

Council Meeting

Minutes

Meeting No. 631

19 March 2024

Commenced at 7.05pm

Council Chamber

301 Hampshire Road, Sunshine,
Victoria

Fiona Blair
Chief Executive Officer
22 March 2024

Council

Cr Ranka Rasic	Mayor
Cr Jae Papalia	Deputy Mayor
Cr Victoria Borg	
Cr Sarah Branton	Apology
Cr Thuy Dang	
Cr Sam David	
Cr Maria Kerr	
Cr Bruce Lancashire	
Cr Jasmine Nguyen	
Cr Thomas O'Reilly	
Cr Virginia Tachos	

Executive Leadership Team

Ms Fiona Blair	Chief Executive Officer
Ms Lynley Dumble	Director Community Wellbeing
Ms Georgie Hill	Director People, Partnerships and Performance
Mr Chris Leivers	Director Infrastructure and City Services
Mr Mark Stoermer	Director Corporate Services
Mr Kelvin Walsh	Director City Futures

Municipal Monitors

Ms Janet Dore	Municipal Monitor
Ms Penelope Holloway	Municipal Monitor

Leisure and Community Facilities Team

Mr Ashley Fleming	Manager Leisure and Community Facilities
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Governance Team

Mr Danny Bilaver	Manager Governance and Risk
Mr Tony Vo	Coordinator Council Business
Ms Jessica Zelenbaba	Council Business Officer

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1 Opening (Including Acknowledgement Of Country)

The Mayor, Cr Ranka Rasic, opened the meeting at 7.05pm and welcomed all in attendance.

The Mayor stated:

On behalf of Brimbank City Council, I respectfully acknowledge and recognise the Wurundjeri and Bunurong Peoples as the Traditional Custodians of this land and pay respect to their Elders, past, present and future.

2 Council Commitment

The Mayor, on behalf of the Council, read the Council Commitment:

As the Council, we will act in the best interests of the Brimbank community and consider the immediate and long term impacts of our decisions. We will make these decisions fairly and without bias.

We will uphold all of our obligations under the laws of Victoria and Council's local laws, and will act in accordance with our Code of Conduct.

3 Apologies/Leave Of Absence

The Mayor noted Cr Sarah Branton submitted an apology for this meeting.

Motion

That Council approves a leave of absence for:

- Cr Virginia Tachos for the period from 20 March 2024 to 30 April 2024.
- Cr Ranka Rasic for the period from 22 March 2024 to 5 April 2024.
- Cr Bruce Lancashire for the period from 24 February 2024 to 26 March 2024.
- Cr Thuy Dang for the period from 22 April 2024 to 3 May 2024.

Resolution

Moved Cr Jasmine Nguyen/Seconded Cr Sam David

That Council approves a leave of absence for:

- **Cr Virginia Tachos for the period from 20 March 2024 to 30 April 2024.**
- **Cr Ranka Rasic for the period from 22 March 2024 to 5 April 2024.**
- **Cr Bruce Lancashire for the period from 24 February 2024 to 26 March 2024.**
- **Cr Thuy Dang for the period from 22 April 2024 to 3 May 2024.**

CARRIED

4 Disclosure Of Conflicts Of Interest

Cr Thomas O'Reilly indicated he would raise a conflict of interest in relation to Item 12.4 Former Sunshine Technical School - Submission to Heritage Council of Victoria

Resolution

Moved Cr Jae Papalia/ Seconded Cr Victoria Borg

That the item listed as Officer Report 12.3 - Consideration of the Proposed Sale of (part) Durham Road Car Park for the development of a Cultural Museum on the agenda be considered immediately before Officer Report 12.1 Planning Activity Update and Delegate Decisions and Planning Scheme Amendments Update - February 2024.

CARRIED

5 Designation Of Items As Confidential

Motion

That Council declares confidential in accordance with section 66(2)(a) of the *Local Government Act 2020 (the Act)*:

- Confidential Attachment 5, 6 and 7 to report 12.3 Consideration of the Proposed Sale of (part) Durham Road Car Park for the development of a Cultural Museum
- Confidential Attachment 2 to report 12.10 Governance Report March 2024
- Confidential Attachment 2 to report 12.12 Green Gully Reserve Northern Precinct Enhancement Plan Project Update
- Confidential Attachment 1 to report 12.15 Contract No. 21/3008 – Cleaning of Brimbank Community and Civic Centre – Additional Funds
- Confidential Attachment 1 to report 12.16 Contract No. 23/3329 - Dempster Park Tennis Refurbishment

as they relate to Council business information, being information that would prejudice Council's position in commercial negotiations if prematurely released as prescribed by section 3(1)(a) of the *Local Government Act 2020*.

- Confidential Attachment 1 to report 12.13 Contract No. 22/3211 (PA 2403/0109) - Supply and Delivery of Bulk Fuel - Extension of Contract
- Confidential Attachment 1 to report 12.14 Contract 21/3093 - Consultancy Services for Environmental Assessment Works at Former Landfill Sites

as it relates to private commercial information, being information provided by a business, commercial or financial undertaking that, if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage as prescribed by section 3(1)(g) of the *Local Government Act 2020*.

Resolution

Moved Cr Jae Papalia/Seconded Cr Maria Kerr

That Council declares confidential in accordance with section 66(2)(a) of the *Local Government Act 2020 (the Act)*:

- **Confidential Attachment 5, 6 and 7 to report 12.3 Consideration of the Proposed Sale of (part) Durham Road Car Park for the development of a Cultural Museum**

- **Confidential Attachment 2 to report 12.10 Governance Report March 2024**
- **Confidential Attachment 2 to report 12.12 Green Gully Reserve Northern Precinct Enhancement Plan Project Update**
- **Confidential Attachment 1 to report 12.15 Contract No. 21/3008 – Cleaning of Brimbank Community and Civic Centre – Additional Funds**
- **Confidential Attachment 1 to report 12.16 Contract No. 23/3329 - Dempster Park Tennis Refurbishment**

as they relate to Council business information, being information that would prejudice Council's position in commercial negotiations if prematurely released as prescribed by section 3(1)(a) of the *Local Government Act 2020*.

- **Confidential Attachment 1 to report 12.13 Contract No. 22/3211 (PA 2403/0109) - Supply and Delivery of Bulk Fuel - Extension of Contract**
- **Confidential Attachment 1 to report 12.14 Contract 21/3093 - Consultancy Services for Environmental Assessment Works at Former Landfill Sites**

as it relates to private commercial information, being information provided by a business, commercial or financial undertaking that, if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage as prescribed by section 3(1)(g) of the *Local Government Act 2020*.

CARRIED

6 Confirmation Of Minutes Of Previous Council Meetings

Motion

That Council confirms the Minutes of Council Meeting No. 629, held on 20 February 2024 and No. 630, held on 4 March 2024.

Resolution

Moved Cr Jasmine Nguyen/Seconded Cr Jae Papalia

That Council confirms the Minutes of Council Meeting No. 629, held on 20 February 2024 and No. 630, held on 4 March 2024.

CARRIED

7 Condolences

The Mayor noted that there were no condolences for this meeting.

8 Congratulations

The Mayor noted that there were no congratulations for this meeting.

9 Public Question Time

Public Question Time commenced at 7.11pm.

9.1 52/24**Question**

M Ralph

If questions must be submitted in advance and answers are prepared in advance, is it necessary for these to be read during council meetings, or could these be submitted in their written form and ratified?

Answer

The Mayor advised that Brimbank's Governance Rules state that there must be a public question time at every fixed Council meeting to enable members of the public to submit questions to Council. Having questions submitted in advance allows time for a more fullsome consideration of responses. Public questions and answers are published in the minutes of Council Meetings.

9.2 53/24**Question**

M Ralph

On 20 February 2024 I attended council meeting. I had to provide my name and address and provide ID to be allowed entry. While this seems undemocratic, I was more disappointed that the audio was not able to work in the overflow room, so half of those wanting to watch were moved into the hallway outside the council meeting, where most people sat on the floor. Is this a regular occurrence? Is council actively trying to discourage locals from attending meetings?

Answer

The Mayor advised that due to ongoing disruptions experienced at Council meetings, all members of the gallery are required to provide ID when attending Council Meetings to support continuous efforts to maintain a safe and secure environment for all participants whilst allowing Council to conduct an orderly meeting. The use of the overflow room is not a regular occurrence and is designed to accommodate larger attendance at council meetings as there is limited capacity in the Council chamber. We are working to improve the audio experience for all and take your feedback onboard.

9.3 54/24**Question**

J Issa

On the Victorian Socialists website, it has a political campaign that is related to Federal foreign affairs, which is the Free Palestine movement, lead by the Victorian Socialists. The Victorian Socialist website has a diagram of all Victorian Councils it has politically influenced to pass a motion that was passed by this panel of Councillors last month. Melbourne City Council rejected this motion, a very politically astute municipality.

<https://victoriansocialists.org.au/node/219>

Did this panel of Councillors know that the Victorian Socialists had targets to pass this motion (see link above), and did you all feel pressured to vote for a political target, why is this panel of Councillors using ratepayers time and money to publicly advertise a political party during a local election year?

Answer

The Mayor advised that from time to time issues are considered and debated on at Council meetings that are also advocated on by other groups, including political parties. I would like to note that the motion or debate on the motion in relation to this matter did not make reference to any political party.

9.4 55/24**Question**

J Issa

Good evening Brimbank,

Can I please bring some attention to our Councillors about a local issue if that's ok, VCROSS recently compiled a report about heat stress and disadvantage, Brimbank featured 1 and 2 on both fronts (again). In this very confronting 2024 report, it appears nothing has changed in the past 2 terms of this panel of Councillors (8 years). If you all have some time, can you please read the report, and once you've read it, and given nothing has changed and the health and well-being of our residents is still at risk, how will Brimbank respond to this report?

And while this panel of Councillors is trying to influence the Federal Government on other matters, can it try to influence the State Government, on this crucial report that affects future generations and the current health and wellbeing of the people of Brimbank.

<https://vcross.org.au/climate-change-environment/2024/02/urban-heat-disadvantage/>

Thanks

Answer

The Mayor advised that Brimbank City Council recognises that we are in a state of Climate Emergency and we adopted the Climate Emergency Plan 2020-2025 to outline our priorities in responding to the climate emergency.

We advocate regularly to state government to strengthen planning policy regarding residential design and planting for climate resilience on private property. We also advocate to the federal government for more funding for health and emergency services and infrastructure to better prepare for the effects of climate change such as heatwaves.

9.5 56/24**Question**

S Stammers

Councillors, thank you for this opportunity. I am here today representing a group of parents from the Phoenix Street Children's Centre. It is run by BPA as you know, to a very high standard - we love the centre and all of the wonderful staff. As part of the large-scale Dempster Park redevelopment, we were advised on the 15th Feb 2024 that the centre would be relocated to two separate sites at the start of Term 2 (only 8 weeks' notice). This date has now been moved to start of Term 3, however this was the first any of us (including BPA staff) heard about a split centre solution. One site remains on Phoenix St, the other in East Sunshine, requiring significant change to family routines and expectations around their children's care. The revised date is still rushed, and has created significant stress for BPA and families, because this split solution is very unusual,

and arguably against principles of best practice. Our understanding is that the project timelines and decisions are largely driven by Council, with Council initially intending to entirely close the service for two years. Families were also not aware of this highly inadequate approach either and needless to say, closure would be the absolute worst-case scenario. Council has very recently decided to proceed with civil works and has given very little time for a solution to be found for the Long Day Care families.

I re-iterate: we love the centre so much, as do our kids, as do the carers. We are a big family, and this is why there is such a high demand for this particular service, with a long wait list. BPA is our absolute preferred provider for the indefinite future of Phoenix St, and it is our absolute preference to keep the service operating throughout the redevelopment, and after. This is a complex project and there are many issues that have been raised by parents since the announcement. I would like to know - why did council deem it reasonable practice to completely ignore community, and not do any community consultation at any point prior to decision making, and what is council going to do in the coming months to rectify this and revise the plan to allow Phoenix Street families and staff to stay together during the redevelopment civil works?

Answer

The Mayor advised that Council works in close partnership with BPA Children's Service and have been having ongoing conversations about the redevelopment, including the design of the new building and temporary service relocation options for both of their services - Phoenix Street Children's Centre and Sunshine North Kindergarten. Through this partnership, and in collaboration with the Department of Education, BPA and Council have worked to achieve the best possible outcome in the circumstances.

Service scoping undertaken of the local area indicated a number of alternative long day care centres, but limited sessional kindergarten availability. Further to this, enrolment data indicated a significant number of families attending the Sunshine North Kindergarten with vulnerability indicators.

In response to this Council approached the Department of Education to fund a temporary facility for families experiencing vulnerabilities in accessing kindergarten. Department of Education has also provided conditional approval for the use of two kindergarten rooms for the provision of childcare (Dempster Park and Sunshine East Kindergarten). BPA and Council have been able to determine a solution that will support service continuation of both childcare and sessional kindergarten.

BPA Children's Service and Council are jointly hosting a community consultation session for impacted families on Tuesday 26 March 2024 at 6:15pm at Dempster Park. BPA Children's Service will provide details to enrolled families.

9.6 57/24

Question

G Blore

Given that it's now over 1000 days and we are STILL waiting for the Victorian Bus Plan, whilst our bus service continues to get slower and slower, will Brimbank Council again escalate our strong concerns about the lack of action to the Premier, the Minister for Transport, and the Minister for Youth in particular to ensure that our young people and those unable to drive CAN access employment opportunities?

Answer

The Mayor advised that "Improved bus infrastructure and more reliable and high frequency bus services" is listed in Council's Advocacy Plan 2023-2025 as a gold priority under Transforming Brimbank. Council will continue to advocate to State Government, including with LeadWest, WOMEDA and neighbouring councils in the west, about the need for better buses and the rollout of bus reform.

9.7 58/24**Question**

G Blore

Along with the above re our bus services, and given that the often promised Airport Rail Link is AGAIN on hold for at least 6 years, will Brimbank Council support Melbourne Airport in calling for a semi-express bus service from Sunshine Rail Station, via Cairnlea, Kealba, and Keilor to the largest employer in the NW region of Melbourne, the Melbourne Airport Business Precinct. This is particularly important given the relatively low cost and infrastructure fairly much already in place, to deliver such a service speedily and efficiently, and give our residents job opportunities that currently take over 1:5 hours EACH way! A bus every 15 minutes to and from the airport to Sunshine from 6 a.m. to 9 p.m. daily would revitalise our economies, provide job opportunities, and take cars off the road, with less pollution from electric buses. The route proposed would take less than 30 minutes each way.

Answer

The Mayor advised that Melbourne Airport Rail was anticipated to be completed by 2029, subject to relevant planning, environmental and other government approvals. No updated timeline has been communicated to Council by the State Government. The provision of a bus service between Sunshine and Melbourne Airport was identified in Council's Submission to the Melbourne Airport 2022 Master Plan, where Council recommended to 'Include the provision of a dedicated express service from Sunshine Railway Station to the airport in advance of delivering the Melbourne Airport Rail project'. Council's Sunshine Priority Precinct Vision 2050 also envisaged that the Sunshine CBD would be connected to Melbourne Airport by Airport Rail and also serviced by Buses. Council is awaiting a response from State Government in regard to future planning of the bus network.

9.8 59/24**Question**

D Cappelli

In report 12.12 Green Gully Reserve northern precinct plan I was shocked to read that council spent in excess of \$2M on planning for a project they are recommending not to proceed now - given the officers knew about the challenges why did it take 4 years to come to that decision? It seem ratepayers money was wasted despite officers knowing of the complexity of the project one would expect a level of expertise to prevent this waste of money that could have built 4 new dog parks and or sport facilities / parks we desperately need . Can you please explain how this project became a big waste of ratepayers money?

Answer

The Mayor advised that Council officers have pursued this Council endorsed project in good faith, and undertaken the necessary investigative work to inform and prepare for the development of a pavilion, sports ground and associated infrastructure on this site,

which has proven to be sensitive and complex. Funding for these investigations has been necessary to assess the feasibility of development on the site, with the majority of expenditure to date being directed towards offsetting native grasslands in the area.

Whilst there have been necessary cost to progress the project to this point, these costs have been reported to ensure full transparency. With this context, officers advice is that the anticipated cost to proceed with the project does not offer good value for money and on that basis are recommending Council not proceed with this project. This recommendation is outlined in the report being considered by Council at the meeting tonight.

9.9 60/24

Question

D Cappelli

Why wasn't council proactive in providing heat safe spaces to our community before the heatwave as other councils were able to?. Given we have such high disadvantage - our community suffers greatly during the heat. Why is our community not entitled to seek refuge in places we pay for with our rates and how can council improve planning for this in future heatwaves?

Answer

The Mayor advised that each Council is able to make operational decisions about responses to heatwaves and this approach can differ between councils and can be dependent on a number of factors including resourcing and local context.

During recent high temperatures Brimbank City Council took a number of actions to promote health and wellbeing of community members including:

- Extending opening hours of our libraries and leisure centres
- Encouraging residents to go to shopping centres, beaches or seek shelter at home with keeping cool tips
- Providing heat information on our website
- Posting information via social media with tips on how to stay cool and safe

We will continue to review and improve our approach for future instances of heatwaves.

Public Question Time concluded at 7.23pm.

10 Petitions

10.1 Durham Road Car Park

Petition received with 211 petitioners objecting to the sale of any part of Durham Road carpark for any development.

Motion

That Council:

- a. Receives a petition from 211 petitioners, opposing Council's proposed sale of any part of the Durham Road carpark for any development.

- b. Refers the petition from 211 petitioners, for consideration in conjunction with the community consultation process undertaken for the proposed sale of (part) Durham Road car park.

Resolution

Moved Cr Thomas O'Reilly/Seconded Cr Maria Kerr

That Council:

- a. **Receives a petition from 211 petitioners, opposing Council's proposed sale of any part of the Durham Road carpark for any development.**
- b. **Refers the petition from 211 petitioners, for consideration in conjunction with the community consultation process undertaken for the proposed sale of (part) Durham Road car park.**

CARRIED

11 Minutes/Reports Of Delegated Committees

Nil.

Following a resolution of Council, the meeting moved directly to item 12.3.

12 Officer Reports

12.3

Directorate

Director

Manager

Attachment(s)

Consideration of the Proposed Sale of (part) Durham Road Car Park for the development of a Cultural Museum

City Futures

Kelvin Walsh

Aidan Mullen

1. List of Submitters - Proposed Sale of (part) Durham Road Car Park Sunshine [**12.3.1** - 18 pages]
2. Email submitters - Proposed Sale of (part) Durham Road Car Park [**12.3.2** - 167 pages]
3. Agenda and Meeting Summary Minutes - Proposed Sale of (Part) Durham Road Car Park Sunshine [**12.3.3** - 6 pages]
4. Durham Rd Car Park - Proposed Plan of Subdivision [**12.3.4** - 2 pages]
5. CONFIDENTIAL - Contract of Sale of (part) Durham Road Car Park Sunshine [**12.3.5** - 32 pages]
6. CONFIDENTIAL - Vendors Statement - Durham Road Car Park [**12.3.6** - 53 pages]
7. CONFIDENTIAL - Agreement under section 173 - Durham Road Car Park Sunshine [**12.3.7** - 21 pages]
8. Final Draft - Durham Road Car Parking Management Plan - February 2024 [**12.3.8** - 75 pages]

Purpose

For Council to consider all written submissions received, as provided in **Attachment 1** and **Attachment 2**, after undertaking the statutory procedures required under Section 114 of the *Local Government Act 2020* in respect of the proposal to sell part of the land known as Durham Road Car Park in Sunshine, directly to the Vietnamese Museum Australia Ltd for the purposes of operating a nationally significant cultural museum, as outlined in Council's resolution on 12 December 2023,.

Officer Recommendation

That Council:

- a. Notes that following its resolution on 12 December 2023, Council has undertaken the statutory procedures required by section 114 of the Local Government Act 2020 in respect of the proposal to sell part of the land known as Durham Road Car Park in Sunshine, directly to the Vietnamese Museum Australia Ltd for the purposes of operating a nationally significant cultural museum.
- b. Notes that the copies of all 189 written submissions received, including 179 submission via Council's Your Say page (provided in Attachment 1) and 8 emails, including a letter of support with 1,868 signatures, (provided in Attachment 2) and a petition against the proposal with 196 petitioners (received at the 19 March 2024 Council Meeting), as well as the minutes of the Hearing of Submissions Committee meeting held on 4 March 2024 (provided in Attachment 3) and that this report summaries and discusses the main items for consideration raised in the submissions.

- c. Having considered all submissions received, Council resolves to proceed with the proposal to sell the approximate 1,000 square metre parcel within the land known as Durham Road Car Park (as shown in Attachment 4) in Sunshine directly to the Vietnamese Museum Australia Ltd.
- d. Authorise the Chief Executive Officer to undertake anything necessary, incidental or convenient to be done in connection with the sale of the Durham Road Car Park parcel, including signing the Contract of Sale (see Attachment 5), Vendor Statement (Attachment 6) the Section 173 Agreement (see Attachment 7), which includes the following key elements:
 - i. The financial offer from Vietnamese Museum Australia Ltd for the land is for market value, as confirmed by the valuation from the independent qualified valuer dated 16 November 2023;
 - ii. A condition is placed on title (via the Section 173 Agreement) that restricts the use of the land for the purposes of a cultural museum for a 50-year period (unless otherwise agreed by Council after 30 years);
 - iii. Time restrictions are placed on the delivery of the proposal to ensure construction occurs within a reasonable time,
 - iv. Council will have access to the function space for up to 6 events per year, free of charge, subject to availability.
 - v. The 6 car spaces proposed to be constructed on the title, will be managed by Council through agreement, in order to be made available for public parking while balancing the needs to provide access for Vietnamese Museum Australia Ltd staff and events.
 - vi. Costs for reconfiguration of the remaining car park on Council land, of approximately \$400,000, will be shared equally between Council and the Vietnamese Museum Australia Ltd and may be undertaken by the appointed Vietnamese Museum Australia Ltd builder, subject to Council approval.
 - vii. Site occupation and tree amenity fees are to be waived by Council, however Vietnamese Museum Australia Ltd are to pay all other statutory fees.
- e. Notes that a condition of the Contract of Sale requires Vietnamese Museum Australia Ltd to obtain planning permit approval prior to settlement and transfer of the land and notes that under the Planning and Environment Act 1987 this planning application process:
 - i. Will be a separate statutory process, following this decision,
 - ii. Can be considered under Clause 53.22 (Significant Economic Development) where the applicant may seek the State Government to be the responsible authority for the application, and
 - iii. Will address issues such as parking and determine the appropriate use and size of the proposed museum.
- f. Resolves to reserve for open space the Council-owned land parcel at the eastern end of the Durham Road Car Park, including:
 - i. Developing a concept design for a 'Welcome Plaza' that celebrates all refugee and migrant communities that call Brimbank home, including appropriate consultation with Traditional Owners and multicultural groups,
 - ii. Retain the two large trees and ensure they are protected during construction,
 - iii. Working with the Vietnamese Museum Australia Ltd to ensure that the proposed Council owned open space design appropriately integrates with the proposed museum,

- iv. Noting the Section 173 Agreement (see Attachment 6) makes clear delivery of the proposed 'Welcome Plaza' is at Council's discretion,
 - v. Support for the delivery of the 'Welcome Plaza' following the completion of the adjacent museum, if the estimated \$850,000 budget can be secured; and
 - vi. Actively seek funding for the 'Welcome Plaza' through advocacy to both State and Federal Governments and local members.
- g. Resolves to allocate the Council-owned land parcel at the western end of the Durham Road Car Park, as free-hold land and reconfigure the existing carpark layout, including:
 - i. Complete engineering drawings for the concept layout of the reconfigured carpark which provides for 24 car spaces (including 2 accessible spaces),
 - ii. Seek permission from Department of Transport and Planning to reconfigure the bus stops on Durham Road, in order to construct a new car park entrance at the western end,
 - iii. Work with the Vietnamese Museum Australia Ltd to ensure that the proposed Council owned car park appropriately integrates with the design on the museum land, including new tree planting and garden bed along the museum interface,
 - iv. Retain the large tree, by creating a garden bed in the tree protection zone and ensure it is protected during construction,
 - v. Notes that the car park works, estimated to cost approximately \$400,000, will be cost shared between Council and the Vietnamese Museum Australia Ltd (i.e. 50% cost to each party), with final costs to be confirmed through the procurement process,
 - vi. Resolves to allocate approximately \$200,000 in the future years annual budget, timing delivery with the construction of the proposed Vietnamese Museum Australia Ltd; and
 - vii. Notes Council will be undertaking the car park works separately to the proposed museum works and timing of works will be subject to the completion of the museum works and Council's program.
- h. Notes the findings of draft Durham Road Car Parking Management Plan (see Attachment 8), which found that the proposed impact of the VMA operation and reduction of the Durham Road Car Park could be accommodated during the day through existing on-street car parking, however during the evenings with an event had the potential to use all of the nearby on-street car parking.
- i. Resolves to undertake the immediate steps to address the identified car parking issues:
 - i. Implement the review of time-based restrictions to on-street car parking, which includes an extension of restrictions until 10pm on weekdays and weekends, reduction of some parking from 2 hours to 1 hour and making some unrestricted parking restricted,
 - ii. Increased enforcement of parking restrictions to ensure adequate turnover,
 - iii. Increase of 5 on-street parking spaces in Sun Crescent, near Watt Street, by reinstating redundant crossovers, and
 - iv. Writes to the Minister for Transport Infrastructure, the Hon Danny Pearson, to request that the State Government:
 - i. make the commuter car parks in Sunshine CBD legally available to the non-commuter public after 6pm on weeknights and all day on weekends,
 - ii. Expedite the funding and delivery of the proposed 'Spurline' project, as identified in the Sunshine Station Masterplan, to create a new

- pedestrian link connecting the southern village precinct and the Durham Road site with the Sunshine CBD north of the railway, and
 - iii. consolidate and appropriately relocate the existing bus stops within Durham Road and Sun Crescent, Sunshine, to create a new car park access point for the Durham Road Car Park and seek to facilitate the creation of any additional on-street car spaces.
- j. Notes that further parking measures, as outlined in the draft Durham Road Car Parking Management Plan, may be considered by Council following the opening of the proposed museum and the actual car parking impacts are assessed.
- k. Writes to all submitters on the proposal to sell part of the land known as Durham Road Car Park in Sunshine, thanking them for their submission and advising of Council's decision and the reasons outlined in the report.
- l. Writes to relevant project stakeholders to advise of Council's decision to sell Council land directly to the Vietnamese Museum Australia Ltd, including:
 - i. Mr Bruce Mildenhall, Vietnamese Museum Australia Ltd President
 - ii. The Hon Andrew Giles MP, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs of Australia (Commonwealth government funding partner)
 - iii. The Hon Ingrid Stitt MP, Minister for Multicultural Affairs (State Government Victoria funding partner)
 - iv. Dr Daniel Mulino MP, local Commonwealth Member for Fraser
 - v. Ms Sarah Connolly MP, local State Member for Laverton.

Background

VMA Background

The Vietnamese Museum Australia (VMA) is a proposed new museum which will become the sixth multicultural museum in Victoria. The museum is proposed to become a prominent landmark to communicate powerful stories which represent an important time in Australian modern history for education, celebration and inspiration. It is expected that the museum would attract around 25,000-33,000 visitors annually and be an important cultural space for the Vietnamese and wider Melbourne community.

The \$25 million museum currently has approximately \$18m of funding for Stage 1 comprising:

1. \$10m federal funding;
2. \$7m state funding; and
3. \$1m community support (with a target of \$7.5m community funding to cover Stage 2).

Subject to relevant approvals, the Stage 1 development is expected to cover the construction of a four-storey Vietnamese museum which include:

- A resource centre / café
- Reception / social services area
- Multicultural hall
- Exhibition spaces (both temporary and permanent)
- At least 6 carparks, available for public use, subject to final planning approval conditions and one dedicated Loading Bay for VMA

There is a funding requirement to have the Stage 1 works for the museum largely under construction or complete by 2026.

Stage 2 is expected to cover the completion of the full fit-out of the museum as well as the construction of a shrine and memorial garden, subject to relevant approvals.

The VMA Opportunity in Brimbank

Brimbank prides itself on its cultural diversity and is one of Victoria's most culturally diverse municipalities, having embraced more than 156 nationalities from around the globe.

Vietnamese is the largest ancestry community in Brimbank, with 32,000 residents making up 17% of the total Brimbank population. This strong Vietnamese community can particularly be experienced when visiting the Sunshine and St Albans activity centres. The longstanding and vibrant Vietnamese community that makes up the Sunshine CBD of today has helped make it a regional destination to experience Vietnamese cuisine, street life and culture that it has on offer.

While culturally rich, Brimbank has the second lowest Socio-Economic Index in Melbourne and the third lowest in Victoria. Through the Transforming Brimbank program Council is committed to delivering meaningful and generational change for Brimbank, by leveraging major investment and infrastructure opportunities.

The establishment of a national Vietnamese cultural museum strongly aligns with the Transforming Brimbank and Social Justice programs, which are two of the three Council priorities outlined in the Together We are Brimbank – Council Plan 2021-2025

Durham Road, Sunshine, Car Park Site

The site known as the Durham Road, Sunshine, Car Park has been identified as the preferred site to explore the VMA opportunity.

A 1,000 square metre parcel has been identified, sitting centrally within the site known as Durham Road Car Park. This central location provides Council with some flexibility to explore the delivery of complementary works on the balance of the car park site including:

1. A new car park entry at the western end of the Durham Road Car Park;
2. A new park/plaza space at the eastern end of the Durham Road Car Park.

Formal Sale of Land Process

If Council is considering the sale of its land it must comply with Section 114 of the Local Government Act 2020 (LGA 2020). That is, Council will be required to comply with the following requirements prior to entering into a contract of sale:

1. At least 4 weeks prior to the proposed transfer of land (or interest in land), publish notice of its intention to do so on Council's website;
2. Obtain a valuation of the interest in land proposed to be transferred, not more than 6 months prior to the proposed transfer; and
3. Conduct a public engagement process in accordance with Council's community engagement policy in respect of the proposal (s 114 (2)).

There is no statutory obligation on Council under the LGA 2020 or any other Act to undertake a public procurement process in respect of the proposed sale or lease of Council land. However, in considering the disposal of Council land, Council should have regard to the provisions of the Local Government Best Practice Guideline for the Sale, Exchange and Transfer of Land 2009 (Best Practice Guideline)

On 12 December 2023, Council resolved as follows:

That Council:

- a. ***Notes that Vietnamese Museum Australia Ltd (VMA) have written to Brimbank City Council expressing strong interest in locating to the***

Sunshine Business District (Sunshine CBD), advising that VMA have formally rescinded their contract with Maribyrnong City Council for a site in Footscray, and retain funding to construct a nationally significant cultural museum, which requires construction to be largely complete by the end of 2026 (as outlined in the Confidential Attachment 1).

- b. Notes that the opportunity to facilitate a nationally significant cultural museum in the Sunshine CBD, strongly aligns with Council's policies and objectives, particularly the Sunshine Priority Precinct Vision 2050.***
- c. Notes that the State Government has released and funded the first stage of the Sunshine Station Masterplan (Masterplan) which seeks to transform the station precinct and that Council has identified that the adjacent Durham Road Car Park is the preferred site (subject to community consultation) for a cultural museum, aligning with the Masterplan and the Sunshine Priority Precinct Vision 2050.***
- d. Authorises the Chief Executive Officer (CEO) to sign the non-binding Memorandum of Understanding (MoU) (see the Confidential Attachment 2) which includes the draft key terms for the proposed transaction, including the following elements:***
 - i. Any decision to sell all or part of the Council land known as the Durham Road Car Park would be subject to Council complying with its obligations under the Local Government Act 2020;***
 - ii. The proposed financial offer from Vietnamese Museum Australia Ltd for the land is for market value, as confirmed by the valuation from the independent qualified valuer (see Confidential Attachment 3);***
 - iii. A condition is proposed to be placed on title that restricts the use of the land to being for the purposes of a cultural museum for a 50-year period (unless otherwise agreed by Council after 30 years);***
 - iv. Time restrictions are placed on the delivery of the proposal to ensure construction occurs within a reasonable time.***
- e. Undertakes the statutory procedures required by section 114 of the Local Government Act 2020 in respect of the proposal to sell a 1,000 square metre parcel within the land known as Durham Road Car Park in Sunshine (as shown in the hatched area in Attachment 4) directly to the Vietnamese Museum Australia Ltd for the purposes of operating a nationally significant cultural museum.***
- f. Notes that Council has considered the provisions of the Local Government Best Practice Guideline for the Sale, Exchange and Transfer of Land 2009 (Best Practice Guideline), shown at Attachment 5, and Council's Sale of Surplus Land Policy 2019, shown at Attachment 6, which both recommend selling significant Council land assets through a public procurement process, and resolves to instead deal directly with the Vietnamese Museum Australia Ltd through private treaty due to the compelling reasons as outlined in this Report, notably the alignment with the objectives of Council's Transforming Brimbank program and the strategic benefit this facility would deliver.***
- g. Notes that a market valuation of the proposed parcel of land has been obtained (see the Confidential Attachment 3) in accordance with S114(2)(c) of the Local Government Act 2020 and notes that the***

valuation aligns with Vietnamese Museum Australia Ltd financial offer for the Land.

- h. Sets the Hearing of Submissions Committee meeting for 6pm on Monday, 4 March 2024 at the Brimbank Community and Civic Centre, 301 Hampshire Road, Sunshine.**
- i. Directs officers to undertake a 'consult' and 'participatory engagement level' community engagement process, as outlined in the Brimbank Community Engagement Policy 2021, including undertaking the following actions:**
 - i. Formally undertake community consultation for a four-week period between Monday 22 January and Monday 19 February 2024**
 - ii. Direct that public notice of the proposed sale be given on Council's website and in a local newspaper**
 - iii. Send a letter enclosing the public notice to all owners and occupiers of adjoining properties to the proposed Land**
 - iv. Erection of a sign on the Land with a copy of the public notice**
 - v. Provide relevant information on Council's Your Say Page which may include proposed site layout, relevant Council policies, parking studies and preliminary concept designs**
 - vi. Direct all community submissions via Council's Your Say page or via email to durhamroad@brimbank.vic.gov.au**
 - vii. Invites those who made a submission to speak to their submission at a Hearing of Submissions Committee on 6pm on Monday 4 March 2024 at the Brimbank Community and Civic Centre, 301 Hampshire Road, Sunshine,**
- j. Appoints Councillor Jasmine Nguyen as Chair of the Hearing of Submissions Committee and Councillors Thuy Dang and Sam David as Hearing of Submissions Committee members and authorises the Chair to nominate any other Councillor as a substitute Committee member as required.**
- k. Authorise the Chief Executive Officer to undertake the administrative procedures necessary to enable Council to carry out its functions in relation to this matter.**
- l. Following completion of the Hearing of Submissions Committee, Council receives a further report with the intention that this is presented at the March 2024 Council Meeting, for Council to decide whether or not to proceed with the proposed sale of the land to Vietnamese Museum Australia Ltd.**

Public notice was published on Council's website Monday 19 January 2024 in both English and Vietnamese. Council also gave notice by:

- Erecting public notice signs in the Durham Road Car Park in both English and Vietnamese on Tuesday 16 January 2024
- Writing to adjacent property owners and occupiers and local traders in the week prior to Monday 22 January 2024,
- Placing the public notice in the Star Weekly newspaper in the Tuesday 23 January 2024 edition.

A community engagement process was undertaken in the Brimbank Community Engagement Policy 2021, for a four-week period between Monday 22 January and

Monday 19 February 2024, seeking written submissions via Your Say web page or via email.

189 submissions were received, as well as a letter of support with 1,868 signatures, in relation to the Proposal and are provided in **Attachment 1** and **Attachment 2**. A petition with 196 signatures was received by Council at the 19 March Council Meeting.

A summary and discussion of the key items for considerations raised are discussed further in the body of this report.

The Public Notice and Your Say advertised the location and time of the special Hearing of Submissions Committee, and asked submitters to indicate if they request to be heard. On 4 March 2024, 9 submitters were present and heard by the special Hearing of Submissions Committee, with the minutes provided in **Attachment 3**.

Council has discretion whether or not to proceed with the Proposal, after considering all relevant written and verbal submissions.

Matters for Consideration

Key matters for consideration raised in the submissions are best summarised as:

1. Support for the proposed sale to the VMA
2. Concerns about loss and lack of car parking*
3. Support for the VMA proposal but in a different location
4. Not support for the VMA proposal**

*Note – a full discussion on Council's draft Car Parking Management Plan and proposed mitigating measures is separately detailed further in this report.

**Note – In response to calls of no support for the VMA proposal, officer recommendations associated with the delivery of a safe, inclusive and economically beneficial 'Welcome Plaza' are put forward. A full discussion on officer recommendation for a 'Welcome Plaza' concept is separately detailed further in this report.

These key matters for consideration raised by submitters are outlined below, along with officer responses, for Council's full consideration.

1. Support for the proposed sale to the VMA

A large majority of written submissions received, provided support for the proposal to sell Council land to the VMA.

This included approximately 60% of the 189 written submissions and then the additional letter of support with 1,868 signatures.

Key themes provided from these submissions for reason for support, included:

- Providing an overall community benefit
- Cultural importance of the proposed museum to not only the Vietnamese community but also the wider Australian community,
- Providing civic pride to Sunshine and Brimbank,
- Providing an economic benefit to Sunshine CBD and to the southern village in particular,
- Improving the amenity and safety of the area around Durham Road,
- Creating a visitor destination, noting the current and future train connections at Sunshine Station.

Officer response:

It is important that a proposal for a cultural museum, such as the VMA, has strong support from the local and regional community, which has been demonstrated through this consultation process.

A detailed outline of the potential cultural, community and economic benefits of the proposed national Vietnamese cultural museum was discussed in detail in the report considered by Council in December 2023.

The establishment of a national Vietnamese cultural museum strongly aligns with the Transforming Brimbank and Social Justice programs, which are two of the three Council priorities outlined in the Together We are Brimbank – Council Plan 2021-2025

The December 2023 report outlined the strong strategic alignments that the proposal has with Council's policies and strategies including the 2050 Sunshine Priority Precinct Vision.

The VMA proposal in the proposed location at Durham Road Car Park, also strongly aligns with the State Government's Sunshine Station Masterplan and its broader goal to make Sunshine the 'centre of Melbourne's booming west'.

2. Concerns about loss and lack of car parking

Approximately 30% of the 189 written submissions received, as well as the 196 petitioners, raised concern regarding the lack of car parking under the existing conditions and the concern that this would be worse with the proposed reduction of public car parking and the additional demand by the proposed museum.

Almost all of these submissions did not support the proposed sale of Council land, due to the concern regarding car parking.

Key themes provided from these submissions regarding car parking concerns, included:

- Negative impact on local businesses
- Negative impact on access to local doctors and health providers
- Negative impact on access to the hotel
- Negative impact on access to the station

Officer response:

The current lack of car parking and potential future loss of parking has been raised by a large proportion of submitters.

In order to better understand and appropriately address the issue of car parking, Council engaged an expert traffic consultant, Traffix Group, to prepare a Car Parking Management Plan to:

- Review the existing supply, management and demand for public car parking in the area,
- Assess the impacts of the VMA proposal (if supported by Council) and partial loss of the Durham Road Carpark on public parking availability, and
- Assess options mitigating the potential impacts to public parking availability in the area.

A full discussion on Council's draft Car Parking Management Plan and proposed mitigating measures is separately detailed further in this report.

Council officers believe that the review the existing supply and demand of car parking in the area, along with the actions set out in the draft Car Parking Management Plan, adequately mitigate the concerns raised about loss and lack of car parking, and that the benefits of the proposal significantly outweigh the concerns raised about loss and lack of car parking post-mitigation.

3. Support for the VMA proposal but in a different location

A small number of submissions supported the VMA proposal but did not think the Durham Road Car Park was the appropriate location.

Officer response:

As per of the appropriate due diligence prior to proceeding with the formal sale of land process for the Durham Road Ca Park, officers undertook its appropriate due diligence in exploring all Council owned sites within Sunshine and St Albans activity centres.

Of these sites, only two sites (Durham Road and Withers/Clarke street car parks) were appropriately zoned to allow for exploration of the VMA opportunity.

Both Durham Road and Withers/Clarke street car parks are car parks, and so exploring a development on either site has impact on parking supply to the Sunshine CBD in different ways.

As outlined in the December 2023 Council report, the Durham Road Car Park has been identified as the preferred site to explore the VMA opportunity, as it:

1. Is adjacent to the Sunshine Station Super Hub, which is about to undergo a transformation through the State Government's implementation of the first stage of the Sunshine Station Masterplan, as well as the Regional Platform and Airport Rail works, significantly improving the access for visitors to the Sunshine CBD,
2. Will provide an economic stimulus to the area south of Sunshine Station, which is much needed by businesses.
3. Is currently zoned Activity Centre Zone (ACZ) enabling such development to be considered, unlike many other car park sites. The Clarke/Withers Street Car Park is the only other Council owned site zoned ACZ in the Sunshine CBD.
4. Has lower car parking demand compared to the other Council car park site zoned ACZ, being the Clarke/Withers Street Car Park.
5. Is adjacent R T Pollard Gardens providing high amenity for visitors, particularly for school groups, which may visit the proposed museum.

Council may still explore a development at Withers/Clarke street car at a future time, as identified in Council policies and strategies, however it is recommended that a higher and better use be explored for that site.

4. Not support the VMA proposal

A small number of submissions do not support the VMA proposal (without citing car parking concerns) and instead raise a range of other concerns. There were not clear themes raised across this group, but included comments such as:

- Why support the Vietnamese community over other communities, or
- A cultural museum is not appropriate for Council to facilitate, should instead investigate other community uses

Officer response:

The VMA proposal is a live opportunity which currently has over \$18 millions of funding from Federal and State Governments, and contributions from the community. As outlined

earlier in this report, the VMA opportunity in Sunshine CBD has strong strategic alignment with Council's policies and objectives.

Exploration of this proposal, does not preclude Council from exploring other cultural or community opportunities in the future at other sites or in other ways, depending on merit and on Council considerations.

Officers recommend for the new plaza space proposed on Council land adjacent to the proposed VMA site, to be a 'Welcome Plaza' concept which celebrates all refugee and migrant communities that call Brimbank home, including appropriate consultation with Traditional Owners and multicultural groups.

A full discussion on officer recommendation for a 'Welcome Plaza' concept is separately detailed further in this report.

Draft Car Parking Management Plan and proposed mitigating measures

The draft Durham Road Car Parking Management Plan (**Attachment 8**) seeks to:

- Review the existing supply, management and demand for public car parking in the area,
- Assess the impacts of the VMA (if supported by Council) and partial loss of the Durham Road Carpark on public parking availability, and
- Assess options mitigating the potential impacts to public parking availability in the area.

Durham Road & VMA Proposal

The proposed VMA building, and plaza (if supported by Council) would reduce the existing public car park from 82 spaces to 24 public spaces.

An additional 6 spaces are proposed as part of the VMA building, located on the title proposed to be sold, however as in the draft Section 173 Agreement (**see Attachment 7**), the VMA has agreed for Council to manage these 6 proposed spaces to be managed by Council through agreement, in order to be made available for public parking while balancing the needs to provide access for VMA staff and events.

The proposal if supported would see a net loss of 58 car spaces (or 52 spaces if accounting for the car spaces on VMA title).

While the VMA has not yet finalised designs, the parking management report has assumed the same capacity as the Footscray proposal with:

- A Museum with a patron limit of 450 people on-site
- A function space accommodating up to 250 people, approximately twice per week; however, these would not coincide with the Museum (i.e. Museum during the day, possible functions to be held at night).

Off Street Parking

Durham Road Car Park (discussed above) is the only Council owned car park south of the railway line in the Sunshine CBD.

More fundamentally, there are a total of approximately 352 car spaces available for commuter parking south of the rail line associated with the Sunshine Railway Station which are not included in the overall parking analysis. This includes approximately 290 spaces west of Hampshire Road and 62 spaces east of Hampshire Road. When considering availability of on-street parking, these car spaces are not included in the

overall parking analysis as they are not available to the general public (signed 'P Commuter', available only for patrons directly interchanging with public transport services). However, these car parking spaces exist, nonetheless.

On Street Parking

The parking surveys looked at two survey areas:

1. On-Street Parking – Wider Area

- Approximately 450 metres around Durham Road Car Park
- The surveys identified between 400-457 on-street car spaces available for use by the general public
- Car Parking was generally a mixture of unrestricted and short-term parking (i.e. 1P and 2P during weekday business hours and on Saturdays).
- Overall demand for on-street parking was low
- A minimum of 263 vacant spaces were recorded over the survey period (39% occupancy), which occurred at 12noon on Thursday 30th November 2023.

2. On-Street Parking – Reduced Area

- Approximately 200 metres around Durham Road Car Park
- The surveys identified between 189-200 on-street car spaces available for use by the general public in the nearby area.
- Car Parking was generally a mixture of unrestricted and short-term parking (i.e. 1P and 2P during weekday business hours and on Saturdays).
- Overall demand within the reduced area was low
- A minimum of 88 vacant spaces were recorded over the survey period (56% occupancy), which occurred at 12noon on Thursday 30th November 2023.

Key Findings

The Car Parking Demand analysis found that the impact of the proposed VMA operation and partial closure of the Durham Road carpark:

- Could readily be accommodated during the day within the car parking available close to the site.
- During the evening, functions of 250 people had the potential to use all available car parking within approximately 200m of the site (again noting however that this does not include consideration of the 352 commuter car spaces available south of the rail line, which are unlikely to be heavily utilised during the evening).
- There is capacity in the wider study area to accommodate the parking demand of the VMA and partial closure of the Durham Road carpark, however this is further away from the site and includes residential streets.

Key mitigating measures

The Draft Car Parking Management Plan identifies the following mitigating measures in priority order:

1. Planning Permit Process
2. Review of Time-Based Restrictions
3. Increase Enforcement
4. Increase Parking Supply
 - a. Southeast Sun Cres
 - b. Northwest Sun Cres
5. Commuter Carpark Review
6. Increase Parking Supply – Watt Street

These are discussed in the draft Durham Road Car Parking Management Plan (**Attachment 8**) in Section 5.

The consultant report states that *'all of the above actions can be delayed until after the VMA opens and the actual impact of its operation is assessed. It is possible only the first or two action are required, or that none of these actions are necessary.'*

Officer comments on these measures are also outlined below:

1. Planning Permit Process

If the proposed sale of land is supported, settlement under the draft Contract of Sale (**Attachment 5**) is conditional on VMA seeking and receiving a planning permit. The planning permit process would consider the number of patrons that is appropriate to be accommodated in the proposed museum, taking into account the available public transport and parking.

It is the responsibility of the VMA and their consultant team to seek the planning permit.

Recent changes to the planning scheme by the State Government, Clause 53.22 Significant Economic Development, allow for the State Government to undertake a 'fast tracked' planning process on projects meeting the criteria.

It is preliminarily considered that the VMA would meet the criteria as it:

- Is an approved use - a place of assembly (museum)
- Has a budget over \$10 million
- Is partly State funded

Under this new Clause, Council and neighbours may be notified of the development application, but there are no third-party appeals (i.e. a VCAT objector appeal). A permit can be issued by the Minister for Planning (via the Department of Transport and Planning).

2. Review of Time-Based Restrictions

Durham Road Car Park currently has a higher level of parking demand at night (assumed to be a combination of the hotel opposite and the adjacent apartment building). The proposed VMA building will add to the night parking demand, when functions are held in the evening.

The existing time-based restrictions finish at 6pm – however as most are 1- or 2-hour restrictions, it means that most on street parking is effectively un-restricted from 4 or 5pm.

As such, it is proposed that restrictions be reviewed (as outlined in the consultant report), with a key measure being that identified streets have restrictions extended from 6pm to 10pm.

3. Increase Enforcement

Increased enforcement will assist in ensuring there is adequate turnover of car parking in the area to maximise carparking availability.

While enforcement is undertaken regularly, the parking studies showed that there are several low turnover streets, where the average duration of stay was greater than the relevant period. These streets included Watt Street, Durham Road, Sun Crescent, City Place and importantly the Durham Road Car Park.

Increased parking enforcement should be undertaken in the immediate future, irrespective of the proposed development, to aid in the turnover of car spaces.

However, at present, increased enforcement would have no effect during the evening without extending parking restrictions (as per previous measure).

4. Increase Parking Supply - 4a. Southeast Sun Cres & 4b. Northwest Sun Cres
Additional car parks can be found on Sun Crescent by reinstating unused crossovers.

4a. Southeast Sun Cres -

5 additional spaces can be found within the shopping strip on Sun Crescent, by converting redundant crossovers into kerb and car parking spaces, at a cost of approximately \$20,000.

Given these redundant crossovers are serving no purpose, it is recommended that they are converted into car spaces as soon as practicable, irrespective of the Council decision regarding the sale of Durham Road Car Park.

4b. Northwest Sun Cres -

11 additional spaces can be found on the periphery of the shopping strip on Sun Crescent. These spaces require civil works including kerb outstand to make the new parking bays safe. Approved planning permits for the development adjacent, require the developer to construct these car parks as part of the development works at the developers cost.

However, it is not currently known if or when the sites would be developed. If Council were to construct the new parking bays, prior to the developments proceeding, it would cost Council approximately \$120,000.

It is recommended that Council continues to seek for these new car parking bays to be constructed as part of the adjacent development sites. Council may consider constructing these additional car parking bays, if, following completion of the proposed VMA building, these additional car parks are deemed to be required and the adjacent developments are not proceeding.

5. Commuter Carpark Review

There are 352 commuter parking south of Sunshine Station. The commuter car parks are signed as 'P Commuter', available only for patrons directly interchanging with public transport services.

The surveys show that, while largely full during the day, the commuter car parks are substantially less used during the evenings (after 6pm) and on weekends, where parking occupancy did not exceed 45%.

This means that there were at least 195 vacant spaces or more, during the evenings and on weekends, located within 200m walking distance of Durham Road Car Park, which technically cannot be used by visitors to the centre (not using the train).

It is recommended that Council seek an agreement with State Government, where these car parking assets could be better utilised, by allowing for public visitor parking in the evenings and on weekends.

6. Increase Parking Supply – Watt Street

16 additional car parks can be found through works to Watt Street, at a cost of approximately \$130,000.

This would include making Watt Street one way and creating 90-degree car parking, creating 12 additional car spaces. The associated closure of the entry lanes at Sun Crescent would also create 4 additional spaces.

Making Watt Street one-way would require its own process, including consultation with the affected occupants and landowners.

It is not recommended that these works proceed, unless deemed necessary following the construction of the proposed VMA building and the measures outlined above.

Financial Impacts and Risks

Financial cost for car parking measures

A range of measures have been identified to address car parking supply, noting the proposed VMA project results in a net loss of 57 car spaces.

The measures with the largest financial impact are those seeking to create additional car spaces. The various options are outlined in the consultant report, above in this briefing note and summaries in the table below:

Location of spaces	Number of additional spaces	Probable Cost to Council	Timing
Proposed VMA title	6	\$0	Short-term
Sun Crescent SE	5	\$20,000	Short-term
Sun Crescent NW	11	\$0 (if delivered by developer) \$120,000 (if delivered by Council)	With development As deemed required
Watt Street (90deg)	16 (including 4 additional spaces on Sun Crescent)	\$130,000	As deemed required
Total	38 spaces	\$270,000	(\$7,100 per car space)

It is recommended that 11 spaces could be created in the short-term at a cost of approximately \$20,000.

An additional 27 spaces could be created at a cost of \$250,000 if deemed necessary by Council, following review of parking once the proposed VMA museum has been constructed. These works would be subject to future budget process.

Western Car Park Reconfiguration

The western end of the Durham Road Car Park is proposed to remain Council-owned land and remain its current use as a car park. However, the carparking will need to be reconfigured to allow for a new car park entrance from Durham Road and connection to the rear Right of Way (RoW).

Council will need to seek the Department of Transport and Planning support to reconfigure the existing bus stop along Durham Road, to allow for the creation of the new car park entry (which can be facilitated through the closure of the existing car park entry).

There is an existing large native tree (*Corymbia maculata*, Spotted Gum) within the car park, which officers recommend retaining. In order to protect the tree and not to disturb

the roots, it is proposed that the reconfigured car park retains the existing kerb outstand width and does not propose car parks within the tree protection zone.

Allowing for the new entry and retention of the large native tree, the concept plan for the reconfigured car park proposes 24 car spaces (including 2 accessible spaces).

If Council were to decide to remove the large native tree, an additional 4 spaces would be created. However, it should be noted that the large native tree has a tree amenity value of over \$27,000, which Council would normally be charge the protenant proposing to remove the tree and used to plant new replacement trees.

The reconfiguration of the car park is estimated to cost approximately \$400,000. The draft Section 173 Agreement states that the cost for these works will be shared between Council and the Vietnamese Museum Australia Ltd (i.e. 50% cost to each party), with final costs to be confirmed through the procurement process.

Welcome Plaza Concept

Officers recommend the creation of a new open space of approximately 675 square metres to be located adjacent to the proposed VMA site on Council owned land.

This new open space will provide a connection between R T Pollard Gardens, the proposed museum and shopping strip on Duram Road and Sun Crescent.

Officers recommend for the new plaza space proposed on Council land adjacent to the proposed VMA site, to be a 'Welcome Plaza' concept which celebrates all refugee and migrant communities that call Brimbank home, including appropriate consultation with Traditional Owners and multicultural groups.

While a concept plan has not yet been developed, it is envisaged this new plaza space will be dedicated for pedestrians (i.e. closed to vehicles) and be large enough to accommodate generous public seating, lighting, vegetation and tree planting and possibly decking around the large existing gum trees. The plaza design would also need to consider how it integrates with the proposed museum space and with the R T Pollard Gardens interface.

It is recommended that the two existing native trees (*Corymbia maculata*, Spotted Gum and *Corymbia citriodora*, Lemon Scented Gum) are retained and protected during construction.

It is anticipated that the construction costs of the proposed plaza would be approximately \$850,000.

The plaza proposal aims to address several concerns and opportunities raised during the consultation period, including:

- Addressing public safety and existing antisocial behaviour
- Recognising all refugee and migrant communities
- Providing an economic stimulus for local businesses

Addressing public safety and existing antisocial behaviour:

There have been concerns raised about some existing anti-social behaviour and public safety in the area. Officers recommend that the creation of a well-designed plaza space (including CPTED principles, including lighting) would help attract greater level of

community activity in this area, foster a sense of custodianship and in turn deter the anti-social behaviour.

The plaza would have natural surveillance from the adjacent apartment building, which will have its balconies overlooking the plaza and it is hoped that the design of the proposed museum will have active frontage facing the plaza space also.

Recognising all refugee and migrant communities:

Brimbank prides itself on its cultural diversity. It's one of Victoria's most culturally diverse municipalities, having embraced more than 156 nationalities from around the globe.

In 2002, Brimbank was declared a Refugee Welcome Zone (RWZ). The RWZ is a local government area that has made a commitment to welcome refugees into the community, uphold the human rights of refugees, demonstrate compassion and enhance cultural and religious diversity in the community.

It is proposed that this new plaza space could be designed to celebrate all communities that call Brimbank home. This is an opportunity to tell the story of all of the communities in Brimbank, from first nations (through appropriate consultation with Traditional Owners) to the early migrant settlers and then to more recent refugee and migrant communities, all under one banner of 'welcoming'.

It is yet to be explored, what this may look like, but may include interpretive signage, artwork or interpretive design elements which appropriately recognise the diversity of the Brimbank community that the various

Providing an economic stimulus for local businesses:

The creation of this proposed plaza creates a new public space which, if well designed, can reposition the southern village of Sunshine CBD and be a catalyst for further private investment in the businesses and developments in this area.

Community Engagement

Community consultation was undertaken over a four-week period between Monday 22 January and Monday 19 February 2024. This engagement was undertaken at a 'consult' and 'participatory engagement level' community engagement process, as outlined in the Brimbank Community Engagement Policy 2021.

Formal public notification was undertaken through various means including on Council's website, in the local newspaper, letters to adjoining properties and a sign erected on the site. Relevant information was provided on Council's Your Say Page which included proposed site layout, relevant Council policies, parking studies and preliminary concept designs.

189 submissions were received, as well as a letter of support with 1,868 signatures, in relation to the Proposal and are provided in Attachment 1 and Attachment 2. A petition with 196 signatures was received at the 19 March 2024 Council Meeting.

A summary and discussion of the key items for considerations raised have been provided in this report.

The Public Notice and Your Say advertised the location and time of the special Hearing of Submissions Committee, and asked submitters to indicate if they request to be heard.

On 4 March 2024, 9 submitters were heard by the special Hearing of Submissions Committee, with the minutes provided in **Attachment 3**.

Resource And Risk Implications

The following resources are recommended for allocation as part of this report:

- Council to receive market value for the land parcel proposed to be sold
- Approximately \$200,000 required for the implementation of the carpark works to be included in the future annual budget in line with the proposed construction of museum (noting the full car park works costs is shared 50/50 with VMA).
- Approximately \$20,000 required for the implementation of the kerb reinstatement to create 5 additional car parks on Sun Crescent, to be undertaken as soon as possible under the existing capital budget.

It is recommended that joint funding is sought for:

- Approximately \$850,000 required for the implementation of the 'Welcome Plaza', with Council's contribution to be confirmed at a later date.

Community: potential impact on community, including public trust and customer service impact

- Yes – The opportunity to facilitate the Vietnamese Museum of Australia in Brimbank is a significant opportunity that aligns with Council's community and social policy. The potential sale of Council owned land is a significant decision which will be informed by the community engagement process undertaken and outlined in this report.

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- Yes – Council has undertaken site testing for contamination and the site is suitable for sale.

Council is also considering to the retention or removal of trees and vegetation as part of the overall works required under this proposal. The number of trees required to be removed has not yet been confirmed at this stage, however where trees are required to be removed, it will be sought that suitable replacement trees will be planted as part of either the car park or plaza works.

Financial: significant financial impacts

- Yes – A valuation of the proposed parcel of land has been obtained, which aligns with VMA's financial offer for the Land.
\$220,000 of capital works have been identified requiring allocation by Council in a future year budget to deliver car park works.

It is recommended that joint funding is sought to deliver \$850,000 'Welcome Plaza', with Council's contribution to be confirmed at a later date.

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- Yes - This report summarises the results of the formal community engagement process prescribed in Section 114 of the Local Government Act 2020, for the potential sale of Council land.

Safety: health, safety or duty of care impacts

- Yes – The proposed new plaza space seeks to address some concerns raised about public safety in the area.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing
- Pride and Participation - Community and cultural connections built through social and artistic expression

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around

3. Opportunity and Prosperity - A future focused, transforming city where all have opportunities to learn and earn - A prosperous place for all

- Growing and Transforming - Optimise community opportunities through infrastructure innovation and investment

4. Leadership and Governance - A high performing organisation that enacts the vision and decisions of Council through the delivery of quality and innovative services - A fairer place for all

- Engaged and Responsive - Community insights are valued to enhance connection and engagement with Council.

The establishment of a national Vietnamese cultural museum strongly aligns with the Transforming Brimbank and Social Justice programs, which are two of the three Council priorities as outlined in the Together We are Brimbank – Council Plan 2021-2025.

This report complies with Local Government Act 2020, Planning and Environment Act 1987, Brimbank Community Engagement Policy 2021, Sunshine Priority Precinct 2050, Brimbank Economic Development Strategy 2022, Experience Brimbank Visitor Strategy 2018 – 2023, and Sunshine Rising Action Plan 2019-2024.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Jasmine Nguyen/Seconded Cr Thuy Dang

That Council:

- Notes that following its resolution on 12 December 2023, Council has undertaken the statutory procedures required by section 114 of the Local Government Act 2020 in respect of the proposal to sell part of the land known as Durham Road Car Park in Sunshine, directly to the Vietnamese Museum Australia Ltd for the purposes of operating a nationally significant cultural museum.**
- Notes that the copies of all 189 written submissions received, including 179 submission via Council's Your Say page (provided in Attachment 1) and 8 emails, including a letter of support with 1,868 signatures, (provided in Attachment 2) and a petition against the proposal with 196 petitioners (received at the 19 March 2024 Council Meeting), as well as the minutes of the Hearing of Submissions Committee meeting held on 4**

March 2024 (provided in Attachment 3) and that this report summaries and discusses the main items for consideration raised in the submissions.

- c. Having considered all submissions received, Council resolves to proceed with the proposal to sell the approximate 1,000 square metre parcel within the land known as Durham Road Car Park (as shown in Attachment 4) in Sunshine directly to the Vietnamese Museum Australia Ltd.**
- d. Authorise the Chief Executive Officer to undertake anything necessary, incidental or convenient to be done in connection with the sale of the Durham Road Car Park parcel, including signing the Contract of Sale (see Attachment 5), Vendor Statement (Attachment 6) the Section 173 Agreement (see Attachment 7), which includes the following key elements:**
 - i. The financial offer from Vietnamese Museum Australia Ltd for the land is for market value, as confirmed by the valuation from the independent qualified valuer dated 16 November 2023;**
 - ii. A condition is placed on title (via the Section 173 Agreement) that restricts the use of the land for the purposes of a cultural museum for a 50-year period (unless otherwise agreed by Council after 30 years);**
 - iii. Time restrictions are placed on the delivery of the proposal to ensure construction occurs within a reasonable time,**
 - iv. Council will have access to the function space for up to 6 events per year, free of charge, subject to availability.**
 - v. The 6 car spaces proposed to be constructed on the title, will be managed by Council through agreement, in order to be made available for public parking while balancing the needs to provide access for Vietnamese Museum Australia Ltd staff and events.**
 - vi. Costs for reconfiguration of the remaining car park on Council land, of approximately \$400,000, will be shared equally between Council and the Vietnamese Museum Australia Ltd and may be undertaken by the appointed Vietnamese Museum Australia Ltd builder, subject to Council approval.**
 - vii. Site occupation and tree amenity fees are to be waived by Council, however Vietnamese Museum Australia Ltd are to pay all other statutory fees.**
- e. Notes that a condition of the Contract of Sale requires Vietnamese Museum Australia Ltd to obtain planning permit approval prior to settlement and transfer of the land and notes that under the Planning and Environment Act 1987 this planning application process:**
 - i. Will be a separate statutory process, following this decision,**
 - ii. Can be considered under Clause 53.22 (Significant Economic Development) where the applicant may seek the State Government to be the responsible authority for the application, and**
 - iii. Will address issues such as parking and determine the appropriate use and size of the proposed museum.**
- f. Resolves to reserve for open space the Council-owned land parcel at the eastern end of the Durham Road Car Park, including:**
 - i. Developing a concept design for a 'Welcome Plaza' that celebrates all refugee and migrant communities that call Brimbank home,**

- including appropriate consultation with Traditional Owners and multicultural groups,
 - ii. Retain the two large trees and ensure they are protected during construction,
 - iii. Working with the Vietnamese Museum Australia Ltd to ensure that the proposed Council owned open space design appropriately integrates with the proposed museum,
 - iv. Noting the Section 173 Agreement (see Attachment 6) makes clear delivery of the proposed 'Welcome Plaza' is at Council's discretion,
 - v. Support for the delivery of the 'Welcome Plaza' following the completion of the adjacent museum, if the estimated \$850,000 budget can be secured; and
 - vi. Actively seek funding for the 'Welcome Plaza' through advocacy to both State and Federal Governments and local members.
- g. Resolves to allocate the Council-owned land parcel at the western end of the Durham Road Car Park, as free-hold land and reconfigure the existing carpark layout, including:
 - i. Complete engineering drawings for the concept layout of the reconfigured carpark which provides for 24 car spaces (including 2 accessible spaces),
 - ii. Seek permission from Department of Transport and Planning to reconfigure the bus stops on Durham Road, in order to construct a new car park entrance at the western end,
 - iii. Work with the Vietnamese Museum Australia Ltd to ensure that the proposed Council owned car park appropriately integrates with the design on the museum land, including new tree planting and garden bed along the museum interface,
 - iv. Retain the large tree, by creating a garden bed in the tree protection zone and ensure it is protected during construction,
 - v. Notes that the car park works, estimated to cost approximately \$400,000, will be cost shared between Council and the Vietnamese Museum Australia Ltd (i.e. 50% cost to each party), with final costs to be confirmed through the procurement process,
 - vi. Resolves to allocate approximately \$200,000 in the future years annual budget, timing delivery with the construction of the proposed Vietnamese Museum Australia Ltd; and
 - vii. Notes Council will be undertaking the car park works separately to the proposed museum works and timing of works will be subject to the completion of the museum works and Council's program.
- h. Notes the findings of draft Durham Road Car Parking Management Plan (see Attachment 8), which found that the proposed impact of the VMA operation and reduction of the Durham Road Car Park could be accommodated during the day through existing on-street car parking, however during the evenings with an event had the potential to use all of the nearby on-street car parking.
- i. Resolves to undertake the immediate steps to address the identified car parking issues:
 - i. Implement the review of time-based restrictions to on-street car parking, which includes an extension of restrictions until 10pm on weekdays and weekends, reduction of some parking from 2 hours to 1 hour and making some unrestricted parking restricted,
 - ii. Increased enforcement of parking restrictions to ensure adequate turnover,

- iii. **Increase of 5 on-street parking spaces in Sun Crescent, near Watt Street, by reinstating redundant crossovers, and**
- iv. **Writes to the Minister for Transport Infrastructure, the Hon Danny Pearson, to request that the State Government:**
 - i. **make the commuter car parks in Sunshine CBD legally available to the non-commuter public after 6pm on weeknights and all day on weekends,**
 - ii. **Expedite the funding and delivery of the proposed 'Spurline' project, as identified in the Sunshine Station Masterplan, to create a new pedestrian link connecting the southern village precinct and the Durham Road site with the Sunshine CBD north of the railway, and**
 - iii. **consolidate and appropriately relocate the existing bus stops within Durham Road and Sun Crescent, Sunshine, to create a new car park access point for the Durham Road Car Park and seek to facilitate the creation of any additional on-street car spaces.**
- j. **Notes that further parking measures, as outlined in the draft Durham Road Car Parking Management Plan, may be considered by Council following the opening of the proposed museum and the actual car parking impacts are assessed.**
- k. **Writes to all submitters on the proposal to sell part of the land known as Durham Road Car Park in Sunshine, thanking them for their submission and advising of Council's decision and the reasons outlined in the report.**
- l. **Writes to relevant project stakeholders to advise of Council's decision to sell Council land directly to the Vietnamese Museum Australia Ltd, including:**
 - i. **Mr Bruce Mildenhall, Vietnamese Museum Australia Ltd President**
 - ii. **The Hon Andrew Giles MP, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs of Australia (Commonwealth government funding partner)**
 - iii. **The Hon Ingrid Stitt MP, Minister for Multicultural Affairs (State Government Victoria funding partner)**
 - iv. **Dr Daniel Mulino MP, local Commonwealth Member for Fraser**
 - v. **Ms Sarah Connolly MP, local State Member for Laverton.**

CARRIED

12.1	Planning Activity Update and Delegate Decisions and Planning Scheme Amendments Update - February 2024
Directorate	City Futures
Director	Kelvin Walsh
Manager	Kristen Gilbert and Leanne Deans
Attachment(s)	1. Delegated Planning Permit Decisions - February 2024 [12.1.1 - 25 pages] 2. Graphical Representation of the Data from the Last Three Years [12.1.2 - 3 pages] 3. Planning Scheme Amendment Status Summary February 2024 [12.1.3 - 3 pages]

Purpose

To report to Council on:

- The status of planning permit applications and trends in planning approvals in Brimbank
- Decisions made under delegated authority in February 2024 regarding planning permit applications and other matters
- The status of current Planning Scheme Amendments at 29 February 2024.

Officer Recommendation

That Council:

- a. Notes the Planning Activity Update and Delegate Decisions – February 2024 report, and Delegated Planning Permit Decisions, at Attachment 1 to this report.
- b. Notes the Planning Scheme Amendment Summary – February 2024, at Attachment 3, and that this relates to amendments where Council has resolved to request authorisation from the Minister for Planning to prepare and exhibit an amendment or has requested that the Minister prepare an amendment under section 20(4) of the *Planning and Environment Act 1987*.

Background

Council is a Responsible Authority under the *Planning and Environment Act 1987* (the Act). In this role, Council administers the Brimbank Planning Scheme (Planning Scheme) and, among other things, determines planning permit applications made for the use and development of the land in the municipality. Certain planning permit applications, and other matters, are determined by Council officers under the delegated authority of Council.

The statistics presented do not represent all development activity in the municipality. Many types of use and development do not require a planning permit and may take place without being recorded as part of the planning approvals data. In addition, some planning permits are not acted on, or there may be a delay between when the approval is granted and when works take place.

Council is a Planning Authority for the Planning Scheme and undertakes amendments to the Planning Scheme when authorised by the Minister for Planning (Minister), or in accordance with section 8A(7) of the Act. Council undertakes amendments for a range of reasons including to enhance or implement the strategic vision, to implement local policy, to correct mistakes, to enable or restrict development, and to set aside land for

acquisition for a public purpose or remove such a reservation when it is no longer required.

The Minister may prepare an amendment or authorise the preparation of an amendment by another Minister, public authority or municipal council. For the purpose of this report, the status of Planning Scheme Amendments will only include amendments where Council is the Planning Authority, and where Council has resolved to request authorisation from the Minister to prepare and exhibit an amendment or has requested that the Minister prepare an amendment under section 20(4) of the Act.

Matters for Consideration

Sixty planning determinations and 28 subdivision determinations were made under delegated authority in February 2024. Forty-six new planning permit applications were received in February 2024. The value of development for these 46 applications is \$17.3 million.

A list of the planning applications determined under delegation from Council during February 2024 is at **Attachment 1**.

	February 2024	Previous month (January 2024)	Monthly average for past 12 months	February 2023
Applications Received	46	30	66	61
Planning Permit Approvals	54	55	72	52
Notice of Decision to Grant a Permit	4	1	6	2
Refusal to Grant a Planning Permit	2	1	2	3
Subdivision Approvals	28	13	23	14
Cost of development for new applications (millions)	\$17.3	\$13.2	\$45.1	\$45.5

One planning appeal was determined by the Victorian Civil and Administrative Tribunal (VCAT) in this period:

- An appeal against a delegated decision to refuse to grant a planning permit for buildings and works and use of the land for shipping container storage and a

vehicle store was withdrawn as the land has been vacated (P97/2021 for 520 – 528 Somerville Road, Sunshine West).

At the end of this period there were six appeals lodged at VCAT that had not yet been determined. This is three less than at the end of February 2023.

The Planning Scheme Amendment Summary is shown at **Attachment 3** and includes five Planning Scheme Amendments where Council is the Planning Authority or has requested the Minister to prepare an amendment under section 20(4) of the Act.

Three amendments including Amendments C219brim (Heritage Update), C225brim (Planning Policy Framework) and C227brim (Heritage Overlay Sunshine Silos) are with the Minister for Planning for either authorisation or approval.

Community Engagement

Not applicable.

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

There are no Community, Environmental, Financial, Regulatory or Safety risks identified.

Legislation/Council Plan/Policy Context

This report complies with the *Planning and Environment Act 1987*, *Local Government Act 1989* and the Brimbank Planning Scheme.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Bruce Lancashire/Seconded Cr Victoria Borg

That Council:

- a. **Notes the Planning Activity Update and Delegate Decisions – February 2024 report, and Delegated Planning Permit Decisions, at Attachment 1 to this report.**
- b. **Notes the Planning Scheme Amendment Summary – February 2024, at Attachment 3, and that this relates to amendments where Council has resolved to request authorisation from the Minister for Planning to prepare and exhibit an amendment or has requested that the Minister prepare an amendment under section 20(4) of the *Planning and Environment Act 1987*.**

CARRIED

12.2**Directorate****Director****Manager****Attachment(s)****Brimbank Planning Scheme Amendment C214brim - Development Contributions Plan Overlay**

City Futures

Kelvin Walsh

Leanne Deans

1. Summary of Submissions and Officer Consideration
[12.2.1 - 8 pages]

Purpose

For Council to consider submissions received in response to the exhibition of Brimbank Planning Scheme Amendment C214brim (the Amendment or Amendment C214brim) and determine the next steps to progress the Amendment in accordance with the requirements of the *Planning and Environment Act 1987*.

Officer Recommendation

That Council:

- a. Notes and considers the submissions to Amendment C214brim, shown in the Summary of Submissions at Attachment 1, pursuant to Section 23 of the Planning and Environment Act 1987.
- b. Resolves to abandon Amendment C214brim, pursuant to Section 23 of the Planning and Environment Act 1987, due to the financial and strategic risks associated with progressing the amendment.
- c. Notifies the Minister for Planning of Council's decision to abandon Amendment C214brim and reasons for this decision, pursuant to Section 28(1) of the Planning and Environment Act 1987.
- d. Publishes a notice of the decision to abandon Amendment C214brim on the Brimbank City Council website, pursuant to Section 28(2&3) of the Planning and Environment Act 1987.
- e. Writes to submitters to thank them for their submission to Amendment C214brim and advise them of Council's decision and the reasons for abandoning the amendment.
- f. Writes to the Minister for Planning seeking a timely outcome to the State Government's review of the development contributions system and the need to implement a simplified, more streamlined and flexible process for councils.

Background

In accordance with Part 3B of the *Planning and Environment Act 1987* (the Act), Council can prepare a Development Contributions Plan (DCP) that requires new development to contribute a proportionate amount to the cost of new, upgraded or replacement infrastructure.

The Brimbank Planning Scheme has two existing DCPs:

- Sunshine Town Centre DCP – Development Contributions Plan Overlay Schedule 1 (DCPO1), which was adopted by Council in July 2014 and gazetted in December 2015; and
- Brimbank DCP 2016 – Development Contributions Plan Overlay Schedule 2 (DCPO2), which was adopted by Council in July 2017 and gazetted in January 2018.

Together, DCP01 and DCPO2 commit Council to delivering the infrastructure projects listed in these DCPs, over a 20-year period. The proposed Amendment seeks to include an additional 48 community infrastructure projects that had not been identified when the previous DCPs were prepared and to deliver these as part of DCPO2.

The Amendment proposes to implement the draft Brimbank Development Contributions Plan 2022 (DCP 2022) by altering Schedule 2 to the Development Contributions Plan Overlay (DCPO2) at Clause 45.06 to include relevant contributions tables and requirements and include the DCP 2022 as an Incorporated Document in the Brimbank Planning Scheme.

If a project is listed in a DCP and implemented via a schedule to the DCPO, Council is obligated to deliver the project, irrespective of the amount collected through development contributions.

On 23 June 2020 Council resolved to endorse the draft DCP 2019 for consultation and seek authorisation from the Minister for Planning to prepare and exhibit amendment C214brim. Council also resolved to delegate to the Director City Development endorsement of any changes required to be made as part of any conditional authorisation for the Amendment.

The Amendment was submitted to the Department of Transport and Planning (DTP) on 23 June 2020 and several discussions were held between Council officers and DTP during the following months. After more than 18 months DTP granted Authorisation on 1 February 2022 subject to conditions.

DCPs are a highly specialised field and to meet the conditions of Authorisation Council officers undertook an internal review of the DCP project list and re-engaged previous consultants to prepare the necessary updates now referred to as draft DCP 2022. As part of the changes updated population projections and the indexing of projects to the 2022-2023 financial year were also included.

Given the extensive updates made to the DCP 2019 it was considered that the changes may exceed the delegation given to the Director City Development. On this basis the Amendment was presented back to Council on 13 December 2022 where Council resolved to endorse the updated DCP 2022 and Amendment C214brim.

Matters for Consideration

Options

There are two options for Council to consider and the Council officer recommendation is Option A.

- A. Abandon the Amendment
- B. Refer all submissions to an independent Planning Panel appointed by the Minister for Planning.

Officers are recommending abandoning the Amendment due to the strategic and financial risks associated with the Amendment. The key risks relate to a greater need for flexibility for projects, increasing financial liabilities, the strategic robustness of the Amendment and the uncertainty associated with DCPs in general.

Analysis

Changing priorities

The Sports Facilities Development Plan 2018 (SFDP) was the primary document used to demonstrate Council's commitment to deliver projects and justify inclusion of a project into the DCP.

The SFDP was prepared in 2012 to identify sporting trends and infrastructure needs of the community and support people of all ages, abilities and genders to access and participate in a range of sporting activities. Updates to the SFDP occurred in 2016 and 2018.

In 2023 Council undertook a further revision of the SFDP and conducted community consultation at the same time exhibition of the Amendment was occurring. Fifteen projects that are included in the DCP 2022 have not been carried forward into the renewed SFDP, including:

- Eleven projects that are no longer required or are not listed in the 10-year capital works program
- Four projects that were completed, or nearing completion.

The revised SFDP was adopted by Council at the Council Meeting on 17 October 2023.

One of the features of a DCP is that items on the project list are 'fixed' and can only be removed or altered through a planning scheme amendment. Each time a project is removed, the robustness of a DCP is compromised and it triggers the need to update the financial modelling that sits behind it. It also creates a future problem where funds collected for a project that is not delivered or removed need to be reimbursed to landowners, unless Ministerial approval can be obtained to redirect those funds to an alternative project.

Given the changing nature of the SFDP and that a level of flexibility is required, it is not considered an appropriate document to underpin the Amendment. This is because the DCP and the guidance that informs DCPs isn't tailored and streamlined sufficiently to support the flexibility required by Council.

Long term financial liability

Council must be committed to the delivery of all projects in the DCP, regardless of the amount it collects from new development, changes to project costs, or changes to Council's priorities or financial circumstances.

Recent unprecedented increases in construction costs are not reflected in the DCP 2022 project costings and have the potential to delay the delivery of projects or necessitate changes to project scope. While it is inherent that there will be a shortfall between the funds collected through a DCP and the project cost, this shortfall has increased considerably since the DCP was prepared and exhibited. There is now a risk that construction costs may continue to exceed the indexed levy rate and create a larger funding shortfall for Council that it potentially cannot afford.

The DCP system does not have the flexibility to address these financial challenges. Further, the limitations of Council's budget in terms of rate capping and minimal opportunities for grants contributes to the increased financial risk to Council and its ability to deliver projects. In this environment it is considered that Council requires greater flexibility to change the scope of a project, reschedule delivery, or even remove projects, however this is complex within the current guidance that applies to DCPs.

Planning Panel Hearing

If the Amendment progress, Council will be required to refer the submissions received about the Amendment to a Planning Panel (Panel). At a Panel Hearing, Council's representative will need to advise the Panel that 15 projects require removal from the DCP 2022.

When considering the Amendment, the Panel needs to be satisfied that the Amendment is strategically justified, and that Council is committed to delivering all the projects outlined in the DCP.

There is a risk that a Panel may not support aspects of this amendment due to the extent of changes made to accord with conditions of authorisation that are not consistent with published guidance, as well as the changing nature of the SFDP, which may no longer be considered a suitable document to justify the amendment.

Uncertainty of approval

Throughout the process associated with this Amendment, the Department of Transport and Planning (DTP) have flagged that a new more streamlined development contribution system is being developed by the Victorian Government that may supersede the current system. While it is not considered that existing approved DCPs will be abolished, DTP have been cautious in their approach to authorising and progressing the DCP 2022.

This caution has caused considerable delays and additional costs to Council including:

- A prolonged authorisation period (over 18 months)
- The requirement to update the DCP
- DTP not confirming whether the updated DCP 2022 had met the Ministers' conditions of Authorisation.

While there is always a risk that an amendment may not be approved by a Minister, there is greater uncertainty in relation to this amendment due to the time taken to progress this amendment to date and the lack of policy to guide required changes.

Submissions to the Amendment

The Amendment was exhibited from 10 August 2023 to 3 November 2023 and a total of 19 submissions were received by Council, including one received prior to the formal exhibition period.

A total of 14 submissions did not support the Amendment in its current form (including four that sought changes) with the remaining five submissions supporting the Amendment.

The 14 submissions that did not support the Amendment cited the following reasons:

- The levy on residential development poses an undue financial burden on residents
- The project list does not address infrastructure needs in Sydenham, Keilor, Keilor Downs or include a pavilion/grandstand at Selwyn Park, Albion
- The levy is another fee imposed on vacant land
- The levy should only apply to large scale development
- The DCP 2022 impacts housing affordability
- The projects listed are of low importance
- Projects ought to be funded from existing revenue sources
- Projects costs should be shared equally by all residents not just paid by developers.

The changes sought by the four submitters included:

- Changing the exemptions to consider affordable housing and Section 173 agreements
- Including transitional provisions to clarify that the DCP 2022 does not apply retrospectively.

Five submissions supported the Amendment on the basis that the levy was needed, and the proposed amounts are reasonable.

The Summary of Submissions and a draft Officer response is included at **Attachment 1**.

Progressing the Amendment

If Council decides to progress the Amendment, all unresolved submissions must be referred to a Panel appointed by the Minister for Planning. The Panel will hold a public hearing where Council presents to the Panel to justify the DCP and the Amendment.

All submitters are invited to attend the hearing and present to the Panel. Following the hearing the Panel will prepare a report outlining recommendations on how Council may choose to proceed.

The Panels' report and recommendations are presented to Council for consideration where it will have the following options:

1. Adopt the Amendment as exhibited; or
2. Adopt the Amendment with changes; or
3. Abandon the Amendment.

If Council decides to abandon the Amendment, it will be required to:

- Notify the Minister for Planning
- Publish a notice of the decision
- Advise submitters.

Other funding

Council currently funds most capital works projects through the budget which is substantially made up of rates revenue. Aside from DCPs, alternative revenue streams that Council also pursues to assist in the delivery of infrastructure includes State and Federal Government grants, individual agreements with developers through Section 173 agreements for large-scale development, and joint ventures with other parties including government agencies and the development community. These will continue to be pursued as appropriate to supplement and support the delivery of Council projects.

Developer contributions system

In a constrained financial environment, DCPs are an important mechanism for councils to collect a fair and reasonable contribution from development toward new community infrastructure projects. However, the preparation and introduction of a DCP into the planning scheme is a complex, costly and a protracted process that has numerous challenges. While councils must commit to delivering all projects in a DCP, none of the projects can be completed until the approval of the DCP. This is difficult when amendments can take multiple years to complete. Additionally, the inflexible nature of the system does not allow councils to easily change DCPs to reflect the changing needs of the community, particularly in relation to community infrastructure.

The review being undertaken by DTP to streamline the development contributions system is considered necessary, although is taking considerable time. During Amendment C214brim, officers experienced changes being requested that were different to the published guidance, which has made the process longer and more costly. On this basis it seems that some changes are occurring at an officer level within DTP but have not been updated within published materials. DTP is encouraged to progress the review of the DCP system in consultation with councils and to publish any guidance to ensure councils understand State Government expectations and requirements from the outset. Of greater importance is the complete overhaul of the system. On this basis it is proposed that Council writes to the Minister for Planning seeking a timely outcome to the State Government's review of the development contributions system and the need to implement a simplified, more streamlined and flexible process for councils.

Consultation

Amendment C214brim was exhibited between 10 August 2023 to 3 November 2023, in accordance with section 19 of the *Planning and Environment Act 1987*.

Direct notification of Amendment C214brim was given on 10 August 2023 to:

- Owners of any large vacant (or not fully developed) sites zoned for residential or mixed residential and commercial land uses and sites recognised as 'transitional' in the Brimbank Industrial Land Strategy;
- Landowners whose property has had a planning permit or building permit issued for new residential or mixed-use development within the last two years;

- Industry professionals (e.g. planning consultants and building surveyors) who frequently lodge permit applications with Council;
- other stakeholders, including adjacent municipalities, the Housing Industry Association and Property Council of Victoria; and
- prescribed Ministers, Referral Authorities and the Strategy and Precincts Department within the Department of Transport and Planning.

Council officers held two information sessions about the Amendment in the Sunshine and St Albans libraries. A public notice was published in the Brimbank Star Weekly on 26 September 2023 and the Government Gazette on 17 August 2023.

Amendment C214brim was (and remains) available to view on Council's website, at the Brimbank Community and Civic Centre, and on the Department of Transport and Planning website.

A total of 19 submissions were received (including one received prior to the formal exhibition period). Of these, 14 submissions did not support the Amendment in its current form (including four that sought changes) with the remaining five submissions supporting the Amendment.

A copy of all submissions is available for any person to inspect free of charge for two months after the amendment comes into operation or lapses.

Resource And Risk Implications

Resource requirements to implement the Amendment can be met within the Annual City Strategy Budget 2024/2025. The delivery of the projects listed in the draft DCP 2022 would be subject to future budgets.

Community: potential impact on community, including public trust and customer service impact

- Yes – While approval of the DCP 2022 provides the community with greater certainty on the projects Council will deliver, it does not provide Council with the flexibility to adapt to the changing needs of the community. Changing the projects included in the DCP 2022 in the future may be confusing for community and impact public trust.

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- None

Financial: significant financial impacts

- Yes - Under an approved DCP requires Council to deliver all the projects in the nominated 20-year period regardless of the amount collected. The costs of construction have increased considerably creating a greater cost recovery shortfall. There is the risk that construction costs may continue to exceed the indexed levy rate creating a larger funding gap for Council.

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- Yes – The Amendment must comply with the Act and Ministerial Reporting requirements for Development Contributions Plans. If successfully introduced, Council must hold all DCP income in a separate account and undertake annual reporting to the Minister for Planning.

Safety: health, safety or duty of care impacts

- None

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around

3. Opportunity and Prosperity - A future focused, transforming city where all have opportunities to learn and earn - A prosperous place for all

- Growing and Transforming - Optimise community opportunities through infrastructure innovation and investment

4. Leadership and Governance - A high performing organisation that enacts the vision and decisions of Council through the delivery of quality and innovative services - A fairer place for all

- Engaged and Responsive - Community insights are valued to enhance connection and engagement with Council.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Jae Papalia/Seconded Cr Victoria Borg

That Council:

- Notes and considers the submissions to Amendment C214brim, shown in the Summary of Submissions at Attachment 1, pursuant to Section 23 of the *Planning and Environment Act 1987*.**
- Resolves to abandon Amendment C214brim, pursuant to Section 23 of the *Planning and Environment Act 1987*, due to the financial and strategic risks associated with progressing the amendment.**
- Notifies the Minister for Planning of Council's decision to abandon Amendment C214brim and reasons for this decision, pursuant to Section 28(1) of the *Planning and Environment Act 1987*.**
- Publishes a notice of the decision to abandon Amendment C214brim on the Brimbank City Council website, pursuant to Section 28(2&3) of the *Planning and Environment Act 1987*.**
- Writes to submitters to thank them for their submission to Amendment C214brim and advise them of Council's decision and the reasons for abandoning the amendment.**

- f. Writes to the Minister for Planning seeking a timely outcome to the State Government's review of the development contributions system and the need to implement a simplified, more streamlined and flexible process for councils.**

CARRIED

Cr Thomas O'Reilly, having declared a conflict of interest in relation to Report 12.4, left the meeting at 7.51pm.

12.4	Former Sunshine Technical School - Submission to Heritage Council of Victoria
Directorate	City Futures
Director	Kelvin Walsh
Manager	Leanne Deans
Attachment(s)	1. Executive Director of Heritage Victoria Recommendation [12.4.1 - 43 pages] 2. Council Submission To Heritage Council of Victoria [12.4.2 - 6 pages]

Purpose

For Council to note the recommendation by the Executive Director of Heritage Victoria in relation to the former Sunshine Technical School at **Attachment 1** and consider endorsing the Submission to the Heritage Council of Victoria (Heritage Council) shown at **Attachment 2**.

Officer Recommendation

That Council:

- Notes the recommendation prepared by the Executive Director of Heritage Victoria, shown at Attachment 1, in relation to the former Sunshine Technical School.
- Notes that Council officers have lodged a Submission to the Heritage Council of Victoria about the former Sunshine Technical School, shown at Attachment 2.
- Endorses the Submission to the Heritage Council of Victoria about the former Sunshine Technical School, shown at Attachment 2.
- Writes to the Minister for Education to seek confirmation that the appropriate systems and procedures are in place to ensure that the heritage buildings at the former Sunshine Technical School are protected from vandalism, fire or dilapidation damage while the buildings are vacant.
- Writes to the Minister for Precincts and the Minister for Education requesting that they pursue the creation of a co-working/arts hub at the Sunshine Technical School as an interim use to activate the heritage buildings at the former Sunshine Technical School and for the relevant departments, including the Department of Transport & Planning, the Victorian School Building Authority and Creative Victoria to work together to achieve this outcome.

Background

Council has a responsibility to protect Brimbank's heritage in accordance with the *Planning and Environment Act 1987*, the *Heritage Act 2017* and the Brimbank Planning Scheme.

The former Sunshine Technical School (the Site) is located at 111 and 129-133 Derby Road, Sunshine. The Site is considered of historical and architectural significance. The

Site includes buildings covered by two local Heritage Overlays (HO), HO56 and HO57, in the Brimbank Planning Scheme (the Planning Scheme).

In accordance with section 16 of the *Planning and Environment Act 1987*, the Scheme is binding on every Minister and Government department unless the Governor in Council, on the recommendation of the Minister, directs by an Order published in the Government Gazette.

In the Government Gazette of 10 February 1988, the Minister for Education was exempted from compliance with the requirements of the Planning Scheme. This means that a planning permit is not required for demolition of buildings at the Site despite being covered by the HO.

On the 31 January 2020 the Victorian School Building Authority (the VSBA), on behalf of the Department of Education and Training (DOE) posted an advanced notice of demolition for vacant buildings on the former Sunshine Technical School at 111 and 129 Derby Road, Sunshine.

In response, Council submitted a nomination application on 6 September 2021 for the heritage buildings to be included in the Victorian Heritage Register (VHR). The application was prepared by Council's Heritage Advisor and included technical advice from the Sunshine & District Historical Society.

The VHR lists and provides legal protection for heritage places and objects that are significant to the history and development of Victoria. Unlike local heritage places listed within the Planning Scheme, a place included in the VHR cannot be demolished without a permit or permit exemption issued by Heritage Victoria.

On 15 January 2024 Council officers were notified that the Executive Director of Heritage Victoria (HV) was recommending that the former Sunshine Technical School not be included on the Victorian Heritage Register and that a copy of this recommendation would be published in The Age newspaper on 19 January 2024.

Interested parties have 60 days from the date of publication to lodge a submission regarding the Executive Directors recommendation. To meet statutory timeframes Council officers lodged an officer submission with the Heritage Council of Victoria on 14 March 2024 requesting to be heard at a future hearing subject to Council endorsement.

Council officers have prepared a Submission to the Heritage Council of Victoria, shown at **Attachment 2** and lodged it with the Heritage Council of Victoria. Due to the statutory timelines, the Submission was required to be lodged prior to the Council Meeting and is consistent with Council's nomination application on 6 September 2021 for the heritage buildings to be included in the VHR.

Matters for Consideration

Options

The following options are available to Council:

- a. Endorse the Submission to the Heritage Council of Victoria shown at **Attachment 2**.
- b. Determine not to endorse the draft Submission to the Heritage Council of Victoria, shown at **Attachment 2** and write to the Heritage Council of Victoria to withdraw the Council officer submission.

The officer recommendation is Option A. The Submission to the Heritage Council aligns with the application to nominate a place or object for inclusion in the Victorian Heritage Register.

Analysis

Proposed Victorian Heritage Register Listing

Council's Heritage Consultant assessed the Site and determined that it meets three of the test Criteria in accordance with the requirements of listing places and object on the Victorian Heritage Register comprising:

- Criteria A: Importance to the course, or pattern, of Victoria's cultural history
- Criteria D: Importance in demonstrating the principal characteristics of a class of cultural places and objects
- Criteria H: Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

It is noted that while the Executive Director of Heritage Victoria has formed a different view about the Site's heritage values, Council officers retain the view that its significance merits inclusion on the VHR and recommends that this is tested through a submission to the Heritage Council and representation at a future Hearing.

In addition to the acknowledgement of the heritage significance of the Site through inclusion on the VHR, it also increases the level of heritage protection for the Site and ensures due consideration of the heritage fabric should any redevelopment or demolition works be proposed.

Recent changes to the Heritage Act 2017

On 1 February 2024 changes to the *Heritage Act 2017* came into effect allowing certain public authorities and government asset managers to apply for an 'Exclusion Application' to exclude a place or object from the VHR for a period of five years.

An Exclusion Application can only be sought for a major development with a value exceeding \$5 million. A major development is defined as the carrying out of one or more, or an interrelated series of one or more activities and can include:

- construction, alteration or extension of a building
- construction or carrying out of works
- demolition or removal of a building
- subdivision or consolidation of land
- the installation or provision or operation of facilities or services.

This may have implications on the Site as it is anticipated that the VSBA or DOE may be eligible to apply for an Exclusion Application to exempt the site for a period of five years subject to meeting the prescribed requirements. This could mean that even if the Site is successfully listed on the VHR, the VSBA could potentially apply to undertake works, including demolition, subject to the approval of the Executive Director of Heritage Victoria.

Interim re-use

The former Sunshine Technical School has remained vacant since the DOE relocated Sunshine Secondary College. Vacant unused buildings can be at risk of vandalism and

deterioration, particularly when they are not maintained. These factors can result in buildings falling into disrepair. The appropriate re-use of the buildings is an important way to maintain them and ensure they remain in a good condition and the heritage significance is protected.

Council officers have been liaising with VSBA, DOE and the Sunshine Precincts team within the Department of Transport & Planning about potential re-use of the buildings. It is understood that DOE plan to hold onto the Site for future education use and has been considering potential interim uses.

In June 2023 Council wrote to the Minister for Education and Member for Sydenham, the Hon. Natalie Hutchins MP, requesting an update on the Site and be returned to interim community uses (including reference to the former Sunshine College Ardeer campus).

In August 2023 the Minister for Education responded advising that the VSBA had consulted with other government agencies and Council officers about opportunities for interim use on this site.

It is considered that dialogue should continue between Council officers and the Victorian Government to ensure the buildings remain in good condition and an appropriate interim use is secured. It is proposed that Council:

- Writes to the Minister for Education to seek confirmation that the appropriate systems and procedures are in place to ensure that the heritage buildings at the former Sunshine Technical School are protected from vandalism, fire or dilapidation damage while the buildings are vacant.
- Writes to the Minister for Precincts and the Minister for Education requesting that they pursue the creation of a co-working/arts hub at the Sunshine Technical School as an interim use to activate the heritage buildings at the former Sunshine Technical School, and for the relevant departments, including the Department of Transport & Planning, the Victorian School Building Authority and Creative Victoria to work together to achieve this outcome.

This proposal for a co-working/arts hub is consistent with the Brimbank Advocacy Plan 2023-2025.

Implementation

Subject to Council's decision, Council will be represented at a future Heritage Council hearing involving a presentation of the Submission shown at **Attachment 2**.

Community Engagement

The recommendation by HV to not include the Site on the Victorian Heritage Register was published in The Age newspaper on 19 January 2024.

Officers notified the Brimbank Heritage Advisory Committee, which comprises representatives from historical societies in Brimbank.

As part of the process any interested party can make a written submission to the Heritage Council within 60 business days of the Executive Director of Heritage Victoria's recommendation being published.

The Heritage Council must consider all written submissions and conduct a hearing if an individual or body with a real and substantial interest in the place requests a hearing as part of their submission.

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

Community: potential impact on community, including public trust and customer service impact

- Yes – The submission advocating for the inclusion of the site on the VHR will result in social benefits for the community by increasing the protection of a heritage place for current and future generations. The submission confirms Council support for the protection of heritage assets and is consistent with previous Council resolutions which contribute to public trust.

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- Yes - Council is seeking the additional protection afforded through a listing on the VHR. If successful, this will have a positive environmental impact on the basis that heritage buildings contain embodied energy. It is generally more energy efficient to make modifications to an existing building than to demolish and replace it.

Financial: significant financial impacts

- Yes – While there are no significant financial impacts for Council, the inclusion of the site on the VRC could increase the cost of development on the Victorian Government as the current landowner.

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- Yes – The submission process must accord with the relevant legislation, specifically including the *Heritage Act 2017*.

Safety: health, safety or duty of care impacts

- None

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Pride and Participation - Community and cultural connections built through social and artistic expression

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around.

This report complies with the Brimbank Council Plan 2021-2025, the Brimbank Community Vision 2040, the Brimbank Advocacy Plan 2023-2025, the Brimbank Heritage Strategy (2018-2023), the Brimbank Planning Scheme, the Interpretation of Legislation Act 1984 (Interpretation Act), the *Planning and Environment Act 1987* and *Heritage Act 2017*.

Council officers contributing to the preparation and approval of this report have no conflicts of interests to declare.

Resolution

Moved Cr Sam David/Seconded Cr Jasmine Nguyen

That Council:

- a. Notes the recommendation prepared by the Executive Director of Heritage Victoria, shown at Attachment 1, in relation to the former Sunshine Technical School.**
- b. Notes that Council officers have lodged a Submission to the Heritage Council of Victoria about the former Sunshine Technical School, shown at Attachment 2.**
- c. Endorses the Submission to the Heritage Council of Victoria about the former Sunshine Technical School, shown at Attachment 2.**
- d. Writes to the Minister for Education to seek confirmation that the appropriate systems and procedures are in place to ensure that the heritage buildings at the former Sunshine Technical School are protected from vandalism, fire or dilapidation damage while the buildings are vacant.**
- e. Writes to the Minister for Precincts and the Minister for Education requesting that they pursue the creation of a co-working/arts hub at the Sunshine Technical School as an interim use to activate the heritage buildings at the former Sunshine Technical School and for the relevant departments, including the Department of Transport & Planning, the Victorian School Building Authority and Creative Victoria to work together to achieve this outcome.**

CARRIED

Cr Thomas O'Reilly returned to the meeting at 7.58pm.

12.5	Keilor Sports Club Social Room Extension
Directorate	Community Wellbeing
Director	Lynley Dumble
Manager	Ashley Fleming
Attachment(s)	Nil

Purpose

For Council to consider a report in response to a Council Resolution from the Ordinary Council Meeting No.619 held on 20 June 2023, on the proposed Keilor Sports Club Social Club Extension project and the proposal to provide an additional \$550,000 Council contribution towards the project.

Officer Recommendation

That Council:

- a. Notes this report providing the current update of the proposed Keilor Sports Club Social Room extension;
- b. Notes that the Keilor Sports Club have invested significant time and effort to develop the proposal and have secured external funding towards the project;
- c. Notes Council have allocated \$150,000 in the 23/24 budget for the upgrade of the Keilor Sports Club kitchen and remains committed to the upgrade of the kitchen as an identified priority in the Sports Facility Development Plan;
- d. Notes the State Government have allocated \$700,000 for the upgrade of the kitchen and toilets at Keilor Sports Club;
- e. Notes the approach proposed by the Keilor Sports Club is inconsistent with the approach generally taken to develop Council assets;
- f. Notes the proposed expansion of the Keilor Sports Club Social Club, whilst expanding the social space and improving the facilities at the Keilor Sports Club social club rooms, does not align with priority projects within Council's adopted Sports Facility Development Plan (SFDP)2023;
- g. Notes that without an accurate project cost estimate, Council is unable to determine the Keilor Club can afford to deliver the project within their proposed \$2.65M budget;
- h. Notes the significant risk to Council if the Keilor Sports Club are unable to complete the project and unfinished works to a Council asset may require Council to fund and complete the works to ensure safety and amenity of the site;
- i. Notes that with Rate capping, a growing asset base, increasing asset renewal obligation, various competing priorities for funding and broader ongoing financial challenges facing Council, and an ambitious agenda for Council to deliver assets that support community participation and broader wellbeing, investment in infrastructure must be directed into projects that deliver the greatest value for money and best community outcome;

- j. Acknowledges the previous Council Resolution from June 2023 indicating in principle support for the additional \$550,000 Council contribution towards the project, however noting the current financial constraints, the strategic priorities identified in the Sports Development Plan 2023, the fact that Council's capital works program is over-subscribed with projects that have demonstrated strategic basis via endorsed Council strategies and plans, and the risks involved in proceeding with the project does not proceed to provide the additional \$550,000 for the Keilor Sports Club proposed expansion of the Social Club rooms.
- k. Continues to work with the Keilor Sports Club to deliver the already committed funded program of upgrades to the kitchen and toilets at Keilor Sports Club.

Background

Council's Sports Facility Development Plan (2023) was recently adopted in October 2023. This Plan outlines how Council allocates funding across all sporting clubs and facilities. It determines the capital works funding priorities following facility audits and the application of assessment criteria and weightings.

Through the Sports Facility Development Plan process of assessing and prioritising all sports facilities for upgrade and renewal, a kitchen and toilet upgrade was identified for Keilor Sports Club and funding of \$150,000 was allocated towards the scope of this project as part of Council's budget process.

During the 2022/23 Annual Budget process, the Keilor Sports Club requested Council funding for the upgrade of the Club's social rooms. The upgrade of the Social Club is not identified as a priority project in Council's adopted Sports Facility Development Plan. Increasing sports participation is the priority of the Plan which is why expanded social clubs rooms are lower in the order of priority.

As there was not an accurate cost estimate for the works from the club, Council, in the final 2022/23 Budget, provided \$50,000 to the Keilor Sports Club to undertake a detailed design and cost estimates of their requirements for the upgrade. A funding agreement with clear project outcomes was developed and signed by the club to manage the Council funding.

Ahead of the 2022 State Elections, an election commitment of \$700,000 was made by Ben Carroll, State Member for Niddrie towards the upgrade of the kitchen and toilets at the Keilor Sports Club. This election commitment was successful and in 2023 Sport and Recreation Victoria (SRV) and Keilor Sports Club developed an agreement to manage the distribution of this money.

In the 2023/24 Council budget process Keilor Sports Club requested matched funding from Council of \$700,000 for the project. At the June 2023 Council meeting, Council resolved:

- iv. Notes the following changes to the final draft Annual Budget 2023/2024:
Allocates \$150,000 as Council's contribution, with the State Government, to upgrade the kitchen at the Keilor Sports Club Social rooms.
- v. Notes the Keilor Sports Club budget submission requesting Council to match the State Government funding of \$700,000 for the Keilor Sports Club Social Club rooms.

- vi. Gives in principle support, for an additional maximum \$550,000 to contribute to the proposed staged expansion of the Keilor Sports Club Social Rooms subject to a further report to Council detailing the available budget, funding, procurement, project supervision, final project staging, risk management plan, proposed legal agreement with the Club and clarification that the project can be delivered within the available budget.
- vii. Notes that planning and building approvals will be required for the expansion of the Keilor Sports Club social rooms in accordance with Council's obligations and processes.'

Council officers have had monthly meetings with the Keilor Sports Club and regularly with Sport and Recreation Victoria regarding the club's proposal.

Matters for Consideration

Analysis

As resolved at the June 2023 Council Meeting, the following information is provided for consideration regarding the Keilor Sports Club Social Club Extension.

Alignment with Council's Sports Facility Development Plan 2023

The proposed expansion of the Keilor Sports Club Social Club rooms does not align with projects identified and prioritised above this project listed within Council's adopted Sports Facility Development Plan (SFDP) 2023. The SFDP is Council's strategic plan that informs Council's Annual Budget and Long-Term Financial Plan in relation to upgrading and improving sports facilities throughout Brimbank.

The SFDP, adopted in October 2023, assessed the needs of the community and current condition of all sports facilities within the municipality to produce a priority order listing of projects for consideration through Council's annual budget process. The kitchen upgrade for this building has been prioritised highly within the SFDP, however the social room upgrade and related works which would be considered as part of a pavilion redevelopment project is identified as a low priority within the SFDP and is number 23 on the list. To provide further funding to this project would result in reallocating funding from a higher priority project within the SFDP.

Available budget

The Keilor Sports Club have advised income of \$1.45M is committed to the project from the following income sources as detailed in Table 1.

Table 1: Income sources

Item	Funding Source	Amount
Towards upgrade of the kitchen and toilets	Victorian State Government	\$700,000
Kitchen upgrade	Brimbank City Council through 2023/24 Council budget	\$150,000
Total project	Keilor Sports Club and Melbourne Airport Sponsorship	\$400,000
Total project	Keilor Football & Cricket Clubs contribution	\$200,000
TOTAL		\$1.45M

The club have advised that they have access to \$650,000 additional funds from club members and sponsors through repayable loans detailed in a legal Deed. If these repayable loan funds are included, the above provides a total budget of \$2.10M for the clubs proposed project.

At the time of writing this report, legal advice to Council is the legal effect of the Deed is limited. For Council's purposes, it has little to no value in terms of protecting the Council's interests. Council would have to rely on the Club to enforce any rights arising under the Deed which is a risk to Council. An alternative for Council is to prepare its own separate deed with the Guarantors. This Deed could ensure that Council has an option for directly pursuing the Guarantors in the circumstances envisaged in the Deed. These options will still depend on the actual willingness of the Club and the Guarantors to comply with their obligations under the Deed and any agreements they might enter into with Council. If Council does decide to contribute funds for the project, Council will also need to prepare its own funding deed to govern its arrangement with the Club.

Clarification that the project can be delivered within the available budget.

An initial cost estimate undertaken by the Club on an early design in 2023 was \$2.6M however that estimate had a number of items not included and with price escalation over the past year is likely to be higher. The club are working on a revised cost estimate considering sponsored items to provide a more accurate costing for the works. The Club have said that they are confident that if Council were to contribute the proposed additional \$550,000, the club would be able to deliver the project with a total project budget of \$2.65M.

Without an accurate project cost estimate, Council is unable to determine the Club can afford to deliver the project within their proposed \$2.65M budget. This poses a significant risk to Council of unfinished works to a Council asset and either the asset being compromised, or Council being required to fund and complete the works to ensure safety and amenity of the site. There is also high reputational risk for Council if the project is left incomplete or delivered to a poor standard.

Procurement

The original advice from Sport and Recreation Victoria (SRV) was that the funding agreement for the State Government funding of \$700,000 had to be with Council, meaning that Council would need to financially manage and be responsible for the project which the club proposes to deliver. More recently it has been confirmed by SRV that the funding agreement for the State Government funding will be directly with the club.

The club have decided on a builder that has not been subject to a competitive process, however the builder is required to provide both Council and SRV the appropriate documentation to adhere to Council's Town Planning, OHS and ESD requirements as per the conditions of Council's Community Facilities Capital Development Major Policy.

Council's Procurement Policy would require such works at the estimated cost to be procured through a public tender process. Public tendering enables Council to achieve value for money and quality in the acquisition of goods, services and works; achieve compliance with relevant legislative requirements; achieve high standards of probity, transparency, accountability and risk management; prioritise where practical the procurement of environmentally responsible, locally sourced and socially responsible goods and services.

Project Supervision/ Risk Management Plan

If the project commences, it is proposed that Council would supervise the project delivery, ensuring that works are completed to the required standard and the funding agreement hold points are met satisfactorily. Council has supervised sports clubs' works

on smaller-scale constructions like cricket nets or score boards. This is not an approach Council has undertaken previously on larger scale construction delivered by Clubs due to the inherent risks.

Should the project proceed Council would be requesting the club develop a risk management plan which would be required under the funding agreement and to be approved by Council officers. In addition, in line with previous club delivered projects on Council owned land, Council would engage a consultant to perform Site Safety Audits and desktop OHS Project Management Plan reviews. These reviews would assess the principal contractors project planning compliance with relevant sections of OHS related legislation and OHS best practice.

Final Project Staging

Through the detailed design process the club has confirmed that they would not intend to stage the project instead delivering the project as a whole. This approach is a potential risk if the project runs over budget and the social room works cannot be completed resulting in the building being unavailable until further funding is found to finish the project. During construction the club would be responsible for ensuring that club competition can continue throughout the duration of works and have arranged with the adjacent bowling club to ensure that club operations can continue.

Proposed legal agreement with the Club

Should the project proceed as proposed by the Club, the SRV funding agreement will be directly with the club which eliminates significant risk to Council including the need to consider breaching its Procurement Policy, underwrite the project and cover any additional costs. Subject to Council endorsing the clubs proposal and allocating funding for the social room redevelopment, Council would enter into a funding agreement with the club for the allocated \$150,000 Council funding, and additional \$550,000 if decided by Council, which outlines Councils financial contribution, the key milestones to obtain the funding and hold points to ensure the project is being completed to the required standards. This agreement would need to be aligned with the SRV agreement.

Setting of precedent

Proceeding with the funding of a project outside the priority order in the SFDP is likely to damage Council's reputation with sporting clubs in applying its adopted strategic approach to improving and delivering sports facilities in Brimbank, and could encourage other sports clubs to appeal to Council to go against adopted strategy.

Options A (Recommended)

Council does not proceed with allocating \$550,000 for the expansion of the Keilor Sports Club social club rooms. This is on the basis that Council's in principle support at the June 2023 Ordinary Council Meeting was subject to a number of considerations which have not been able to be satisfied through further detailed investigations. Council continues to work with the Keilor Sports Club to plan the delivery of the currently funded upgrades to the kitchen and toilets at Keilor Sports Club.

Option B (Not recommended)

Proceed with allocating \$550,000 to the Keilor Sports Club via a funding agreement for expansion of the social club rooms noting the project is not a priority in the Sports Facility Development Plan 2023; the project presents significant financial, residual and reputational risk due to the uncertainty of the accurate costs and budget to deliver the project and the unorthodox approach of the Club managing the construction project and being outside Council's Procurement Policy. Noting officers would need to budget in the order \$550,000 for this work in 2024/25 and this would require an amendment to the draft 2024/25 Capital Works Program at the expense of other projects currently listed in the draft 2024/25 Capital Works Program.

Community Engagement

As a Council facility, Council would play a role with the Club in continuing community engagement on matters related to the facility. Additionally, if the decision is made by Council to provide the funding of \$550,000, then ongoing engagement with other local sports clubs will be necessary in terms of their expectations on Council delivering on the priorities of the Sports Facility Development Plan 2023.

Resource And Risk Implications

Council has committed \$150,000 to date. If Council decides to commit to an additional \$550,000 funding this would require an amendment to the draft 2024/25 Capital Works Program at the expense of other projects currently listed in the draft 2024/25 Capital Works Program.

Community: potential impact on community, including public trust and customer service impact

- Yes - The risk to Council and the community is the club proceeds with building and does not have sufficient funds to deliver the project resulting in the loss of the asset until the club has the funds to complete the job. The club have various strategies in place to minimise this risk. Alternatively, through the club and others funding the majority of the project, the community will benefit from enhanced facilities at a reduced cost to Council.

Financial: significant financial impacts

- Yes - While financial risks to Council exist with this club proposed project, Council is protected through the SRV funding agreement being directly with the club, the club being fully responsible for any cost overruns and the club's advice that should \$700,000 be provided from Council they will not seek any further Council contributions.

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- Yes - All Regulatory implications will be managed by the club as outlined in the proposed funding agreement with Council.

Safety: health, safety or duty of care impacts

- Yes - The safety impacts will be managed by the club and their appointed builder, overseen by Council and reviewed by qualified consultants appointed by Council.

There are no Environmental risks.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around

3. Opportunity and Prosperity - A future focused, transforming city where all have opportunities to learn and earn - A prosperous place for all

- Growing and Transforming - Optimise community opportunities through infrastructure innovation and investment.

This report complies with Council Plan 2021 -2025.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Director Community Wellbeing, Ms Lynley Dumble, took a question on notice from Council. Sub-Rule 67.1.9 of the Governance Rules requires questions on notice to be recorded on the minutes of the Council Meeting.

The question taken on notice was regarding the cost of dealing with individuals as guarantors.

Resolution

Moved Cr Maria Kerr/Seconded Cr Virginia Tachos

That Council requests and received an update to Report 12.5 to be considered at the next month's Council Meeting to allow for further consultation, explore further legal options in relation to the guarantors to enable Council more time and further consultation with the club.

CARRIED

Cr Maria Kerr called for a division.

For: Cr Victoria Borg, Cr Thuy Dang, Cr Sam David, Cr Maria Kerr, Cr Bruce Lancashire, Cr Thomas O'Reilly, Cr Jae Papalia, Cr Ranka Rasic and Cr Virginia Tachos.

Against: Cr Jasmine Nguyen.

Abstained: Nil.

Resolution

Moved Cr Maria Kerr/ Seconded Cr Thomas O'Reilly

That the meeting be adjourned for a short break.

CARRIED

The Meeting was adjourned at 8.16pm.

The Meeting resumed at 8.24pm.

12.6	Draft Sports Facilities Hire, Licences and Leases Agreement Policy
Directorate	Community Wellbeing
Director	Lynley Dumble
Manager	Ashley Fleming
Attachment(s)	1. DRAFT Sports Facility Hire Licences and Leases Agreement Policy 2024 [12.6.1 - 10 pages] 2. DRAFT Operational Guidelines for Sports Facility Hire Licences and Leases Agreement Policy 2024 [12.6.2 - 10 pages]

Purpose

For Council to consider endorsing the draft Sports Facility Hire, Licences and Leases Policy (Draft Policy) at Attachment 1 and associated draft guidelines at Attachment 2 for a minimum four-week community consultation.

Officer Recommendation

That Council:

- Endorses the draft Sports Facility Hire Licences and Leases Agreement Policy 2024 at Attachment 1 and associated draft guidelines at Attachment 2 to this report, for a minimum four-week community consultation and invites submissions.
- Receives a further report outlining any submissions made on the draft Sports Facility Hire Licences and Leases Agreement Policy 2024 and associated draft guidelines and presenting a Final Sports Facility Hire Licences and Leases Agreement Policy 2024 for consideration for adoption.

Background

In September 2006, the original Sports Facility Hire, Licences and Leases Agreement Policy was adopted. As a result, peppercorn fees were charged to Brimbank sports clubs with fees commencing at \$100 and increasing by CPI with unlimited access to facilities.

In 2012, the first Sport's Facility Development Plan was adopted by Council with a key recommendation being to review the Sports Facility Hire, Licences and Leases Policy.

This policy was reviewed and went through significant consultation with all sporting clubs. The Policy saw the development and review of;

- Lease and Licence agreements, Type of Agreement and Tenure
- Categorising and Classification of Facilities.
- Lease and Licence Fees Calculation and discounts.

This Sports Facility Hire, Licences and Leases Agreement Policy was adopted in July 2014. In December 2014, new Lease and Licences were developed for all Sports clubs.

The Sports Facility Development Plan (SFDP) was reviewed and updated in 2016, 2018 and again recently in 2023. An action identified in 2023 SFDP was to review and update Leases and Licences including fees and charges incorporating Victorian State Government Fair Access Policy and Principles.

Matters for Consideration

Analysis

This policy is to be used in the ongoing allocation and management of Council owned and/or managed sportsgrounds, courts, active playing areas and sporting pavilions by sports clubs.

The draft Policy has been directed and informed by:

- The need to meet the Fair Access Policy and Principles Roadmap Targets from the Office of Women in Sport by 1 July 2024, to be eligible for future funding from Sport and Recreation Victoria.
- Key Principles of the Policy aligning with Brimbank's Community Vision, Council Plan and Municipal Health and Wellbeing Plan, Social Justice Charter and Fairness, Equality and Respect Strategy.
- Review and Increase of Depreciated Asset Value for Leases
- Industry benchmarking.
- Review and Increase Licence Facility Categories and fees which are determined by and aligned with facility audits and assessments conducted as part of the Sports Facility Development Plan.
- Review of Discounts with the focus of discounts aligning with Fair access Principles to encourage increasing opportunities for women and girls.

Implementation

Following community consultation, all feedback will be considered, and any proposed changes presented to Council in its final consideration of the final draft Policy 2024.

Community Engagement

It is proposed the draft Policy and associated draft guidelines will be made available for a 4 week period for community consultation.

Brimbank Sports Clubs and relevant State Sporting Associations will be notified and invited to make submissions.

The draft Policy and associated guidelines will be made available on Council's website, and at Council's libraries and customer service centres.

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

Financial: significant financial impacts

- Yes - Based on projections Operational Budget Income for Sports Clubs Fees and Charges is likely to slightly increase.

As a result there will be a slight impact to the Council Budget and the Long Term financial plan.

Community: potential impact on community, including public trust and customer service impact

- Yes – Sports Clubs Facility may see some changes with Lease and Licence Facilities Categories and discount opportunities which is likely to result in an increase in fees. Council using an evidence-based approach in determining fees and ensuring fairness and equity is provided, in accessing facilities and increasing opportunities for women and girls.

There are no Regulatory, Environmental or Safety implications related to this report.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around.

This report complies with Local Government Act 2020.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Jasmine Nguyen/Seconded Cr Victoria Borg

That Council:

- a. **Endorses the draft Sports Facility Hire Licences and Leases Agreement Policy 2024 at Attachment 1 and associated draft guidelines at Attachment 2 to this report, for a minimum four-week community consultation and invites submissions.**
- b. **Receives a further report outlining any submissions made on the draft Sports Facility Hire Licences and Leases Agreement Policy 2024 and associated draft guidelines and presenting a Final Sports Facility Hire Licences and Leases Agreement Policy 2024 for consideration for adoption.**

CARRIED

12.7	Draft Arts and Culture Strategy
Directorate	Community Wellbeing
Director	Lynley Dumble
Manager	Rose Bruhn
Attachment(s)	1. Draft Arts and Culture strategy 2024 28 [12.7.1 - 18 pages] 2. Gender Impact Assessment Report Arts and Culture Strategy Dec 2023 [12.7.2 - 2 pages]

Purpose

For Council to consider the draft Arts and Culture Strategy 2024-2028 and approve its release for community consultation.

Officer Recommendation

That Council:

- Notes the community engagement process undertaken to date to inform the development of the draft Arts and Culture Strategy 2024-2028.
- Endorses the draft Arts and Culture Strategy 2024-2028 at Attachment 1 for community consultation for a minimum period of three weeks and invites submissions.
- Receives a further report outlining any submissions made on the draft Arts and Culture Strategy 2024-2028 and presenting a Final Draft Arts and Culture Strategy 2024-2028 for adoption.

Background

Brimbank City Council's first Cultural Strategy and the related Public Art Policy and Plan began in 2018 and concluded in 2022 and 2023 respectively. These documents underpinned significant opportunities for our community to participate in cultural and creative activities that helped build social cohesion, the local economy and pride in Brimbank. They also supported the establishment of the Bowery Theatre program and Creative Brimbank brand.

The next iteration of these strategic documents – this draft Arts and Culture Strategy 2024-2028 – builds on previous achievements and responds to new challenges, gaps and opportunities. It brings art and culture together, to span a range of activities from visual arts, projections, digital art, sculpture, writing, dance, theatre and music to creative industries such as fashion and other forms of design.

The draft strategy has been developed following research into the strategic context for the work, demographic research and via consultation. The strategy will set the overall guiding vision for Arts and Culture for the next four years in alignment with the Together we are Brimbank Plan. It will be underpinned by annual implementation plans that specify actions in response to the strategy.

Matters for Consideration

Analysis

Planning for the new strategy included reviewing Brimbank's previous strategy along with strategies from comparable councils, the Victorian Government's Creative State Strategy 2025 and Australian Government's 2023 cultural policy Revive. In broad terms, this investigation revealed Brimbank's earlier strategy was very much in line with others in terms of approach, structure and themes. The one exception was the lack of a principle specifically relating to First Nations engagement. Clearly articulating this as a pillar of Brimbank's work will provide greater focus and support Council's delivery of the Reconciliation Action Plan.

In addition to this strategy review, demographic data has been explored and consultation undertaken with community, arts sector representatives and Council departments. Following this, other factors that have been identified and considered in the development of the draft Strategy are the ongoing impact of COVID-19 particularly in relation to the Arts Sector, Brimbank's position of relative disadvantage according to SEIFA indicators, sustainability, access, and infrastructure. Noted opportunities have included the desire to celebrate Brimbank's uniqueness, focus on diversity and equity, co-design with community, develop mentoring and career pathways and explore inter-generational activities.

Based on the considered approach to the development of the draft strategy and its pillars, officer advice is to endorse the draft to be released for community consultation. This will provide opportunity for broader community responses to be considered in the refinement of the final draft Strategy.

Implementation

Annual Implementation Plans will be developed, and progress reported through Annual Report Cards should the Final Strategy be adopted by Council when considered at the May 2024 Ordinary Council Meeting.

Community Engagement

Consultation during the development of the draft occurred with community members, arts sector representatives and Council staff. It also drew on year-round engagement and evaluation of Arts and Culture activities.

Should the draft Strategy be endorsed for community consultation, it will be open for a three-week period through March and April. The proposed method of engagement is primarily through Council's 'Your Say' page. The promotion of this will be raised at various Council Centres through hardcopy posters and digital screens.

At the conclusion of this period a report will be compiled outlining the responses received and their consideration in relation to the final draft of the Arts and Culture Strategy.

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

There are no community, environmental, financial, regulatory or safety risks.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

Strategic Direction - People and Community: A welcoming, safe and supported community – an inclusive place for all.

Strategic Objective- Pride and Participation: Community and cultural connections built through social and artistic expression.

Council officers contributing to the preparation and approval of this report have no conflicts of interests to declare.

Resolution

Moved Cr Thuy Dang/Seconded Cr Victoria Borg

That Council:

- a. Notes the community engagement process undertaken to date to inform the development of the draft Arts and Culture Strategy 2024-2028.**
- b. Endorses the draft Arts and Culture Strategy 2024-2028 at Attachment 1 for community consultation for a minimum period of three weeks and invites submissions.**
- c. Receives a further report outlining any submissions made on the draft Arts and Culture Strategy 2024-2028 and presenting a Final Draft Arts and Culture Strategy 2024-2028 for adoption.**

CARRIED

12.8	Sydenham Park Sports Feasibility Final Report
Directorate	Community Wellbeing
Director	Lynley Dumble
Manager	Ashley Fleming
Attachment(s)	1. Final Sydenham Park Sports Feasibility Study [12.8.1 - 33 pages]

Purpose

For Council to consider the findings and recommendations from the Sydenham Park Sports Feasibility Study.

Officer Recommendation

That Council:

- a. Notes the Sydenham Park Sports Feasibility Study at Attachment 1;
- b. Notes that with Rate capping, a growing asset base, increasing asset renewal obligation, various competing priorities for funding and broader ongoing financial challenges facing Council, and an ambitious agenda for Council to deliver assets that support community participation and broader wellbeing, investment in infrastructure must be directed into projects that deliver the greatest value for money and best community outcome;
- c. After considering the feasibility issues related to development of sports facilities at Sydenham Park, and noting the misalignment with Council's Sports Facility Development Plan; the negative impacts on native vegetation and cultural heritage; and the estimated high project cost which is not included in the 10-year Capital Works Program or Long-Term Financial Plan and relatively poor value for money represented by this project, determines not to proceed with the sports facilities at the site;
- d. Subject to the decision not to proceed with the planned sports facilities at Sydenham Park, refers the site to the upcoming Creating Better Parks Open Space and Playground Policy and Plan update and Sydenham Park Master Plan (Addended 2022) to determine the most suitable use of the site in the future.

Background

Council allocated funds in the 2022/23 adopted budget towards developing a Feasibility Study for the development of sports facilities at Sydenham Park as per the recommendations within the adopted Sydenham Park Master Plan (Addended 2022).

The Sydenham Park Sport Feasibility Study (the Study) was developed to explore the feasibility considerations if sporting infrastructure is to be introduced at the site. The feasibility study required a background assessment of sport demand and need in Brimbank including demographic information and sports participation data. Development of a conceptual design and layout for recommended sports followed an investigation of elements requiring further planning and approval to develop sporting infrastructure in the park.

Key considerations as part of the study included an understanding of the impacts to cultural heritage and native flora and fauna. The land is also subject to inundation and public acquisition overlays.

In 2023 State Government made an election commitment of \$500k towards sports facilities at Sydenham Park. The State Government are aware Council is completing the Sydenham Park Sports Feasibility and are awaiting the outcome of this piece of work and Council's direction on how best to spend the money at Sydenham Park prior to entering into a funding agreement with Council. The funding is available throughout the current term of Government and if agreed by the Minister for Community Sport, officers at Sport and Recreation Victoria have advised that possibly the funding can be applied to other existing sports facilities at Sydenham Park such as the Keilor Public Golf Course.

Matters for Consideration

Brimbank, like all Victorian Councils, have been subject to Rate Capping since 2016. This has had a cumulative impact at Brimbank in the order of \$126M to date and will continue to impact the financial sustainability in future years. Brimbank Council also has a large asset base, a significant obligation to maintain and renew these assets and an ambitious agenda to continue to deliver assets that support community participation and support broader wellbeing. As such, it is critical that capital investments are well considered, and provide good value for money.

It is also important that Council fully understand both the estimated cost of projects and any complexity that risks delivery of the project, cost increases, or both.

Analysis

Inside Edge Sport and Leisure Planning were engaged to undertake the Study. The Study identifies the proposed sporting infrastructure to suit the needs of the Brimbank community as well as the proposed layout of the facilities includes sporting fields to cater to AFL, Cricket, Soccer and Rugby Union and Rugby League. The proposed supporting infrastructure includes cricket nets, sports lighting, car parking, sports pavilion, connecting pathways and playground, BBQ, shade and other related infrastructure.

Alignment with Sports Facility Development Plan 2023

The Sports Facility Development Plan 2023 (the Plan) was adopted by Council on October 17, 2023. The Plan identifies the sporting trends and sporting infrastructure needs of the Brimbank community, and establishes ways to provide people of all ages, abilities and gender the opportunity to access and participate in a range of sporting activities. It also provides clarity to local sports clubs in terms of how their facility development needs are being or will be met by Council.

In relation to new sports facilities not on existing sports sites, such as the proposed Sydenham Park site, Strategy 1.3 of the Plan specifies a Regional Multi-Sports Facility is required to accommodate local community sporting needs in the future. The Plan details a Regional Multi-Sports Facility should have the following attributes:

- Accessible to the majority if not the whole of the municipality
- Supporting infrastructure to cater for many participants at the one time, including access to public transport, ample car parking, seating, lighting, toilets, shade etc

The Plan details that Sydenham Park and Bon Thomas Reserve have been suggested as potential sites in the past, however, neither of these reserves currently have good access to public transport and Bon Thomas is in a residential area. In addition, both these sites are known to have significant Cultural Heritage and/or Native Flora and Fauna considerations that need further detailed investigations undertaken. Further, given the current distribution of sporting facilities across the City, a regional multisport facility in

the medium term would be best situated in the south of the municipality. The Plan determines that Sunshine Energy Park is the only site in the south of the municipality that has the attributes to accommodate a regional multi-sports facility. Sydenham Park is not identified as a priority for sports facilities in the Sports Facility Development Plan 2023.

Cultural Heritage

Council engaged a cultural heritage advisor (Biosis) to prepare a Due Diligence Report to inform the draft sports feasibility report. As identified within this draft report, the Sydenham Park site is registered as Aboriginal Place of Significance. Desktop (background research), Standard (survey) and Complex Assessment (excavation) would be required as part of this process.

In consultation with Wurundjeri elders (meeting held in August 2023) it was confirmed that a mandatory Cultural Heritage Management Plan (CHMP) will be required as the area is of cultural heritage significance and high impact activity is proposed. The proposed CHMP would be evaluated with conditions in consultation with Wurundjeri.

Indicative timelines of the proposed CHMP process are detailed in Table 1. Earliest case scenario would see the process taking 26-30 weeks to complete, longest case would be 44-48 weeks in total.

Table 1 Cultural Heritage Management Plan (CHMP) timelines

Task	Indicative completion date (Best Case)	Indicative completion date (Worst Case)
RAP inception meeting	8 weeks from Notice to Proceed	12 weeks from Notice to Proceed
Desktop Assessment	Weeks 0-4	Weeks 0-4
Standard Assessment fieldwork	Week 13-14	Week 13-14
RAP results meeting	Week 15	Week 18
Complex Assessment fieldwork	Week 19-20	Week 22-30 (pending availability and requirement for extent testing)
RAP results meeting	Week 22	Week 32
Reporting, VAHR submissions	Week 22-26	Week 32-44
CHMP evaluation period	Statutory prescribed 30 days Week 26-30	Statutory prescribed 30 days Week 44-48

Indicative cost to Council to carry out CHMP has been estimated to range between \$93,000 (lowest case) - \$208,500 (highest case). The CHMP outcomes for salvage and compliance will determine the overall cost to Council for this component, it is estimated that the cost could range from \$99,500 to over \$1M. For any salvage work required, a Heritage Archaeologist is required to prepare a separate Salvage Report. If the Aboriginal Place/s discovered during this time cannot be protected from harm, salvage requirements may be required by the Registered Aboriginal Party. Salvage would be endorsed during the CHMP process and would need to occur before any works could occur onsite. This process can add an additional 12 months to the project timeline, also resulting in significant costs. Although an estimate is provided above for salvage and compliance, council officers cannot accurately advise on the exact salvage costs at present because they do not know what the final size of each registered Place will be until after the fieldwork is complete, making the cost and timeframe uncertain. The uncertainty of the costs and time is a significant risk in proceeding with this project.

Biodiversity Assessment

Wildlife and Ecology (consultants) were engaged to prepare Biodiversity Assessment Report and is referred to in the Sydenham Park Sports Feasibility study.

The Biodiversity Assessment Report identified implications of Clause 52.17 (Native Vegetation) of the Brimbank Planning Scheme. In total, a consequential loss will result in 4.758 hectares of native vegetation being considered lost. This consists of five patches of native vegetation (Habitat Zones 1 & 2). The loss is required to be compensated for by securing a native vegetation offset equivalent to 1.533 general habitat units prior to development.

The *Flora and Fauna Guarantee (Amendment) Act 2019* (FFG Act) is applicable to any application. The five Flora listed as protected that are present within the study area would require an FFG Act permit 'to take' prior to the commencement of works.

The FFG Act listed Western (Basalt) Plains Grasslands threatened ecological community is also present within the study area and an FFG Act permit is required for the removal of this community as well as any individual species with affinity to this community.

A Fauna Conservation Management Plan should also be prepared prior to works commencing.

Indicative costs (which is likely to increase over time) for documentation, permit conditions and offsets is estimated to approximately cost Council \$372,000. It is important to note that this cost estimate was prepared in 2023 and could have escalated by the time this report is considered.

Cost analysis

The total cost of design and implementation of the proposed facilities is estimated to range from \$15M - \$21.3M and beyond, depending on the outcome and related works associated to the Cultural Heritage Management Plan. The indicative costs should be used as a guide only due to cost escalations and market demands.

From a cost benefit perspective, if Council were to proceed with the sports infrastructure at Sydenham Park, this will provide for one winter tenant and one summer tenant. An investment of between \$15M to \$21.3M at other priority sites identified in the Sports Facility Development Plan 2023, could deliver 4-5 new sportsgrounds and provide significantly greater benefit and value for the community. The new sportsgrounds priority order includes Keilor Park Reserve, new synthetics in the South, outdoor netball courts, Sassella Park Pitch 1 Deer Park, Keilor Lodge Pitch 4 Taylors Lakes with a total estimated cost of \$15M for the 5 facilities.

Table 2 details a summary of indicative costs for planning, investigation and design construction phases.

Table 2 Cost estimate summary

	Lowest Case	Highest Case
Planning & Investigations		
CHMP	\$93,000	\$208,500

CHMP Salvage/ Compliance	\$99,500	\$403,000 - \$1,003,000
Native Flora & Fauna	\$307,000	\$307,000
Total	\$449,500	\$1,518,500
Construction		
Sports Facility Design & Construction	\$14M	\$18M+
Contingency (10%)	\$1.4M	\$1.8M
TOTAL INDICATIVE COST (Planning & Construction)	\$15,849,500	\$21,318,500

To progress planning and investigation phase the Study recommends allowing up to 48 weeks (approximately) to carry out investigations related to cultural heritage and native flora and fauna requirements. The high risk to the project is significant financial investment into the planning and investigation stage and resultant findings may lead to a decision not to progress with construction due to costs and impact on the environment and cultural heritage.

The estimated planning and investigation costs of up to approximately \$1.5M are not currently part of the draft 2024/25 Capital Works Program. The design and construction costs of approximately upwards of \$20M are not in the draft 10-year Capital Works Plan or Long-Term Financial Plan as it has not been determined as a priority in the Sports Facility Development Plan 2023.

Summary

The Sydenham Park Masterplan and Addendum in 2022 identified further investigation was needed into the opportunity for sport and recreation to be considered at Sydenham Park. The Study at Attachment 1 has investigated the key elements to be considered regarding the feasibility of progressing sports infrastructure to the next planning stages.

The Study determines a number of site requirements related to cultural heritage and environmental protection as well as the significant associated costs. Sports infrastructure at Sydenham Park is not identified as a priority in Council's Sports Facility Development Plan 2023 and the associated budgets are not part of the draft 2024/25 Capital Works Program, 10-year Capital Works Plan or Long-Term Financial Plan. Council has significant obligation to maintain and renew existing assets. Alongside the relative high project cost, limited community access due to poor public transport, and comparative poor value for money it is not recommended Council progress further sports infrastructure planning at Sydenham Park.

Options A (Recommended)

Council does not proceed to the planning and investigation phase or construction phase for sports facilities at Sydenham Park noting the significant feasibility issues of estimated high and unknown costs, negative impact on cultural heritage and loss of native grasses. Noting additionally that sport facilities at Sydenham Park are not priorities in Council's adopted Sports Facilities Development Plan 2023.

Option B (Not recommended)

Proceed with the planning and investigation phase for Sports Facilities at Sydenham Park noting officers would need to budget in the order of \$1.5M for this work in 2024/25 or a future year and this would require an amendment to the draft 2024/25 Capital Works Program or future years at the expense of other projects currently listed in the draft 2024/25 Capital Works Program or future years. Noting the high risk is significant financial investment into the planning and investigation stage and resultant findings may lead to a decision not to progress with construction due to further high costs and impact on the environment and cultural heritage. Noting if Council decided to support these sports facilities at Sydenham Park, budget to the amount upwards of \$20M would also need to be added to future years for construction at the expense of projects already identified in the draft 10 year Capital Works Program.

Alternative Use

Subject to Council agreeing with the recommendation not to proceed with Sports facilities at Sydenham Park, the cultural heritage and native vegetation at the site could be preserved with an opportunity for community education and awareness of these important features. These matters would be referred to relevant Council policy, plans and strategies including Councils' Creating Better Parks Open Space and Playground Policy and Plan (CBP) and Sydenham Park Master Plan (Addended 2022) for consideration.

Community Engagement

This final draft is for Council consideration, if Council were to consider progressing with this project a Community Engagement strategy would need to be developed.

Resource And Risk Implications

No further resource requirements should Council decide not to proceed with the implementation of proposed sports facilities.

Resource requirements to progress with planning and investigations would range from \$449,500 to over \$1.5M and are not part of the 10-year Capital Works Program or Long-Term Financial Plan. Budget of approximately \$21M would also need to be added to future years for construction at the expense of projects already identified in the draft 10year Capital Works budget.

Community: potential impact on community, including public trust and customer service impact

- Yes – There would need to be a phase of community engagement to consult on the proposed sports facilities at Sydenham Park. Identified priorities in the Sports Facility Development Plan 2023 would also be deferred impacting on other sports facilities.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around.

This report complies with Sydenham Park Master Plan (Addended 2022), Sports Facilities Development Plan 2023.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Bruce Lancashire/Seconded Cr Jae Papalia

That Council:

- Notes the Sydenham Park Sports Feasibility Study at Attachment 1;**
- Notes that with Rate capping, a growing asset base, increasing asset renewal obligation, various competing priorities for funding and broader ongoing financial challenges facing Council, and an ambitious agenda for Council to deliver assets that support community participation and broader wellbeing, investment in infrastructure must be directed into projects that deliver the greatest value for money and best community outcome;**
- After considering the feasibility issues related to development of sports facilities at Sydenham Park, and noting the misalignment with Council's Sports Facility Development Plan; the negative impacts on native vegetation and cultural heritage; and the estimated high project cost which is not included in the 10-year Capital Works Program or Long-Term Financial Plan and relatively poor value for money represented by this project, determines not to proceed with the sports facilities at the site;**
- Subject to the decision not to proceed with the planned sports facilities at Sydenham Park, refers the site to the upcoming Creating Better Parks Open Space and Playground Policy and Plan update and Sydenham Park Master Plan (Addended 2022) to determine the most suitable use of the site in the future.**
- Progress negotiations with state Government for allocation of \$500K funding towards sports facilities at Sydenham Park.**

CARRIED

12.9	Final Draft Renaming Sydenham Park
Directorate	Community Wellbeing
Director	Lynley Dumble
Manager	Cheree Hunter
Attachment(s)	1. Renaming Sydenham Park November 2023 Community Consultation Summary [12.9.1 - 3 pages]

Purpose

For Council to consider the renaming of Sydenham Park in line with the requirements of Geographic Names Victoria (GNV) and in response to the community consultation.

Officer Recommendation

That Council:

- a. Notes the outcomes of the community consultation process on Sydenham Park renaming at Attachment 1, including 164 feedback responses received from community members with a majority of 64.4% support for the Woi-wurrung name 'Yaluk barring Park'.
- b. Approves Yaluk barring Park as its preferred new name for Sydenham Park.
- c. Writes to the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation advising them of Council's decision and thanking them for their involvement and collaboration with Council on the renaming process; including the proposal of names for the park that hold significance to the Wurundjeri Woi-wurrung people.
- d. Authorises Council Officers to provide written response to consultation participants and lodge the new name proposal to Geographic Names Victoria (GNV).

Background

At the Council Meeting on 19 July 2022, Council considered a Notice of Motion (NOM) 18/22 regarding Changing the Name of Sydenham Park to an appropriate Aboriginal name suggested by local Aboriginal groups.

A report was provided to Council on 15 November 2022 outlining key steps in the naming process, noting costs and indicative timelines, and consultation requirements. In early 2023, an internal project control group (PCG) was established with the purpose of successfully implementing the name change of Sydenham Park and achieving positive engagement with stakeholders throughout the project.

At the Council Meeting on 18 July 2023, Council noted the process and timeframe required to rename Sydenham Park, and endorsed the proposed community consultation process that complies with Geographic Names Victoria's 2022 Rules and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation process.

In September 2023, Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation offered Council a list of seven Traditional Custodian names; of which Geographic Names Victoria (GNV) reviewed and provided in-principal support for six of the Woi-wurrung names.

At the Council Meeting on 17 October 2023, Council endorsed three Traditional Owner names 'Yaluk barring Park', 'Yerrin taydo Park' and 'Wurrwu baan Park' for community consultation.

Matters for Consideration

Consultation outcomes

Community consultation to support the renaming of Sydenham Park was held from 1-30 November 2023. Three Woi-wurrung names (provided by Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation) were offered to community for their feedback via Council's engagement platform 'Your Say Brimbank'. Outcomes of the consultation are detailed in Attachment 1.

Through this process, 164 valid feedback responses were received from community members. 61% (101/164) of participants support a name change; of those in support, the majority 64.4% (65/101) voted for the Woi-wurrung name of Yaluk Barring Park – meaning river trail.

39% (63/164) of respondents were not in support of changing the name of Sydenham Park. The most common objections were in relation to uncertainty on how to pronounce options; fear of loss of local history; a desire for funds to be spent on other priorities; and or cultural ignorance and insensitivities/belief system that did not align with Council's commitments to reconciliation and or human rights.

Written response to acknowledge the feedback received by each community member that submitted their feedback as part of this process was issued in February 2024.

Legislative requirements

The process for place naming and consultation is specified in Naming Rules for Places in Victoria: Statutory Requirements for Naming Roads, Features and Localities 2022 ("GNV Rules"). The process is managed by Geographic Names Victoria (GNV).

Following community consultation, and as part of the GNV process, Council is obliged to

- Acknowledge receipt of submissions.
- Develop a report for GNV outlining the consultation process undertaken; consultation outcomes; Council's response to each submission (including a response to specific issues or objections raised) and Council's requested name change.
- Provide a written response to consultation participants outlining results of Council's consideration at the March Ordinary Council Meeting and how objections can be made.

The Registrar of Geographic Names Victoria will consider the naming proposal and respond with their outcome after 30 - 60 days. There is a period of 30 days required to allow for any objectors to appeal to the Registrar of Geographic Names on Council's decision. The response time endorsing a name can extend longer than 60 days if numerous appeals are made.

GNV have advised that Council will be in contravention of the GNV rules if it elects to choose an alternate name to those presented to, and selected by, the community as part of the November 2023 consultation. Council would then be required to go out for community consultation for another 30 days on the proposed new name.

Should GNV support Council's naming proposal, Council can then progress with next steps to implement the name change including appropriate site signage and messaging that supports community to understand the new name, the pronunciation, its meaning,

importance and connection to history and Traditional Custodians, including the cultural significance of this site.

On GNV gazetted approval, Council can also proceed to advise Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation of the chosen name and apply and pay relevant fees for its use.

Community Engagement

Collaboration and engagement for the renaming of Sydenham Park has included:

- Ongoing liaison with Geographic Names Victoria to ensure compliance with statutory requirements.
- Consultation and liaison with the Brimbank City Council Sydenham Park Consultative Committee.
- Ongoing engagement with Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation to seek direction on their preferred processes when seeking Tradition Custodian names; identify potential names to rename the park in Traditional Custodian language; input on how to communicate to the Brimbank community about the history of Sydenham Park and significance to the Wurundjeri people; and guidance on how to pronounce each name.
- Online community consultation on Your Say Brimbank seeking community feedback on the preferred name for Sydenham Park

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

Community: potential impact on community, including public trust and customer service impact

- Yes – It is recognised that a renaming process needs to be respectful; follow processes required by our local Traditional Owner group, the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation; and respond to community concern.

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- Yes – As a Naming authority, Council's process is required to comply with *Geographic Place Names Act 1998* & Naming Rules for Places in Victoria or the naming proposal will be rejected.

There are no Environmental, Financial, or Safety risks identified.

Legislation/Council Plan/Policy Context

This project aligns with the following strategic priorities:

- Together We are Brimbank: Strategic Objective - Pride and Participation; Strategy: Continue our commitment to respecting and recognising Aboriginal and Torres Strait Islander peoples and culture
- Brimbank Naming Policy 2023
- Brimbank Reconciliation Action Plan 2019 - 2021

Resolution

Moved Cr Bruce Lancashire/Seconded Cr Victoria Borg

That Council:

- Notes the outcomes of the community consultation process on Sydenham Park renaming at Attachment 1, including 164 feedback responses**

received from community members with a majority of 64.4% support for the Woi-wurrung name 'Yaluk barring Park'.

- b. Approves Yaluk barring Park as its preferred new name for Sydenham Park.**
- c. Writes to the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation advising them of Council's decision and thanking them for their involvement and collaboration with Council on the renaming process; including the proposal of names for the park that hold significance to the Wurundjeri Woi-wurrung people.**
- d. Authorises Council Officers to provide written response to consultation participants and lodge the new name proposal to Geographic Names Victoria (GNV).**

CARRIED

12.10**Governance Report March 2024****Directorate**

People, Partnerships and Performance

Director

Georgie Hill

Manager

Danny Bilaver

Attachment(s)

1. Record of Informal Meeting of Councillors - For Council Meeting 19 March 2024 [**12.10.1** - 8 pages]
2. CONFIDENTIAL - Brimbank Aquatic and Wellness Centre - Rear Car Park Construction [**12.10.2** - 3 pages]
3. Councillor Support Expenses - Quarter 1 and 2 of Financial Year 2023-2024 [**12.10.3** - 1 page]

Purpose

For Council to consider:

- A summary of recent Governance activity.
- Contracts entered into, and works orders approved in accordance with the S7 Instrument of Sub Delegation.
- Councillor Declarations of Representations by Members of Parliament.
- Councillor Support Expenses for Quarters 1 and 2 of Financial Year 2023/2024.
- The appointment of substitute representatives to the Heritage Advisory Committee, the Economic and Employment Advisory Group and the Western Melbourne Tourism Committee.
- The proposal in relation to the Brimbank Aquatic and Wellness Centre Rear Car Park extension project.

Council Recommendation

That Council:

- a. Notes the:
 - i. Governance Report February 2024.
 - ii. Contracts entered into, and works orders approved, in accordance with S7 Instrument of Sub Delegation (24/3414; 24/3420MAV).
 - iii. Records of Informal Meetings of Councillors, at Attachment 1 to this report, for incorporation in the minutes of this meeting.
 - iv. Councillor Declarations of Representations by Members of Parliament.
 - v. Councillor Support Expenses for Quarters 1 and 2 of Financial Year 2023/2024.
- b. Appoints for the remainder of the Council term:
 - i. Councillor _____ as substitute representative to the Heritage Advisory Committee.
 - ii. Councillors _____ and _____ as substitute representatives to the Economic and Employment Advisory Group.
 - iii. Councillor _____ as substitute representative to the Western Melbourne Tourism Committee.
- c. In relation to the Brimbank Aquatic and Wellness Centre Rear Car Park extension project, notes the:

- i. Proposed addition of the Brimbank Aquatic and Wellness Centre – Rear Car Park extension project to the 2023/24 Capital Works Program.
- ii. Intent of the CEO to award Works Order No. 23/3332/W25-36 - 90 Taylors Road, Keilor Downs – Brimbank Aquatic and Wellness Centre – Rear Car Park Construction to Viscaria Pty Ltd (who were appointed to the Civil Works Panel in May 2023) for \$544,762.35 (including GST).
- iii. Total cost of the Project is anticipated to be \$629,538.50 (excluding GST).
- iv. Savings in the Roads Program in Council's 2023/34 Capital Works Budget that can be reallocated to fund this additional Project.

Background

The monthly governance report is a standing report to Council, in accordance with best practice and good governance principles, and to ensure compliance with the requirements of the *Local Government Act 2020 (the Act)*, Councillor Code of Conduct 2021 (Code), and Councillor Support (Major) Policy 2020.

Matters for Consideration

Exercise of Delegated Authority

Council delegates powers, duties and functions to the Chief Executive Officer in order to support efficient operation and delivery of Council services. The Chief Executive Officer has sub-delegated some authority to Directors (and other Council officers). Significant decisions made, or actions undertaken exercising delegated authority, are reported to Council as a transparency and accountability measure.

The Chief Executive Officer has been delegated authority by Council to award contracts up to \$1,000,000 (inclusive of GST) through an Instrument of Delegation made on 18 October 2022 (S5 Instrument of Delegation to the Chief Executive Officer). The Chief Executive Officer has sub-delegated authority to Directors to award contracts up to \$200,000 (inclusive of GST) through an Instrument of Delegation made on 12 December 2023 (S7 Instrument of Sub-Delegation by the Chief Executive Officer).

Contracts entered into, and works orders approved, in accordance with S7 Instrument of Sub-Delegation

Contracts entered into, and works orders approved, under delegation since reporting to the last Council Meeting are:

Contract No.	Description	Successful Tenderer	Contract Amount (inc GST)	Date Awarded
23/3276A	Provision of Sustainable Catering Services - Panel	Brymby's Café Asylum Seeker Resource Centre Cedar Bakery Elizabeth Andrews Pty Ltd J & Co Melbourne THC Catering Pty Ltd The Catering Company The Granary	\$450,000 (estimated value only)	23/2/2024
24/3498	Kevin Flint Memorial Reserve – Flagship	Moduplay Group Pty Ltd	\$266,722	26/2/2024

	Park Upgrade – Play Equipment			
24/3494	Pintail Neighbourhood Park Upgrade – Play Equipment	Proludic Pty Ltd	\$93,226	27/2/2024

Records of Informal Meetings of Councillors

An Informal Meeting of Councillors includes meetings that are:

- Scheduled or planned for the purpose of discussing the business of Council or briefing Councillors,
- Attended by at least one member of Council staff, and
- Not Council meetings, Delegated Committee meetings or Community Asset Committee meetings.

Written records of Informal Meetings of Councillors are kept and include the names of all Councillors and Council officers attending, the matters considered, any conflict of interest disclosures made, and whether a Councillor who has disclosed a conflict of interest leaves the meeting.

These records, as soon as practicable, will be reported at a Council Meeting, and incorporated in the minutes of that Council Meeting.

Records of Informal Meetings of Councillors (**Attachment 1**) were received for the following meetings:

Date	Event
27 February 2024	Briefing
4 March 2024	Hearing of Submissions
12 March 2024	Council Meeting Briefing
12 March 2024	Planning Forum

Delegate's and Representative's Reports

The participation on a range of local, specific issues, committees established by Council, peak body/sector associations, and local and regional forums, is an essential part of the representative role Council plays. Council nominates Councillors as delegates and representatives to these committees annually.

The role, as the Council delegate or Council representative on these committees, is to represent the position of Council, and report back to Council at a Council Meeting on the issues or progress of the committees, and any recommendations made by the committees.

Delegate's and Representative's Reports were received for the following meetings:

Date	Event	Councillor/s
NIL.		

Councillor Declarations of Representations by Members of Parliament

Councillors have a legitimate role in advocating on behalf of their communities. At times, this may include the receiving of representations by a Member of State or Federal Parliament, to Council or Councillors. Councillors will declare and record any

representations made to a Councillor by a Member of Parliament or their staff representative.

Councillor Declaration of Representations by Members of Parliament was received for the following meetings.

Date	Councillor	Member of Parliament	Matter Discussed
26 February 2024	Cr Rasic	Luba Grigorovitch	Fix the Calder Freeway Roads and Road Safety/Taylors Road Melbourne Airport Rail Mental Health Greening the West Better Buses Issues Facing Sports Clubs Gambling Harm Sharps Containers at Bus Stops Vietnamese Museum of Australia
5 March 2024	Cr Rasic	Senator Rice	Fix the Calder Freeway Melbourne Airport Rail Melbourne Airport Third Runway Greening the West Addressing Unemployment Housing and Homelessness

Brimbank Aquatic and Wellness Centre – Rear Carpark Construction

Contract No. 23/3332 - Civil Works Panel (Contract) was approved by Council on 16 May 2023 for a period of three years commencing on 01 July 2023 with option to extend for two years, each option being for a period of 12 months. The Contract panel was approved to twelve (12) Contractors based on a Deed of Standing Offer Agreement. Under the Agreement, Council can issue Works Orders to the panel contractors to carry out Civil Works packages.

Brimbank Aquatic and Wellness Centre – Rear Car Park Construction at 90 Taylors Road, Keilor Downs is proposed as an additional project to the current capital works program in Council's 2023/2024 Annual Budget.

The Project consists of the construction of 78 carpark spaces, as an extension to the existing carpark area at the St Albans Aquatic and Wellness Centre.

The panel of twelve contractors were issued with Works Order Request No. 23/3332/W25-36 - Brimbank Aquatic and Wellness Centre – Rear Car Park Construction at 90 Taylors Road, Keilor Downs and closed on 12 February 2024. Six responses were received.

Analysis

The Evaluation Panel has rated Viscaria Pty Ltd as the preferred contractor to carry out the Works Order for the amount of \$544,762.35 including GST. It is considered that Viscaria Pty Ltd has the expertise and capacity to complete the Works Order. The Work Order Evaluation Report is contained in **Confidential Attachment 2**.

Implementation

Upon awarding the Contract, the Contractor will inform the Superintendent of the commencement of works as per the Contract conditions.

Councillor Support Expenses Quarters 1 and 2 and the annual total of Financial Year 2023/2024

The Councillor Support (Major) Policy 2020 requires a report of quarterly, and annual cumulative details, of individual Councillor support expenses to be presented to an open session of a Council Meeting. The Act requires details of reimbursement to Council's Audit and Risk Committee. Support expenses for Quarters 1 and 2 and the annual total of Financial Year 2023/2024, which have been presented to Audit and Risk Committee, are included at **Attachment 3**. In accordance with the Councillor Support (Major) Policy 2020, the support expenses will also be made available on the Council's website.

Appointment of substitute representatives to Committees

To accommodate for Councillors unavailability due to leave of absences, the Heritage Advisory Committee, the Economic and Employment Advisory Group and the Western Melbourne Tourism Committee require substitute Councillor representatives to proceed. It is considered that the substitute representatives are to be appointed until the end of the Council Term and will only be called upon when the primary representative is unavailable.

Community Engagement

In relation to the Brimbank Aquatic and Wellness Centre rear carpark construction, Council's Engineering & Infrastructure Services officers have been liaising with Leisure Services Department and the centre operators at the facility regarding the pending construction of the proposed carpark extension and will provide regular updates on commencement timing and construction progress to mitigate inconvenience to the public.

Resource And Risk Implications

Community: potential impact on community, including public trust and customer service impact

- Deliver the BAWC project efficiently and effectively benefiting the community.

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- The BAWC contract addresses construction environmental control matters related to road construction works.

Financial: significant financial impacts

- The BAWC project will be delivered within the allocated and approved budget.

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- This report fulfils legislative governance obligations, to provide transparent and accountable reporting of governance activity.

Safety: health, safety or duty of care impacts

- OH&S is a mandatory requirement in the BAWCS Contract.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around.

3. Opportunity and Prosperity - A future focused, transforming city where all have opportunities to learn and earn - A prosperous place for all

- Growing and Transforming - Optimise

4. Leadership and Governance - A high performing organisation that enacts the vision and decisions of Council through the delivery of quality and innovative services - A fairer place for all

- High Performing and Accountable - Our workforce strive to enhance services and liveability for the Brimbank community.

This report complies with the *Local Government Act 2020*, *Local Government (Governance and Integrity) Regulations 2020*, Council Plan 2021-2025, S5 Instrument of Delegation to the Chief Executive Officer, S7 Instrument of Sub-Delegation by the Chief Executive Officer, Councillor Code of Conduct 2021 and Procurement Policy.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Jae Papalia/Seconded Cr Sam David

That Council:

a. Notes the:

- Governance Report February 2024.**
- Contracts entered into, and works orders approved, in accordance with S7 Instrument of Sub Delegation (24/3414; 24/3420MAV).**
- Records of Informal Meetings of Councillors, at Attachment 1 to this report, for incorporation in the minutes of this meeting.**
- Councillor Declarations of Representations by Members of Parliament.**
- Councillor Support Expenses for Quarters 1 and 2 of Financial Year 2023/2024.**

b. Appoints for the remainder of the Council term:

- Councillor Sam David as substitute representative to the Heritage Advisory Committee.**
- Councillors Jasmine Nguyen and Victoria Borg as substitute representatives to the Economic and Employment Advisory Group.**
- Councillor Thuy Dang as substitute representative to the Western Melbourne Tourism Committee.**

c. In relation to the Brimbank Aquatic and Wellness Centre Rear Car Park extension project, notes the:

- Proposed addition of the Brimbank Aquatic and Wellness Centre – Rear Car Park extension project to the 2023/24 Capital Works Program.**
- Intent of the CEO to award Works Order No. 23/3332/W25-36 - 90 Taylors Road, Keilor Downs – Brimbank Aquatic and Wellness Centre – Rear Car Park Construction to Viscaria Pty Ltd (who were appointed to the Civil Works Panel in May 2023) for \$544,762.35 (including GST).**

- iii. **Total cost of the Project is anticipated to be \$629,538.50 (excluding GST).**
- iv. **Savings in the Roads Program in Council's 2023/34 Capital Works Budget that can be reallocated to fund this additional Project.**

CARRIED

12.11	Advocacy Report
Directorate	People, Partnerships and Performance
Director	Georgie Hill
Manager	Elie Khalil
Attachment(s)	1. Motions for MAV SCM May 2024 [12.11.1 - 4 pages] 2. Motions for ALGA NGA July 2024 [12.11.2 - 2 pages]

Purpose

To provide a report on Council's advocacy highlights from mid-December 2023 to mid-March 2024 and seek endorsement for Council's priorities ahead of the upcoming Municipal Association of Victoria (MAV) State Council Meeting and the Australian Local Government Association (ALGA) National General Assembly.

Officer Recommendation

That Council:

- a. Notes the major advocacy highlights as detailed in this report since the previous Advocacy update at the December 2023 Council Meeting.
- b. Notes the outcome of the Australian Government's Investment Infrastructure Review on 16 November 2023 to withdraw \$50m previously committed to upgrade the Calder Freeway between the Western Ring Road and Gap Road in Sunbury.
- c. Notes the update on the ongoing 'Fix the Calder' Campaign in response to the Australian Government's withdrawal of funding.
- d. Endorses the motions at Attachment 1 to this report, which have been submitted for the next MAV State Council Meeting on 17 May 2024, pending Council approval.
- e. Endorses the motions at Attachment 2 to this report, to be submitted to the 2024 ALGA National General Assembly to be held in July 2024.

Background

Brimbank's Advocacy Priorities

The Brimbank Advocacy Plan 2023-25 was adopted at the Council Meeting on 19 September 2023. The Advocacy Plan outlines Council's key advocacy priorities and seeks partnerships to deliver projects and infrastructure for the Brimbank community.

Priorities identified in the Advocacy Plan are ranked as 'Gold', 'Silver' and 'Bronze' and aligned to the Council Plan Strategic Directions:

Priorities	Topic	Council Plan Strategic Direction
Gold	Transforming Brimbank	Opportunity and Prosperity (Growing and Transforming)
	Mental Health	People and Community (Wellbeing and Belonging)
Silver	Road Infrastructure	Places and Spaces (Liveable and Connected)
	Climate Emergency	Places and Spaces (Sustainable and Green)
Bronze	Addressing Unemployment	Opportunity and Prosperity (Earning and Learning)
	Housing and Homelessness	Opportunity and Prosperity (Growing and Transforming)
Maintain Influence	Melbourne Airport Third Runway	People and Community (Wellbeing and Belonging)
	Gambling Harm	People and Community (Wellbeing and Belonging)
	Major Parks	Places and Spaces (Liveable and Connected)
	Libraries	Opportunity and Prosperity (Earning and Learning)
	Government Burden on Council	Leadership and Governance (High Performing and Accountable)

Advocacy efforts are tailored to the specific issue and are adjusted over the period of plan to ensure relevance and impact. Initiatives include campaigns, Mayoral meetings with MPs and Ministers, and working with other local Councils and peak advocacy bodies such as LeadWest, MAV and ALGA. Advocacy highlights, achievements and adjustment to priorities are reported to Council quarterly.

Council's advocacy priorities are guided by the Brimbank Advocacy Plan 2023-25, adopted at the September 2023 Council Meeting. Our advocacy initiatives include campaigns, mayoral meetings with MPs and Ministers, and working with other local Councils and peak advocacy bodies such as MAV and ALGA.

MAV State Council Meeting and ALGA National General Assembly

Organised twice each year by the MAV, the State Council Meeting enables Brimbank City Council to propose our priorities with state-wide significance for the MAV to advocate on

our behalf. At a national level, the ALGA National General Assembly is convened on an annual basis in Canberra and stands as the premier event for Local Government. It draws over 800 Mayors and Councillors from across the nation. The assembly offers a distinctive platform for Local Government to directly engage with the Australian Government, helping to influence national policy for the betterment of our councils and communities. The theme for the 2024 ALGA National General Assembly is 'Building Community Trust'.

In 2023, Brimbank City Council participated in both the MAV State Council Meetings and the ALGA National General Assembly. At these events, Brimbank submitted a total of 12 motions addressing the following topics:

- MAV State Council Meeting – May 2023
 - Electric Line Clearance Guidelines Review for Urban Trees
 - Reducing Harm for Electronic Gaming Machines
 - Maintenance of Arterial Road Network
 - Addressing Underlying Causes of Crime and Anti-Social Behaviour
- MAV State Council Meeting – October 2023
 - Affordable Housing and Homelessness
 - Construction of the Melbourne Airport Rail
 - Upgrading the Calder Freeway
- ALGA National General Assembly – June 2023
 - Increasing the Quantum of Financial Assistance Grants
 - Compensation Scheme for Airport Impacted Communities
 - Voice to Parliament
 - Restrictions to Gambling Advertising
 - Back Your Neighbour, Mayoral Taskforce for People Seeking Asylum
 - This motion was jointly moved with other Councils.

Matters for Consideration

In the period from December 2023 to March 2024, advocacy highlights included:

- An escalation of the Fix the Calder campaign following a decision by the Federal Government to axe funding as an outcome of the Infrastructure Investment Review.
- Announcement of a Senate Inquiry into Aircraft Noise.
- Two successful grant applications for funding to protect Brimbank's waterways and wildlife.
- New bus services to assist students in Melbourne's western suburbs.
- A visit to Brimbank by Minister for Climate Change and Energy, the Hon Chris Bowen.
- The Australian Government's decision to provide \$73m to extend funding for the Equal Remuneration supplementation for homelessness services for a further 12 months.
- Four Mayoral meetings with local MPs to raise identified priorities in the Advocacy Plan 2023-25, particularly the construction of the Melbourne Airport Rail.
- Promotion of funding priorities for State and Federal Government 2024/25 Budgets.

Advocacy Highlights

'Fix the Calder' Campaign

At the Council Meeting on 16 March 2021, Council endorsed the development of a community campaign to advocate at both State and Federal levels for significant upgrades to the Calder Freeway and Calder Park Drive. Subsequently, the 'Fix the Calder' campaign was developed and launched in April 2021. This campaign was initially successful in obtaining \$50m for Calder Freeway improvement works at the 2021-22 State Budget as well as a commitment by the State Government to remove the level crossing at Calder Park Drive and the completion of a business case to construct a full diamond interchange at Calder Park Drive.

Following these achievements, Council scaled down the campaign during 2022 and 2023 but continued with various initiatives such as the submission of a relevant motion to the MAV State Council Meeting in October 2023 as well as successive Mayors raising the matter in meetings with local MPs and relevant Ministers.

However, the \$50m committed by the previous Australian Government to upgrade the Calder Freeway was reconsidered under last year's Federal Infrastructure Investment Program Strategic Review. The outcome of the review was announced on 16 November 2023 and included the decision to withdraw the \$50m for upgrading the Calder. In response to this announcement, Council has intensified the "Fix the Calder" campaign. We will continue to engage with all levels of government to secure the necessary funding for this project.

As per the adopted Brimbank Advocacy Plan 2023-2025, the campaign will continue to focus on:

- Upgrades to the Calder Freeway between the Western Ring Road and the Melton Highway that are needed to bring it up to freeway standard. These can be achieved by adding lanes from Keilor Park Drive to the Melton Highway and by widening the Maribyrnong River Bridge.
- Constructing a full diamond interchange at the intersection of the Calder Freeway and Calder Park Drive (business case completed).
- The duplication of Calder Park Drive between the Calder Freeway and the Melton Highway.

Council is promoting the 'Fix the Calder' campaign through various avenues including:

- Social media
- Media releases
- Print media including:
 - Story in the Brimbank Community Newsletter which was distributed to Brimbank households starting 19 February. Printed copies will be available at council customer service centres, libraries, and neighbourhood houses.
 - Feature story in the "Brimbank News in Brief", an advertorial that Council produces and provides to the Star Weekly.
 - Half page paid advertisement in Star Weekly.
 - Story in the Brimbank News Monthly
- Video with the Mayor's message that is being displayed on cinema screens, social media and Council facilities from 29 February to 23 May.
- Real-estate board advertising from 23 February until 31 May at three sites near the Calder Freeway.
- Promotional cubes at Keilor Central Shopping Centre and Council facilities.

The campaign is directing community members to a webpage which allows them to email Minister Catherine King and Minister Danny Pearson with a pre-set message calling for action.

Furthermore, Brimbank is collaborating on joint advocacy initiatives with the other eight member Councils of the Calder Highway Improvement Committee (CHIC). This collaborative effort will enhance Brimbank's campaign and amplify our requests by gathering support from other Councils across the state. The initiative has so far included:

- The production of an advocacy brochure with the asks from the nine CHIC Councils.
- A community rally to be held in the coming weeks.

Melbourne Airport Rail

Brimbank continues to advocate for the construction of the Melbourne Airport Rail. Mayor Rasic has raised the topic with all MPs that she has so far met with, including Members representing various political parties and from both the State and Federal Parliaments. Following the Australian Government's decision to recommit \$5b for the project in November 2023, Minister King announced that an independent mediator would be appointed to try and resolve the current disagreement between the State Government and Melbourne Airport on the exact positioning of the station. Mayor Rasic recently wrote to Minister King requesting an update on this process.

Senate Inquiry into Aircraft Noise

On 6 February 2024, the issue of impact and mitigation of aircraft noise was referred to the Rural and Regional Affairs and Transport References Committee for an inquiry and a report to be submitted by 8 October 2024. Council highly welcomes this development given our 'Know the Facts on the Third Runway' campaign. The campaign has expressed our concerns with Melbourne Airport's proposed third runway and continues to call on the Australian Government to fully consider the health impacts of a further runway prior to taking a decision on the proposal.

The Senate Inquiry into Aircraft Noise makes reference to:

- a) the effect of aircraft noise on amenity, physical and mental wellbeing and everyday life of residents;
- b) the effect of aircraft noise on small business;
- c) any proposals for the mitigation and limitation of aircraft noise, including flight curfews, changes to flight paths and alternatives to air travel;
- d) any barriers to the mitigation and limitation of aircraft noise; and
- e) any other related matters

Council looks forward to providing a submission to the Inquiry.

Funding to Protect Victoria's Waterways and Wildlife

Last month, State Minister for Water the Hon Harriet Shing, announced the application outcomes under the first tranche of the \$10 million 'Green Links' grants program. This initiative aims to aide local projects along Victoria's urban waterways, fostering the creation of up to 300 hectares of rejuvenated land for community enjoyment. Brimbank were successful in both of our following applications:

- *Maribyrnong River Valley Habitat* – Brimbank Council received \$198,495 to deliver the 'Maribyrnong River Valley Habitat Restoration' project. This provides the community with more green spaces, particularly around Sydenham Park which has become a priority for Council following the park's opening to the public in October 2023.
- *Kororoit Creek Connections* – Brimbank Council received \$199,500. In collaboration with Melbourne Water and Friends of Kororoit Creek, this project aims to create and extend vital habitat corridors along the Brimbank section of

Kororoit Creek by connecting existing patches of habitat with the addition of indigenous vegetation strips, rocks and logs.

New Bus Services across Melbourne's Outer Suburbs

In January, the Victorian Government announced that it will be rolling out new bus services across Melbourne's outer suburbs for the 2024 school year, particularly in Melbourne's western suburbs. This announcement aligns with LeadWest's current advocacy initiative calling on the government to improve bus services in Melbourne's west.

Minister Bowen's visit to Brimbank

Last month, Federal Minister for Climate Change and Energy, the Hon. Chris Bowen MP, visited Sunshine to promote the \$16m 'Solar for Apartments' program. This program was jointly announced the previous week by the Australian and Victorian Governments and offers owners corporations the opportunity to install solar panels on apartment buildings. The Minister was joined by local Member for Fraser Dr Daniel Mulino and was greeted by Brimbank's Deputy Mayor Cr Jae Papalia. It is important that Minister Bowen chose Brimbank to promote the Solar for Apartments program, particularly given our previous advocacy to him about the impacts of climate change on disadvantaged communities.

Further Funding for Homelessness Support Services

On 28 February 2024, the Australian Government announced that it will provide \$73m to extend funding for the Equal Remuneration Order supplementation for homelessness services for a further 12 months. The funding will cover the wages of the workforce and was due to expire in July 2024. Addressing homelessness is one of Brimbank's advocacy priorities. The topic is outlined in both our Advocacy Plan and Budget Priorities brochures and has been raised by successive Mayors with a number of Federal MPs and Senators.

MAV/ALGA Conferences

The MAV has issued a request for its member Councils to present motions for potential adoption at its State Council Meeting on 17 May 2024. The deadline for submitting motions was 18 March. Officers have submitted motions pending Council endorsement.

Similarly, ALGA has invited members to submit motions for consideration at its annual National General Assembly, scheduled to take place in Canberra from 2-4 July 2024.

The motions that Brimbank intends to submit reflect current Council priorities that are identified in the Brimbank Advocacy Plan 2023-25 and are of either state-wide or national significance. They also include key priorities that Brimbank is jointly advocating for in partnership with other LeadWest member Councils. These topics are listed below, with the detailed motions shown in Attachment 1 (MAV) and Attachment 2 (ALGA).

- MAV State Council Meeting
 - Upgrades to Major Highways
 - Mental Health Social Inclusion Action Groups
 - Improving Victoria's Bus Network
- ALGA National General Assembly
 - Upgrades to Major Highways
 - Unemployment Support

Community Engagement

This report is consistent with the policy, evidence and current positions of Council, widely informed by community engagement and insight and the Brimbank 2023-25 Advocacy Plan.

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

Community: potential impact on community, including public trust and customer service impact

- None

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- None

Financial: significant financial impacts

- None

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- None

Safety: health, safety or duty of care impacts

- None

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around

3. Opportunity and Prosperity - A future focused, transforming city where all have opportunities to learn and earn - A prosperous place for all

- Growing and Transforming - Optimise community opportunities through infrastructure innovation and investment
- Earning and Learning - Everyone has access to education, training and lifelong learning to support their aspirations.

This report complies with relevant policy and legislation.

Council officers contributing to the preparation and approval of this report have no conflicts of interests to declare.

Resolution**Moved Cr Victoria Borg/Seconded Cr Bruce Lancashire****That Council:**

- a. Notes the major advocacy highlights as detailed in this report since the previous Advocacy update at the December 2023 Council Meeting.**
- b. Notes the outcome of the Australian Government's Investment Infrastructure Review on 16 November 2023 to withdraw \$50m previously committed to upgrade the Calder Freeway between the Western Ring Road and Gap Road in Sunbury.**
- c. Notes the update on the ongoing 'Fix the Calder' Campaign in response to the Australian Government's withdrawal of funding.**
- d. Endorses the motions at Attachment 1 to this report, which have been submitted for the next MAV State Council Meeting on 17 May 2024, pending Council approval.**
- e. Endorses the motions at Attachment 2 to this report, to be submitted to the 2024 ALGA National General Assembly to be held in July 2024.**

CARRIED

12.12**Directorate****Director****Manager****Attachment(s)****Green Gully Reserve Northern Precinct Enhancement Plan Project Update**

Infrastructure and City Services

Chris Leivers

Dominic Di Martino

1. Green Gully Northern Enhancement Precinct [**12.12.1** - 1 page]
2. CONFIDENTIAL - Green Gully Reserve Northern Precinct Enhancement Plan Project Budget [**12.12.2** - 3 pages]

Purpose

For Council to consider an update on the Green Gully Reserve Northern Precinct Enhancement Plan.

Officer Recommendation

That Council:

- a. Notes the status update on Green Gully Reserve Northern Precinct Enhancement Plan.
- b. Notes that with rate capping, a growing asset base, increasing asset renewal obligation, various competing priorities for funding and broader ongoing financial challenges facing Council, and an ambitious agenda for Council to deliver assets that support community participation and broader wellbeing, investment in infrastructure must be directed into projects that deliver the greatest value for money and best community outcome;
- c. After considering the options available for development of the Green Gully site, and noting the known complexities and uncertainty about the ability to proceed, the uncertainty of the full costs to deliver the project at this site, and the relatively poor value for money represented by this project, determines not to proceed with the planned sports facilities at the site;
- d. Subject to the decision not to proceed with the planned sports facilities at the site, refers the site to the upcoming Creating Better Parks Open Space and Playground Policy and Plan update to determine the most suitable informal use of the site in future.

Background

Council's Sports Facility Development Plan 2023 (Sports Plan) identifies the sporting trends and sporting infrastructure needs of the Brimbank community, and establishes ways to provide people of all ages, abilities and gender, the opportunity to access and participate in a range of sporting activities. The Sports Plan identified that the current and future demand for sports facilities outweighs the current provision, with the community requiring a further seven soccer pitches, three AFL ovals and two rugby pitches by 2027. Council has been investing significantly in existing and new facilities to reduce this demand gap.

The Sports Plan includes a rolling program for the development of new sports facilities, with Green Gully Reserve the highest priority for a new sports ground and supporting infrastructure. To ensure the appropriate layout of required facilities in the vacant

Northern Precinct of the Reserve, the Green Gully Reserve Northern Precinct Enhancement Plan (Enhancement Plan) was developed and subsequently adopted by Council at the Council Meeting on 21 July 2020 following a six-week community consultation process on the Draft Enhancement Plan.

The adopted Enhancement Plan provides Council with a proposed site layout of Green Gully Reserve Northern Precinct (the Site) including the following facilities which are recommended to be included to provide additional sporting and recreational opportunities for the Brimbank community:

- Senior size oval to cater for numerous sports
- Multipurpose pavilion with two change rooms
- Sports lighting (100 lux)
- Coaches boxes
- High ball protection fencing
- Car parking (100 spaces)
- Picnic and playground area
- Pathway network
- Road extension (McRae Boulevard)

At the Council Meeting on 18 August 2020 Council considered a report on the Final Draft 2020/2021 Annual Budget, including the Capital Works Budget. The Capital Works Budget included an initial allocation of \$1.4M for the implementation of the Green Gully Reserve Northern Precinct Enhancement Plan Project (Project), to fund the commencement of detailed design and fund the procurement of native vegetation offsets required to progress the development of the sports facilities.

At the Council Meeting on 16 February 2021, Council received a report on the status of the implementation of the Project and noted Council's Chief Executive Officer, under delegation, had submitted an Application for a Ministerial Exemption for the procurement of native grass offset. In July 2021, Council received the Ministerial Exemption to enable Council officers to progress the procurement of the native grass offset and finalisation of Commonwealth and State Government approvals to enable development to proceed.

At the Council Meeting on 15 March 2022, Council received a report with an update on the implementation of the Green Gully Reserve Northern Precinct Enhancement Plan and in the exercise of the power conferred by section 11(1) of the Local Government Act 2020, delegated to the Chief Executive Officer, and any Acting Chief Executive Officer, the power to execute the agreement with Crichton Properties from Council to the Chief Executive Office, for the purchase of native grass offsets.

During concept design and due to increasing project costs and budget constraints, Green Gully Close access road, a secondary car park on the Green Gully Close access road and storm water harvesting system dam upgrade were removed from the scope of works (A full scope of works and costs can be found at **Attachment 1**).

Matters for Consideration

Brimbank, like all Victorian councils, have been subject to Rate Capping since 2016. This has had a cumulative impact at Brimbank of in the order of \$126M to date and will continue to impact the financial sustainability in future years. Brimbank Council also has a large asset base, a significant obligation to maintain and renew these assets and an ambitious agenda to continue to deliver assets that support community participation and support broader wellbeing. As such, it is critical that capital investments are well considered, and provide good value for money.

It is also important that Council fully understand both the cost of projects and any complexity that risks delivery of the project, cost increases, or both.

Recent developments relating to the Project have raised questions regarding the viability of the Green Gully Project, with Aboriginal artefacts being discovered; these will require further investigations to understand the full implications and the cost. The current cost estimate for the project is \$16,150,000, however due to the further cultural heritage investigations, and potential actions required, this could escalate to an estimate of \$17,700,000 or more, with the final upper amount unable to be confirmed.

Analysis

Native Grass

Council's consultant Ecology and Heritage Partners (EHP) have provided expertise and advice to assist with this specialist process.

An investigation by EHP consultants identified native vegetation that is protected as per the requirements of Commonwealth Government and Victorian State Government. The native vegetation is an endangered ecological community "Natural Temperate Grassland of the Victorian Volcanic Plain" (NTGVVP), protected under the Commonwealth *Environment Protection and Biodiversity Conservation Act (EPBC Act)* and the "Western (Basalt) Plains Grassland" ecological community, protected under the State Government *Flora and Fauna Guarantee Act 1998 (FFG Act – Victoria)*.

In cases where protected native grass is identified, the development can only proceed if it is 'offset' as per Commonwealth and State Government requirements. Given the limited native grass offset sites available i.e. only one suitable site identified to meet requirements, and the *Local Government Act 1989* procurement requirements for tendering of goods and services, a Ministerial Exemption was required to progress the procurement of native grass offset exempting tendering process. Based on this, Council's Chief Executive Officer, under delegation, submitted an Application for a Ministerial Exemption in November 2020.

In July 2021 Council was notified by the Minister for Local Government that the request to enter into a contract with landowners identified on the Department of Environment, Land, Water and Planning's (DELWP) Victorian Native Vegetation Credit Register, for the management and purchase of native vegetation offsets at Green Gully Reserve Northern Precinct in Keilor Downs, was successful.

Upon review of all parties, it was submitted to Commonwealth Department of Agriculture, Water and the Environment (DAWE) for review. After extensive reviews and two rounds of community consultation, the Preliminary Document and Offset Management Plan was finalised. During this process, a variation to the submission was submitted to omit Stage 2 of the development, as securing costly offsets at this stage was not viable.

The Planning Permit was approved August 2023, following over 12 months of extensive negotiations with Department of Energy, Environment and Climate Action (DEECA).

Until DEECA confirmed the scope of the native grass removal, detailed design for the precinct was unable to progress, as site design set out could not be confirmed.

Following Planning Permit approval, native grass offsets were required to address State Government requirements and were secured October 2023.

An agreement was formed with Crichton Properties Pty Ltd and DELWP which required Council to pay \$1.477 million for the purchase of native grass offsets.

Cultural Heritage

As part of the Project site is an 'area of cultural heritage sensitivity', Council undertook a CHMP, as part of a best practice approach and to mitigate potential risks to the project. If the project was undertaken without a CHMP it could risk damaging a cultural significant site; in addition, if any artefacts that were subsequently discovered during construction, the project would be required to immediately cease until those artefacts were recovered and appropriate approvals obtained, resulting in significant delays and costs to the Project.

An on-site archaeological investigation (standard & assessment) survey commenced October 2023, following the approved Planning Permit and approval for removal of the native grass. Artefacts were found during fieldwork, in four separate locations, in ground and on the surface, and as a result a further phase of archaeological fieldwork are required. Should additional Aboriginal cultural heritage items be discovered in the next phase of testing, further phases of excavation would be required until no further artefacts are found. The programming of the next phase of fieldwork can take months to secure in a booking.

Following the completion of the fieldwork, a meeting with the Registered Aboriginal Party (RAP) would be required to discuss the results and proposed management conditions. The RAP has long lead times for both fieldwork and meetings and this process could take up to 5 months.

If a Cultural Heritage Management Plan (CHMP) is undertaken to progress the planning for this project, on completion of the fieldwork a CHMP will be submitted for approval and proceed to register the Aboriginal Place(s), which can take up to nine months. For any salvage work undertaken, the Heritage Archaeologist is required to prepare a separate Salvage Report. If the Aboriginal Place/s discovered during this time cannot be protected from harm, salvage requirements may be required by the Registered Aboriginal Party.

Salvage would be endorsed during the CHMP process and would need to occur before any works could occur onsite. This process can add an additional 12 months to the project timeline, also resulting in significant costs. Council officers cannot confirm possible salvage costs at present because they do not know what the final size of each registered Place will be until after the fieldwork is complete, making the cost and timeframe uncertain.

Cost Analysis

To address budgetary considerations for this project, Council at the August 2022 Council Meeting endorsed extending the project timeline by an additional twelve months, with the revised completion date June 2025.

Financial Year	Allocated Budget	Expenditure
2020/2021	\$1,400,000.00	\$381,659.22
2021/2022	\$1,400,000.00	\$11,612.58
2022/2023	\$4,700,000.00	\$183,339.20
2023/2024	\$3,850,000.00	\$1,613,942.82
Total	\$9,950,000.00	\$2,190,553.82

The current Stage 1 Precinct Plan includes the development of one multipurpose ground, car parking, landscaping, footpath network and road access from McCrae Boulevard. The cost of this development is estimated to be \$16,150,000 (See **Attachment 2**). However, due to the cultural heritage of the site, could escalate to an estimate of \$17,700,000 or

more. Unfortunately, with the current level of site complexity and uncertainty, officers cannot provide an upper limit to the potential cost of the Project.

The Project has had only one confirmed potential funding opportunity, being Sport and Recreation Victoria's Local Sports Infrastructure Fund, with an application currently submitted for \$300,000. The Grant, whilst welcome, would cover only a very small portion of the project cost, if Council were successful with its application. This is also a highly competitive grant program with limited funding available, with the complexities around native grasses and cultural heritage likely to make this a less attractive project to fund. As such, the majority of not all funding for the project will be required from Council's Annual Capital Works budget. Given that costs are now significantly higher than anticipated when initially approved by Council, and with the upper limit currently unknown, Council would be required to reallocate funds in future years Capital Works Program for this Project, which would necessarily be at the expense of other high priority projects.

From a cost benefit perspective, if Council were to proceed with the Project, this investment will provide for one winter tenant and one summer tenant. Officers note an investment of this level (circa \$17M) at other sites identified in the Sports Facility Development Plan, could deliver 4-5 new sportsgrounds and provide significantly greater benefits for the community.

The new sportsground priority order (in the adopted Sports Development Plan) includes, Keilor Park Reserve, new synthetics in the South, outdoor netball courts, Sassella Park Pitch 1 Deer Park, Keilor Lodge Pitch 4 Taylors Lakes with an expected cost of \$15,000,000 to deliver all 5 facilities, which officers believe would benefit the wider Brimbank community.

The current Project site at Green Gully has no current infrastructure and requires a complete redevelopment; whereas the alternative priority sites identified in the Sports Facility Development Plan are project ready and do not have any significant overlays that would prevent future development.

Options

Option A (Recommended)

- A. Upon a thorough analysis and careful consideration, the Project does not proceed due to financial constraints and extensive feasibility issues, resulting in significant delays. Noting that there may be some future community use of the site, and that this future use can be referred to Council's Creating Better Parks Open Space and Playground Policy and Plan for consideration. Noting also however that the Design Development stage of this project is complete, and a cost plan has been developed, and Preliminary Contract Documentation has commenced (Architectural only), with base documentation created; this would provide the basis for the project to be revisited in future if deemed necessary and good value.

Option B (Not recommended)

- B. Proceed with planning for the Project, be undertaking the second phase of archaeological fieldwork, noting that should additional cultural heritage items be discovered, subsequent phases of excavation will be required, extending the process by at least 12-18 months or more and increasing costs. Noting also that if there is a discovery of critical artefacts, salvage treatments and recommendations would be made, which would impact construction commencement, which would be delayed until April 2025 or later; there is also

potential for these recommendations to have considerable impact on the ability to deliver the proposed Stage 2 in this precinct. If Council determined to proceed with the Project, cognisant of the various risks outlined in this report, the project contract documentation would be completed, with a further cost increase reflected in the Design Consultant Contract.

Implementation

Option 1 – Not proceed

Based on Council decision to proceed with Option 1, Council will formalise the Deed of Termination and Release with the Design Consultant, eliminating any further design costs and cease CHMP investigations.

Communications with relevant stakeholders and the broader community will take place to explain the decision not to proceed.

Given the complexity of Green Gully Reserve regarding its environmental and cultural values and its size, making improvements will require time and careful consideration; this will be guided by the Green Gully Northern Precinct Master Plan. To date there have been delays and budget constraints in delivering on elements of the Master Plan; however detailed design and Cost Plan C (Design Development Stage) has been completed. Preliminary Contract Documentation (architectural only) has commenced so that it can be ready if Council make a decision to proceed with the project (subject to design consultants contract fee being revised to reflect the project budget increase).

Option 2 - Proceed

On the basis of Council decision to proceed with Option 2 and based on the current information and advice received to date, the completion of the CHMP due to the many variables and a salvage type process could push the timelines out as follows:

- | | |
|---|---------------|
| • Next phase of Archaeological fieldwork | April 2024 |
| • CHMP process thereafter, based on a 9 month period | January 2024 |
| • RAP determines salvage required, additional 12 months | December 2025 |
| • Construction commences** | April 2026 |

**Assumes the Tender and Tender evaluation process occurs during the CHMP or salvage process.

Note: The timelines may change if there are unforeseen delays in the CHMP process, and any decision to tender the project would need to be reviewed/re-evaluated.

If Council decided to support this option and proceed with further archaeological work and the CHMP process in 2024/25, officers would need to budget for this work in 2024/25 and this would require an amendment to the draft 2024/25 Capital Works Program; this would necessarily be at the expense of other projects currently listed in the draft 2024/25 Capital Works Program.

In addition, a variation of \$388,876.40 excluding GST would be required for Contract No. 21/430211 Design and Consultancy Contract due to the revised project budget. It is highly likely that this Contract will continue to increase in costs as the design and investigations progress leading to further variations required.

Green Gully Reserve Northern Precinct Enhancement Plan - Stage 2

The Green Gully Site includes an additional land parcel designated for potential future development, pending further investigations and approvals. However, given the

prolonged and intricate approval processes endured, such as securing Commonwealth and State native grass approvals and obtaining cultural heritage approval, coupled with the future development area being situated within a high voltage electricity power line easement, its development potential is significantly constrained. And whilst the costs to achieve sporting use is unknown, based on current knowledge is likely to be significant (assuming approvals can be received), and poor value for money.

During the initial Stage 1 consultation process with Department of Energy, Environment and Climate Action (DEECA), the scope of native grass removal was reduced by over 4,000m² and it is expected that there would not be support for the removal of the remaining native grass located in Stage 2; and if approval was received, it would come at a substantial cost, given that suited sites are scarce for Commonwealth protected native grasses.

Expert advice has indicated that due to the location of the future playing fields being within the 'area of cultural heritage sensitivity', and over an existing 'Heritage Place', a new Cultural Heritage Management Plan for Stage 2 would be required. With artefacts found within the proposed development area (existing heritage Place), the likelihood of finding further artefacts is increased.

Stage 2 includes an overhead transmission easement making it challenging for an additional competition sportsground due to the overhead restrictions that will restrict the optimum location of floodlighting. Without being able to achieve optimum levels of lighting, this site would likely restrict any future sportsground be training grounds only.

Considering these limitations, particularly in floodlighting installation and the need to navigate extensive approval processes including a new Planning permit, the viability of the future development option of Stage 2 appears to be increasingly untenable.

Alternative Use

The Master Plan includes existing Council strategies, policies and plans and frameworks were reviewed and considered in the development of this Project. The key documents that have influenced the development of the project include, Sports Facility Development 2018, Cycling and Walking Strategy, Creating Better Parks Policy and Plan, Urban Forest Strategy, Biodiversity Strategy, Habitat Connectivity Plan, ESD Framework and Sustainable Water Management Strategy.

Subject to Council agreeing with the recommendation not to proceed with the Pavilion and Sportsground project in this location, future alternative use of the site would be referred to Councils' Creating Better Parks Open Space and Playground Policy and Plan (CBP) for consideration.

Community Engagement

During the development of the Green Gully Northern Precinct Enhancement Plan, extensive consultation with the community and key internal stakeholders was carried out.

Council will continue to engage with stakeholders and the community to inform the future use of the site following Council's decision if the recommended option is adopted. Communications with the community will take place following Council's decision on this matter via Council's website and other methods as appropriate.

The Project is at high risk, of significant delays and uncontrollable cost escalations. If Council accept officers' recommendation not to proceed, officers will inform stakeholders and the broader community of the decision and rationale; if the recommended option is not endorsed Council will provide status updates via Council's website to ensure the Community is kept informed of the Project progress.

Resource And Risk Implications

The resources required for current planning and design can be met within the Annual Budget 2023/2024, however noting that Option 2 would have a significant impact on multiple years budgets and a direct impact on the ability to deliver prioritised projects. Refer to **Confidential Attachment 2** for project financials.

Community: potential impact on community, including public trust and customer service impact

- Yes - The Sports Facility Development Plan identifies that additional sports facilities are required in order to meet current and future demand. However, there would be substantially more community benefit from investing the likely cost of proceeding with the sports facilities at Green Gully Reserve, in other high priority sportsground projects at other sites. It is highly likely that investing upwards of \$16-17M for one winter and one summer tenant would not be considered by many in the community as a wise investment of Council funds.

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- Yes - Environmental investigations have been undertaken to provide Council with a clear understanding of the site and the required actions to develop the site. These investigations have revealed the site has high native flora and cultural heritage values that is resulting in it being a very complex site for development for sports facilities.

Financial: significant financial impacts

- Yes - If the project were to proceed, it will require additional funding in future years over the allocated and approved budget of \$9,950,000.00. The cost estimate at this stage, whilst still not finalised is currently approximately \$16,150,000, with the potential for the project cost to be \$17,700,000 or more. On that basis, officers' advice is the project represents a financial risk and does not represent good value for money.

This report addresses the financial risks with this project and endorsement of Officer Recommendation outlines that Council is managing its budgets in a sustainable and responsible manner and look to invest in sites less complex resulting in a better outcome for the community.

There are no regulatory or safety implications of note.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around.

This report complies with Council Plan 2021-2025, Community Vision 2040, Sports Facility Development Plan 2018, Creating Better Parks Policy and Plan 2016, Sustainable Water Management Strategy 2013-2023, Community Services and Infrastructure Plan 2018 and Cycling and Walking Strategy 2016.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Motion**Moved Cr Bruce Lancashire/Seconded Cr Maria Kerr**

That Council report back to the next Council meeting on the process required to proceed with this sports facility and provide Council with alternative funding options if required for budget reasons such as delaying road projects.

LOST

Cr Bruce Lancashire called for a division.

For: Cr Victoria Borg, Cr Maria Kerr, Cr Bruce Lancashire, Cr Thomas O'Reilly and Cr Virginia Tachos.

Against: Cr Thuy Dang, Cr Sam David, Cr Jasmine Nguyen, Cr Jae Papalia and Cr Ranka Rasic.

Abstained: Nil.

The Meeting was adjourned at 9.16pm.

The Meeting resumed at 9.22pm.

Cr Sam David returned to the meeting at 9.23pm

Resolution

Moved Cr Jae Papalia/ Seconded Cr Bruce Lancashire

That Council moves and considers Reports 12.13 and 12.16 in a block.

CARRIED

12.13**Directorate****Director****Manager****Attachment(s)****Contract No. 22/3211 (PA 2403/0109) - Supply and Delivery of Bulk Fuel - Extension of Contract**

Infrastructure and City Services

Chris Leivers

Tom Razmovski

1. CONFIDENTIAL - Contract Extension Report [**12.13.1** - 2 pages]

Purpose

For Council to consider the extension of Contract No. 22/3211 (PA 2403/0109 - Bulk Fuels) - Supply and Delivery of Bulk Fuel, for a one (1) year period.

Officer Recommendation

That Council approves the extension of Contract No.22/3211 (PA 2403/0109 - Bulk Fuels) - Supply and Delivery of Bulk Fuel for a period of one year to 31 March 2025, to a panel of suppliers comprising:

- Ampol Australia Petroleum Pty Ltd;
- Pacific Petroleum Pty Ltd; and
- Petrogas Pty Ltd

Background

Pursuant to an Instrument of Delegation made by Council on 15 March 2022 under section 11(1) of the *Local Government Act 2020*, the Chief Executive Officer awarded Contract No. 22/3211 Supply and Delivery of Bulk Fuel (Contract) on 23 March 2022.

The Contract forms part of the Operational Program approved by Council as part of the Annual Budget process.

The Contract initially established by Procurement Australia (PA) was formed with three (3) bulk fuel suppliers, commenced on 1 April 2022 for contract duration of 2 years with further two (2) x one (1) year options to extend.

The services under this Contract are for the supply and delivery of bulk fuel to Council nominated sites.

This report is presented to Council to consider extending the Contract for further one year period to 31 March 2025.

Matters for Consideration

Analysis

The services under this Contract have been performed to a satisfactory standard.

As fuel prices are subject to variation between the suppliers daily, utilising the panel of suppliers will continue to provide best value to Council.

The Contract Extension Report is provided at **Confidential Attachment 1**.

Implementation

Subject to Council approval, the Contract extension will be implemented for an additional one-year period from 1 April 2024 to 31 March 2025.

Community Engagement

Procurement Australia has entered into an Agreement whereby suppliers have agreed to making goods available to customers at unit prices and agreed terms.

Collaboration

Council has demonstrated collaborative procurement using PA Contract No. 2403/0109 - Bulk Fuels.

Resource And Risk Implications

Resource requirements can be met within the Annual Budget 2023/2024.

Resources required for future financial years will be referred to the Annual Budget process for consideration.

Community: potential impact on community, including public trust and customer service impact

- Yes – The provision of fuel is essential for Council's fleet of vehicles, plant and machinery for the ongoing and efficient delivery of Council services.

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- Yes – The provision of fuel is predominantly used in delivering Council's residential kerbside waste collection services. There are currently no genuine alternatives.

Financial: significant financial impacts

- Yes – Budget expenditure is from Council funding; the Operational budget is subject to Council approval. Refer to **Confidential Attachment 1** for financial impact

There are no Regulatory or Safety risks identified.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

4. Leadership and Governance - A high performing organisation that enacts the vision and decisions of Council through the delivery of quality and innovative services - A fairer place for all

- High Performing and Accountable - Our workforce strive to enhance services and liveability for the Brimbank community.

This report complies with the Procurement Policy and the *Local Government Act 2020 (the Act)*.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Jae Papalia/ Seconded Cr Bruce Lancashire

That Council moves and considers Reports 12.13 and 12.16 in a block, with motions as per the Officer Recommendation in these reports.

CARRIED

12.14**Contract 21/3093 - Consultancy Services for Environmental Assessment Works at Former Landfill Sites****Directorate**

City Futures

Director

Kelvin Walsh

Manager

Michelle van Gerrevink

Attachment(s)

1. CONFIDENTIAL - Contract 21 3093 - Direction to Award [12.14.1 - 8 pages]

Purpose

For Council to consider approval of a variation to Contract No. 21/3093 – Consultancy Services for Environmental Assessment Works at Former Landfill Sites; and extension options.

Officer Recommendation

That Council:

- a. Approves a variation of \$329,769.94 for Contract No. 21/3093 - Consultancy Services for Environmental Assessment Works at Former Landfill Sites, for works to the end of 2023/24.
- b. Approves extension of Contract No. 21/3093 - to GHD Pty Ltd for an additional two-year period from 1 July 2024 to 30 June 2026, based on the tendered Lump Sum Component and Schedule of Rates.
- c. Authorises extension of Contract No. 21/3093 to be signed by the Chief Executive Officer.
- d. Authorises the Chief Executive Officer delegated authority to approve the Contract second contract extension option, including authorised contingency value, subject to the performance and competitive pricing of the contractor.

Background

Contract No. 21/3093 - Consultancy Services for Environmental Assessment Works at Former Landfill Sites - was awarded by the Interim CEO, on 22 December 2021, for the estimated amount of \$740,318.70 (inc. GST), after a public tender process, for an initial period of three years to GHD Pty Ltd.

The Contract forms part of the Operational Program approved by Council as part of the Annual Budget 2023/24.

The services under this Contract are to complete routine environmental assessment works across four closed landfills, owned and managed by Brimbank, in accordance with legislation, EPA Notices and guidance, and each sites' environmental management plan.

The specified sites are:

- Green Gully Reserve, Keilor Downs
- Sunshine Energy Park, Albion
- Carrington Drive Reserve, St Albans
- 362 Sydenham Road, Sydenham

Sunshine Energy Park and Carrington Drive Reserve are together known as the Closed Sunshine Landfills.

In addition, further site assessment works are expected through the contract term in response to new EPA Notices, abnormal monitoring results, and environmental auditor recommendations. Additional triggers for further assessment also exist along with proactive works to mitigate potential impacts and comply with environmental duties.

Contract Variation

The Direction to Award Contract noted a lump sum and schedule of rates arrangement with an estimated tender amount of \$740,318.70 (inc. GST). The estimated amount was based solely on the routine works element – no contingency value was allocated for expected, but un-scoped, additional works at that time. This has led to early exhaustion of the purchase order as it has been used for both routine and additional works.

During 2023/24, a Contract variation was approved by the Chief Executive Officer to increase the Contract award to \$884,926.21 (inc. GST), in accordance with the CEO's financial delegation. This variation covered additional works to address an EPA Notice at Green Gully Reserve.

Also, during 2023/24, further and significant additional works are required across the landfill sites in response to environmental auditor recommendations, new EPA Notices, and a future expected EPA Notice for Green Gully Reserve. Continued delivery of the routine assessment program is also required. Forecast expenditure, to deliver the necessary works for the remaining part of this financial year, will aggregate the Contract value to greater than \$1M, requiring consideration by the Council and approval of a contract variation.

An additional \$129,769.94 (inc. GST) is required to continue delivering routine assessment works to the end of 2023/24.

Further, a contingency of \$200,000 (inc. GST) is required to enable delivery of a significant scope of works to continue addressing environmental management of the landfill sites in accordance with EPA Notices and auditor recommendations.

The total Contract variation sought for approval, to the end of 2023/24, is **\$329,769.94 (inc. GST)**. Council approval is being sought as this variation will mean that the total contract value would surpass the CEO's financial delegation.

Contract Extension

Two sequential contract extension options are available, each for a further two-year period, with each to be awarded at Council's discretion. This report recommends taking up the first two-year period Contract extension option. Further, recommending the Chief Executive Officer be delegated authority to approve a second Contract extension option, subject to the performance and competitive pricing of the contractor.

The first two-year extension option is valued at an estimated \$483,814. An initial 50% contingency of \$241,907 is also required for this period to enable proactive and reactive response to environmental requirements. A total of **\$725,721 (inc. GST)**.

The second two-year extension option is valued at an estimated \$507,236 for routine works. An initial 50% contingency of \$253,618 is also required for this period to enable proactive and reactive response to environmental requirements. A total of **\$760,854 (inc. GST)**.

Matters for Consideration

This report is presented to Council to consider the Contract variation request, Contract extension assessment and recommendation to extend the Contract. Further, to authorise the Chief Executive Officer delegated authority to approve the Contract extension options, with approved contingency value, subject to the performance and competitive pricing of the contractor.

The current service provider, GHD Pty Ltd, has provided a satisfactory level of service during the initial term of Contract and holds significant corporate and site knowledge, which provide ongoing program efficiencies and cost savings Council.

There have been no contractual issues with the current service provider.

Based on this, and the information contained in **Confidential Attachment 1**, it is recommended that Council both varies and extends the Contract to GHD Pty Ltd for an additional two-year period at the agreed lump sum and schedule of rates to 30 June 2026, with a further extension option delegated to the Chief Executive Officer to approve from 1 July 2026 to 30 June 2028.

No further extension options are available beyond 30 June 2028 and Consultancy Services for Environmental Assessment Works at Former Landfill Sites would need to be re-tendered.

Implementation

Subject to Council approval, the Contract variation will allow for uninterrupted delivery of environmental services for the remainder of 2023/24, and the first extension option will be actioned for an additional two-year period from 01 July 2024 to 30 June 2026.

Community Engagement

Consultation was undertaken with the relevant Council departments to ensure the Contract services and structure align with, and best support, positive community outcomes by providing safe and environmentally sustainable places and meet Council's requirements.

Collaboration

There were no opportunities for collaboration with other Councils or public bodies available for this tender.

Resource And Risk Implications

Resource requirements can be met within the approved Annual Budget 2023/24.

The funding requirements for the extension period 1 July 2024 to 30 June 2025 have

been referred to the 2024/25 annual budget process for consideration.

Resource requirements for future financial years will be referred to the Annual Budget process for consideration.

Expenditure for this service is forecast at approximately \$372,000 (inc. GST) annually but may require an additional variation due to the unpredictable nature of contamination and the large, complex legacy sites within the program.

Contaminated land within Brimbank is a key strategic risk to Council. The Contract for Consultancy Services for Environmental Assessment Works at Former Landfill Sites forms a significant part of the operational budget for the Contaminated Land Unit. The scope of work covered by the Contract is critical in delivering Council's statutory responsibilities and obligations towards the aftercare of its closed landfills, and therefore complying with environmental duties.

Community: potential impact on community, including public trust and customer service impact

- Yes - The provision of this service is an integral part of Council's management of landfills that interface with public reserves and open spaces e.g. Green Gully and future reserves e.g. Sunshine Energy Park.

Environmental: impacts on environmental sustainability, including water/waste management, climate change, and contaminated land

- Yes - This service directly manages, and addresses known contaminated sites with both actual and potential environmental and human health risks.

Financial: significant financial impacts

- Yes - This service may identify or respond to environmental impacts that require remedial measures to be included within the Capital Works Budget at short notice.

Regulatory: legal, legislative or regulatory implications including the rights/obligations of stakeholders

- Yes - This service is a core response to statutory obligations and environmental duties.

Safety: health, safety or duty of care impacts

- Yes - This service includes assessment of environmental and human health risks relating to Council owned closed landfills, including impacts to adjacent land and waterways.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Sustainable and Green - Protect natural environments for current and future generations

4. Leadership and Governance - A high performing organisation that enacts the vision and decisions of Council through the delivery of quality and innovative services - A fairer place for all

- High Performing and Accountable - Our workforce strive to enhance services and liveability for the Brimbank community.

This report complies with Council's Procurement Policy and the *Local Government Act 2020*.

This report facilitates compliance with Council's statutory obligations and duties in relation to the *Environment Protection Act 2017*.

Council officers contributing to the preparation and approval of this report have no conflicts of interests to declare.

Resolution

Moved Cr Jae Papalia/ Seconded Cr Bruce Lancashire

That Council moves and considers Reports 12.13 and 12.16 in a block, with motions as per the Officer Recommendation in these reports.

CARRIED

12.15**Directorate****Director****Manager****Attachment(s)****Contract No. 21/3008 – Cleaning of Brimbank Community and Civic Centre – Additional Funds**

Infrastructure and City Services

Chris Leivers

Dominic DiMartino

1. CONFIDENTIAL - Contract No. 21 3008 - Cleaning of Brimbank Community and Civic Centre [**12.15.1** - 8 pages]

Purpose

For Council to consider approving additional funds for Contract No. 21/3008 – Cleaning of Brimbank Community and Civic Centre.

Officer Recommendation

That Council

- a. Notes additional unforeseeable work has been required that has been allocated to Contract No.21/3008 - Cleaning of Brimbank Community and Civic Centre.
- b. Notes that this additional work requires additional funds to be approved under the existing Contract, awarded by Council in 2021;
- c. Approves additional funds of \$336,300.00 (GST Inclusive) to Contract No. 21/3008 – Cleaning of Brimbank Community and Civic Centre awarded to Bogdan Investments Pty Ltd.
- d. Notes that this Contract will conclude in August 2024 and a Tender process will be conducted to establish a new Contract for cleaning of the Brimbank Community and Civic Centre beyond this date.

Background

Contract No. 21/3008 – Cleaning of Brimbank Community and Civic Centre was awarded to Bogdan Investments Pty Ltd by Council on 15 June 2021 (refer **Attachment 1**) for a total Contract amount \$1,308,402.47(GST inclusive). The Contract commencement date was 5 August 2021 for a three-year term with a two-year extension option and will expire for the initial term on 4 August 2024.

The services under this Contract are for programmed, periodic and ad-hoc internal and external cleaning of Brimbank Community and Civic Centre.

Matters for Consideration**Analysis**

Since commencement of the current Contract, further unforeseen cleaning works have been required and charged to the Contract; based on this additional expenditure, there are insufficient funds under the original Contract sum to deliver the remainder of the Contract until 4 August 2024. These additional works have included:

- Implementation of traffic management when carrying out external window cleaning (as an OH&S requirement). External window cleaning on weekends only, to ensure there is minimal inconvenience caused to the public.

- Increase in boom lift costs due to building industry demands.
- Cleaning of internal windows that was not included in the original Contract.
- Cleaning of external silver cladding that was not included in the original Contract.
- Installation of bird spikes on external window louvres to prevent birds nesting and spreading of bird faeces.

There is currently \$10,828.42 remaining for the Contract, with the end date of the initial term not until 4 August 2024. Additional funds are per the below as required to deliver the remainder of the Contract.

Original Contract Sum	\$1,308,402.47
Amount and description of additional funds required	
• Cleaning of Brimbank and Civic Centre (including tenancy areas). • Periodical cleaning • Consumables • External Window Cleaning • Traffic Control	\$196,500.00 \$35,500.00 \$15,800.00 \$68,500.00 \$20,000.00
TOTAL	\$336,300.00
Revised Contract Amount (GST Inclusive)	\$1,644,702.47

As a result of the above additional costs a further amount of \$336,300 (GST Inclusive) is required for the remainder of the initial Contract term.

Implementation

Subject to Council approval, the initial term Contract amount will be revised to include the additional funds to cover the remainder of the Contract.

Community Engagement

As this is an internal Contract, not further community consultation is required.

Resource And Risk Implications

The resources of the additional funds required for this matter will be referred to the annual budget process for consideration.

Community: potential impact on community, including public trust and customer service impact

- Yes – Provisions within this Contract enable Council to ensure Council buildings and facilities are fit for purpose.

Financial: significant financial impacts

- Yes – an additional amount of \$336,300.00 (GST Inclusive) is required in order to fulfil the initial Contract term.

Safety: health, safety or duty of care impacts

- Yes – Provisions within this Contract enables Council buildings and facilities to meet all required safety standards and operating requirements.

There are no Environmental or Regulatory risks.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around.

This report complies with Procurement Policy and the *Local Government Act 2020*.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Jae Papalia/ Seconded Cr Bruce Lancashire

That Council moves and considers Reports 12.13 and 12.16 in a block, with motions as per the Officer Recommendation in these reports.

CARRIED

12.16**Directorate****Director****Manager****Attachment(s)****Contract No. 23/3329 - Dempster Park Tennis Refurbishment**

Infrastructure and City Services

Chris Leivers

Dominic Di Martino

1. CONFIDENTIAL - Dempster Park Tennis Project Budget Update [**12.16.1** - 2 pages]

Purpose

For Council to note and approve the Contract variation and budget increase for Contract No. 23/3329 - Dempster Park Tennis Club Refurbishment as outlined in **Confidential Attachment 1**.

Officer Recommendation

That Council:

- a. Notes the Dempster Park Tennis Club refurbishment Project is complete;
- b. Notes that as part of the Project, unavoidable Contract variations were incurred, which are beyond the value delegated to officers, and which Council is obligated to pay;
- c. On that basis, approves the variation at Confidential Attachment 1 for Contract No. 23/3329 Dempster Park Tennis Club Refurbishment noting that these variations will increase the fixed price lump sum total Contract value, and;
- d. Notes and approves the increased budget allocation for Dempster Park Tennis Club Refurbishment at Confidential Attachment 1, to cover the costs involved in the Contract variations.

Background

Contract No. 23/3329 - Dempster Park Tennis Refurbishment was awarded by Council at the May 2023 Council Meeting for a Contract Sum amount of \$746,576.60 (including GST).

The Dempster Park Tennis Club Refurbishment project was identified as a high priority in the Sports Facility Development Plan, with the scope expanded as a result of external and club funding (outlined below).

The Project involved alterations and additions to the existing pavilion to modernise and refurbish the building to bring it up to current Council standards, as outlined in the Sports Facility Development Plan. The works include upgrading the change room, disabled toilet and kitchen along with the replacement of all timber windows, internal and external doors, eave linings, timber fascia and gutters which had reached their end of useful life.

Council was successful in May 2022 in securing funding through the 2021/2022 Local Sports Infrastructure Fund to assist with the delivery of the refurbishment. A condition of

the funding application ensured that Dempster Park Tennis Club and Council provided a co-contribution to the project, which both parties were able to honour.

In addition to the Council awarded contract amount, there were other Project costs, including crane hire and portable toilet hire, which were excluded from the Contract cost, but which contributed to the total estimated Project cost of \$893,773.10.

The total estimated Project costs was funded via various funding streams, including successful external funding applications (State and Federal), Councils contribution, Capital Works project under expenditure from other completed projects and funding from the Tennis Club as follows:

Project Source	Amount excluding GST
Sports Pavilion Kitchen Upgrade Rolling Program (BCC)	\$102,204.00
Local Sports Infrastructure Fund (SRV)	\$204,159.00
Federal Government Contribution sought by Tennis Club	\$10,000.00
North Sunshine Tennis Club contribution	\$72,909.00
Capital Works Project Savings (BCC)	\$504,501.10
Total	\$893,773.10

Matters for Consideration

Analysis

Construction commenced June 2023 with an allocated Project contingency to be used for unforeseen construction or design changes. The project has now been completed and has been subject to variations and increased Project costs.

During construction some changes and additional works were required to address matters as they arose during construction, deliver on the intent of the Project, and to ensure the project met Council and community expectations on completion. These were dealt with as Contract variations and assessed by the Project Manager as appropriate variations to the contract. These variations and the value of each, is outlined in

Confidential Attachment 1.

Implementation

Subject to Council's approval of the budget increase and variations, the Contract sum amount will be updated to reflect the approved variations and payment will be made to the Contractor for all completed works.

Community Engagement

Consultation was conducted with internal key stakeholders, funding partners and the North Sunshine Tennis Club in order to determine requirements of the building. Information collected was used to develop the design and tender documents.

Resource And Risk Implications

The resources required for this matter can be met within the Annual Budget 2023/2024 based on project under expenditure from identified Capital Works projects already completed.

Financial: significant financial impacts

- Yes – The project budget requires additional funds in order to finalise Contractor payments; as outline above, these funds are available through under expenditure on other completed Capital Works projects.

There are no Community, Environmental, Regulatory or Safety risks identified.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic direction and objective of:

1. People and Community - A welcoming, safe and supported community - An inclusive place for all

- Wellbeing and Belonging - Responsive services that support mental and physical wellbeing

2. Places and Spaces - Liveable and connected neighbourhoods that support healthy and sustainable futures - A green place for all

- Liveable and Connected - Inviting and liveable spaces and facilities, connected so people can get around

4. Leadership and Governance - A high performing organisation that enacts the vision and decisions of Council through the delivery of quality and innovative services - A fairer place for all

- High Performing and Accountable - Our workforce strive to enhance services and liveability for the Brimbank community.

This report complies with Council's Procurement Policy and the *Local Government Act 2020*.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.

Resolution

Moved Cr Jae Papalia/ Seconded Cr Bruce Lancashire

That Council moves and considers Reports 12.13 and 12.16 in a block, with motions as per the Officer Recommendation in these reports.

CARRIED

13 Notices Of Motion

Nil.

14 Notices Of Rescission

Nil.

15 Urgent Business

Nil.

16 Confidential Business

Nil.

17 Meeting Closure

The Mayor thanked all in attendance and closed the meeting at 9.26pm.

Confirmed at the Council Meeting held on 16/04/24



Cr Jae Papalia