

# Agenda

## Ordinary Meeting of Council

Tuesday, 10 September 2019

6:30pm

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# Ordinary Meeting of Council

Tuesday, 10 September 2019 at 6:30pm  
to be held at the Moonee Valley Civic Centre

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<b>Members:</b>	Cr Narelle Sharpe	Mayor
	Cr John Sipek	Deputy Mayor
	Cr Samantha Byrne	
	Cr Jim Cusack	
	Cr Rebecca Gauci Maurici	
	Cr Nicole Marshall	
	Cr Cam Nation	
	Cr Andrea Surace	
<b>Officers:</b>	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 Gil Richardson	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 Richard is Lawrence is on approved leave of absence for this meeting.

**4. Confirmation of Minutes**

Ordinary Meeting of Council held on Tuesday, 27 August 2019.

**5. Declarations of Conflict of Interest**

**6. Presentations**

Nil.

**7. Petitions and Joint Letters**

Nil.

**8. Public Question Time**

**9. Reports from Special Committees**

Nil.

**10. Reports**

10.1 Draft Procurement Policy 2019 .....4  
10.2 2019/20 Capital Works Program Update.....8  
10.3 Authorisations and Delegations of Council - Review 2019..... 12  
10.4 Councillor Expenses Report - 1 April 2019 to 30 June 2019.....14  
10.5 State Motion - Signage in the Public Park and Recreation Zones..... 16

**11. Notices of Motion**

11.1 Increasing exposure for young Moonee Valley artists.....17

**12. Urgent Business**

**13. Confidential Reports**

Nil.

**14. Delegates Reports**

**15. Close of Meeting**

**BRYAN LANCASTER**  
Chief Executive Officer

## REPORTS

### 10.1 Draft Procurement Policy 2019

**Author:** Ibrahim Elkojje - Head of Procurement

**Directorate:** Organisational Performance

#### 1. Purpose

- 1.1 The purpose of this report is for Council to adopt the revised Procurement Policy (Policy) in accordance with Section 186A (7) of the *Local Government Act 1989*.

#### 2. Background

- 2.1 Section 186A (7) of the *Local Government Act 1989* requires Council to undertake an annual review of its Procurement Policy.

#### 3. Issues

- 3.1 The Procurement Policy has been amended to provide additional guidance in regards to:

##### 3.1.1 Approvals for contract variations:

<b>Contract</b>	<b>Approval</b>
Variations of up to 20 per cent of initial contract value (provided within authorised budget and financial delegation)	Manager
Variations of more than 20 per cent of initial contract value (provided within authorised budget and financial delegation)	Director
Total contract value including variations of up to 5 per cent of authorised budget	CEO
Total contract value including variations of more than 5 per cent of authorised budget	Council
Where a quotation process has been undertaken, the total value including any variations must not exceed \$150,000 (inc GST for goods and services) and \$200,000 for construction and works	Breach of Section 186 of the <i>Local Government Act 1989</i> (except in an emergency as defined in the <i>Emergency Management Act 1986</i> )

- 3.1.2 Cumulative spend: outlines the factors that need to be considered when calculating the procurement value to determine the appropriate procurement process to avoid breaching Section 186 *Local Government Act 1989*.

- 3.1.3 Total cost of ownership: outlines the factors that need to be considered when calculating the total cost of ownership in order to achieve value for money.

- 3.1.4 Use of the eProcure portal must be used to distribute and receive documents from potential suppliers for any procurement undertaken that is equal to or greater than \$50,000 (Inc. GST). It further clarifies if the procurement undertaken is via an existing Panel the eProcure portal is not required to be used.
- 3.2 This policy is presented in a new format in line with Council's recently introduced Corporate Document Management Framework. Further work will be undertaken in 2020 to further align the content of the document with Council's new approach to policy and corporate documents.
- 3.3 Council recognises that it has significant leverage in its spend on operations and capital. Council officers across the organisation proactively work to identify social, environment and local economic outcomes across our procurement categories. The procurement policy provides the foundation for this work to continue.
- 3.4 The Policy has been presented to the Audit Committee for noting.

### Recommendation

**That Council resolves to adopt the Procurement Policy provided as Attachment B (separately circulated) having undertaken the review in accordance with Section 186A (7) of the *Local Government Act 1989*.**

### Attachments

A: Impact assessment  

B: Draft Procurement Policy 2019 (separately circulated) 

## **Impact assessment**

### **1. Relationship to Council commitment MV2040 or Council Plan**

- 1.1 The review and establishment of the new Procurement Policy is aligned to Council Plan Objective 5.5 We demonstrate leadership and key priority 5.5.1.1.4: Review and establish a new Procurement Policy.

### **2. Legislative obligations**

- 2.1 Section 186(7) of the *Local Government Act* 1989 requires Council to undertake an annual review of its Procurement Policy. The most recent review was approved 22 August 2017. In order to meet the legislative requirements and procurement objectives the review of the Procurement Policy has been undertaken with the proposed amendments detailed in the Council report.

### **3. Legal implications**

- 3.1 There are no legal implications associated with the report and its recommendations.

### **4. Risks**

- 4.1 Non-compliance with legislative requirements: This risk has been addressed and managed by undertaking the Procurement Policy review as required by Section 186A (7) of the *Local Government Act* 1989.

### **5. Social impact assessment**

- 5.1 There are no social impact associated with this report and its recommendations.

### **6. Economic impact assessment**

- 6.1 There are no economic impact associated with this report or its recommendations.

### **7. Environmental impact assessment**

- 7.1 There are no environmental impact associated with this report and its recommendations.

### **8. Reputational impact assessment**

- 8.1 There are no reputational impact associated with this report and its recommendations.

**9. Financial implications**

9.1 There are no financial impact associated with this report and its recommendations.

**10. Sensitivity / scenario analysis**

10.1 There are no anticipated variables that may significantly affect the decision, along with the anticipated impact, in particular highlighting any budget.

**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 Consultation has been undertaken with the Procurement team and Acting Coordinator Risk Management, Governance and Communications.

## 10.2 2019/20 Capital Works Program Update

**Author:** Nikhil Aggarwal - Acting Manager Asset Planning, Property and Procurement

**Directorate:** Asset Planning and Strategic Projects

### 1. Purpose

- 1.1 To seek endorsement for known 2019/20 Capital Works Program (CWP) variations considered necessary to deliver the program and/or improved outcomes for the wider community.

### 2. Background

- 2.1 Council's 2019/20 CWP of \$89.86 million includes all 2018/19 CWP carryovers and variations approved by Council to 23 July 2019.
- 2.2 Council officers have identified necessary variations that require Council authorisation to deliver the program and/or improved outcomes for the wider community. Details of these variations are as per Section A1 of Attachment B and are also summarised below:

Project	Comments on the Variation	Change in 2019/20 Project Cost to Council
<b>Riverside Netball Courts</b> (Design & Construction)	Authorisation sought for <u>additional budget</u> to undertake safety and accessibility works not included in the original project scope: <ul style="list-style-type: none"> <li>• Installation of Public Address system</li> <li>• Installation of Safety fences and access gates</li> <li>• Conversion of Courts 13 &amp; 14 back to tennis only (as per agreed configuration) resulting in:                             <ul style="list-style-type: none"> <li>- 8 multi lined courts</li> <li>- 4 dedicated netball courts</li> <li>- 5 dedicated tennis courts</li> </ul> </li> <li>• Installation of pavilion equipment</li> <li>• Connecting paths</li> <li>• Soil removal</li> </ul>	\$132,000
<b>Kent Street Traffic Management and Drainage Works</b>	Authorisation sought for <u>budget change</u> in view of Council being successful in securing TAC Safe Travel in Local Streets funding- up to 50 percent of project cost, capped at \$313,332 (to be received at project completion). Revised budget \$657,318	\$0

Project	Comments on the Variation	Change in 2019/20 Project Cost to Council
<b>Rachelle Road – Upgrade 4 existing humps</b>	Authorisation sought for <u>change in scope</u> to replace the speed cushion proposal with a 6m flat top road hump for a more uniform treatment along Rachelle Road. This will present operational benefit to bus operators, pavement protection, retention of parking and road safety benefits over cushions.	\$0

- 2.3 Section B of Attachment B lists variations previously authorised through Tender reports, Capital Works Program Updates, Other Reports and CEO delegation (approvals up to +5 percent of authorised project budget).
- 2.4 As of end of July 2019, \$59.48 million (66 percent) of the program (by budget) is completed / under construction / awarded or in procurement phase. The remainder of the program is in planning / design / consultation phases.

Program Phase	Budget
Completed	\$0.10 million (0.11 percent)
Under construction	\$12 million (13.4 percent)
Awarded (Construction yet to commence)	\$3 million (3.4 percent)
Procurement	\$44 million (49.1 percent)

### 3. Issues

- 3.1 Whilst 66 per cent of the program (by budget) is completed / under construction / awarded or in procurement phase, the full delivery remains reliant on a number of factors (some outside Council control) including design capacity, extensive consultation, external approvals (e.g. VicRoads, Melbourne Water, utility companies, cultural heritage) and contractor availability.

#### Recommendation

**That Council resolves to authorise requested 2019/20 Capital Works Project variations as per Section A.1 of Attachment B.**

#### Attachments

A: Impact Assessment  

B: 2019/20 CWP- Variations Register (separately circulated) 

Attachment A

**Impact assessment**

**1. Relationship to Council commitment MV2040 or Council Plan**

- 1.1 Theme 6: Resilient organisation (Balit Djerring-dha, which means resilient organisation in Woi wurrung language)].
- 1.2 The request for variation is subsequent to the variations endorsed through various reports and/or delegations endorsed to 23 July 2019.

**2. Legislative obligations**

- 2.1 There are no Legislative implications of this report except to the extent it relates to Council's overall budget set in accordance with *Section 127 of the Local Government Act 1989*.

**3. Legal implications**

- 3.1 There are no Legal implications of this report except to the extent that it relates to revision in Council's budget.

**4. Risks**

- 4.1 There are no risks arising out of this report.

**5. Social impact assessment**

- 5.1 The report seeks endorsement for variations considered necessary to deliver improved outcomes for the wider community.

**6. Economic impact assessment**

- 6.1 There are no economic impacts arising out of this report.

**7. Environmental impact assessment**

- 7.1 There are no environmental issues associated with this report.

**8. Reputational impact assessment**

- 8.1 There are no reputational impacts arising out of this report.

**9. Financial implications**

- 9.1 This report details changes to Council's funding commitments to 2019/20 Annual CWP.
- 9.2 The report seeks authorisation for budget variations in addition to variations endorsed through various reports and/or delegations to 23 July 2019.
  - 9.2.1 Variations put up for endorsement are expected to have operational cost impact. In the absence of detailed whole of life costing guidelines, it is estimated that operational costs for each project will be average 2 percent per annum calculated on the final project costs.

Attachment A

**10. Sensitivity / scenario analysis**

10.1 There are no variables expected to impact outcomes of 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 Detailed consultation has been undertaken with capital works project officers, and has been endorsed by Council's Capital Works Review Committee and Executive Team.

## 10.3 Authorisations and Delegations of Council - Review 2019

**Author:** Lee McSweeney - Coordinator Governance

**Directorate:** Organisational Performance

### 1. Purpose

- 1.1 This report presents for Council approval, a revised Instrument of Delegation to delegate Council powers, duties and functions to members of Council staff and the appointment of Authorised Officers under the *Planning and Environment Act 1987*.

### 2. Background

- 2.1 Moonee Valley City Council (Council) has established a framework of formal Instruments of Delegation to facilitate the delegation of powers, duties and functions to the appropriate level of the organisation. These frameworks include:
  - 2.1.1 Delegations from Council to the Chief Executive Officer
  - 2.1.2 Delegations from Council to members of Council staff
  - 2.1.3 Delegations from Council to Special Committees
- 2.2 A framework for the appointment of Authorised Officers has also been established for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.
- 2.3 These frameworks and format of the Instruments of Delegation and Instrument of Appointment for Authorised Officers at Council is based on a model developed for Victorian Councils by Maddocks Lawyers.

### 3. Issues

- 3.1 An Instrument of Delegation is a formal document that allows for certain duties, functions and decision-making powers, to be delegated to a Council officer or a Special Committee, as a means of reducing the operational and decision-making workload upon the Council, as it deals with other issues and matters associated with the proper and long term management of the City.
- 3.2 These instruments are routinely reviewed and updated to incorporate various legislative changes that occur from time to time, as well as alterations to the organisational structure.
- 3.3 The *Planning and Environment Act 1987* (the PEA) provides for the appointment of Authorised Officers for the purposes of the administration and enforcement of the PEA.
- 3.4 As delegations under the PEA are determined by Council, the appointment of Authorised Officers for the purposes of the administration and enforcement of the PEA is also required to be determined by Council.
- 3.5 This is a recommended process by Maddocks Lawyers to ensure compliance with Section 147(4) of the PEA for Authorised Officers.

- 3.6 Since the last update endorsed by Council at its meeting on 28 August 2018, amendments have been made to the *Local Government Act 1989*. Section 185L has been added to the Instrument of Delegation template to provide clarification about the ability of a Council's Chief Executive Officer to declare and levy a cladding rectification charge. The attached instrument **Attachment A** has been updated to reflect legislative changes as required. A number of revisions have also been made in order to reflect changes in the organisational structure and position titles.
- 3.7 The Instrument of Appointment and Authorisation for Planning Officers is provided as **Attachment B**.

### **Recommendation**

#### **That Council:**

- a. **Having undertaken a review of its delegations in accordance with Section 98 of the *Local Government Act 1989*, resolves that:**
- i. **The powers, duties and functions set out in the Instrument of Delegation, provided as Attachment A be delegated to the members of the Council staff subject to the conditions and limitations specified in that instrument.**
  - ii. **The Instrument of Delegation provided as Attachment A be signed and sealed, and will come into force immediately upon the common seal of the Council being affixed to the instrument, with all previous corresponding instruments to be revoked.**
  - iii. **The duties and functions set out in these Instruments of Delegation must be executed in accordance with any guidelines or policies that are adopted by the Council from time to time.**
- b. **In the exercise of the powers conferred by Section 147(4) of the *Planning and Environment Act 1987* and Section 232 of the *Local Government Act 1989*, resolves that:**
- i. **The member of Council staff referred to in the Instrument of Appointment and Authorisation provided as Attachment B be appointed and authorised as set out in the Instrument.**
  - ii. **The Instrument of Appointment and Authorisation be signed and sealed, and will come into force immediately upon the common seal of the Council being affixed to the instrument, and remains in force until Council determines to vary or revoke it, or until the Authorised Officer ceases to be a member of Council staff.**

### **Attachments**

- A: Instrument of Delegation - Council to Officers - Update June 2019 (separately circulated)
- B: Instrument of Appointment and Authorisation (Planning Officers) (separately circulated)

## 10.4 Councillor Expenses Report - 1 April 2019 to 30 June 2019

**Author:** Lee McSweeney - Coordinator Governance

**Directorate:** Organisational Performance

### 1. Purpose

- 1.1 To receive a quarterly report of expenses incurred by Councillors from 1 April 2019 to 30 June 2019 in the performance of their duties as elected representatives of the community.

### 2. Background

- 2.1 Councillors, while performing their duties, are entitled to be reimbursed for any necessary out-of-pocket expenses. This reimbursement process for councillor expenses is prescribed by the *Local Government Act 1989*.
- 2.2 The *Local Government Act 1989* and the prescribed Regulations are largely silent on the reporting requirements for councillor expenses.
- 2.3 At its meeting on 26 April 2016, Council endorsed Notice of Motion No. 2016/09 to receive reports on councillor expenses on a quarterly basis and to make this information available on its website.
- 2.4 At its meeting on 14 August 2018, Council adopted a new Councillor Expenses and Reimbursement Policy which aims to assist the Mayor and Councillors in understanding the administrative support, resources and facilities available to assist them in the performance of their duties and describes the out-of-pocket expenses that may be reimbursed.
- 2.5 This report identifies the quantum of councillor expenses processed by the organisation for the period 1 April 2019 to 30 June 2019 in line with the endorsed Councillor Expenses and Reimbursement Policy.

### 3. Issues

- 3.1 The figures published in this report (Table 1) may include expenses not incurred in the reporting period but processed in this reporting period.

	Carer Expenses	Communications	Conferences & Seminars	Development & Training	Entertainment	Transportation	Travel & Acc.	Memberships	Other Costs	Total
<b>Cr Narelle Sharpe (Mayor)</b>	-	259.02	2200.00	-	-	1034.06	9002.00		-	<b>12,495.08</b>
<b>Cr John Sipek (Deputy Mayor)</b>	-	-	-	-	-	153.63	-	-	-	<b>153.63</b>
<b>Cr Samantha Byrne</b>	-	204.54	-	-	-	-	-	-	-	<b>204.54</b>
<b>Cr Jim Cusack</b>	-	204.54	2154.70	-	-	131.67	544.80	-	-	<b>3035.71</b>
<b>Cr Rebecca Gauci Maurici</b>	-	204.58	-	-	-	34.62	-	-	-	<b>239.20</b>
<b>Cr Richard Lawrence</b>	-	-	2214.26	-	-	-	-	-	-	<b>2214.26</b>
<b>Cr Nicole Marshall</b>	-	259.02	-	-	-	-	-	-	-	<b>259.02</b>
<b>Cr Cam Nation</b>	-	-	-	-	-	-	-	-	-	<b>-</b>
<b>Cr Andrea Surace</b>	-	312.18	1195.00	-	-	-	-	540.91	-	<b>2049.09</b>
<b>Total</b>	<b>-</b>	<b>1443.88</b>	<b>7763.96</b>	<b>-</b>	<b>-</b>	<b>1353.98</b>	<b>9546.80</b>	<b>540.91</b>		<b>20649.53</b>

Table 1 – Councillor Expenses Report – 1 April 2019 to 30 June 2019

### Recommendation

That Council resolves to:

- a. Endorse the Councillor Expenses Report for the period 1 April 2019 to 30 June 2019.
- b. Publish the Councillor Expenses Report, provided in Table 1, on Council's website.

### Attachments

Nil

**10.5 State Motion - Signage in the Public Park and Recreation Zones**

**Author:** Kendrea Pope - Director Organisational Performance

**Directorate:** Organisational Performance

**1. Purpose**

- 1.1 To seek council endorsement of a proposed motion for consideration at the MAV State Council.

**2. Background**

- 2.1 The next MAV State Council meeting is being held on Friday 18 October 2019. The MAV Rules require that motions must be of state wide significance to local government.
- 2.2 Council resolved on 23 July to seek authorisation for a Planning Scheme Amendment to apply a less restrictive signage category to our Public Parks and Recreation Zone land to make such signs subject to a VicSmart approval process. Council has also undertaken interim management action to seek to reduce the level of non-compliance with signage on our public parks and recreation zones.

**3. Issues**

- 3.1 The proposed motion is requesting MAV advocacy seeking a state wide solution to the challenge facing councils of promotion signage in public parks and recreation zones by amending the provisions of the Victoria Planning Provisions to allow a less restrictive signage category and potentially allowing such signs to be permitted through the VicSmart process.
- 3.2 A number of councils have taken similar action to provide a local solution to this issue however a state wide solution to the challenge would be of benefit to the sector. It is understood that councils across the state face this challenge presented by the restrictive permit regime and have challenges in managing the different community stakeholders and their obligations in enforcing the current restrictive provisions.
- 3.3 Local solutions are useful but a better approach would be for a state wide approach which will help councils better manage the needs of all stakeholders.

**Recommendation**

**That Council resolves to submit the motion in Attachment A for consideration at the MAV State Council meeting on Friday 18 October 2019.**

**Attachments**

A: MAV State Council October 2019 - Moonee Valley (separately circulated) 

## NOTICES OF MOTION

**11.1                    Increasing exposure for young Moonee Valley artists**

**From:**                Councillor Samantha Byrne

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Take notice that at the Ordinary Meeting of Council to be held on 10 September 2019 it is my intention to move:

That Council resolves to request the CEO to:

1. Investigate hosting an exhibition of artwork produced by local Year 7 to Year 10 year students as part of the Incinerator Gallery program for 2020.
2. Brief Council on the results of this investigation and any ensuing program.