
- 5 Commencement Date**
1 January 2021
- 6 Option/s for Further Term/s**
One (1) further term of ten (10) years
- 7 Commencing Annual Rent**
\$30,000 + GST
- 8 Rent Commencement Date**
As per Clause 5 of this agreement.
- 9 Rent Review**
On each anniversary of the Commencement Date during the term and any further term (including the commencement date of any further term) rent shall be increased by 3% of the rent payable during the immediately prior year
- 10 Outgoings, Services, Rates and Taxes**
The rent is net of outgoings, which are to be paid by the tenant on a proportional basis in accordance with the terms specified in Council's standard lease.

The tenant will pay electricity, gas and water costs for services connected to the Premises.
- 11 Permitted Use**
Construction, maintenance and operation of a telecommunications network and telecommunications service.
- 12 Make Good**
At the end of the lease, the tenant is required to vacate the Premises leaving them clean, in good repair, and in the condition required by the Lease.
- 13 Landlord's Works**
Nil

14 Tenant's Works

Any Tenant works must be carried out in accordance with the terms of the Lease and all Laws and Requirements.

Plans for any proposed works must be submitted to Council for its approval.

15 Lease Documentation

15.1 The Lease to be entered into by the parties will be in the form of Council's standard form of Lease amended to reflect the terms set out in these Heads of Agreement.

15.2 The Lease documentation is to be prepared by Council or Council's lawyers.

15.3 In the event of any inconsistency between the terms of these Heads of Agreement and the formal Lease, the formal Lease document/s shall prevail.

16 Legal Costs

Telstra to reimburse Council \$1,500 upon lease commencement.

17 Lease Plan

Telstra to prepare and present a new lease plan to Council for approval.

Please confirm the tenant's agreement to the terms set out in these Heads of Agreement by signing the enclosed copy, and returning it to Nicholas Beck, Property Coordinator, Bayside City Council.

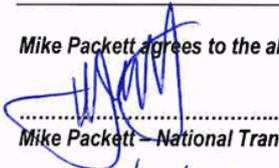
If you have any questions or would like to discuss the contents of this agreement, please contact me direct by telephone (03) 9599 4441 or email: Nbeck@bayside.vic.gov.au.

Regards,



Nicholas Beck
Property Coordinator
Bayside City Council

Mike Packett agrees to the above terms and conditions.



.....
Mike Packett – National Transaction Manager – Telstra Corporation Limited

24/7/20
.....
Date

Attachment 2



**Proposed Construction and Lease of One Site to Telstra
Brighton Golf Course**



Location of Proposed Telecommunications Facility

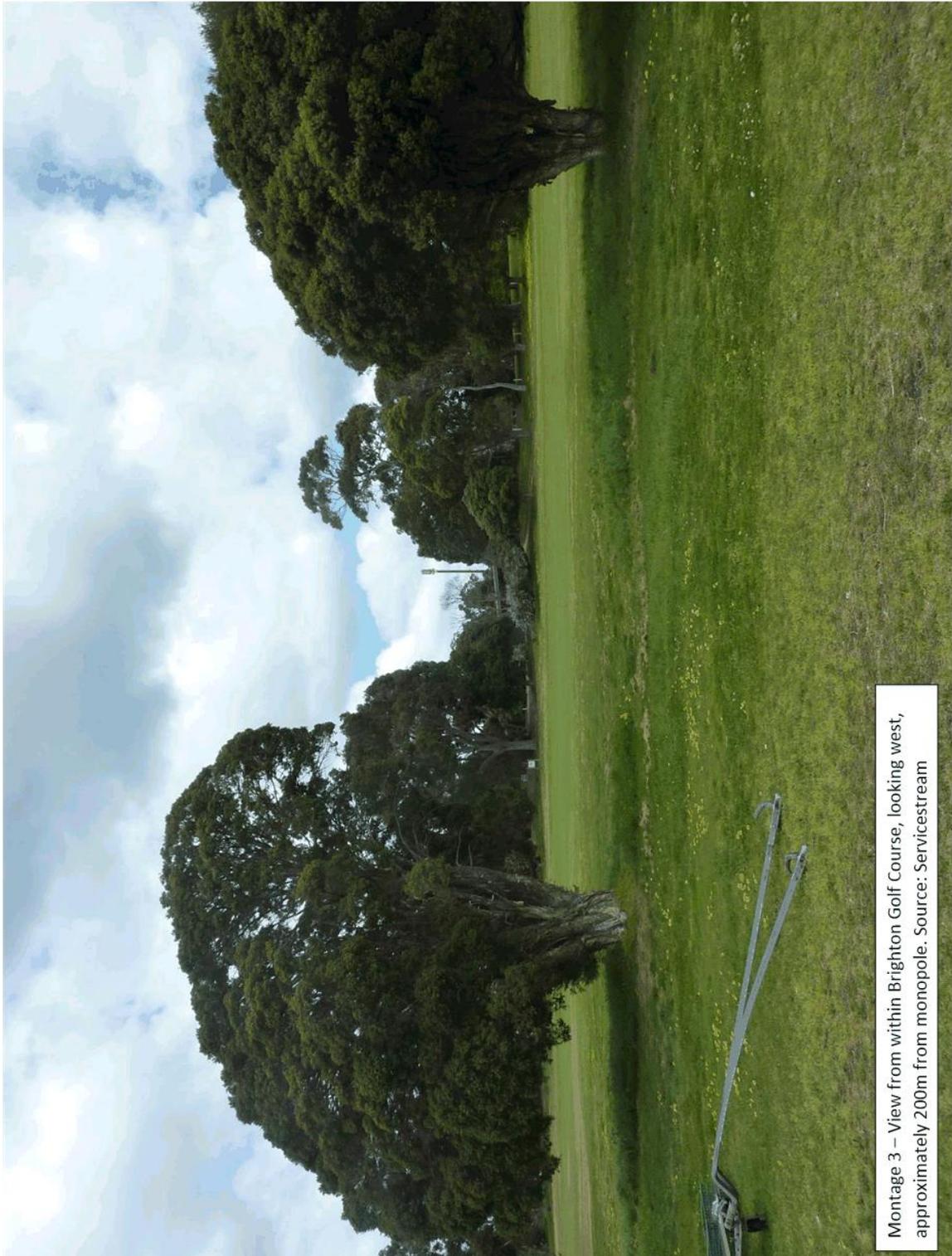




Montage 1 – View from Brighton Golf Course carpark entry at Dendy Street, looking south west. Source: Servicestream 9/11/20



Montage 2 – View from Brighton Golf Course carpark, looking north west. Source: Servicestream 9/11/20



Montage 3 – View from within Brighton Golf Course, looking west, approximately 200m from monopole. Source: Servicestream

10.8 PROPOSED RENEWAL OF LEASES OF 3 TELECOMMUNICATION SITES TO TELSTRA

Corporate Services - Commercial Services
File No: PSF/21/26 – Doc No: DOC/21/76246

Executive summary

Purpose and background

The report seeks a Council resolution in accordance with Sections 190 and 223 of the *Local Government Act 1989* (Act) to enter into 3 new Lease Agreements (Leases) with Telstra Corporation Limited (Telstra) for the occupation of 3 separate sites, being part of the Brighton Beach Oval, Sandringham Golf Course and Balcombe Park.

The 3 Lease Agreements will cater for the renewal of 3 existing telecommunications leases at the Brighton Beach Oval, Sandringham Golf Course and Balcombe Park.

The existing Leases with Telstra at the abovementioned sites have expired but continue to permit occupation via an overholding clause.

Telstra has signed a 'Heads of Agreement' with Council for all 3 sites and have agreed to commencing rents that are consistent with the market. Attachment 1 provides full details of each Heads of Agreement.

Below is a summary of the commercial terms that have been accepted by Telstra for each site:

Brighton Beach Oval - Mair Street, Brighton

Commencement Date: 1 January 2021

Term: 10 years

Options for a further term: 1 further term of 10 years

Commencing Annual Rent: \$19,000 plus GST

Rental Escalation: Fixed 3% on the anniversary of the commencement date

Sandringham Golf Course - Cheltenham Road, Cheltenham

Commencement Date: 1 January 2021

Term: 10 years

Options for a further term: 1 further term of 10 years

Commencing Annual Rent: \$19,000 plus GST

Rental Escalation: Fixed 3% on the anniversary of the commencement date

Balcombe Park - Balcombe Road, Beaumaris

Commencement Date: 1 January 2021

Term: 10 years

Options for a further term: 1 further term of 10 years

Commencing Annual Rent: \$28,000 plus GST

Rental Escalation: Fixed 3% on the anniversary of the commencement date

Council, at its 16 February 2021 Ordinary Meeting of Council, considered a report regarding this proposal and resolved:

That Council:

- 1. commences the statutory procedures under Sections 190 and 223 of the Local Government Act 1989, to enter into 3 new Leases with Telstra Corporation Limited in accordance with the Heads of Agreements provided in Attachment 1, for the occupation of 3 separate sites, being part of the Brighton Beach Oval, Sandringham Golf Course, and Balcombe Park*
- 2. directs that under Section 190 and 223 of the Local Government Act 1989, public notice of the proposals to lease the 3 separate sites described in Clause 1 above be given*
- 3. authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to each of the 3 Leases proposed*
- 4. establishes a Special Committee of Council and determines the membership of the Committee (with a minimum of three {3} councillors) to hear any submitters that wish to be heard*
- 5. in the event that submission/s are received, convenes a Special Committee of Council meeting on Wednesday 7 April 2021 at 6:00pm, to be held at the Council Chamber, Boxshall Street, Brighton, or held remotely via electronic media, to hear any submitters that wish to be heard*
- 6. receives a further report after the completion of the above statutory processes, in order for Council to consider and make a decision about whether to grant the Leases described in Clause 1.*

Public Notice was provided in accordance Section 223 of the *Local Government Act 1989* and no submissions were received in relation to the proposal.

Key issues**Existing Telecommunications Towers**

Each of the 3 sites contain existing telecommunication network facilities and associated infrastructure. No additions or alterations to those facilities or the associated infrastructure have been proposed under the new Leases.

Objections to the Proposal

Public Notice was provided in accordance Section 223 of the *Local Government Act 1989* whereby no submissions were received.

Conclusion

The commencement of the 3 new leases to Telstra will provide for an all-in rent worth in excess of \$1.77m over the 20-year lease period.

Officers recognise the importance of telecommunication network facilities in the municipality to provide the required telecommunication services for the community.

Recommendation

That Council:

1. in accordance with Sections 190 and 223 of the Local Government Act 1989, authorises the Director of Corporate Services to execute 3 new Leases with Telstra Corporation Limited in accordance with the Heads of Agreements provided in Attachment 1, for the occupation of 3 separate sites, being part of the Brighton Beach Oval, Sandringham Golf Course, and Balcombe Park, under the following terms:

Site: Brighton Beach Oval

Tenant: Telstra Corporation Limited

Purpose: Construction, maintenance and operation of a telecommunications network and telecommunications service

Premises: Part of the Land at Brighton Beach Oval – Mair Street, Brighton

Commencement Date: 1 January 2021

Term: 10 years

Further Term: One Further Term of Ten Years

Commencing Annual Rent: \$19,000 plus GST

Rent Escalation: An annual increase of 3% of the rent payable during the prior year

Site: Sandringham Golf Course

Tenant: Telstra Corporation Limited

Purpose: Construction, maintenance and operation of a telecommunications network and telecommunications service

Premises: Part of the Land at Sandringham Municipal Golf Links- Cheltenham Road, Cheltenham

Commencement Date: 1 January 2021

Term: 10 years

Further Term: One Further Term of Ten Years

Commencing Annual Rent: \$19,000 plus GST

Rent Escalation: An annual increase of 3% of the rent payable during the prior year

Site: Balcombe Park

Tenant: Telstra Corporation Limited

Purpose: Construction, maintenance and operation of a telecommunications network and telecommunications service

Premises: Part of the Land at Balcombe Park – Balcombe Road, Beaumaris

Commencement Date: 1 January 2021

Term: 10 years

Further Term: One Further Term of Ten Years

Commencing Annual Rent: \$28,000 plus GST

Rent Escalation: An annual increase of 3% of the rent payable during the prior year.

Support Attachments

1. Attachment 1 - Heads of Agreement for 3 New Leases to Telstra ↓

Considerations and implications of proposition

Liveable community

The proposal will not have an unreasonable impact upon the amenity of the Bayside Community as each site has already been construction and legally exists. To the best of Council's knowledge, none of these sites have created any issues to date.

The proposal will continue to benefit the area by providing important telecommunication network services. The proposal will also secure ongoing tenure for Telstra, leading to a greater investment in the infrastructure of each site.

Social

Providing security for ongoing telecommunication network facilities is anticipated to benefit many individuals and businesses within the area.

Natural Environment

There will be no removal or disturbance of vegetation as a result of the new Leases.

Climate Change

There are no climate change implications associated with this report.

Built Environment

The current installation of each telecommunication network facility at its relevant site is outlined as follows:

Brighton Beach Oval

This facility comprises an equipment shelter only with antennas attached to an adjoining tower. The facility occupies approximately 33 sqm. of part of the land identified as the Brighton Beach Oval situated at Mair Street, Brighton.

Sandringham Golf Course

This facility comprises an equipment cabinet only with antennas attached to the adjoining Axicom lattice tower. The facility occupies part of the property known as Sandringham Municipal Golf Links, Cheltenham Road, Cheltenham.

Balcombe Park

This facility comprises an equipment shelter and a monopole and occupies part of the land described in Certificate of Title Volume 5878 Folio 558, identified as Balcombe Park Reserve.

Telstra have received Council approval for the construction, maintenance and operation of each telecommunication network facility and telecommunication service at each site. The location of each facility remains appropriate for Telstra's current and ongoing use, in order to fulfil its purpose.

Customer Service and Community Engagement

Council gave notice in the Age and on its website of its intention to enter into the 3 new Leases. Council did not receive any submissions in relation to the proposal.

Consultation has been undertaken with all relevant Council departments and external service authorities. No objections have been received from internal or external service authorities.

Human Rights

There are no human rights issues or implications identified in relation to this report.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

In the instance where Council does not approve the Leases, it will need to advise Telstra that vacant possession is required.

The risk of such a decision may lead to Telstra utilising its powers under the *Telecommunications Act 1997*, which allows them to enter on land and install a facility, if that facility constitutes a low-impact facility, as authorised by the Telecommunications (Low-impact Facilities) Determination 2018.

It is likely that Telstra would utilise its powers in that instance, which, in effect, may produce a similar outcome to what is currently in place, only with a negative impact on Council from a financial perspective.

Finance

The rents have been agreed following market valuations conducted on behalf of Council. If Council approves the proposal, Council will generate in excess of \$1.77m over the 20-year Lease term, through leasing of all 3 sites.

Links to Council policy and strategy

The Council Plan contains three strategies that link to the property related matters as follows:

Goal 3 - A liveable City

3.2.1 Ensuring community assets and infrastructure meet current and expected needs.

Goal 7 - Financial Responsibility and Good Governance

7.1.1 Developing alternative income sources to take pressure off rate increases and improve long term financial viability

7.1.3 Maximising community utilisation of Council assets to improve financial and/or social return.

The Long-Term Financial Plan and Strategic Resource Plan

Identified the development of a Property Strategy as a key guide to drive better community value from Council's property assets.

23 July 2020



76 Royal Avenue, Sandringham
PO Box 27 Sandringham VIC 3191
T (03) 9599 4444
F (03) 9598 4474
enquiries@bayside.vic.gov.au
www.bayside.vic.gov.au

Mike Packett
National Transaction Manager – Telstra Corporation Limited
242 Exhibition Street
MELBOURNE VIC 3000

By email: mike.packett@team.telstra.com

Dear Mike,

HEADS OF AGREEMENT

Premises at: Balcombe Road, Beaumaris – JDE 30731600 (a.k.a Balcombe Park)
Proposed Lease: Bayside City Council ("**Council**") to Telstra Corporation Limited ("**Tenant**")

Council proposes the following Heads of Agreement for Lease for your review and approval.

This Heads of Agreement and the Lease are subject to and conditional upon:

- 1. Approval by Council (it being acknowledged that these Heads of Agreement have been prepared by a Council officer, and formal Council approval is required);**
- 2. Council, as landlord, giving notice of its intention to grant the lease pursuant to section 190 of the Local Government Act 1989 and resolving to enter into the lease pursuant to section 223 of that Act;**

It is the intention of the parties that, upon the tenant's acceptance of the terms set out in this Heads of Agreement, the tenant will be legally bound and the terms of this Heads of Agreement will amount to an enforceable agreement between the parties, subject only to the approvals and conditions referred to above.

1 Landlord

Bayside City Council of 76 Royal Avenue, Sandringham Victoria 3191

2 Tenant

Telstra Corporation Limited. of 242 Exhibition Street, Melbourne VIC 3000

3 Premises

The portion of the land hatched black in the attached plan

- 4 Term**
10 years
- 5 Commencement Date**
1 January 2021
- 6 Option/s for Further Term/s**
One (1) further term of ten (10) years
- 7 Commencing Annual Rent**
\$28,000 + GST
- 8 Rent Commencement Date**
As per Clause 5 of this agreement.
- 9 Rent Review**
On each anniversary of the Commencement Date during the term and any further term (including the commencement date of any further term) rent shall be increased by 3% of the rent payable during the immediately prior year
- 10 Outgoings, Services, Rates and Taxes**
The rent is net of outgoings, which are to be paid by the tenant on a proportional basis in accordance with the terms specified in Council's standard lease.
The tenant will pay electricity, gas and water costs for services connected to the Premises.
- 11 Permitted Use**
Construction, maintenance and operation of a telecommunications network and telecommunications service.
- 12 Make Good**
At the end of the lease, the tenant is required to vacate the Premises leaving them clean, in good repair, and in the condition required by the Lease.
- 13 Landlord's Works**
Nil
- 14 Tenant's Works**
Any Tenant works must be carried out in accordance with the terms of the Lease and all Laws and Requirements.
Plans for any proposed works must be submitted to Council for its approval.

15 Lease Documentation

- 15.1 The Lease to be entered into by the parties will be in the form of Council's standard form of Lease amended to reflect the terms set out in these Heads of Agreement.
- 15.2 The Lease documentation is to be prepared by Council or Council's lawyers.
- 15.3 In the event of any inconsistency between the terms of these Heads of Agreement and the formal Lease, the formal Lease document/s shall prevail.

16 Legal Costs

Telstra to reimburse Council \$1,500 upon lease commencement.

17 Grievance Payment

Telstra to provide a one-off payment of \$5,000 upon lease commencement.

18 Lease Plan

Telstra to prepare and present a new lease plan to Council for approval.

Please confirm the tenant's agreement to the terms set out in these Heads of Agreement by signing the enclosed copy, and returning it to Nicholas Beck, Property Coordinator, Bayside City Council.

If you have any questions or would like to discuss the contents of this agreement, please contact me direct by telephone (03) 9599 4441 or email: Nbeck@bayside.vic.gov.au.

Regards,



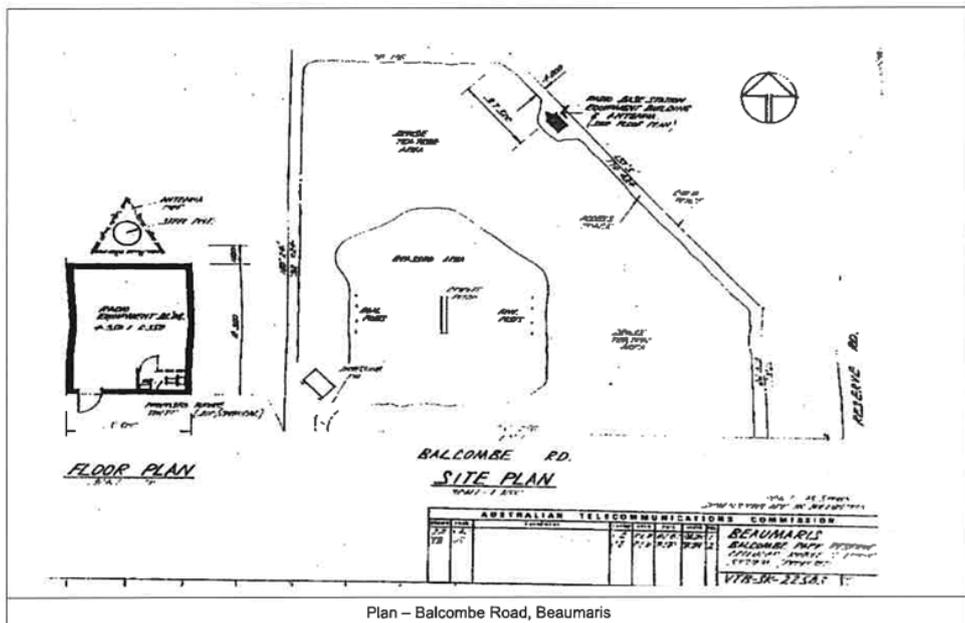
Nicholas Beck
Property Coordinator
Bayside City Council

Mike Packett agrees to the above terms and conditions.

.....
Mike Packett - National Transaction Manager - Telstra Corporation Limited

.....
24/7/20
Date

Enc. Plan – Balcombe Road, Beaumaris – JDE 30731600 (a.k.a Balcombe Park)



Plan – Balcombe Road, Beaumaris

23 July 2020

Mike Packett
National Transaction Manager – Telstra Corporation Limited
242 Exhibition Street
MELBOURNE VIC 3000

By email: mike.packett@team.telstra.com

Dear Mike,

HEADS OF AGREEMENT

Premises at: Brighton Beach CMTS – JDE 31480900 (a.k.a Brighton Beach Oval)
Proposed Lease: Bayside City Council ("**Council**") to Telstra Corporation Limited ("**Tenant**")

Council proposes the following Heads of Agreement for Lease for your review and approval.

This Heads of Agreement and the Lease are subject to and conditional upon:

1. **Approval by Council (it being acknowledged that these Heads of Agreement have been prepared by a Council officer, and formal Council approval is required);**
2. **Council, as landlord, giving notice of its intention to grant the lease pursuant to section 190 of the *Local Government Act 1989* and resolving to enter into the lease pursuant to section 223 of that Act;**

It is the intention of the parties that, upon the tenant's acceptance of the terms set out in this Heads of Agreement, the tenant will be legally bound and the terms of this Heads of Agreement will amount to an enforceable agreement between the parties, subject only to the approvals and conditions referred to above.

1 Landlord

Bayside City Council of 76 Royal Avenue, Sandringham Victoria 3191

2 Tenant

Telstra Corporation Limited, of 242 Exhibition Street, Melbourne VIC 3000

3 Premises

An area of approximately 33 sq.m. being the surface of the land identified in the attached Site and Locality Plan



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- 4 Term**
10 years
- 5 Commencement Date**
1 January 2021
- 6 Option/s for Further Term/s**
One (1) further term of ten (10) years
- 7 Commencing Annual Rent**
\$19,000 + GST
- 8 Rent Commencement Date**
As per Clause 5 of this agreement.
- 9 Rent Review**
On each anniversary of the Commencement Date during the term and any further term (including the commencement date of any further term) rent shall be increased by 3% of the rent payable during the immediately prior year
- 10 Outgoings, Services, Rates and Taxes**
The rent is net of outgoings, which are to be paid by the tenant on a proportional basis in accordance with the terms specified in Council's standard lease.
The tenant will pay electricity, gas and water costs for services connected to the Premises.
- 11 Permitted Use**
Construction, maintenance and operation of a telecommunications base station as part of a telecommunications network and service and associated activities.
- 12 Make Good**
At the end of the lease, the tenant is required to vacate the Premises leaving them clean, in good repair, and in the condition required by the Lease.
- 13 Landlord's Works**
Nil
- 14 Tenant's Works**
Any Tenant works must be carried out in accordance with the terms of the Lease and all Laws and Requirements.
Plans for any proposed works must be submitted to Council for its approval.

15 Lease Documentation

- 15.1 The Lease to be entered into by the parties will be in the form of Council's standard form of Lease amended to reflect the terms set out in these Heads of Agreement.
- 15.2 The Lease documentation is to be prepared by Council or Council's lawyers.
- 15.3 In the event of any inconsistency between the terms of these Heads of Agreement and the formal Lease, the formal Lease document/s shall prevail.

16 Legal Costs

Telstra to reimburse Council \$1,500 upon lease commencement.

17 Lease Plan

Telstra to prepare and present a new lease plan to Council for approval.

Please confirm the tenant's agreement to the terms set out in these Heads of Agreement by signing the enclosed copy, and returning it to Nicholas Beck, Property Coordinator, Bayside City Council.

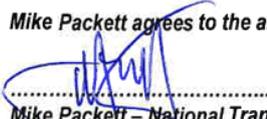
If you have any questions or would like to discuss the contents of this agreement, please contact me direct by telephone (03) 9599 4441 or email: Nbeck@bayside.vic.gov.au.

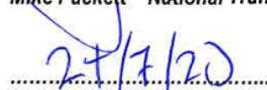
Regards,



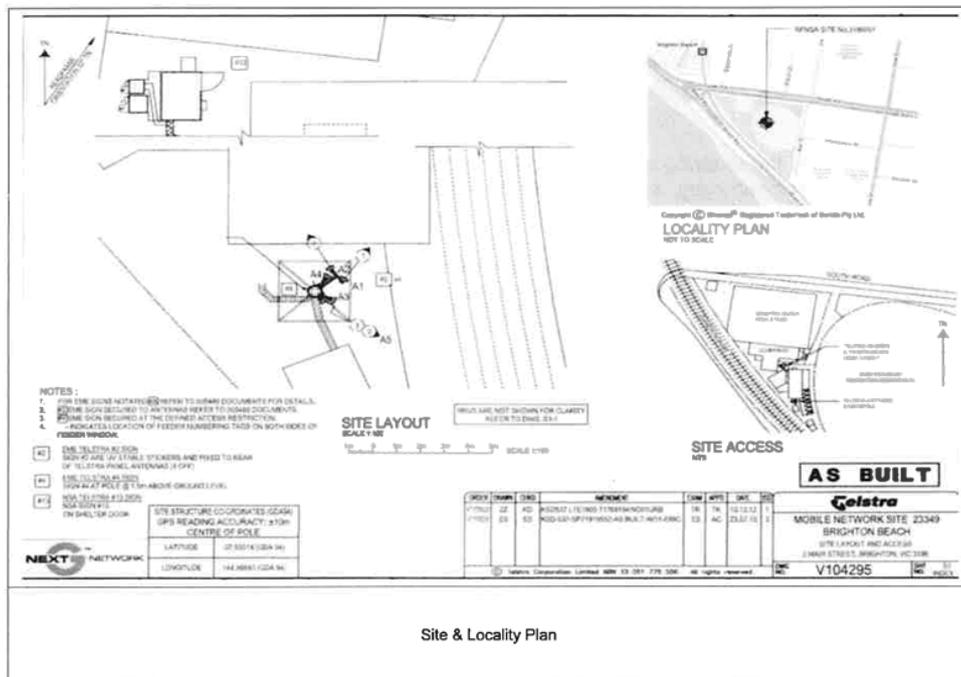
Nicholas Beck
Property Coordinator
Bayside City Council

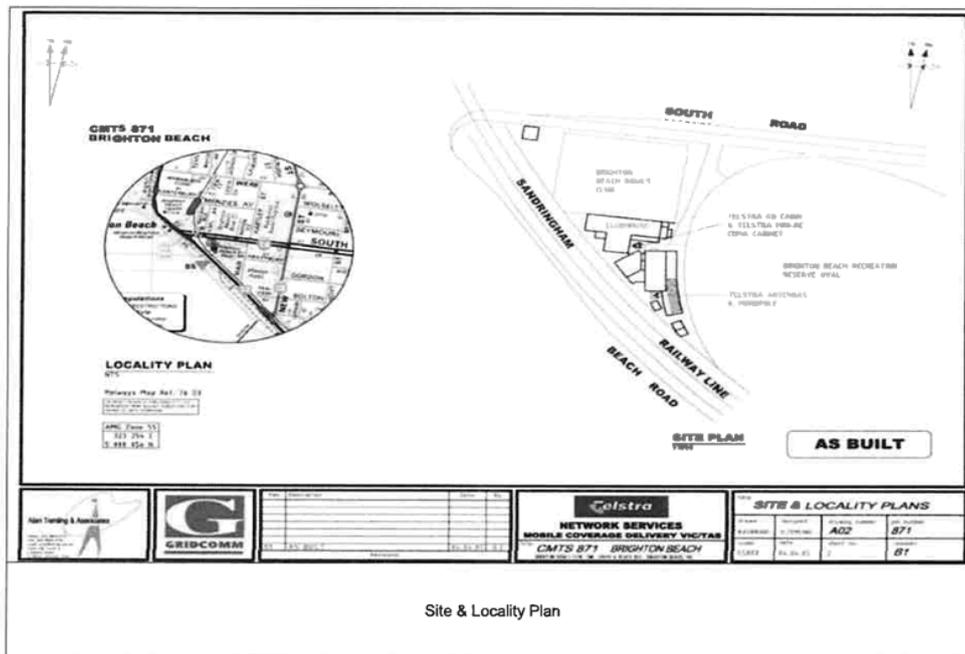
Mike Packett agrees to the above terms and conditions.


.....
Mike Packett – National Transaction Manager – Telstra Corporation Limited


.....
Date

Enc. Site & Locality Plan – Brighton Beach Oval, 2 Mair Street, Brighton





Site & Locality Plan

23 July 2020

Mike Packett
National Transaction Manager – Telstra Corporation Limited
242 Exhibition Street
MELBOURNE VIC 3000

By email: mike.packett@team.telstra.com

Dear Mike,



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HEADS OF AGREEMENT

Premises at: Cheltenham Road, Cheltenham – JDE 31542800 (a.k.a Sandringham Golf Course)

Proposed Lease: Bayside City Council ("**Council**") to Telstra Corporation Limited ("**Tenant**")

Council proposes the following Heads of Agreement for Lease for your review and approval.

This Heads of Agreement and the Lease are subject to and conditional upon:

1. **Approval by Council (it being acknowledged that these Heads of Agreement have been prepared by a Council officer, and formal Council approval is required);**
2. **Council, as landlord, giving notice of its intention to grant the lease pursuant to section 190 of the *Local Government Act 1989* and resolving to enter into the lease pursuant to section 223 of that Act;**

It is the intention of the parties that, upon the tenant's acceptance of the terms set out in this Heads of Agreement, the tenant will be legally bound and the terms of this Heads of Agreement will amount to an enforceable agreement between the parties, subject only to the approvals and conditions referred to above.

1 Landlord

Bayside City Council of 76 Royal Avenue, Sandringham Victoria 3191

2 Tenant

Telstra Corporation Limited. of 242 Exhibition Street, Melbourne VIC 3000

3 Premises

The area coloured solid black on the attached Site Plan being part of the property known as Sandringham Municipal Golf Links, Cheltenham Road, Cheltenham

- 4 Term**
10 years
- 5 Commencement Date**
1 January 2021
- 6 Option/s for Further Term/s**
One (1) further term of ten (10) years
- 7 Commencing Annual Rent**
\$19,000 + GST
- 8 Rent Commencement Date**
As per Clause 5 of this agreement.
- 9 Rent Review**
On each anniversary of the Commencement Date during the term and any further term (including the commencement date of any further term) rent shall be increased by 3% of the rent payable during the immediately prior year
- 10 Outgoings, Services, Rates and Taxes**
The rent is net of outgoings, which are to be paid by the tenant on a proportional basis in accordance with the terms specified in Council's standard lease.
The tenant will pay electricity, gas and water costs for services connected to the Premises.
- 11 Permitted Use**
Construction, maintenance and operation of a telecommunications network and telecommunications service.
- 12 Make Good**
At the end of the lease, the tenant is required to vacate the Premises leaving them clean, in good repair, and in the condition required by the Lease.
- 13 Landlord's Works**
Nil
- 14 Tenant's Works**
Any Tenant works must be carried out in accordance with the terms of the Lease and all Laws and Requirements.
Plans for any proposed works must be submitted to Council for its approval.

15 Lease Documentation

- 15.1 The Lease to be entered into by the parties will be in the form of Council's standard form of Lease amended to reflect the terms set out in these Heads of Agreement.
- 15.2 The Lease documentation is to be prepared by Council or Council's lawyers.
- 15.3 In the event of any inconsistency between the terms of these Heads of Agreement and the formal Lease, the formal Lease document/s shall prevail.

16 Legal Costs

Telstra to reimburse Council \$1,500 upon lease commencement.

17 Lease Plan

Telstra to prepare and present a new lease plan to Council for approval.

Please confirm the tenant's agreement to the terms set out in these Heads of Agreement by signing the enclosed copy, and returning it to Nicholas Beck, Property Coordinator, Bayside City Council.

If you have any questions or would like to discuss the contents of this agreement, please contact me direct by telephone (03) 9599 4441 or email: Nbeck@bayside.vic.gov.au.

Regards,



Nicholas Beck
Property Coordinator
Bayside City Council

Mike Packett agrees to the above terms and conditions.

.....
Mike Packett – National Transaction Manager – Telstra Corporation Limited

.....
24/7/20
Date

Enc. Site Plan – Cheltenham Road, Cheltenham – JDE 31542800 (a.k.a Sandringham Golf Course)

10.9 PROPOSED DISCONTINUANCE AND SALE OF ROAD ADJOINING 2 ALLEE STREET AND 34 & 36 MIDDLE CRESCENT, BRIGHTON

Corporate Services - Commercial Services
File No: PSF/21/26 – Doc No: DOC/21/76258

Executive summary

Purpose and background

This report seeks a resolution in accordance with section 206 and Clause 3, Schedule 10 of the *Local Government Act 1989* (Act) to discontinue the road adjoining 2 Allee Street, Brighton outlined in red in Attachment 1 (subject road), and to sell the subject road to the adjoining owner of 2 Allee Street, Brighton via private treaty for \$54,000 plus GST.

The subject road has been enclosed within the property boundary of 2 Allee Street for more than 15 years. No adjoining owners use the land for vehicle or pedestrian access.

The subject road is identified as a Road on Land Plan 2699 (refer Attachment 1), contained within Certificate of Title Volume 1637 Folio 389. The subject road is identified as part of Melville Lane, which is currently listed on Bayside's Register of Public Roads.

Officers commenced discussions with the owner of 2 Allee Street, Brighton in August 2020 regarding the proposal. The owner of 2 Allee Street has acknowledged the unlawful occupation of the subject road and has agreed to purchase the land.

Council, at its 16 February 2021 Ordinary Meeting of Council, considered a report regarding this proposal and resolved:

That Council:

- 1. commences the statutory procedures in accordance with the Local Government Act 1989, to discontinue the subject road adjoining 2 Allee Street and 34 & 36 Middle Crescent, Brighton outlined in red in Attachment 1, and sell the subject road to the adjoining owner of 2 Allee Street, Brighton for \$54,000 plus GST*
- 2. gives public notice outlining the proposal in accordance with Section 223 of the Local Government Act 1989*
- 3. establishes a Special Committee of Council and determines the membership of the Committee (with a minimum of three {3} councillors) to hear any submitters that wish to be heard*
- 4. in the event that submission/s are received, convenes a Section 223 Special Committee of Council meeting on Tuesday 6 April 2021 at 6pm to be held at the Council Chamber, Boxshall Street, Brighton, or held remotely via electronic media, to hear any submitters that wish to be heard*
- 5. following the consideration of any submissions, receives a further report at an Ordinary Meeting of Council.*

Public Notice was provided in accordance Section 223 of the *Local Government Act 1989* and no submissions were received.

Key issues

Access

The subject road was previously utilised to access the rear of 2 Allee Street and 34 & 36 Middle Crescent, Brighton.

The subject road has been enclosed within the boundary of 2 Allee Street for more than 15 years. Consequently, no adjoining owners utilise the subject road.

Easements

The subject road contains an underground easement in favour of South East Water for sewerage purposes. If the subject road was to be sold and discontinued, easements rights will be retained on title in favour of South East Water for sewerage purposes.

If any other assets are identified in the subject land and are required, such easements will be retained on title in favour of the asset authority.

Objections to the Proposal

Public Notice was provided in accordance Section 223 of the *Local Government Act 1989* whereby no submissions were received.

Conclusion

Officers consider that the subject road is no longer reasonably required for public use and therefore deem it appropriate to proceed with the proposal to discontinue and sell the subject road to the adjoining owner of 2 Allee Street, Brighton for \$54,000 plus GST.

The owner of 2 Allee Street, Brighton has signed a conditional 'Cost Agreement' to purchase the subject road.

Recommendation

That Council:

1. in accordance with the Local Government Act 1989, resolves to discontinue the subject road adjoining 2 Allee Street and 34 & 36 Middle Crescent, Brighton outlined in red in Attachment 1, and sell the subject road to the adjoining owner of 2 Allee Street, Brighton for \$54,000 plus GST
2. authorises the Director Corporate Services to undertake the necessary procedural steps to sell the subject land to the adjoining owner of 2 Allee Street, Brighton by way of private treaty
3. retains all easements on title as required, in favour of the appropriate authorities
4. directs a public notice be published in the Victoria Government Gazette.

Support Attachments

1. Attachment 1 - Subject Road Proposed to be Discontinued and Sold ↓

Considerations and implications of recommendation

Liveable community

Social

The discontinuance and sale of the subject road will remove the need for Council to maintain land that may no longer be required and to assist in delivering social needs.

Natural Environment

There are no impacts associated with this report.

Climate Change

There are no climate change implications associated with this report.

Built Environment

The subject land contains an underground easement in favour of South East Water for sewerage purposes. If the subject road was to be sold, easements rights will be retained on title in favour of South East Water for sewerage purposes.

If any other assets are identified in the subject land and are required, such easements will be retained on title in favour of the asset authority.

Customer Service and Community Engagement

Council gave notice in the local Bayside Leader Newspaper, The Age and on its website of its intention to discontinue and sell the subject road. Council received no objections to this proposal.

Consultation has been undertaken with all relevant Council departments and external service authorities. No objections have been received from either internal or external service authorities.

Human Rights

There are no human rights issues or implications identified in relation to this report.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

The proposal will provide an opportunity for the owner of 2 Allee Street, Brighton, to gain title to the subject road and rectify the longstanding unlawful occupation.

Should Council resolve to discontinue and sell the subject road, this must be carried out in accordance with the *Local Government Act 1989*.

Finance

Council's independent valuer, Matheson Stephen Valuations (MSV), has valued the subject property at \$54,000 (exclusive of GST).

In accordance with Council Policy, the subject road has been allocated to the adjoining property owner of 2 Allee Street, Brighton as shown in red in Attachment 1, who currently unlawfully occupies the land.

The purchase price for the subject road to be discontinued and sold is shown in the below table.

Table 1:

Lot	Property	Area	Market Value	GST	Purchase Price inc GST
1	2 Allee Street, Brighton	30.4m2	\$54,000	\$5,400	\$59,400

The adjoining property owner has signed a conditional 'Cost Agreement' to purchase the subject road for \$59,400 including GST, subject to Council approval. Costs associated with the process are also recoverable including legal, valuation and advertising fees.

Links to Council policy and strategy

The sale of roads and right of ways and drainage reserves policy provides for the sale of land.

Council's Property Strategy Principle One

Seeks Council to maximise community benefit and public value from the property portfolio.

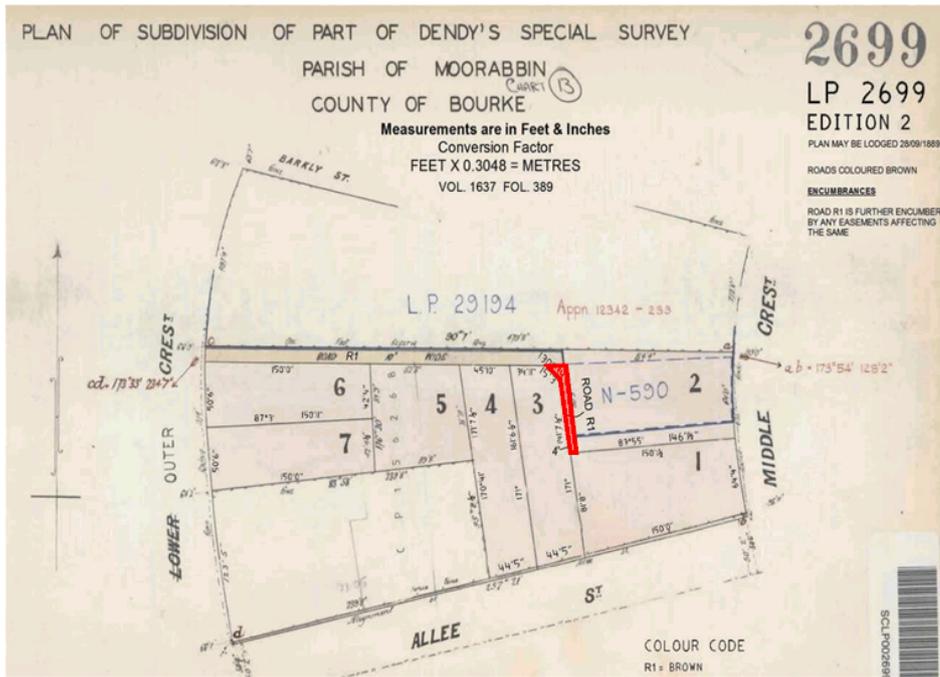
Council Plan Goal 7 – Financial Responsibility and Good Governance

7.1.1 Developing alternative income sources to take pressure off rate increases and improve long term financial viability.



Attachment 1

**Proposed Discontinuance and Sale of Road Adjoining
2 Allee Street and 34 & 36 Middle Crescent, Brighton**



Road Proposed to be Discontinued and Sold Outlined approximately in Red



10.10 PROPOSED DISCONTINUANCE AND SALE OF ROAD ADJOINING 2, 2A, 4, 6, 8, 10 AND 12 EMILY STREET, BRIGHTON

Corporate Services - Commercial Services
File No: PSF/21/26 – Doc No: DOC/21/76261

Executive summary

Purpose and background

This report seeks a resolution in accordance with section 206 and Clause 3, Schedule 10 of the *Local Government Act 1989 (Act)* to discontinue the road adjoining 2, 2a, 4, 6, 8, 10 and 12 Emily Street, Brighton, outlined in red in Attachment 1 (Subject Road), and to sell the Subject Road to the adjoining owner of 2a Emily Street, Brighton for \$110,000 plus GST.

Subject Road and Constructed Road

The Subject Road forms part of the road in Land Plan 10366, which is not listed on Bayside's Register of Public Roads. The balance of that road is constructed (Constructed Road) and provides vehicular access to the garage at 2a Emily Street, Brighton.

South East Water has objected to the sale and discontinuance of the Constructed Road therefore, it has been excluded from this proposal and will not be discontinued and sold.

Attachment 1 outlines both the Subject Road and the Constructed Road.

Unlawful Occupation

In 2015, officers became aware that the owners of 2a Emily Street had landscaped the Subject Road and installed an electronic gate at the entrance to the Constructed Road as shown in Attachments 1 and 2.

Consequently, the owners of 2a Emily Street have occupied both the Subject Road and the Constructed Road for over 5 years, by virtue of restricting public access.

The owners of 2a Emily Street advised Council that they had provided the gate combination to the adjoining owners of the Subject Road and the Constructed Road, enabling access from the adjoining properties when required.

Inspection

Officers inspected both the Subject Road and the Constructed Road in October 2019.

At the time of inspection, the Subject Road had been landscaped into a garden path and was encumbered by established vegetation as shown in Attachment 2.

The Subject Road enabled only pedestrian access to the rear of the properties at 2, 4, 6, 8, 10 and 12 Emily Street. It did not cater for vehicular access due to both the established vegetation and the insufficient turning space, given that the rear boundary of 2 Emily Street does not incorporate a splay.

The Constructed Road comprised a sealed surface and remains able to cater for both vehicular and pedestrian access for vehicles adjoining the Constructed Road as shown in Attachment 2.

Current Proposal

Officers commenced discussions with the owners of 2a Emily Street, Brighton in October 2019 to address the unlawful occupation of the Subject Road. The owners of 2a Emily Street have acknowledged this and are now seeking to purchase the Subject Road, subject to statutory approval.

In accordance with the legal advice received, if the Subject Road can be discontinued and sold, officers will require the owners of 2a Emily Street to, at their expense, offer each of the adjoining owners at 2, 4, 6, 8, 10 and 12 Emily Street the opportunity to enter into a Deed of Creation of Easement (Deed), prior to completing settlement. The Deed intends to secure any pedestrian access rights to the land from the adjoining owners, which are otherwise presently at risk. All costs associated with each Deed will be borne by the owners of 2a Emily Street.

The owners of 2a Emily Street will be required to provide evidence to Council that an offer has been made to each adjoining owner at 2, 4, 6, 8, 10 and 12 Emily Street to enter into their respective Deed. Once Council is satisfied that all parties have been given an opportunity to do so, this condition will be fulfilled.

The Sale of the Subject Road will also be conditional upon the owners of 2a Emily Street entering into a Licence Agreement with Council to formalise the ongoing use of the electronic gate at the entrance to the Constructed Road. The Licence Agreement will propose a nominal annual fee over a 9-year term, subject to the Licensee providing access over the Constructed Road to all adjoining owners who require it, and bearing all legal and financial obligations in relation to the construction, maintenance and operation of the electronic gate, as well as the creation of the Licence Agreement itself.

Council, at its 16 February 2021 Ordinary Meeting of Council, considered a report regarding this proposal and resolved:

That Council:

- 1. commences the statutory procedures under section 206 and Clause 3, Schedule 10 of the Local Government Act 1989 (Act) to discontinue the road adjoining 2, 2a, 4, 6, 8, 10 and 12 Emily Street, Brighton, outlined in red in Attachment 1 (Subject Road), and to sell the Subject Road to the adjoining owner of 2a Emily Street, Brighton for \$110,000 plus GST*
- 2. authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to the sale and discontinuance proposal*
- 3. gives public notice outlining the Proposal in accordance with Section 223 of the Local Government Act 1989*
- 4. establishes a Special Committee of Council and determines the membership of the Committee (with a minimum of three {3} councillors) to hear any submitters that wish to be heard*
- 5. in the event that submission/s are received, convenes a Section 223 Special Committee of Council meeting on Tuesday 6 April at 7pm, to be held at the Council Chambers, Boxshall Street, Brighton, or held remotely via electronic media, to hear any submitters that wish to be heard*
- 6. following the consideration of any submissions, Council receive a further report at an Ordinary Meeting of Council.*

Public Notice was provided in accordance Section 223 of the *Local Government Act 1989*, whereby one submission was received, which has been discussed within the 'Objections to the Proposal' section of this report.

Key issues

Easements

The Subject Road contains underground easements in favour of Bayside City Council and South East Water. If the Subject Road was to be sold and discontinued, easements rights will be retained on title in favour of Bayside City Council and South East Water for drainage and sewerage purposes.

If any other assets are identified in the Subject Road and are required, such easements will be retained on title in favour of the asset authority.

Questionnaire

In March 2020, officers issued correspondence to the adjoining owners of 2, 4, 6, 8 10 and 12 Emily Street, requesting feedback on the proposal.

The general consensus received was to retain the 'status quo' with regard to the current arrangement of both the Subject Road and the Constructed Road, and that several adjoining owners were in favour of the electronic gates installed at the entrance to the Constructed Road.

More specifically, the owners of 2, 4 and 6 Emily Street did not provide any negative feedback in relation to the proposal.

The owners of 8 and 10 Emily Street expressed an interest to purchase part of the Subject Road.

The owner of 12 Emily Street advised that he did not support the proposal on the basis that he may potentially require vehicular access in future and has requested that the established vegetation be removed. This owner has also advised officers that the tenants of the property do not drive, and that he had not required vehicular access to the Subject Road for quite some time. The present state of the Subject Road as shown in Attachment 2 indicates that this owner has not utilised the Subject Road for vehicular access for a substantial period of time, if ever, nor is the plan to potentially use the Subject Road in the future a justification for not proceeding.

Objections to the Proposal

Council received one Submission in relation to the proposal, on behalf of the owner of 10 Emily Street, Brighton (the owner).

The Submitter initially objected to the proposal on the basis that the owner would like to purchase a portion of the Subject Road adjoining the rear of his property.

The Submitter later withdrew the owner's interest to purchase a portion of the Subject Road and advised that the owner now intends on selling the property at 10 Emily Street.

Officers contacted the Submitter to confirm the owner's final position with respect to the proposal. The Submitter advised that the owner's objection to the proposal still stands, with concerns now relative to the owner's ongoing access to the Subject Road.

Officers have advised the Submitter that the Proposal does not intend to provide any party with exclusive access to the Subject Road, but rather it seeks to secure access rights to the Subject Road from all adjoining owners at 2-12 Emily Street, via mechanisms outlined in this report.

Officers also advised the Submitter that, with regard to the owners initial objection, given that the general consensus received was to retain the 'status quo' with regard to the current arrangement of both the Subject Road and the Constructed Road, the option to sell the land individually would eliminate access to the Subject Road from other adjoining owners, who may still require it.

Officers also acknowledge that the Subject Road is unlawfully occupied by the owners of 2a Emily Street and has therefore been allocated to these owners to purchase in the first instance, in accordance with Council Policy.

It is for these reasons that Officers consider it appropriate to proceed with the proposal, subject to the terms outlined in this report.

All remaining owners at 2, 4, 6, 8 & 12 Emily Street did not lodge a submission in relation to the proposal.

Conclusion

Officers consider it appropriate to proceed with the proposal to discontinue the road adjoining 2, 2a, 4, 6, 8, 10 and 12 Emily Street, Brighton, outlined in red in Attachment 1 (Subject Road), and to sell the Subject Road to the adjoining owner of 2a Emily Street, Brighton for \$110,000 plus GST, for the reasons set out in this report.

In March 2020 the owners of 2a Emily Street signed a conditional Cost Agreement with Council to purchase the Subject Road for \$110,000 plus GST.

Recommendation

That Council:

1. in accordance with Section 206 and Clause 3, Schedule 10 of the *Local Government Act 1989* (Act) resolves to discontinue the Subject Road adjoining 2, 2a, 4, 6, 8, 10 and 12 Emily Street, Brighton, outlined in red in Attachment 1 (Subject Road), and to sell the Subject Road to the adjoining owner of 2a Emily Street, Brighton for \$110,000 plus GST
2. authorises the Director Corporate Services to undertake the necessary procedural steps to discontinue and sell the Subject Road via private treaty and retain all easements on title as required in favour of the appropriate authority
3. directs a public notice to be published in the Victoria Government Gazette
4. advises the party who lodged a submission in relation to the proposal of Council's decision.

Support Attachments

1. Attachment 1 - Subject Road and Constructed Road ↓
2. Attachment 2 - Site Inspection Photos ↓

Considerations and implications of recommendation

Liveable community

Social

The discontinuance and sale of the Subject Road will remove the need for Council to maintain land that may no longer be required and to assist in delivering social needs.

The proposal will also provide an opportunity for the owner of 2a Emily Street, Brighton to gain title to the Subject Road and rectify the unlawful occupation.

It will secure access rights from the adjoining owners which is currently enabled via an informal agreement with the owners of 2a Emily Street.

It will also formalise the on-going use and liability of the electronic gates installed at the entrance to the Constructed Road.

Natural Environment

There are no impacts associated with this report.

Climate Change

There are no climate change implications associated with this report.

Built Environment

The Subject Road contains an underground easement in favour of South East Water and Bayside City Council. If the Subject Road was to be discontinued and sold, easements rights will be retained on title in favour of South East Water and Bayside City Council for sewerage and drainage purposes.

If any other assets are identified in the Subject Road and are required, such easements will be retained on title in favour of the asset authority.

Customer Service and Community Engagement

Council gave notice in the Age and on its website of its intention to discontinue and sell the Subject Road. Council received one objection to the proposal, which was later withdrawn and notwithstanding, has been considered in this report.

Consultation has been undertaken with all relevant Council departments and external service authorities. No objections have been received from either internal or external service authorities.

Human Rights

There are no Human Rights issues or implications identified in relation to this report.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

Officers have received legal advice in relation to the sale and discontinuance of the Subject Road. It was recommended that Council require the owners of 2a Emily Street to enter into a

Deed of Creation of Easement with each of the adjoining owners at 2, 4, 6, 8, 10 and 12 Emily Street, prior to completing settlement, if the Subject Road were to be discontinued and sold. Officers have adopted this advice and intend to implement it as a condition of the sale.

The proposal intends to correct the unlawful occupation of the Subject Road, secure access rights for the adjoining owners and formalise the ongoing use of the electronic gates constructed at the entrance of the Constructed Road.

In addition, the sale provides a financial return to Council assisting in the development of existing landholdings or purchase additional land for public purposes.

Finance

Council's independent valuer, Matheson Stephen Valuations (MSV), has valued the Subject Road at \$110,000 (exclusive of GST) on the basis that the sale was completed subject to the purchaser entering into a Deed with each adjoining owner at 2, 4, 6, 8, 10 and 12 Emily Street, Brighton.

The purchase price for the Subject Road to be discontinued and sold on this basis, is shown in the below table.

Table 1:

Property	Area	Market Value (encumbered)	GST	Purchase Price inc GST
2a Emily Street, Brighton	141m ²	\$110,000	\$11,000	\$121,000

The owners of 2a Emily Street have signed a conditional 'Cost Agreement' to purchase the Subject Road for \$121,000 including GST, subject to Council approval. Costs associated with the process are also recoverable including legal, valuation and advertising fees.

Links to Council policy and strategy

Discontinuance and Sale of Right of Ways, Roads and Drainage Reserves Policy provides for the discontinuance and sale of land.

Council's Property Strategy Principle One

Seeks Council to maximise community benefit and public value from the property portfolio.

Council Plan Goal 7 – Financial Responsibility and Good Governance

7.1.1 Developing alternative income sources to take pressure off rate increases and improve long term financial viability.

Options considered**Option 1 Resolve to Discontinue the and Sell the Subject Road**

Summary	This option enables Council to discontinue and sell the Subject Road under the current proposal.
Benefits	<p>The proposal will generate \$121,000 including GST of sales revenue to be utilised for the Bayside Community</p> <p>It will correct the unlawful occupation of the Subject Road and will permit the established vegetation encumbering the Subject Road, to remain.</p> <p>The proposal will provide an opportunity for the owners of 2a Emily Street to gain title to the land, providing increased amenity and security to their property, and increased security to the adjoining properties.</p> <p>It will also formalise the existing arrangement between the owners of 2a Emily Street and the adjoining owners of 2, 4, 6, 8, 10 and 12 Emily Street and secure their pedestrian access to the Subject Road.</p> <p>The proposal will remove Council's financial and legal liability over the Subject Road, eliminating maintenance costs and all public liability pertaining to the land.</p> <p>It will also formalise the ongoing use and obligations in relation to the electronic gates installed at the entrance to the Constructed Road.</p>
Issues	<p>This will remove the rear vehicular access to 12 Emily Street which officers do not consider to be reasonably required</p> <p>It will also exclude the owners of 8 and 10 Emily Street from the ability to purchase part of the Subject Road, however noting that the land has been allocated in accordance with Council Policy and best represents the current 'status quo' desired by the majority of the adjoining owners.</p>

Option 2 Abandon and Re-negotiate

Summary	This option will abandon the current proposal and enable Council to re-negotiate the sale of the Subject Road, to include the owners of 8 and 10 Emily Street who expressed an interest to purchase.
Benefits	<p>The proposal will provide an opportunity for both the owners of 2a Emily Street as well as the owners of 8 and 10 Emily Street, to gain title to the Subject Road, providing increased amenity and security to the rear of their properties.</p> <p>This will generate sales revenue to be utilised in the Bayside Community and correct the unlawful occupation of the Subject Road.</p> <p>The proposal will also remove Council's financial and legal liability over the Subject Road, eliminating maintenance costs and all public liability pertaining to the land.</p> <p>It will also formalise the ongoing use and obligations in relation to the electronic gates installed at the entrance to the Constructed Road.</p>

Issues	<p>This option holds a high reputational risk as Council would be required to renege on its existing in principle agreement with the owners of 2a Emily Street, which has established in accordance with Council Policy.</p> <p>This option would also require Council to obtain a revised valuation to include the sale of the Subject Road to the adjoining owners at 8 & 10 Emily Street, resulting in additional expenses for the owners of 2a Emily Street.</p> <p>This option would disadvantage the owner of 12 Emily Street as he would no longer be able to access the portion of the Subject Road adjoining the rear of 2, 4, and 6 Emily Street that would remain open.</p> <p>This option would not guarantee that the vegetation would remain if the owners of 8 and 10 Emily Street took title to a portion of the Subject Road.</p>
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Option 3 Abandon Proposal and Remove Encroachments

Summary	This option will direct the removal of the established vegetation over the Subject Road and the electronic gate at the entrance to the Constructed Road.
Benefits	<p>This option will rectify the unlawful occupation of the Subject Road and encroachment over both the Subject Road and the Constructed Road.</p> <p>This option will continue to enable rear access to the properties at 2, 4, 6, 8, 10 and 12 Emily Street.</p>
Issues	<p>This option would require the removal of established vegetation which does not currently prohibit use of the Subject Road from the adjoining properties.</p> <p>This option would disadvantage the adjoining owners who are seeking to secure access to their properties and are therefore in support of the proposal.</p> <p>This option will forgo \$121,000 including GST of sales revenue that could be otherwise utilised for the Bayside Community during these unprecedented times.</p> <p>This option will continue Council's financial and legal liability over the Subject Road, dispersing fees for land that may no longer be required for public use.</p>

Option 4 Do Nothing

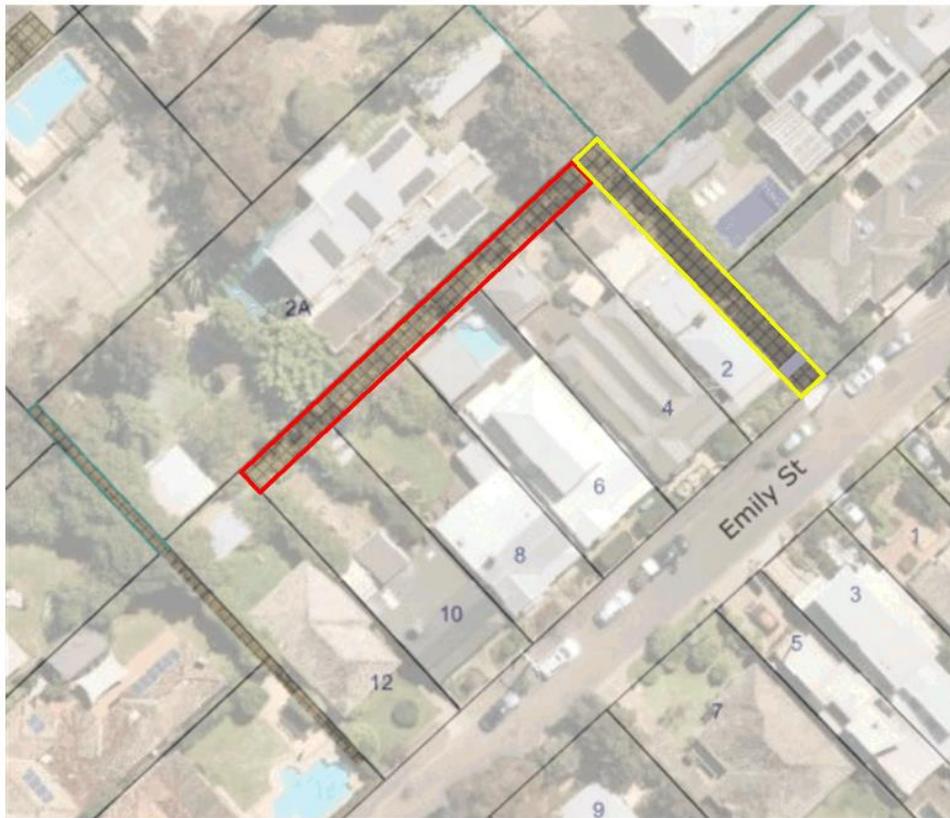
Summary	This option will no address the informal arrangement of the Subject Road between the owners of 2a Emily Street and the adjoining owners of 2, 4, 6, 8, 10 and 12 Emily Street, and provide no action toward the installation of the electronic gate at the entrance of the Constructed Road.
Benefits	<p>The 'status quo' will remain (unlawfully) as desired by the majority of the adjoining residents.</p> <p>From an environmental perspective this option will not direct the removal of the established vegetation encumbering the Subject Road.</p>

Issues	<p>This option does not correct the unlawful occupation of the Subject Road and does not address the installation of the electronic gate at the entrance of the Constructed Road.</p> <p>This option poses a risk to the rights of the adjoining owners to access the Subject Road and the Constructed Road, if the owner of 2a Emily Street were to prevent this in future.</p> <p>This option will forgo \$121,000 including GST of sales revenue that could be otherwise utilised for the Bayside Community during these unprecedented times.</p> <p>This option will continue Council's financial and legal liability over the Subject Road, dispersing fees for land that may no longer be required for public use.</p> <p>Council may also involuntarily hold legal and financial obligations in relation to the electronic gates installed at the entrance to the Constructed Road.</p>
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Attachment 1

**Proposed Discontinuance and Sale of Road Adjoining
2, 2a, 4, 6, 8, 10 & 12 Emily Street, Brighton**



Subject Road Proposed to be Discontinued and Sold Outlined Approximately in Red
Constructed Road Excluded from the Proposal Outlined Approximately in Yellow
Location of Electronic Gate indicated in Pink





Attachment 2

**Proposed Discontinuance and Sale of Road Adjoining
2, 2a, 4, 6, 8, 10 & 12 Emily Street, Brighton**



Subject Road



Subject Road Adjoining
12 Emily Street



Site Inspection Photos



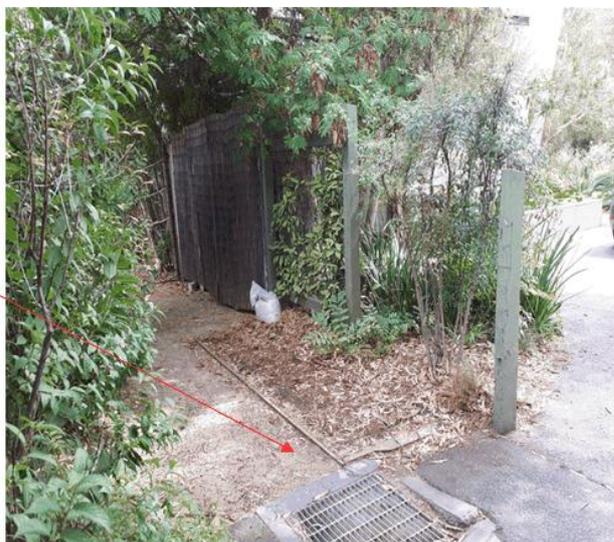


Attachment 2

**Proposed Discontinuance and Sale of Road Adjoining
2, 2a, 4, 6, 8, 10 & 12 Emily Street, Brighton**



Electronic Gate and
Constructed Road



Subject Road
Adjoining
Constructed Road

Site Inspection Photos



10.11 PROPOSED SALE OF LAND ADJOINING 6 THOMSON STREET, BRIGHTON

Corporate Services - Commercial Services
File No: PSF/20/7 – Doc No: DOC/21/75933

Executive summary

Purpose and background

This report seeks a resolution in accordance with Sections 189 and 223 of the *Local Government Act 1989 (Act)* to sell the land adjoining the rear of 6 Thomson Street, Brighton, as outlined in blue in Attachment 2, to the adjoining owner of 6 Thomson Street, Brighton by way of private treaty for \$22,000 plus GST.

The subject land currently vests in Council's name and is identified as Lot 1 on TP140W, which previously formed part of a road that was discontinued in 1990. The subject land comprises approximately 10 square metres and adjoins the eastern boundary of 6 Thomson Street, Brighton, coloured in blue in Attachment 1.

Council's aerial imagery confirms that a garage has been constructed over the entirety of the subject land and is likely to have existed for over 40 years. The predecessor of 6 Thomson Street, Brighton, did not purchase the subject land following its discontinuance in 1990.

The current owners continue to unlawfully occupy the subject land, which remains to form part of the rear access and garage at 6 Thomson Street. The current owners are now seeking to purchase the subject land in order to carry out works to the property.

The subject land is entirely enclosed within the boundary of 6 Thomson Street, Brighton, and is not used by the adjoining properties.

The owners of 6 Thomson Street have agreed to purchase the subject land for \$22,000 (Plus GST).

Council, at its 16 February 2021 Ordinary Meeting of Council, considered a report regarding this proposal and resolved:

That Council:

- 1. commences the statutory procedures in accordance with the Local Government Act 1989 (Act), to sell the subject land adjoining 6 Thomson Street, Brighton identified in Attachment 2, to the adjoining owners of 6 Thomson Street, Brighton for \$22,000 plus GST*
- 2. authorises the Director Corporate Services to undertake the administrative procedures necessary to enable Council to carry out its functions under section 189 of the Act in relation to the sale proposals*
- 3. gives public notice outlining the proposal in accordance with Section 223 of the Act*
- 4. establishes a Special Committee of Council and determines the membership of the Committee (with a minimum of 3 councillors)*
- 5. in the event that submission/s are received, convenes a Special Committee of Council meeting on Tuesday 6 April 2021 commencing at 6.30pm, to hear any*

6. *submitters that wish to be heard, with the meeting to be held at the Council Chamber, Boxshall Street, Brighton, or held remotely via electronic media.*

Public Notice was provided in accordance Section 223 of the *Local Government Act 1989* (Act) and no submissions were received.

Key issues

Easements

The subject land contains an underground easement in favour of the Melbourne Metropolitan Board of Works. If the subject land was to be sold, easement rights will be carried forward on title in favour of Melbourne Metropolitan Board of Works.

If any other assets are identified in the subject land and are required, those easements will also be retained on title, in favour of the asset authority.

Ownership

The subject road discontinuance occurred on 8 August 1990 and was completed under the *Local Government Act 1958* upon the publication of the Gazette Notice in September 1990, The registration of the vesting of the subject land took place on 28 February 2020.

In accordance with Council Policy, Council will only sell the subject landholding to abutting property owners. Accordingly, as the subject land is enclosed within the boundary of 6 Thomson Street, Brighton, it was offered to the owners of 6 Thomson Street to purchase in the first instance.

Objections to the Proposal

Public Notice was provided in accordance Section 223 of the *Local Government Act 1989* and no submissions were received.

Conclusion

Officers consider that the subject land is not required for public use and therefore deem it appropriate to proceed with the proposal to sell the subject land to the adjoining owners of 6 Thomson Street, Brighton for \$22,000 (plus GST).

Recommendation

That Council:

1. in accordance with Section 189 of the *Local Government Act 1989*, resolves to sell the land adjoining the rear of 6 Thomson Street, Brighton, as outlined in blue in Attachment 2, to the adjoining owner of 6 Thomson Street, Brighton by way of private treaty for \$22,000 plus GST
2. authorises the Director Corporate Services to undertake the necessary procedural steps to sell the subject land to the adjoining owner of 6 Thomson Street, Brighton by way of private treaty
3. retains all easements on title as required, in favour of the appropriate authorities.

Support Attachments

1. Attachmnet 1 - Title Plan - Lot 1, Adjoining 6 Thomson Street, Brighton ↓
2. Attachment 2 - Land Proposed to be Sold Adjoining 6 Thomson Street, Brighton ↓

Considerations and implications of proposition

Liveable community

Social

The sale of the subject land will provide the adjoining property owners with an opportunity to gain title to the subject land.

Natural Environment

There are no impacts associated with this report.

Climate Change

There are no climate change implications associated with this report.

Built Environment

In this instance, there are assets in favour of the Melbourne and Metropolitan Board of Works and/or its successor currently pertaining to the subject land and will continue to be carried forward through easement rights on title if the subject land was to be sold. Officers will ensure, prior to sale, that any other assets identified in the subject land will, if required, also be protected by carrying forward easement rights.

Customer Service and Community Engagement

Council gave notice in the local Bayside Leader Newspaper, The Age and on its website of its intention to sell the subject land. Council received no objections to this proposal.

Consultation has been undertaken with all relevant Council departments and external service authorities. No objections have been received from either internal or external service authorities.

Human Rights

There are no human rights issues or implications identified in relation to this report.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

The proposal will provide an opportunity for the owners of 6 Thomson Street, Brighton, to gain title to the subject land and rectify the longstanding unlawful occupation.

Additionally, the sale provides a financial return to Council assisting in the development of existing landholdings or purchase additional land for public purposes.

Should Council resolve to sell the subject land, this must be carried out in accordance with the *Local Government Act 1989*.

Finance

Council's independent Valuer, Matheson Stephen Valuations, has determined the market value for the subject land at \$22,000 plus GST.

In accordance with Council Policy, the subject land has been allocated to the adjoining property owners of 6 Thomson Street, Brighton, who currently unlawfully occupy the land.

Lot	Property	Area	Market Value	GST	Purchase Price inc GST
1	6 Thomson St, Brighton	10.3m2	\$22,000	\$2,200	\$24,200

The owners of 6 Thomson Street have signed a conditional 'Cost Agreement' to purchase the subject land adjoining for \$22,000 (Plus GST). Costs associated with the process are also recoverable including legal, valuation and advertising fees.

Links to Council policy and strategy

Discontinuance and Sale of Right of Ways, Roads and Drainage Reserves Policy provides for the discontinuance and sale of land.

Council's Property Strategy Principle One

Seeks Council to maximise community benefit and public value from the property portfolio.

Council Plan Goal 7 – Financial Responsibility and Good Governance

7.1.1 Developing alternative income sources to take pressure off rate increases and improve long term financial viability.



Attachment 1

Title Plan for Lot 1, Adjoining 6 Thompson Street, Brighton

TITLE PLAN		EDITION 2		TP 140W	
Location of Land Parish: of PRAHRAN East of Elsternwick Township: Section: Crown Allotment: 28 Crown Portion: LTO base record : Chart 179 Last Plan Reference: LP.899 Title References: V.1745 F.985 Depth Limitation: —			Warning: This plan represents an expected division of land. Any one lot may not have been created. Check the Lot/Plan Index for current information. Notations:		
Easement Information				THIS PLAN HAS BEEN PREPARED BY THE VICTORIAN LAND TITLES OFFICE FOR TITLE DIAGRAM PURPOSES Checked by ... <i>Deanna Wray</i> ... Date 26/5/1992 Assistant Registrar of Titles	
Easement Reference	Purpose/Authority	Width (Metre)	Origin		Land benefited/In favour of
All Lots	As provided for in Sec 528(2)(e) LGA	See Diag	Sec 528(2)(c) LGA	M.M.B.W.	
				Sheet 1 of 1 Sheet	
LENGTHS ARE IN METRES		SCALE 1:200	SHEET SIZE A3	LOCAL GOVERNMENT DEALING FILE No: 6573	

Attachment 2



Proposed Sale of Land Adjoining 6 Thomson Street, Brighton

Aerial Photograph depicting Subject Land



10.12 CONTRACT CON/18/107 EXTENSION FOR RECEIPT, PROCESSING AND RESPONSIBLE TRADE OF COMMINGLED RECYCLABLES

Environment, Recreation and Infrastructure - Sustainability and Transport
File No: PSF/21/36 – Doc No: DOC/21/87088

Executive summary

Purpose and background

The purpose of this report is to advise Council of the status of the contract for the receipt, processing and responsible trade of commingled recyclables, Contract CON/18/107, and to recommend an extension to the current contract for a period of one year. This is the final extension option available as part of this contract.

Key issues

Council provides a residential recycling kerbside collection service as part of ongoing service delivery. The collected recyclables are then transported to a recycling facility to be processed. This service relies on a contractor to receive and process this material to close the loop in the recycling process. This service is contracted to Visy Recycling.

Council is forecast to send just under 11,000 tonnes of commingled recyclables to be processed. This recycling is to be processed at Visy's processing facility in Springvale.

Councils contract with Visy Recycling commenced on 1 July 2019 for an initial period of two years, which expires on 30 June 2021. The Contract provides for an option for Council to extend for a one-year extension term to extend the contract until 30 June 2022.

This contract is for the processing of kerbside recycling only. The collection of the recycling bins falls within another contract.

There are no identified impediments to the extension of this Contract, the contractor has performed at a high standard and recycling services rated as excellent in the most recent community satisfaction survey. It is considered appropriate for Council to exercise its option to extend Contract No: CON/18/107 for one year, from 1 July 2021 to 30 June 2022. This is the final extension option available as part of this contract. This will bring the recycling processing contract in line with the timeframe of a collaborative procurement process that is currently being facilitated by the Metropolitan Waste and Resource Recovery Group (MWRRG).

Recommendation

That Council authorises the Chief Executive Officer or his delegate to extend the current Receipt, Processing and Responsible Trade of Commingled Recyclables Contract No. CON/18/107 for the period 1 July 2021 to 30 June 2022 and execute this in accordance with the terms and conditions of the current contract.

Support Attachments

Nil

Considerations and implications of recommendation

Liveable community

Social

Residential waste management services help residents to keep their property safe and hygienic through the regular removal of recyclables. These services rely on having a reliable processing contractor that is appropriately trained.

Natural Environment

The appropriate collection of waste and recyclables assists to keep the natural environment, including our beaches and waterways, free of litter and waste. The Environmental Sustainability Framework sets waste reduction targets over the next ten years. The kerbside recycling service assists with the diversion of waste to landfill, with the recycling material being processed and turned into recycled products. Council's diversion from landfill levels were at 60% in the second quarter of 2020–21, this diversion rate is one of the highest in Victoria.

Climate Emergency

The processing of recyclable material into recycled products results in lower greenhouse gas emissions than if this waste was sent direct to landfill.

The fuel usage associated with vehicle transportation of the recycling collections contributes to direct greenhouse gas emissions into the atmosphere and will be balanced with the purchase of carbon offsets.

Built Environment

Appropriate recycling services contribute to the amenity of urban streetscapes by ensuring they remain free of waste and are clean, safe and tidy.

Customer Service and Community Engagement

Community satisfaction with the recycling waste collection service is high and a survey by Metropolis Research, indicated that the satisfaction with the service is well above the council average and is rated as excellent.

Human Rights

The implications of the report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

Under the Contract, Visy Recycling agrees to comply with all applicable laws in undertaking their obligations under the Contract.

Finance

The cost of the receipt and processing of commingled recyclables contract is provided in Council's operating budget at a value of approximately \$645k per year. This cost forms part of the Waste Charge.

Links to Council policy and strategy

An extension of the contract is compliant with Council's Procurement Policy and in accordance with the terms of the Contract.

The provision of waste collection and disposal services is a core function of Council.

The services under this contract are consistent with Council's Recycling and Waste Strategy 2018.

10.13 CONTRACT CON/20/159 LANDSCAPING WORKS: CHAIN OF PONDS

Environment, Recreation and Infrastructure - Open Space, Recreation and Wellbeing
File No: PSF/21/19 – Doc No: DOC/21/77200

Executive summary

Purpose and background

The purpose of this report is to appoint the preferred contractor to deliver the landscaping works associated with the chain of ponds in Elsternwick Park Nature Reserve, Brighton, under Contract CON/20/159.

Works will include:

- final top dressing and landscaping surrounding areas
- installation of pathways and boardwalks including paths across waterways
- installation of water reticulation including:
 - pumps
 - pipework and infrastructure
 - filtration
 - control systems
- installation of irrigation system
- installation of water harvesting from bowling club planting (both water and land plants)
- installation of protective netting for water plants
- commissioning.

Council has commenced the process of delivering the Elsternwick Park Nature Reserve Masterplan, and the Landscaping component is the third and final stage to deliver the chain of ponds.

The chain of ponds are designed to create a naturalistic creek system extending from the north-east corner of the Reserve toward the centre of the Reserve. The primary goals of the chain of ponds are habitat creation and public amenity.

Key issues

Three companies were directly invited to submit tenders. In total six companies submitted tenders via Council's procurement portal eProcure. The following companies submitted tenders:

1. Bitu-mill
2. Felix Botanica
3. Entrcon Civil Pty Ltd
4. McMahons Pty Ltd
5. Metro Plant & Civil Services
6. Planned Constructions

Each submission was reviewed by the Tender Evaluation Panel including advice from Council's externally appointed Project Manager.

Due to the complex nature of the tender, it became clear that the tenderers had interpreted the scope of works in different ways. To ensure the panel were evaluating like for like prices, an exercise of normalising the results was undertaken. For example, the tender asked that 104

weeks of maintenance be quoted. Only one tender allowed for this in their original submission price.

Once a like for like comparison between tenders was achieved, the submission from McMahons Pty Ltd was determined to be the preferred bid. A summary of the tender evaluation can be found in Attachment 1.

McMahons Pty Ltd have an extensive list of relevant construction projects that align well with this project. They also completed the previous stage of works which included the excavation and shaping of the chain of ponds. The panel determined that their experience on larger projects and the previous stage works, reduces the level of project risk that Council might otherwise be exposed to.

McMahons Pty Ltd are also delivering the majority of the work themselves, with only a small aspect (programming the pumping regime software) being outsourced to a third party.

At interview, McMahons Pty Ltd demonstrated an understanding of the scope, methodology, programme and technical requirements of the works associated with CON/20/159.

Upcoming works

The award of CON/20/159 will see Council achieve a key environmental and amenity goal identified within the Elsternwick Park Nature Reserve Masterplan. The chain of ponds have been designed to create a naturalistic creek system extending from the north-east corner of the Reserve toward the centre of the Reserve.

The primary goals of the Chain of Ponds are to provide habitat and public amenity. Upon completion, the ponds will provide ample habitat for local flora and fauna, and provide a mixture of paths that extend around the perimeter and weave throughout the new water bodies for visitors to explore and enjoy.

The Chain of Ponds will create a stream, two billabongs, a soak and a bioretention basin that treats harvested water before it enters the ponds themselves.

Recommendation

That Council:

1. awards Contract CON/20/159 Landscaping Works; Chain of Ponds, Brighton to McMahons Pty Ltd (ABN 27 077 932 444) for the lump sum price of \$1,278,508.00 (excl. GST) and \$1,406,358.80 (including GST)
2. authorises the Chief Executive Officer to sign all necessary documentation related to Contract CON/20/159 Landscaping Works; Chain of Ponds, Brighton
3. advises the unsuccessful tenderers accordingly.

Support Attachments

1. Confidential Attachment Attachment 1 - Evaluation Matrix for Contract CON/20/159 Landscaping Works Chain of Ponds (separately enclosed) (confidential)

Considerations and implications of recommendation

Social

The works associated with this contract will provide a safe and tranquil space for people to use.

Natural Environment

The works associated with this contract will positively contribute to the natural environment by introducing a pumping regime that will move water around the Reserve in a manner that encourages flora and fauna to thrive. The works will also include the planting and establishment of water based plants and garden beds.

Climate Emergency

The design aligns with Bayside's declaration of a climate emergency with specific focus on:

- Theme 5 - Protect and enhance our natural environment.

Built Environment

The works associated with this contract will enhance and complement the natural environment of the reserve and ensure that it becomes a haven for wildlife and people.

Customer Service and Community Engagement

Community engagement was undertaken in-line with Council's engagement policy to both engage and then inform residents of Council's plans to return the site of the former golf course to public open space. This task was undertaken using a variety of platforms including Council's Have Your Say page, listening posts, social media posts, website articles and onsite signs.

Council has also kept neighbouring properties updated of the proposed works completed to date via letter drops due to the scale and nature of the works. This process will continue when required.

Human Rights

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Governance

Officers involved in the preparation of this report have no conflict of interest.

Legal

This Request for Tender was undertaken in accordance with the Bayside City Council's Quotation and Tendering Procedure and section 186 of the *Local Government Act 1989*.

Finance

The awarding of Contract CON/20/159 Landscaping Works; Chain of Ponds, Brighton to McMahon Pty Ltd for the lump sum price of \$1,278,508.00 (excl. GST) is within the allocated 2020–21 budget amount to implement the Elsternwick Park Nature Reserve Masterplan.

Council has previously awarded works (via CON/20/86) to the value of \$67,352.19 (excl. GST) to remove weed species and strip soil in preparation for the works associated with constructing the chain of ponds.

Following these preparation works, Council awarded works (via CON/20/152) to the value of \$266,129 (excl. GST) (plus variations based on rates for the disposal of below ground soils) to complete the earthworks that would shape the ponds. This work is currently underway and due to be completed by the end of April 2021.

The forecasted costs to deliver all the works associated with the chain of ponds and related landscaping is \$2,116,300. This includes the abovementioned contract works and ad hoc tasks required such as the creation of temporary paths to navigate work sites, repairs to existing on site infrastructure such including pumps and buildings, planting and the installation of irrigation equipment, fencing and security, time lapse cameras, communications and promotions and external technical advice.

In total, Council allocated \$2,409,300 within its 2020/21 capital budget to deliver the chain of ponds and associated landscaping works. Therefore, the total project forecast 2020–21 expenditure will be reduced by \$293,000.

Links to Council policy and strategy

The works associated with this contract will contribute towards the following areas of the Council Plan 2017–21:

Goal 4: Open Space

Gain access to increased quality open space to meet the needs of (Highett and) the wider community'

Goal 5: Environment

Council and the Bayside Community will be environmental stewards, taking action to protect and enhance the natural environment, while balancing appreciation and use with the need to protect natural assets for future generations.

The works outlined in this report will also contribute towards Goal 2 of the Wellbeing for All Ages and Abilities Strategy (WAAA) 2017–21. Goal 2 is designed to '*achieve a healthy and active community*' by '*improving physical activity opportunities*'.

10.14 COUNCIL ACTION AWAITING REPORT

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/104727

Executive summary

Purpose and background

This report presents to Council a schedule of actions pending for the period to 20 April 2021.

Key issues

This report contains resolutions of Council that require a further report to Council.

Recommendation

That Council notes the Council Action Awaiting Report.

Support Attachments

1. Council Action Awaiting report - 20 April 2021 ↓

Council Action Awaiting Report Attachment

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
24/05/16	10.7	<p><u>Childrens' Sensory Garden Investigation</u></p> <p>That Council:</p> <ol style="list-style-type: none"> notes the typical elements of a suburban sensory garden; proposes the CSIRO site is the preferred location for the establishment of a sensory garden in Bayside; seeks community feedback regarding the concept of establishing a sensory garden in Bayside to inform future decisions on this matter; and receives a further report detailing the financial implications associated with the establishment of a sensory garden. 	ERI	<p>A report will be provided to a future Council meeting detailing the implications of including a sensory garden in the planning of the one hectare passive open space in the CSIRO site.</p> <p>The timeline of this report will be subject to the transfer of land (one hectare passive open space) is confirmed and planning can commence.</p>
24/10/17	10.16	<p><u>HMVS Cerberus – Heritage Works Permit Update</u></p> <p>That Council:</p> <p>...</p> <ol style="list-style-type: none"> Receives a further report once Heritage Victoria has assessed the permit application for conservation and stabilisation of the HMVS Cerberus. 	ERI	<p>A future report will be presented to Council if the permit approved method concrete infill proves problematic or beyond the current Council approved budget.</p>
21/8/18	10.7	<p><u>Early Years Infrastructure Plan</u></p> <p>That Council:</p> <p>...</p> <ol style="list-style-type: none"> receives a further report detailing options for the long term use of the Brighton South Playhouse, once temporary relocations for displaced services undergoing redevelopment works are completed receives a further report following a review of the Infrastructure Plan in year five. 	CCE	<p>A report will be provided to Council on the completion of the development works.</p>

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
25/6/19	10.17	<p><u>Bayside Tennis Strategy</u> That Council: 1. Receives a future report regarding the future of the Bodley Street Tennis Centre, Beaumaris.</p>	ERI	A report will be submitted to a future meeting.
25/6/19	10.20	<p><u>Parking Technology, Church Street Major Activity Centre - Engagement Findings</u> That Council: ... 3. Receives a report at a Council meeting at least 6 months after the signs and smartphone application are active on:</p> <ul style="list-style-type: none"> • the evaluation of the introduction of in-ground vehicle detection sensors in the Church Street Major Activity Centre; and • if the project has proven successful, the development of a multi-year program to install parking management technology (i.e. parking sensors) in Bay Street, Hampton Street, Sandringham Village, Martin Street, Beaumaris Concourse and the Black Rock Activity Centres in both on and off-street parking spaces. 	ERI	A report will be submitted to a future meeting.
15/10/19	10.3	<p><u>Small Neighbourhood Activity Centres (SNACs) - Building Height Review & Recommendations</u> That Council receives a report following the approval of Amendment C126 that outlines opportunities for mandatory height controls in Small Neighbourhood Activity Centres.</p>	CPA	A report will be submitted to Council following the approval of Amendment C126.

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
15/10/19	10.9	<u>Wellbeing for All Ages and Abilities Strategy Progress Report on Implementation - Year 2</u> That Council: 1. Receives a further report highlighting the health impacts of climate change to the residents of Bayside.	CCE	A further report will be submitted to a future Council Meeting.
24/03/20	10.2	<u>Elsternwick Park Nature Reserve Masterplan</u> That Council: ... 3. Receives a report at a future Ordinary Meeting of Council regarding the progress of the funding agreement with the City of Port Phillip.	ERI	A report will be submitted to a future Council Meeting.
23/6/2020	10.5	<u>Hydrotherapy/Warm Water Pool Feasibility Study</u> That Council: ... 3. Receives a future report detailing the outcomes of investigations into possible commercial partnerships to develop a warm water pool facility in Bayside.	ERI	A confidential report is included in this Agenda.
28/07/20	10.11	<u>Sandringham Hospital Strategic Agreement</u> That Council: ... 2. provides a further report to Council by June 2021 detailing the outcome of these discussions.	CCE	A report will be submitted at or before the June 2021 Ordinary Council Meeting.

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
18/08/20	10.6	<p><u>Bayside Environmental Sustainability Framework 2016-2025 - Annual Progress Report</u></p> <p>That Council:</p> <p>...</p> <p>2. receives a further report in the first quarter of the 2021/22 financial year detailing progress against targets, the overall success of actions and reviewing issues and risks</p>	ERI	A report will be submitted to a future Council Meeting, at or before the September 2021 meeting.
18/08/20	10.8	<p><u>Integrated Transport Strategy 2018 - Implementation Progress During 2019/20</u></p> <p>That Council:</p> <p>...</p> <p>2. receives a report presenting the implementation progress of the Integrated Transport Strategy 2018 - 2028 in August 2021.</p>	ERI	A report will be submitted to the August 2021 Ordinary Council Meeting.
18/08/20	10.10	<p><u>Brighton Secondary College Synthetic Hockey Facility - Management Committee Financial Update</u></p> <p>That Council receives a further report by no later than 31 August 2021 from the Brighton Secondary College Hockey Facility Management Committee, summarising activities including the financial position of the Management Committee.</p>	ERI	A report will be submitted to a future Council Meeting, no later than the August 2021 meeting.

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
18/08/20	10.22	<p><u>CONTRACT CON/20/82 Moorabbin West, Hampton East and Sandringham Oval Reconstruction</u></p> <p>That Council:</p> <p>...</p> <p>5. receives a report at a future meeting detailing the outcomes of a review of the Sportsground Reconstruction Program.</p>	ERI	A report will be submitted to a future Council Meeting.
15/09/20	10.2	<p><u>Cheltenham Heritage Station Buildings and Scout Hall</u></p> <p>That Council:</p> <p>...</p> <p>3. receives a report at a future Council meeting that outlines the outcomes of the feasibility study, community engagement and proposed project cost.</p>	ERI	A report will be submitted to a future Council Meeting.
17/12/20	4.2	<p><u>Proposed Neighbourhood Amenity Local Law 2021</u></p> <p>That Council:</p> <p>...</p> <p>5. receives a further report at the Ordinary Meeting of Council on Tuesday 18 May 2021 which considers any submissions received, prior to the adoption of the Neighbourhood Amenity Local Law 2021.</p>	CPA	A report will be submitted to the May 2021 Ordinary Council Meeting.

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
22/12/20	10.4	<p><u>Economic Development and Tourism Strategy update</u></p> <p>That Council:</p> <p>...</p> <p>2. receives a progress report on the Economic Development and Tourism Strategy review in response to COVID-19 by June 2021.</p>	CPA	A progress report will be submitted to Council at or before the June 2021 Ordinary Council Meeting.
22/12/20	10.7	<p><u>Sustainable Infrastructure Policy update</u></p> <p>That Council receives a report on the updated Sustainable Infrastructure Policy at a Council meeting in the second quarter of 2021.</p>	ERI	A report will be submitted to Council at or before the June 2021 Ordinary Council Meeting.
16/02/21	7.1	<p><u>Petition requesting Council to consider installing traffic calming devices along Burrows Street, Brighton</u></p> <p>That the petition be received and a report be submitted to the May 2021 Ordinary Meeting of Council on this matter.</p>	ERI	A report will be submitted to the May 2021 Ordinary Council Meeting.
16/02/21	7.2	<p><u>Petition supporting the community garden proposal at Little Brighton Reserve</u></p> <p>That the petition be received and a report be submitted to the April 2021 Ordinary Meeting of Council on this matter.</p>	ERI	A Notice of Motion was resolved upon at the March Ordinary Meeting of Council to include this item in the 2021-22 Budget. On this basis a report is not required.

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
16/02/21	10.2	<p><u>Sandringham Family Leisure Centre - Master Plan</u></p> <p>That Council</p> <p>... 2. receives a report at the June 2021 Council Meeting providing outcomes of discussions with commercial providers regarding a Warm Water Pool within the municipality</p>	ERI	A report will be submitted to the June 2021 Ordinary Council Meeting.
16/02/21	10.3	<p><u>Wilson Recreation Reserve - Brighton Grammar School proposal update</u></p> <p>That Council</p> <p>... 3. further considers a report no later than June 2021 on the results of the consultation and includes in the report an assessment of the proposal against Council's Open Space Strategy 2012 and any impact the proposal will have on availability of open space for community use within the Middle Brighton area.</p>	ERI	A report will be submitted to an Ordinary Council Meeting no later than June 2021
16/02/21	10.9	<p><u>Draft Bayside Affordable Housing Strategy</u></p> <p>That Council</p> <p>... 3. receives a report at the 15 June 2021 Ordinary Meeting of Council which includes the outcome of community consultation and the final Strategy for consideration.</p>	CORP	A report will be submitted to an Ordinary Council Meeting no later than June 2021

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
16/02/21	10.15	<p><u>Proposed construction and lease of telecommunication site to Telstra</u></p> <p>That Council</p> <p>... receives a further report after the completion of the above statutory processes, in order for Council to consider and make a decision about whether to grant the Lease described in Clause 1.</p>	CORP	A report is included in this Agenda.
16/02/21	10.16	<p><u>Proposed renewal of leases of 3 telecommunication sites to Telstra</u></p> <p>That Council</p> <p>... receives a further report after the completion of the above statutory processes, in order for Council to consider and make a decision about whether to grant the Leases described in Clause 1.</p>	CORP	A report is included in this Agenda.
16/02/21	10.19	<p><u>Proposed discontinuance and sale of road adjoining 2 Allee Street and 34 & 36 Middle Crescent, Brighton</u></p> <p>That Council</p> <p>... following the consideration of any submissions, receives a further report at an Ordinary Meeting of Council.</p>	CORP	A report is included in this Agenda.
16/02/21	10.20	<p><u>Proposed sale of land adjoining 6 Thomson Street, Brighton</u></p> <p>That Council</p> <p>... following the consideration of any submissions, receives a further report at an Ordinary Meeting of Council.</p>	CORP	A report is included in this Agenda.

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
16/02/21	10.21	<p>Proposed discontinuance and sale of road adjoining 2, 2a, 4, 6, 8, 10 and 12 Emily Street, Brighton</p> <p>That Council:</p> <p>... 6. following the consideration of any submissions, Council receive a further report at an Ordinary Meeting of Council.</p>	CORP	<p>A report is included in this Agenda.</p>
16/03/21	10.1	<p>Expression of Interest and possible Future Uses for Billilla Homestead</p> <p>That Council</p> <p>... 4. prepare a report for the October 2021 Council meeting addressing the circumstances whereby Council takes back control of the Billilla house and provide Council with:</p> <ul style="list-style-type: none"> • a Community Engagement plan to commence when vacant possession of the Billilla Homestead has been obtained • a summary of the various possible models for the day to day management of the Billilla Homestead and the viability of possible uses by Council, Community and Commercial entities • a proposal to update the Conservation Management Plan and for a detailed assessment of all works required to maintain the structural integrity of the Billilla estate buildings. 	CORP	<p>A report will be submitted to the October 2021 Ordinary Council Meeting.</p>

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
16/03/21	10.3	<p><u>Amendment 165bays - 5 & 7 Well Street, Brighton</u> That Council</p> <p>... 4. receives a report at the September 2021 Council Meeting on the community engagement and study findings, and considers the implications for the appropriate land use of 7 Well Street.</p>	CPA	A report will be submitted to the September 2021 Ordinary Council Meeting.
16/03/21	10.8	<p><u>Proposed Lease of One Telecommunication Site to Vodafone</u> That Council</p> <p>... 6. receives a further report after the completion of the above statutory processes, in order to consider and make a decision about whether to grant the Lease described in Clause 1.</p>	CORP	A report will be submitted to a future Ordinary Council Meeting.
16/03/21	13.2	<p><u>Notice of Motion - 307 - Landcox Park Lake</u> That Council receives a report at the May 2021 Council meeting detailing the need, timeframe and cost to improve the water quality of the Landcox Park Lake.</p>	ERI	A report will be submitted to the May 2021 Ordinary Council Meeting.

DATE OF MEETING	ITEM	COUNCIL RESOLUTION	DIVISION	COMMENTS/STATUS
16/03/21	13.3	<p><u>Notice of Motion - 308 - Grey-headed flying fox protection measures</u></p> <p>That Council:</p> <ul style="list-style-type: none"> • receives a Draft Policy on Managing Barbed Wire to reduce impacts on Wildlife at the June 2021 Council Meeting and this draft policy to focus on at least the following areas: <ul style="list-style-type: none"> ○ completing an audit of barbed wire on Bayside City Council land and obvious adjoining properties ○ eliminating barbed wire wherever possible on Council land ○ providing alternatives where it is not possible to eliminate barbed wire e.g. reducing the number of strands and making barbed wire visible • receives in the same report as the Draft Policy at the June 2021 Council meeting information on trees and plants that are the best food sources for grey-headed flying foxes and a proposed approach for implementing a planting program to provide this habitat 	ERI	<p>A report will be submitted to the June 2021 Ordinary Council Meeting.</p>

11. Reports by Delegates

1. **Association of Bayside Municipalities** – Cr Fiona Stitfold
2. **Metropolitan Transport Forum** – Cr Sonia Castelli
3. **Municipal Association of Victoria** – Cr Alex del Porto
4. **Inner South Metropolitan Mayors' Forum** – The Mayor, Cr Laurence Evans OAM
5. **Metropolitan Local Government Waste Forum** – Cr Clarke Martin
6. **South East Councils Climate Change Alliance** – Crs Clarke Martin and Fiona Stitfold

12. Urgent Business

13. Notices of Motion

13.1 NOTICE OF MOTION - 309 - NATURE-RICH BAYSIDE

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/105910

I, Cr Jo Samuel-King, hereby give notice that I intend to move at the Council Meeting to be held on 20 April 2021 at 6:30pm at the Council Chamber, Civic Centre, Boxshall Street, Brighton the following Notice of Motion:

Motion

That Council:

1. develops and implements an evidence-based wildlife-friendly lighting policy, with a particular focus on the foreshore and in parks and reserves. Consideration will need to include impacts on wildlife, community safety, road safety and environmental impacts and emissions. The draft Policy to be presented to the December 2021 Council Meeting
2. works with Bayside Friends of groups and community groups to:
 - construct and install nest-boxes and log hollows that are tailored to the specific needs of vulnerable wildlife populations
 - monitor the nest boxes and ensure that the success is monitored, and success reviewed
3. works with Friends of groups and neighbouring Councils (City of Port Phillip and City of Kingston) to enhance access to water for wildlife along the foreshore and in parks, gardens and reserves
4. receives a report at the June 2022 Council Meeting providing an update on the actions detailed above with a particular focus on:
 - implementation of the Wildlife Friendly Lighting Policy;
 - success or otherwise of the nest-box and log hollow project; and
 - progress of the Water for Wildlife project.

Cr Jo Samuel-King

Rationale

Bayside is blessed with a nature-rich environment. We are host to many locally threatened and listed species. Without our intervention, these species are likely to disappear in our lifetime.

Bayside already has a Biodiversity Action Plan. However, every year, we continue to see the destruction of habitat and associated species losses. In this context, there is an urgent need for the Bayside Biodiversity Action Plan to be expanded and better resourced.

On March 14th this year, Bayside hosted an environment forum. A number of themes came out of this forum. These themes included the protection of trees, with a particular focus on indigenous vegetation and wildlife corridors, water for wildlife and wildlife friendly lighting as well as the importance of our foreshore and marine life, with a particular focus on Rickett's Point Marine Sanctuary. This notice of motion is Bayside City Councillors' first step in responding to what we heard.

Support Attachments

Nil

13.2 NOTICE OF MOTION - 310 - OPEN SPACE WITHIN MAJOR AND SMALL NEIGHBOURHOOD ACTIVITY CENTRES

Corporate Services - Governance
File No: PSF/21/23 – Doc No: DOC/21/110621

I, Cr Hanna El Mouallem, hereby give notice that I intend to move at the Ordinary Council Meeting to be held on 20 April 2021 at 6:30pm at the Council Chambers, Civic Centre, Boxshall Street, Brighton the following Notice of Motion:

Motion

That Council receives a report at the September 2021 Council meeting that:

1. identifies and assesses opportunities to increase open space provision in Major and Small Neighbourhood Activity Centres with a particular focus on Brighton in line with the priorities contained within the Open Space Strategy;
2. develops an action plan including indicative timeframes and costings that also considers the broader opportunities available to commence the delivery of additional open space in Major and Small Neighbourhood Activity Centres by early 2023;
3. reports on the funding spend to date, and funding available in the Open Space Reserve, and includes any impacts that the allocation or reallocation of funding from this funding reserve would have on the four-year capital works program; and
4. reports on the progress made and future opportunities to provide walking and cycling paths as identified through Structure Plans that align with the Integrated Transport Strategy.

Cr Hanna El Mouallem

Rationale

Bayside Open Space Strategy 2012 is a 20-year planning document that provides policy and strategy to enable the council to make decisions about open space. Following the completion of the Open Space strategy, a planning scheme amendment was prepared to incorporate the Bayside Open Space Strategy into the Bayside Planning Scheme. The Planning scheme included amongst other things the introduction of the schedule to Clause 52.01 to incorporate a Public Open Space Contribution also developed Clause 22 Local Planning Policies '**Public Open Space Contributions**'.

Bayside Planning Scheme Clause 22.01-1 Policy Basis States that "*Council's strategic work has established the need to maintain and improve the existing open space network so that it is accessible for use by people of all ages and abilities. Council has also identified the need for additional public open space, with an emphasis on filling the gaps in areas identified as being deficient in public open space. (These areas are shown in attached Map 1 – Deficiencies in Open Space in Bayside). An increasing population and density of households in Bayside will place further pressure on the existing open space network. It is expected that this increase in population will be primarily accommodated in Moderate and Key Focus Residential Growth*

areas and Strategic Redevelopment Sites. Higher density development within these areas will generally have reduced access to private open space.”

Council Strategic work on the Open Space Strategy and Suburb Analysis and Action Plan provide substantial research and data to support the need for the increase of open space in the areas that are deficient in open space also in the areas experiencing increased density. Some annotations from Council strategies are tabled below for reference:

- Bayside Open Space Strategy has identified that there is a distribution inequity across the municipality, with some areas ... (such as Brighton and Brighton East) having poorer accessibility to useable open space
- Urban heat island effect is an important environmental consideration, particularly in the suburb of Brighton. It is important that provision of open space in the Major Activity Centre areas is sufficient. The planting of large canopies in open space will help mitigate this effect.
- Bayside Suburb Analysis and Action Plan notes that *“levels of open space in Brighton are not appropriate to serve the current or future population. It further states that “Brighton has a higher number of townhouses or flats/ apartments which will increase with the development of the MACs. It is important that adequate open space is provided to meet the demands of the growing community”*. Page 55 of the same report confirms that the *“projected population growth will have a significant impact on the demand for open space in Brighton over the next 20 years”*

It is worth noting that the strategic work was done in 2011-2012, at that time Brighton population of **22,527** was forecasted to increase by additional **1530** persons between 2011 and 2026. The 2020 estimated resident population for Brighton is **25,773** (i.d. community demographic resources). That is an increase of **3,246** persons between 2011 and 2020. In simple terms, the population increased between 2012-2020 by **more than double** the forecasted increase between 2012-2026.

Evidence in hand today remains as per the findings of the Bayside Open Space Strategy 2012; that is:

- *“The open space in Brighton is not currently meeting the needs of the community”*.
- *“As Brighton experiences a significant increase in population, particularly around the Major Activity Centres, there will be a higher demand for open space”*

Regrettably, to date, despite the Open Space Contribution Scheme generating 23.8M and the MACs experiencing higher than the projected increase in density and dwelling numbers, enormous loss of private open space, and an increase in the heat island effect and associated reduced liveability, not 1sqm of open space has been added to these MACs and whilst there are plans to address the need for open space in both Highett and Hampton, there are no current plans for any increase in open space in Brighton which happened to be experiencing the highest increase of density in our municipality.

In 2012; Bayside Open Space Strategy noted that that there is an opportunity to *“Increase the amount of public open space, which may be in the form of urban spaces and squares in Activity Centres...”* and that *“Open space is an essential ingredient of our way of life in Bayside”*. This was echoed in Bayside 2050 Vision.

Support Attachments

Nil

14. Confidential Business

That pursuant to Section 66(2)(a) of the Local Government Act 2020 (the Act), the Council resolves that so much of this meeting be closed to members of the public, as it involves Council consideration of matters coming within some or all of the following categories listed in Section 3(1) (confidential information) of such Act:

- (a) Council business information*
- (b) security information*
- (c) land use planning information*
- (d) law enforcement information*
- (e) legal privileged information*
- (f) personal information*
- (g) private commercial information, being information provided by a business, commercial or financial undertaking that—*
 - (i) relates to trade secrets; or*
 - (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;*
- (h) confidential meeting information*
- (i) internal arbitration information*
- (j) Councillor Conduct Panel confidential information*
- (k) information prescribed by the regulations to be confidential information for the purposes of this definition*
- (l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989.*

14.1 WARM WATER POOL UPDATE

(LGA 2020 Section 3(1)(a) and (e) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released and legal privileged information, being information to which legal professional privilege or client legal privilege applies.)

14.2 37 GRAHAM ROAD, HIGHETT (FORMER CSIRO SITE) DRAFT LEGAL INSTRUMENTS TO FACILITATE TRANSFER OF LAND TO COUNCIL AND DELIVERY OF COMMUNITY BENEFITS

(LGA 2020 Section 3(1)(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.)

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Mick Cummins

Chief Executive Officer