

Agenda

Ordinary Meeting of Council

Tuesday, 9 April 2019
6:30pm

Ordinary Meeting of Council

Tuesday, 9 April 2019 at 6:30pm
to be held at the Moonee Valley Civic Centre

Members: Cr Narelle Sharpe Mayor
Cr Samantha Byrne
Cr Jim Cusack
Cr Rebecca Gauci Maurici
Cr Richard Lawrence
Cr Andrea Surace

Officers: Mr Bryan Lancaster Chief Executive Officer
Mr Steven Lambert Director City Services
Ms Kendrea Pope Director Organisational Performance
Ms Natalie Reiter Director Planning and Development
Mr Peter Gaffney Acting Director Asset Planning and Strategic Projects
Mr Petrus Barry Manager Statutory Planning
Ms Allison Watt Manager Governance and Communications

Business:

1. Opening

2. Reconciliation Statement

3. Apologies and Leave of Absence

Cr John Sipek is seeking to amend his approved leave of absence from 26 March 2019 to 9 April 2019, inclusive.

Cr Cam Nation is on approved leave of absence from 2 April 2019 to 25 April 2019.

Cr Nicole Marshall is seeking approved leave of absence for the period 2 April 2019 to Friday 12 April 2019 inclusive.

4. Confirmation of Minutes

Ordinary Meeting of Council held on Tuesday, 26 March 2019.

5. Declarations of Conflict of Interest

6. Presentations

7. Petitions and Joint Letters

Nil.

8. Public Question Time

9. Reports from Special Committees

Nil.

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- 12. Urgent Business**
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 - 14.1 East Keilor Leisure Centre redevelopment progress update.....30
- 15. Close of Meeting**

BRYAN LANCASTER
Chief Executive Officer

REPORTS

10.1 Delegations to Determine Moonee Valley Racecourse Land Planning Applications

Author: Petrus Barry - Manager Statutory Planning

Directorate: Planning and Development

1. Purpose

- 1.1 The purpose of the report is to revoke the instrument of delegation for the Moonee Valley Racing Club (MVRC) Planning Assessment Special Committee and amend the Statutory Planning Protocols to enable Council officers to make decisions under delegation on major planning applications at the Moonee Valley Racecourse development, once they have been assessed by the Development Assessment Panel (DAP).

2. Background

- 2.1 In late 2017 it became apparent that six (6) Councillors had an indirect conflict of interest due to receipt of an applicable gift under Section 78C of the *Local Government Act 1989* for planning matters relating to the Moonee Valley Racecourse.
- 2.2 At the Ordinary Council Meeting on 27 February 2018, six (6) Councillors declared an indirect conflict of interest due to the receipt of an applicable gift in relation to the planning matter (MV/567/2016 – 2B McPherson Street, Moonee Ponds) on the agenda. A quorum of Councillors could not be achieved and it was therefore resolved that the Planning Permit Application be decided under delegation. It was also resolved that the Development Assessment Panel (DAP) meeting at which the application was to be heard, be open to members of the public, despite the application being exempt from the notice and review requirements of the *Planning and Environment Act 1987*. The DAP meeting arising from this resolution was held on 22 March 2018 with the panel comprising six senior Council Officers. The meeting was open to the public.
- 2.3 The experience from the open DAP meeting resulted in a report to the Ordinary Council Meeting of 14 August 2018 sought endorsement of the establishment of the Moonee Valley Racing Club (MVRC) Planning Assessments Special Committee (the Committee) under Section 86 of the *Local Government Act 1989* (the Act).
- 2.4 Council endorsed the establishment of the MVRC Planning Assessments Special Committee to comprise Councillors who have not declared a conflict of interest in the planning application, in accordance with the following resolution:

Moved by Cr Marshall, seconded by Cr Gauci Maurici that Council:

1. Pursuant to Section 86 of the *Local Government Act 1989* resolves to establish the Moonee Valley Racing Club (MVRC) Planning

Assessment Special Committee with the powers, duties and functions set out in the Instrument Delegation provided as Appendix B.

2. *Authorises the Common Seal of Moonee Valley City Council to be affixed to the Instrument of Delegation to the MVRC Planning Assessment Special Committee.*
 3. *Endorses the Charter to the MVRC Planning Assessment Committee provided as Appendix A with the following change in Clause 3 (Term) to amend the end date to 24 October 2020.*
 4. *Resolves to appoint Crs Richard Lawrence, Rebecca Gauci Maurici and Nicole Marshall as members of the MVRC Planning Assessment Committee for a two-year term effective from the date of this resolution.*
 5. *Advertises upcoming meetings of the MVRC Planning Assessment Committee pursuant to Section 89 of the Local Government Act 1989.*
- 2.5 The Instrument of Delegation is provided as **Attachment A** and the Charter to the MVRC Planning Assessment Committee as **Attachment B**.
- 2.6 Subsequent to this decision, Councillors expressed concerns that the special committee arrangements may not be workable in the longer term and will remove Councillors from decision making and accountability for a key development within the municipality. On 9 October 2018 Council resolved that the CEO write to the Minister for Local Government to seek an exemption from the conflict of interest provisions in the Act in order to facilitate Councillors' involvement in these critical planning decisions within the municipality.
- 2.7 The first meeting of the MVRC Planning Assessments Special Committee took place on 10 October 2018 to consider Planning Application MV/222/2018, being the first stage (Stage A) of the development of the Racecourse Residential and Mixed Use Precinct. The application was approved subject to conditions.
- 2.8 On 11 October 2018, the CEO wrote to the Minister seeking an exemption from the conflict of interest provisions under the Act, for the six Councillors when dealing with applications relating to the Moonee Valley Racecourse.
- 2.9 On 8 November 2018, the Minister sought additional information from the CEO in support of the request. On 15 February 2019, the Minister advised he was not prepared to exercise his powers under Section 80 of the Act to exempt any of the Councillors, and that council business can still be transacted without the need to exempt any Councillors.

3. Issues

- 3.1 The second [open to the public] meeting of the MVRC Planning Assessments Special Committee was scheduled for 3 April 2019. The application represents the second stage of the development of Precinct 9 (Racecourse Residential and Mixed Use Precinct) of the Moonee Ponds Activity Centre, pursuant to Schedule 1 of the Activity Centre Zone at

Clause 37.08 of the Moonee Valley Planning Scheme. The scheduled meeting was cancelled due to the unforeseen absence of one of the three (3) member Councillors.

- 3.2 The MVRC Planning Assessment Special Committee charter (**Attachment B**) under 5. MEMBERSHIP, 5.1 confirms the Committee comprises a minimum three (3) members and a maximum four (4) members. In 6. CHAIRPERSON AND QUORUM, 6.1 states “a minimum of three (3) Councillors are required to be in attendance at each meeting”.
- 3.3 Given only three Councillors are members of the special committee, the absence of one member, as in this instance for the meeting scheduled for 3 April 2019, achieving a quorum is not possible. This will also apply to any future meeting where one member is not able to attend, hampering the ability to achieve a quorum and thus delaying decisions.
- 3.4 The application has been with the Planning Department since August last year and Council is expected to make a decision on the matter. The applicant has the ability to approach VCAT for a review under the provisions of the *Planning and Environment Act* on the basis that Council has failed to make a decision. This course of action is undesirable and should be avoided.
- 3.5 An alternative solution could be for Council to amend the Statutory Planning Protocols and delegate the decision-making of planning applications in relation to the MVRC to Council officers, once they have been assessed and determined by the Development Assessment Panel.
- 3.6 Section 5.3.2 of the Statutory Planning Protocols (**Attachment C**) specifies the following:

Matters of a substantial nature (major developments, etc.) will not be approved under delegation.

The section also notes:

Planning Applications and/or determination of Council’s position for VCAT matters may be approved/receive direction under delegation when they have received 10 or more “eligible” objections as per 5.3.1 or fit into the above ‘Major Projects’ definition but are not deemed to be controversial (as per section 5.3.3 below) and have a high degree of compliance. These applications may, however, only be assessed at Council’s Development Assessment Panel (DAP) and then considered under delegation by agreement of a majority of Ward Councillors.
- 3.7 As the development of the racecourse is of a substantial nature and arguably, also controversial, in order to allow the decision-making of the planning applications for the MVRC to be considered under delegation, the Protocols will need to be amended to provide for officer consideration and decision under delegation.
- 3.8 If supported, the DAP would consider applications under its protocols as per its normal processes. As reflected in the background, it is not advisable to open these meetings to the public as the applications are generally exempt from the notice and review requirements of the *Planning*

and Environment Act 1987 pursuant to Clause 37.08-8 of the Moonee Valley Planning Scheme, and Clause 7.0 of Schedule 1 to the Activity Centre Zone.

- 3.9 The Instrument of Delegation (**Attachment A**) to the Moonee Valley Racing Club (MVRC) Planning Assessment Special Committee, specifies that the delegation (2.2) *remains in force until Council resolves to vary or revoke it*. In order to facilitate officer delegated decision making, the Instrument of Delegation would have to be revoked as two contrary instruments of delegation could not be in place concurrently.
- 3.10 Due to recent name changes to certain positions it would be prudent to update the Protocols by correcting the titles of Team Leaders to Coordinator and the Coordinator to Senior Coordinator.

Recommendation

That Council resolves to:

- a. **Revoke the instrument of delegation for the Moonee Valley Racing Club (MVRC) Planning Assessment Special Committee which had been established pursuant to Section 86 of the *Local Government Act 1989*;**
- b. **Modify the Statutory Planning Protocols (July 2018) at 5.3.2 through the addition of the following provision:**

Planning Applications and/or determination of Council's position for VCAT in relation to applications over the Moonee Valley Racecourse may be assessed by officers, despite fitting into the above 'Major Projects' definition, or deemed to be controversial (as per section 5.3.3 below), at Council's Development Assessment Panel (DAP) and determined under delegation.
- c. **Agree the Planning Permit Applications submitted by Moonee Valley Racing Club pursuant to the *Planning and Environment Act 1987* will be briefed to non-conflicted Councillors, providing an opportunity for Councillors to represent the views of the community, but be decided under Delegation in accordance with the amended Statutory Planning Protocols in (b) above.**
- d. **Request the Chief Executive Officer, prior to exercising delegations in accordance with (b) and (c), above, provide Councillor updates in relation to the applications, and subsequent to decision making, appropriately communicate decisions to the community.**
- e. **Update the Statutory Planning Protocols by replacing all Team Leader references with Coordinator and Coordinator with Senior Coordinator.**

Attachments

- A: Instrument of Delegation under appointment of the MVRC Special Committee (separately circulated)
B: Charter - MVRC Planning Assessment Special Committee (separately circulated)
C: Statutory Planning Protocols - July 2018 (separately circulated)

10.2 Proposed Budget 2019/20

Author: Damian Hogan - Manager Finance

Directorate: Organisational Performance

1. Purpose

- 1.1 To adopt a Proposed Budget for the 2019/20 financial year and invite public submissions.

2. Background

- 2.1 In accordance with Section 127 of the *Local Government Act 1989* (the Act) and Regulation 8 of the *Local Government (Planning and Reporting) Regulations 2014* (the Regulations), Council is required to commence the statutory process to adopt the Proposed Budget 2019/20 (**Attachment A** – separately circulated).

2.1.1 The proposed budget is a major component in ensuring the accountability of Council's operations and in line with good governance it forms part of the public accountability process and reporting that includes:

- The Council Plan
- The Strategic Resource Plan
- The Annual Budget
- Internal and External Audit
- Annual Report

3. Issues

- 3.1 The introduction of Rate Capping in 2016/17 has reduced revenue projections in the medium term by approximately \$40 million and over the past three years, operating expenses have increased above the rate of inflation. Council is also proposing to increase its' annual capital works program including major projects such as the East Keilor Leisure Centre redevelopment.
- 3.2 The combination of reduced revenue, increased operating expenses and increased capital expenditure have placed significant pressure on council's cash reserves and resulted in a deteriorating financial sustainability position. Although operating surpluses to fund the capital works program are increasing over the four-year the Strategic Resource Plan, these amounts alone are not enough and continual work is required to bring council back into a sustainable financial position.

Recommendation

That Council resolves to:

- a) Adopt in principle the Proposed Budget 2019/20 as per Attachment A (separately circulated) as its budget for the 2019/20 financial year as required by the Local Government Act.
 - b) Adopt the Strategic Resource Plan 2020 to 2023 as per Attachment B (separately circulated).
2. Authorises the Chief Executive Officer to:
- a) Give public notice of the preparation of the Proposed Budget 2019/20 and Strategic Resource Plan 2020-2023 in accordance with the *Local Government Act*; and
 - b) Make available for public inspection the information required by Regulation 9 of the *Local Government (Planning and Reporting) Regulations 2014* and invite submissions under Section 223 of the Act.
3. Considers any submissions received on the Proposed Budget 2019/20 (if required) at a section 223 committee of Council, to be held on Tuesday 28 May 2019 commencing at 6.00 pm at Moonee Valley City Council, 9 Kellaway Avenue, Moonee Ponds.
4. Request the CEO to undertake an exercise to ensure the financial sustainability of council through a long term financial plan and have it independently reviewed.

Attachments

A: Proposed Budget 2019/20 (separately circulated) 

B: Strategic Resource Plan 2020-23 (separately circulated) 

10.3 Council Plan 2017-21 - Quarter two progress report for October - December 2018

Author: Julie Tipene-O'Toole - Coordinator Corporate Planning

Directorate: Organisational Performance

1. Purpose

1.1 To report back to Council and the community on our progress in implementing the Council Plan 2017-21 (Council Plan).

2. Background

2.1 An annual action plan is prepared each financial year to deliver the Council Plan, we then monitor and report on our progress through quarterly reports. This report provides an update on our progress for the period 1 October to 31 December 2018.

3. Issues

3.1 Of the 255 initiatives being delivered this financial year 197 are on track (88%), 6 are completed (3%), 5 have not been started (2%) and 17 are off track for quarter 2 (8%).

Recommendation

That Council resolves to receive and note the progress report on the implementation of the Council Plan 2017-21 action plan for the second quarter of 2018/19.

Attachments

A: Council Plan 2017-21 - Quarter two progress report for Oct - Dec 2018 (separately circulated) 

10.4 Response to Notice Of Motion No. 2018/15 - Council use of herbicides

Author: David Murnane - Coordinator Open Space Management

Directorate: City Services

1. Purpose

- 1.1 To provide Council with an update on current use of herbicides in Moonee Valley parks and gardens (particularly glyphosate) and the alternatives available.

2. Background

- 2.1 In August 2018, the Australian Services Union (ASU) wrote to Council asking for the immediate cessation of the use of *Roundup* and any other products containing glyphosate and for Council to find a safe alternative. Council officers have commenced a review of chemical use for weeding and investigated options to minimise the use of chemicals.
- 2.2 At the Ordinary Meeting on 28 August 2018, Council resolved to receive a report detailing:
 - Council's current use of herbicides for weeding in Moonee Valley parks and gardens, particularly the use of glyphosate; and
 - Options available to Council for chemical-free weed management, including steam weeding.

3. Issues

- 3.1 The Australian Pesticides and Veterinary Medicines Authority (APVMA) has advised that products containing glyphosate are safe to use as per the label instructions and safety data sheets. Australian law requires appropriate warnings on labels, which includes poisoning scheduling, first aid and safety directions detailing the personal protective equipment required when handling and using these products. Council's Operations staff are accredited in the safe use, application and handling of herbicides and have developed local Safe Work Procedures in conjunction with ASU members and Occupational Health and Safety Representatives.
- 3.2 The use of non-selective herbicides (which includes glyphosate products and selective herbicides where appropriate) are used by staff and contractors to control weeds in open space, median strips, roundabouts, conservation areas, streetscapes and garden beds, sports grounds and all laneways and kerbs and channel. Glyphosate is also used in the vicinity of libraries, community centres and childcare centres under the current maintenance contract. Herbicides may be applied via vehicle mounted spray units or by knapsacks. Environmental Friends groups also use glyphosate intermittently to cut and paint weeds.
- 3.3 While some chemical use is required as part of integrated weed management to maintain high quality places and spaces, a number of

non-glyphosate trials have commenced and/or are under procurement, including:

3.3.1 Steam weeding; Council officers are currently procuring a contractor to initiate a steam weeding trial at key areas within Moonee Valley. Sites being considered for inclusion are those within high use locations such as sections of Queens Park, Alf Pearce Dog Park and around playgrounds and close to waterways. The trial will consider if using steam to control weeds is a suitable alternative to glyphosate in these areas and if it is a cost effective alternative.

3.3.2 Organic Biodegradable Plant Oils: Council officers have been working closely with OHS representatives and ASU members to review Safe Work Procedures and to develop a trial of a non-glyphosate weed control (nananoic acid). This product is a registered organic biodegradable herbicide made from plant oils and is also being explored by a number of other Councils. The trial has been deployed within the suburbs of Flemington, Ascot Vale, Aberfeldie, Niddrie and Strathmore. The remaining areas will continue with current practice so that a final decision on suitability can be determined at the conclusion of the trial in December 2019.

In addition to the above, Council officers will reassess the use of glyphosate, in the event that additional evidence becomes available with regards to glyphosate's potential carcinogenicity, exposure standards or the introduction of new regulations for glyphosate are, or new technology or practices emerge which are deemed to be safer or more suitable.

Recommendation

That Council resolves to:

- a. Note the information provided as Attachment B detailing:**
 - i. Council's current use of herbicides for weeding in Moonee Valley, particularly the use of glyphosate**
 - ii. Council's commencement of trials to consider the suitability of an alternative to glyphosate**
- b. Note that Council officers will continue to:**
 - i. Explore chemical free weed management options to minimise glyphosate use where possible**
 - ii. Review practices in the event of any updated advice from Australian regulatory bodies**

Attachments

A: Impact Assessment - Council use of herbicides

B: Herbicide use in Moonee Valley (separately circulated)

Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan

- 1.1 In presenting this report, Council is working to achieve MV2040 strategic directions:
 - 1.1.1 *Green (Wunwarren)* - objective 14.2; Create diverse and connected landscapes and objective 14.3 Enhance our ecological values and strategic direction
 - 1.1.2 *Beautiful (Nga-angogunga)* - objective 20.1; Provide open spaces that meet the needs of our community.

2. Legislative obligations

- 2.1 Council has no specific policy in relation to the handling or application of herbicides
- 2.2 Council has a responsibility under the *Occupational Health and Safety Act 2017* to protect the health, safety and welfare of employees, and also a responsibility to the community in relation to this matter.
- 2.3 Chemical handling and application is guided by the *Agricultural and Chemical Code Act 1994*.

3. Legal implications

- 3.1 In August 2018, the Californian Superior Court ruled that Monsanto was liable in a lawsuit filed by a man who alleged the company's glyphosate based weed killers, including Roundup, caused his cancer. This is currently under appeal.

4. Risks

- 4.1 The Australian Pesticides and Veterinary Medicines Authority maintains that glyphosate is safe to use in accordance with the label directions in Australia though there is both Australian Services Union and community concern regarding the ongoing use of glyphosate.

5. Social impact assessment

- 5.1 There are no access or equity issues associated with this report.

6. Economic impact assessment

- 6.1 There is an expectation that the costs of trials of alternative products will be higher than the current spend on herbicide due to increased volume of organic herbicide required and the introduction of a temporary steam weeding contract.

7. Environmental impact assessment

- 7.1 The report assists in detailing options to minimise herbicide use and by considering more environmentally friendly alternatives including steam and organic biodegradable plant oils.

8. Reputational impact assessment

- 8.1 Minimising herbicide use and trialling glyphosate alternatives will have a positive impact on Council's reputation as both an employer and an environmentally responsible organisation.
- 8.2 The impact of trials will be closely monitored against the service levels and quality standards of parks and gardens as weed control may be less effective impacting the visual amenity of open space.

9. Financial implications

- 9.1 Any items detailed in this report are currently being implemented through existing resources with any future decisions to be considered through the operational budget process.

- 9.1.1 There is no expected impact on the Capital Works Program

10. Sensitivity / scenario analysis

- 10.1 There are no anticipated variables that may significantly affect the information in this report.

11. Conflict of interest declaration

- 11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned

- 12.1 There is no external consultation being considered as part of this report.
- 12.2 Staff, Australian Services Union representatives and Occupational Health and Safety representatives will continue to be engaged as appropriate.

10.5 Walter Street Telecommunication Facilities

Author: Jeanette Blackwood - Commercial and Property Officer

Directorate: Asset Planning and Strategic Projects

1. Purpose

- 1.1 To determine the future of the telecommunication facility at Walter Street Reserve (Reserve) that is currently occupied by both Axicom and Optus under leases that expired in 2017 and 2016 respectively. The telecommunication carriers continue in over holding of their lease agreements.

2. Background

- 2.1 The location of telecommunication facilities (including Telstra) at the Reserve are shown in **Attachment B**.
- 2.2 At the time of the development of the Ascot Chase subdivision the developer tried to work with the telecommunication carriers to arrange a relocation. Council were prepared to work with the parties to assist this process that was orchestrated by the developer. After many discussions the process was abandoned and in March 2014 the Manager, Strategic and Statutory Planning from Council sent a letter to all residents advising that the relocation could not be achieved and the Facility would remain in its existing position (copy of letter shown as **Attachment C**).
- 2.3 The matter was reconsidered when a report was presented to Council in July 2017 and considered five relocation options and included a resolution to give public notice of a proposal to relocate the Facility to Riverside Golf and Tennis Centre (Riverside) near the works depot. Four of the options considered were different locations at Riverside and the final option was at Fairbairn Reserve. It was considered that the Riverside option near the works depot was the only suitable option.

3. Issues

- 3.1 Council officers have since had discussions with the various telecommunication carriers to consider the potential of relocating to the works depot at Riverside. Axicom, Optus, and Telstra are all opposed to the proposal to move to Riverside because they consider the location is too far removed from the properties they seek to reach and too close to existing sites. Also given the sensitive location, by the river, the Riverside option may also be very difficult and as the area is prone to flooding this will pose challenges in terms of footings and engineering design.
- 3.2 Axicom have provided coverage plot plans (shown as **Attachment D**) to show the coverage associated with the facility remaining at the Reserve and the Facility being removed. The areas shown red/pink will have very poor to no service.
- 3.3 Council officers have prepared a map (shown as **Attachment E**) reflecting nearby Telstra facilities based on information from the Radio Frequency National Site Archive.

- 3.4 It is proposed that Council negotiates with both Axicom and Optus to enter into a lease with each party for 15 years, based upon a market rental as determined by a valuer and the current location on the Reserve.
- 3.5 In 2023 Council will also have to consider the future of the Telstra lease when it expires.
- 3.6 An impact assessment has been carried out, shown as **Attachment A**.

Recommendation

That Council resolves to:

1. **Commence the statutory procedures in accordance with section 190 and 223 of the *Local Government Act 1989* (the Act) of a proposal to lease part of Walter Street Reserve, known as part of certificate of title volume 9522 folio 693 to Axicom for a period of 15 years on a market rental;**
2. **Commence the statutory procedures in accordance with section 190 and 223 of the *Local Government Act 1989* (the Act) of a proposal to lease part of Walter Street Reserve, known as part of certificate of title volume 9522 folio 693 to Optus for a period of 15 years on a market rental;**
3. **Publish a notice in a local paper for Moonee Valley under sections 190 and 223 of the Act advising of the proposed lease to Axicom and Optus;**
4. **Inform persons who wish to be heard in support of their submission that they will be heard at a committee of Council (if required), comprising ward Councillors, in accordance with section 223 of the Act;**
5. **Receive a further report following the completion of the public notice process to determine whether Council should lease the land known as part of Walter Street Reserve to Axicom.**
6. **Receive a further report following the completion of the public notice process to determine whether Council should lease the land known as part of Walter Street Reserve to Optus.**

Attachments

- A: Impact Assessment
- B: Walter Street Reserve existing tower locations (separately circulated) 
- C: Letter to Residents 2014 (separately circulated) 
- D: Plot Plans from Axicom (separately circulated) 
- E: Telstra Telecommunication Facilities Plot Plan (separately circulated) 
- F: Walter Street Reserve - Telecommunication Legal Advice (separately circulated) (confidential) 
- G: Example letter to residents in the vicinity of the proposal to lease (separately circulated) 

Impact assessment

This impact assessment has been carried out on a proposal to offer a long term lease to Axicom and Optus to remain at the existing location at Walter Street Reserve (Reserve) subject to completion of Statutory procedures.

1. Relationship to Council commitment MV2040 or Council Plan

1.1 In presenting this report, Council is working to achieve its strategic objective 'People have access to the services they need' in accordance with Council Plan 2017-21 Theme 1: Fair (Qeente boordup, which means fair in Woi wurrung language).

2. Legislative obligations

2.1 Council is required in accordance with Section 190 of the Local Government Act 1989 (the Act) to give public notice for any lease that is for a period longer than 10 years and must also consider submissions accordingly.

3. Legal implications

3.1 Legal advice has been sought in relation to the powers of telecommunication carriers to remain at this site or locate to a nearby site without Council's agreement. A copy of the advice provided is attached as confidential **Attachment F**. In summary, if a facility is low impact then a carrier can enter onto land and operate and maintain the facility without Council's consent.

A freestanding tower itself cannot be a low impact facility. As the existing Axicom tower is not a low impact facility Council's consent is required.

3.2 A summary of the lease arrangements for the Facility on the Reserve are as follows:

Axicom lease (Vodafone have an agreement with Axicom)

- Lease commenced 1 July 2008
- Term 9 years and 6 months
- Lease expired 31 December 2017
- Commencing rental \$27,800 plus GST with annual 3% increases in rental
- Lease in over holding

Optus lease (co-located on pole owned by Axicom)

- Lease commenced 22 August 2006
- Term five years with one further term of five years
- Lease expired 22.8.16
- Commencing Rental \$14,000 plus GST, 3% annual increase
- Lease in over holding

4. Risks

- 4.1 If Council gives public notice of a proposal to enter into a long term lease with both Axicom and Optus, Council must consider any submissions received before making a decision about the long term future of the telecommunication carriers remaining at the Reserve. If a decision is made that they can remain at the Reserve there will be no impact on the level of service provided to telecommunication customers, whereas a relocation may affect coverage and the quality of the mobile service in Ascot Vale.
- 4.2 The following are considered to be the various risks associated with a Council decision:
 - 4.2.1 Council give public notice of the proposal to lease and we receive strong resident objection;
 - 4.2.2 Council terminate the agreement and each carrier creates one or more low impact facilities on reserves or road reserves without agreement, by issuing notices under the Telecommunications Act;
 - 4.2.3 Council terminates the agreement and carriers don't install alternative infrastructure and limited to no mobile phone service is available in the area.

5. Social impact assessment

- 5.1 If the Facility remains in its existing location the residents of the area may be aggrieved however a relocation to alternative location outside the Reserve will affect local residents and customers of the telecommunication carriers.

6. Economic impact assessment

- 6.1 If adequate coverage is not available in the designated area, businesses and residents within the area will not have adequate mobile services.

7. Environmental impact assessment

- 7.1 A relocation of a Facility to Riverside may impact vegetation with the establishment of a structure and associated trenching to establish service connection and would require planning approval including for flooding and cultural heritage.

8. Reputational impact assessment

- 8.1 A proposal to relocate the Facility has been discussed for some time without resolution and the residents and telecommunication carriers require a decision so that all stakeholders can move forward.

9. Financial implications

9.1 Council currently receives \$41,800pa in rental from Axicom and Optus and if the leases were not renewed this income would no longer be received. However, the telecommunication carriers may still continue to occupy the Reserve with low impact facilitie(s) if they decide to use their powers under the Telecommunications Act without a lease from Council.

10. Sensitivity / scenario analysis

10.1 Not applicable.

11. Conflict of interest declaration

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned

12.1 In order to consider a proposal to enter into a lease for in excess of 10 years, Council in accordance with section 190 of the Act must give public notice and consider all submissions received within 28 days of the giving of the notice.

12.2 In order that the residents are fully informed of a lease proposal it is suggested that as well as giving public notice that a letter be sent to all owners/residents in the vicinity of a proposal to lease to Axicom and Optus at the existing site for a period of 15 years. An example of the letter is attached as **Attachment G**.

10.6 Mayoral Attendance at Wellbeing Cities Forum

Author: Natalie Reiter - Director Planning and Development

Directorate: Planning and Development

1. Purpose

- 1.1 Moonee Valley City Council is one of 16 finalist cities announced for the 2019 Wellbeing City Award and the Mayor of Moonee Valley has been invited to the global forum on urban wellbeing, the Wellbeing Cities Forum, which includes attendance at the award ceremony in Montreal in June 2019.

2. Background

- 2.1 Council has been selected as a finalist of the Wellbeing City Award in the category of Sustainable Environment.
- 2.2 The NewCities Foundation Wellbeing City Award is the first international prize to recognise cities placing residents' wellbeing at the centre of their policies.
- 2.3 Moonee Valley City Council's initiative 'Enhancing our Urban Forest' was selected amongst a total of 94 initiatives by 45 cities, across 28 countries and 6 continents. A total of 16 cities have been shortlisted, with four cities per category. Moonee Valley is the only Australian city to be shortlisted.
- 2.4 Our application highlights MV2040 as a bold and transformative approach to achieving a shared vision of a healthy city. The application included a focus on our commitment to increasing tree canopy for the wellbeing of our community and ecosystems. It outlined how the use of innovative spatial mapping and data analysis techniques will assist us to quantify and monitor changes in order to increase and enhance our urban forest.
- 2.5 The Mayor of Moonee Valley now has an opportunity to learn from the best cities in the world through the global forum on urban wellbeing, which includes attendance at the award ceremony in Montreal in June 2019 (**Attachment B**).

3. Issues

- 3.1 Moonee Valley City Council's – Councillors' Expenses and Reimbursement Policy does not provide guidance regarding international travel, but does provide policy guidance regarding interstate travel per the following:

- 3.1.1 At 7.14.1 of the Councillors' Expenses and Reimbursement Policy approved on 14 August, 2018, it states:

Where Councillors propose to travel interstate to attend a conference or seminar, the proposal must be approved by Council.

As such, approval is now sought for mayoral travel to Montreal.

- 3.2 The cost of travel is estimated to be \$8,520 which includes airfares and accommodation and expenses. There is no fee for attendance at the conference or awards ceremony.

Recommendation

That Council resolves to:

- a. Approve the Mayor to attend the Wellbeing Cities Forum, which includes attendance at the award ceremony in Montreal in June 2019 in accordance with the Councillor Expenses and Reimbursement Policy for Interstate Travel.**
- b. Receive a written report by the third Council meeting after the Mayor's return from travel outlining:**
 - purpose of conference, seminar, event or study tour**
 - learning outcomes**
 - applicable benefits to Council**
 - issues for consideration of Council or Councillors**
 - conclusion and recommendations.**

Attachments

A: Impact assessment - Wellbeing Cities Forum - June 2019

B: Letter of Invitation - Mayor, Cr Sharpe - The Wellbeing Cities Forum - 28 March 2019 (separately circulated) 

Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan

- 1.1 In presenting this report, Council is working to achieve its Council Plan Objectives 6.1: Innovation is central to the way we work and 6.5: We demonstrate Leadership.

2. Legislative obligations

- 2.1 There are no direct legislative obligations that arise from the presentation of this report to Council.

3. Legal implications

- 3.1 There are no direct legal implications that arise from the presentation of this report to Council.

4. Risks

- 4.1 There are no risks that arise from the presentation of this report to Council.

5. Social impact assessment

- 5.1 There are no social impacts that arise from the presentation of this report to Council.

6. Economic impact assessment

- 6.1 There are no economic impacts that arise from the presentation of this report to Council.

7. Environmental impact assessment

- 7.1 Attendance by the Mayor at the Wellbeing Cities Forum is likely to attract media attention that will facilitate promoting Council's 'Enhancing our Urban Forest' initiative. It is hoped raising awareness of the need for Urban Forests will deliver environmental benefits.

8. Reputational impact assessment

- 8.1 The *Local Government Act 1989* stipulates that it is the role of Council to provide governance and leadership for the local community through advocacy, decision making and action. While there is a cost to ratepayers for Councillors to attend this event, it is an opportunity for the Mayor to represent Moonee Valley internationally as well as to learn from some of the best cities in the world.

9. Financial implications

- 9.1 The estimated cost of attendance at the Wellbeing Cities Forum including airfares, accommodation and meals will be approximately \$8,520 including GST, which can be met from the Mayor and Councillors 2018-2019 budget. Registration is free of charge.

9.2 The estimated cost per Councillor includes the following:

Airfares	\$4,308
Accommodation	\$3,440
Expenses	\$294
Transfers	\$200
Insurance	\$278

10. Sensitivity / scenario analysis

10.1 Nil

11. Conflict of interest declaration

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned

12.1 There was no consultation required for the preparation of this report.

NOTICES OF MOTION

11.1 Notice Of Motion Report No. 2019/10 - CCTV on no. 57 and 59 trams

From: Councillor Rebecca Gauci Maurici

Take notice that at the Ordinary Meeting of Council to be held on 09 April 2019, it is my intention to move that Council write to each of the following:

1. Minister for Transport Infrastructure, The Hon Jacinta Allan MP; and
2. Yarra Trams Chief Executive Officer, Mr Nicolas Gindt

requesting that all trams in Moonee Valley are equipped with CCTV cameras in order to improve the personal safety and security of all public transport users.

Officer Comments

The Notice of Motion is supported.

Council officers support the Notice of Motion to write to the Minister of Transport Infrastructure and the Chief Executive Officer at Yarra Trams, requesting all trams in Moonee Valley are equipped with CCTV cameras. This recommendation will support efforts to improve public transport user confidence and public safety perceptions within the public transport system.

Council acknowledges Yarra Trams' commitment to ensure that the safety of their passengers, employees and the community is a priority. We recognise the public transport system employs the following personal safety and security arrangements: authorised officers' regular travel of trams; all tram drivers are directly connected to Yarra Trams' operations centre; emergency assistance buttons are located on trams; and many trams are equipped with CCTV cameras. However, public transport traditionally receives an unfavourable perception from its users when compared to private vehicles. Also, there are also unfortunate instances where the public have been assaulted on our public transport network.

In order to achieve the goals referred to in the MV2040 Strategy, and make public transport a genuine alternative to private vehicle travel, it is requested that all trams in Moonee Valley are equipped with CCTV cameras in order to improve confidence and public safety perceptions for public transport system users.

This recommendation is aligned with Council's 2040 vision for Moonee Valley to be a great place to live, work and visit, strengthened by a network of 20-minute neighbourhoods, and all people, at all stages of life, live in an environment where they are healthy, resilient and safe.

Draft letters below:

File: FOL/18/2958
Enquiries: Anna Psarras

10 April 2019

The Hon. Jacinta Allan MP
Minister for Transport Infrastructure
Level 20, 1 Spring Street
MELBOURNE VIC 3000

Dear Minister

YARRA TRAMS CCTV CAMERAS - SAFETY AND SECURITY ISSUES

Subsequent to a Council Notice of Motion on 9 April 2019, I write this letter with a view to improve confidence and public safety perceptions for public transport system users in Moonee Valley.

In June 2018, Council adopted the MV2040 Strategy, which focuses on delivering a healthy city across our 13 neighbourhoods, planned so that people can access most of their everyday needs within a pleasant 20-minute walk, cycle and public transport trip from their home.

Our neighbourhood planning approach is strengthened by a series of community anchors and implementation initiatives aimed at creating and sustaining a vibrant and resilient network of 20-minute neighbourhoods.

Council acknowledges Yarra Trams' commitment to ensure that the safety of their passengers, employees and the community are a priority. We also understand that for the public's personal safety and security, authorised officers' regular travel of trams, all tram drivers are directly connected to Yarra Trams' operations centre, emergency assistance buttons are located on trams, and many trams are equipped with CCTV cameras. However, public transport traditionally receives an unfavourable perception from its users when compared to private vehicles. Also, there are also unfortunate instances where the public have been assaulted on our public transport network.

In order to achieve the goals referred to in the MV2040 Strategy, and make public transport a genuine alternative to private vehicle travel, it is requested that as tram routes no. 57 and 59 in Moonee Valley are the older models, they be equipped with CCTV cameras in order to improve confidence and public safety perceptions for public transport system users.

Your consideration on this important safety and security matter is greatly appreciated.

Should you wish to discuss the above matter in more detail, please do not hesitate to contact Ms Anna Psarras, Coordinator Transport on 9243 9164.

Yours sincerely

Cr Narelle Sharpe
MAYOR

File: FOL/18/2958
Enquiries: Anna Psarras

10 April 2019

Mr Nicolas Gindt
Chief Executive Officer
Yarra Trams
GPO Box 5231
MELBOURNE VIC 3001

Dear Mr Gindt

YARRA TRAMS CCTV CAMERAS - SAFETY AND SECURITY ISSUES

Subsequent to a Council Notice of Motion on 9 April 2019, I write this letter with a view to improve confidence and public safety perceptions for public transport system users in Moonee Valley.

In June 2018, Council adopted the MV2040 Strategy, which focuses on delivering a healthy city across our 13 neighbourhoods, planned so that people can access most of their everyday needs within a pleasant 20-minute walk, cycle and public transport trip from their home.

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In order to achieve the goals referred to in the MV2040 Strategy, and make public transport a genuine alternative to private vehicle travel, it is requested that as tram routes no. 57 and 59 in Moonee Valley are the older models, they be equipped with CCTV cameras in order to improve confidence and public safety perceptions for public transport system users.

Your consideration on this important safety and security matter is greatly appreciated.

Should you wish to discuss the above matter in more detail, please do not hesitate to contact Ms Anna Psarras, Coordinator Transport on 9243 9164.

Yours sincerely

Cr Narelle Sharpe
MAYOR

11.2 Notice Of Motion Report No. 2019/11 - Clocktower Mural

From: Councillor Richard Lawrence

Take notice that at the Ordinary Meeting of Council to be held on 09 April 2019 it is my intention to move that a sub-committee of Council be formed to consider and recommend an appropriate Art Mural design for the Pascoe Vale Road wall of the Clocktower building.

1. The Committee to comprise of the Mayor, Deputy Mayor and three other Councillors or less.
2. The Committee to meet once a month for three months and provide Council with a report on the design, the cost and the method of choosing a local artist.

Officer Comments

The Notice of Motion is supported.

While the capital funding for the Clocktower Mural had been proposed to be removed, should Councillors wish the mural initiative to proceed in the 2019/20 financial year, it is proposed a budget envelope for the delivery of the final product be determined by Councillors, and the proposed committee scope their ideas within this budget envelope.

CONFIDENTIAL REPORTS

Closure of meeting to public

Recommendation

That Council resolves to close the meeting to the public pursuant to Section 89(2) of the *Local Government Act 1989* to discuss the following matters:

14.1 East Keilor Leisure Centre redevelopment progress update

Item 14.1 is Confidential under section 89(2) of the *Local Government Act 1989* as it contains information relating to: (d) contractual matters.