



**Merri-bek**  
City Council

## **Minutes of the Council Meeting**

Held at the Council Chamber, Merri-bek Civic Centre,  
90 Bell Street, Coburg  
on Wednesday 11 September 2024

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The Mayor opened the meeting at 7.01 pm and stated the Council meeting is being held on the traditional country of the Wurundjeri Woi Wurrung people and acknowledged them as Traditional Owners. The Mayor paid respects to their Elders, past, present and emerging, and the Elders from other communities who may be here today.

Present	Time In	Time Out
Cr Adam Pulford, Mayor	7.01 pm	10.41 pm
Cr Lambros Tapinos, Deputy Mayor	7.10 pm	10.41 pm
Cr Angelica Panopoulos	7.01 pm	10.41 pm
Cr Annalivia Carli Hannan	7.01 pm	9.14 pm
Cr Helen Davidson	7.01 pm	10.41 pm
Cr Helen Pavlidis	7.01 pm	10.27 pm
Cr Mark Riley	7.01 pm	10.41 pm
Cr Monica Harte	7.01 pm	10.41 pm
Cr Oscar Yildiz JP	7.01 pm	10.41 pm
Cr Sue Bolton	7.01 pm	10.41 pm

## OFFICERS

Chief Executive Officer – Cathy Henderson  
 Director Business Transformation – Sue Vujcevic  
 Director City Infrastructure – Anita Curnow  
 Director Community – Eamonn Fennessy  
 Director Place and Environment – Pene Winslade  
 Chief Financial Officer – Jemma Wightman  
 Acting Manager Governance and Strategy – Sophie Barison  
 Unit Manager Governance – Troy Delia  
 Team Leader Governance – Naomi Ellis

## APOLOGIES/LEAVE OF ABSENCE

Nil.

## DISCLOSURES OF CONFLICTS OF INTEREST

**Mayor, Cr Pulford** disclosed a general conflict of interest in report 7.2 *Sub-lease of former Coburg train station - Update on expression of interest* on the basis he's a member of the Greens political party and the Greens held a fundraiser at Schoolhouse Studios, and it may be perceived that this association may conflict with his public duty.

**Cr Panopoulos** disclosed a general conflict of interest in report 7.2 *Sub-lease of former Coburg train station - Update on expression of interest* on the basis that she's a member of the Greens political party and the Greens held a fundraiser at Schoolhouse Studios, and it may be perceived that this association may conflict with her public duty.

**Cr Riley** disclosed a general conflict of interest in report 7.2 *Sub-lease of former Coburg train station - Update on expression of interest* on the basis he's a member of the Greens political party and the Greens held a fundraiser at Schoolhouse Studios, and it may be perceived that this association may conflict with his public duty.

**Cr Bolton** disclosed a general conflict of interest in report 7.2 *Sub-lease of former Coburg train station - Update on expression of interest* due to being contacted by a member of the Nepalese community group who submitted an expression of interest.

## MINUTE CONFIRMATION

### Resolution

Cr Yildiz moved, Cr Davidson seconded -

**The minutes of the Council Meeting held on 14 August 2024 and the Special Council Meeting held on 2 September 2024 be confirmed.**

**Carried**

## ACKNOWLEDGEMENTS AND OTHER MATTERS

Nil.

## PETITIONS

Nil.

## PUBLIC QUESTION TIME

*A summary of questions and the responses provided, and items for which community statements were made is provided below. Questions submitted in writing and not asked are taken On Notice.*

*Public Question Time commenced at 7.06 pm.*

### **Report 7.1 Differential rates for property investors – investigation of proposal**

Council received 1 question. It was presented to Council:

Tony Rosios asked how many properties within the municipality are investment owned, what is the median average within the municipality and what do we propose the new rates to be?

#### **The Mayor responded:**

The report says that approximately 29 per cent of residential properties are classified and second or subsequent residential properties. The average value of those is approximately \$750,000.

The report details that there is a risk that those increases could be passed on as rent increases. The report recommends that Council does not pursue the idea any further after the June report that led to us examining it in the first place.

## **NON-AGENDA ITEMS - QUESTIONS**

Council received 5 questions on subjects not in the agenda that were presented to Council.

### **Amendment C196more - Introduction Of Special Building Overlay**

Tony Rosios asked Council to conduct a tender to see what the costs to upgrade drainage, in order not to pursue the overlay. Introducing overlays does not address the flooding issue whereas fixing the drainage does.

#### **At the request of the Mayor, Director Place and Environment, Pene Winslade responded:**

Council generally designs underground drainage in local streets for what is known as an annual exceedance probability of 20 per cent or 1 in 5. Some streets where drainage issues are more severe Council has designed for a 10 per cent probability or 1 in 10. In any weather event, roadways, laneways also act as overland flow path and open spaces act as detention.

Council has a Drainage Asset Management Plan which guides how Council goes about renewing drainage assets and carrying out maintenance works. Often, drainage renewal works are also done as part of the city's road renewal program. Council also has a Drainage Improvement Plan. This Plan identifies priority locations where drainage upsizing works can be done to reduce stormwater impacts. These locations are known as 'hotspots'. The Plan is used to inform Council's annual budgeting and capital works program.

(In the last two years, Council has committed a budget of about \$1.6 million for drainage works, and around \$9 million for road upgrades.)

Separately, Council has a responsibility to consider the impacts of infrequent, but intense storm events (known as 1 in 100 year storms) and this is managed through the Special Building Overlay in the planning scheme.

It would be inconceivable and impractical to build massive pipes for such an event, and even if Council determined to do this, there would be nowhere for the water to go downstream when it reached the state's drainage system and our waterways, with the likelihood of these backing up anyway.

Overland flow will always play a role in coping with large storm events. As mentioned earlier, this can include flow along roadways and natural retention in open space. They effectively act as a part of the drainage system during such events.

This is a long established mechanism for managing the impact of 1 in 100 year storms. This is the same for all Councils across the state, and also Melbourne Water.

The overlay in the Planning Scheme helps to make sure people build in a way that mitigates the impact of these 1 in 100 year events when they occur.

#### **Reduce the amount of rubbish in Pascoe Vale**

Amelia Frantz asked Council what it can do to reduce the amount of rubbish in Pascoe Vale?

#### **At the request of the Mayor, Director City Infrastructure, Anita Curnow responded:**

Council provides regular cleaning of shopping strips and council car parks. We also do daily pickups of dumped rubbish by two patrol crews. We react and respond to any dumped rubbish reported by members of the community via our website or snap, send and solve app. All reports are responded to within a few days of their reporting. Over the past 12 months we have collected over 1,100 dumped mattresses. Council has dealt with almost 10,500 reports of illegally dumped rubbish in the past 12 months. Over the past 7 years, we have had a 30 per cent increase in dumped rubbish.

Council encourages residents who receive a waste service to use our booked hard waste collections – two collections a year are available for many of the items mentioned. We also have a paid service for booked hard waste collection where people don't have a Council waste service or where they have more hard waste than the standard service provides for.

Council has recently launched a social media promotion of our booked hard waste program and reporting of illegally dumped rubbish. It is our ambition to see illegally dumped rubbish figures reduce, not only in Pascoe Vale but through the whole municipality. This is a partnership between Council and the community.

#### **Valid Working with Children Check – Councillors and CEO**

Robert Rigoni asked do all Merri-bek Councillors, Mayors, CEO have a current and valid Working with Children Check?

#### **At the request of the Mayor, Director Business Transformation, Sue Vujcevic responded:**

The CEO requires a Working with Children Check, which is in place. Council's Human Resources department have implemented procedures to manage and monitor Working with Children Check.

Under the *Worker Screening Act 2020* Councillors are not legally required to have a Working with Children Check. However, our Councillor Code of Conduct includes a section on Child Safety and Wellbeing, which includes the following statement:

*Ensure that if required when performing the role of a Councillor, that a current Working with Children Clearance is held.*

7.20 pm Cr Pavlidis left the meeting.

### **Coburg Lake bridge**

Nat Abboud asked will the bridge at Coburg lake be fixed and when?

**At the request of the Mayor, Director City Infrastructure, Anita Curnow responded:**

The pedestrian bridge that spans the middle of Coburg Lake was closed with temporary fencing recently due to some loose boards and loose bolts, identified to our open space crews at Coburg Lake by a resident who was concerned about the boards.

Subsequent investigations identified that there is a need for many of the slats to be replaced and for securing of railings. Our inspections have not identified any issues with the underlying structural integrity of the bridge.

The bridge works need to be undertaken by a contractor and are scheduled to occur in the next month.

We will update signage at the site to provide the community with information about this.

### **Barrow Street trial road closure**

Nat Abboud asked why is the Barrow street road closure trial happening over the school holidays when there is no school traffic and what data is the trial hoping to record?

**At the request of the Mayor, Director City Infrastructure, Anita Curnow responded:**

The Barrow Street trial road closure will commence during the 2024/25 summer school holidays and proceed for a 12-month period. The primary reason is to allow local traffic to adjust to the new arrangement before the school term commences with the trial infrastructure in place. The trial infrastructure will then be in place for the full 2025 school year.

Regarding the data collection process, traffic volume and speed data is collected prior to the trial at different points on Barrow Street itself and on the surrounding streets. This will allow us to understand what impact the trial has on surrounding streets in terms of traffic speeds and the number of vehicles using each street. This helps officers assess the overall traffic impact of the trial on the precinct, as opposed to just Barrow Street.

7.24 pm Cr Pavlidis returned to the meeting.

### **Report 7.5 Amendment C231MBEK - Introduction of Moving Around Merri-bek Transport Strategy and the Merri-Bek Open Space Strategy - Decision Gateway 2 - Consideration of Submissions and Request for a Panel**

Council received 1 question. It was presented to Council:

Daniel D from Pascoe Vale South asked what are the financial implications of the Open Space Strategy and why have you implemented such a strategy?

#### **The Mayor responded:**

The Park Close to Home initiative is where we want everybody to be within walking distance of a park.

As our population grows and the city densifies we need to make sure that people do have access to parks and open space for the connection to nature, for the mental health benefits for community connection. Also parks and open spaces help cool our city.

There are a lot of reasons why we want more open space and one of the reasons we've updated the strategy. The strategy will be the technical basis used when Council applies to the State Government for the next round of open space contributions.

If we want to increase our open space contributions, which is the tax on developers that we get when land is subdivided, so as our city densifies we can create more parks and open spaces, we need a really strong evidence base to prove to the State Government why we need the extra contributions through open space contributions.

As a council, as we grow, we need to make sure we have these plans on the table so that we can address some of the problems with increasing density and population growth.

Financial implications often tie to the open space contributions, so having a strong evidence base means we can potentially get more money from the developers. Which means we have more money to build new parks and open space in our community.

*Public Question Time concluded at 7.29 pm.*

## **ITEM TO BE TABLED UNDER THE *LOCAL GOVERNMENT ACT 2020***

In accordance with section 147(4) of the *Local Government Act 2020*, a copy of the Arbitrator's determination and statement of reasons in the matter of Cr Riley and Cr Yildiz was tabled for recording in the minutes of this meeting (provided as Appendix 1).

## **COUNCIL REPORTS**

### **7.1 DIFFERENTIAL RATES FOR PROPERTY INVESTORS - INVESTIGATION OF PROPOSAL**

#### **Executive Summary**

The context for this investigation is the housing affordability crisis in Australia, which requires action and commitment from all levels of government. Many government agencies and councils are considering and assessing potentially innovative ideas to address this crisis, and a Councillor proposed one such idea as a Notice of Motion at the June 2024 Council meeting.

At that meeting on 12 June 2024, Council resolved to investigate the proposal for a differential rate for property investors. The proposal was that residential property investors would pay higher rates than currently, and owner-occupiers of residential property and businesses would pay less. The proposal defined a property investor as those who own more than one residential property in Merri-bek.

Some of the stated purpose of the June 2024 proposal was to discourage property investors through an increase in rates, with hopes that lower property prices may follow, which might enable more renters to purchase property.

Council staff have obtained legal advice and conducted financial modelling on the proposal and investigated other implications. On the basis of these investigations, Council staff advise the proposal is not viable, for multiple reasons:

- **Legal advice:** the advice received is that it is highly doubtful that Council can lawfully declare a differential rate in this way, and it would exceed Council's power under the provisions in the *Local Government Act 1989*.
- **Significant reductions to Council revenue:** Should the proposal work as intended, with property investors selling their properties and more owner occupiers purchasing those properties, then the operation of the differential rate combined with the compulsory rate cap means that Council rate revenue is permanently reduced.

Modelling (based on assumptions) outlined in this report shows the proposal would reduce Council rates revenue by approximately \$250 million over 10 years. This would require significant cuts to Council services and projects.



The June 2024 proposal is therefore not a redistribution of the existing rates base among ratepayer categories, but rather it represents a permanent reduction in the rates base. The details of the financial modelling are included in this report at Attachment 2.

- **Uncertainties:** There is significant possibility that increasing rates for property investors may result in the costs being passed on to renters, which would further increase housing stress.

Modelling impact on housing supply is difficult, but it is also possible that increasing rates for property investors could deter property development in Merri-bek, with property investors choosing other municipalities instead. This could affect housing supply in Merri-bek.

- **Inadvertent consequences** The proposal would penalise some categories of property owner who own two properties for primarily non-investment reasons, eg parents who own a separate property in which their child lives.
- **Cost of further investigation:** Should Council wish to continue further investigations of the proposal, staff estimate that this could cost up to \$1 million including manual review of data for 80,000 residential properties, senior counsel advice, economic analysis, and detailed community consultation.

Further investigation of this proposal has a very small prospect of a positive outcome, and the next stage of investigation would be costly. Accordingly, this report recommends that Council conclude the investigation and not proceed further with the June 2024 proposal.

## Officer Recommendation

That Council:

1. Acknowledges that the current housing affordability crisis in Australia requires a strong and sustained approach from all tiers of government to achieve real change, particularly at Federal and State levels, including through review of housing and homelessness strategies, policies and programs and reform of the Australian taxation system.
2. Notes Council's continued commitment to address housing affordability and homelessness including but not limited to: Council's Affordable Housing Action Plan, advocacy for inclusionary zoning and other measures, provision of land for the Merri-bek Affordable Housing social housing project, appropriate planning scheme settings, Council's Homelessness Action Plan, funding for the local assertive outreach service for people experiencing homelessness, and support for tenancy rights education.
3. Notes the advice provided in this report that a differential rate on property investors is highly unlikely to be lawful, and has other significant adverse consequences.
4. Determines not to proceed with further investigation of raising a differential rate on property investors.

## Resolution

Cr Yildiz moved, Cr Tapinos seconded -

That Council:

1. **Acknowledges that the current housing affordability crisis in Australia requires a strong and sustained approach from all tiers of government to achieve real change, particularly at Federal and State levels, including through review of housing and homelessness strategies, policies and programs and reform of the Australian taxation system.**

2. **Notes Council's continued commitment to address housing affordability and homelessness including but not limited to: Council's Affordable Housing Action Plan, advocacy for inclusionary zoning and other measures, provision of land for the Merri-bek Affordable Housing social housing project, appropriate planning scheme settings, Council's Homelessness Action Plan, funding for the local assertive outreach service for people experiencing homelessness, and support for tenancy rights education.**
3. **Notes the advice provided in this report that a differential rate on property investors is highly unlikely to be lawful, and has other significant adverse consequences.**
4. **Determines not to proceed with further investigation of raising a differential rate on property investors.**

**Carried**

Cr Yildiz called for a division.

**For**

Cr Davidson  
Cr Yildiz  
Cr Pulford  
Cr Panopoulos  
Cr Pavlidis  
Cr Carli Hannan  
Cr Riley  
Cr Tapinos  
Cr Harte

**Total For (9)**

**Against**

**Total Against (0)**

**Abstain**

Cr Bolton

**Total Abstain (1)**

Cr Panopoulos having disclosed a general conflict of interest in report 7.2 Sub-lease of former Coburg train station - Update on expression of interest, left the meeting at 7.47 pm.

Cr Riley having disclosed a general conflict of interest in report 7.2 Sub-lease of former Coburg train station - Update on expression of interest, left the meeting at 7.47 pm.

Cr Bolton having disclosed a general conflict of interest in report 7.2 Sub-lease of former Coburg train station - Update on expression of interest, left the meeting at 7.47 pm.

Mayor, Cr Pulford having disclosed a general conflict of interest in report 7.2 Sub-lease of former Coburg train station - Update on expression of interest, vacated the Chair and left the meeting at 7.47 pm.

*7.47 pm The Deputy Mayor assumed the Chair.*

## 7.2 SUB-LEASE OF FORMER COBURG TRAIN STATION - UPDATE ON EXPRESSION OF INTEREST

### Executive summary

Council has recently taken on a lease for the former Coburg Train Station building at 135A Bell Street, Coburg with the State Government. This is on the basis that Council will sub-lease the site to a local organisation to activate the area and provide other community benefits. The State Government's terms for Council's lease include that it must be sub-leased to a community or not for profit organisation.

In December 2023 Council set criteria for an Expression of Interest (EOI) process, to invite proposals from organisations interested in leasing the building. This report updates Council on the outcome of the EOI. The criteria were:

- respondents' capacity to manage and maintain the building and surrounding outdoor areas
- the spread and number of hours and days the building would be used
- the diversity of people who would be invited into the space
- their capacity to deliver additional social, cultural or environmental benefits.

The EOI was open to all community groups and organisations, not for profit groups, social enterprises, or similar parties. The EOI commenced on 20th April 2024 and closed on 31st May 2024. Ten compliant and two non-compliant submissions were received. Following initial assessment by the panel, interviews were conducted with three shortlisted groups.

This report seeks Council's endorsement to offer an initial three-year lease, with two additional three-year options, to the preferred proponents, School House Studios Inc and Melbourne Art Library.

Rent	\$750 plus GST per annum
Term	3 years (+ 3 +3 years)
Rent review	3% increase per annum compounding

This proposal was evaluated as having the greatest capacity to deliver the desired outcomes including the opportunity for use and activation of the space by a range of community groups in addition to the library and associated activities.

The recommended proposal would bring a new facility to Merri-bek. Melbourne Art Library is a not-for-profit lending library that collects specialised art and design texts, that has been operating in the Melbourne CBD as well as at pop up locations.

### Officer recommendation

That Council:

1. Notes that a public Expression of Interest (EOI) process was carried out to test local community organisations' interest and capacity in taking on a sub-lease of the State Government owned former Coburg Train Station building.
2. Endorses not-for-profit organisations Schoolhouse Studios Inc and the Melbourne Art Library as the successful proponents to operate and manage the former Coburg Station as an Art Library and community space through a sub-lease, noting they achieved the highest scores against the EOI criteria.
3. Authorises the Director Place and Environment to do all things necessary to negotiate and formalise the sub-lease of the former Coburg Train Station building.

## Resolution

Cr Carli Hannan moved, Cr Davidson seconded -

That Council:

1. **Notes that a public Expression of Interest (EOI) process was carried out to test local community organisations' interest and capacity in taking on a sub-lease of the State Government owned former Coburg Train Station building.**
2. **Endorses not-for-profit organisations Schoolhouse Studios Inc and the Melbourne Art Library as the successful proponents to operate and manage the former Coburg Station as an Art Library and community space through a sub-lease, noting they achieved the highest scores against the EOI criteria.**
3. **Authorises the Director Place and Environment to do all things necessary to negotiate and formalise the sub-lease of the former Coburg Train Station building.**

Carried

7.50 pm Cr Panopoulos returned to the meeting.

7.50 pm Cr Riley returned to the meeting.

7.50 pm Cr Pulford returned to the meeting and resumed the Chair.

7.51 pm Cr Bolton returned to the meeting.

## 7.3 PROPOSED SALE OF LAND - 10 MURRELL STREET GLENROY

### Executive Summary

At its meeting on 13 June 2018, the sale of the 10 Murrell Street, Glenroy was highlighted as a funding source for the construction of the new Glenroy Community Hub. The sale of the property formed part of the funding strategy for the new Hub.

At its meeting on 12 December 2018, Council declared the site (a former kindergarten) surplus to its needs and resolved to commence a statutory process regarding Council's intention to sell the site. The statutory process was to occur after the construction of the Glenroy Hub was completed and the kindergarten use moved to the Glenroy Hub.

The Glenroy Hub was completed in 2022 and the kindergarten now operates from this new state of the art facility situated in Wheatsheaf Road, Glenroy.

Council officers have undertaken an internal consultation process to assess any future needs for this site. No future needs have been identified.

Due to the time elapsed since the Council's previous decision in 2018, it is considered appropriate for Council to reaffirm its declaration that the site is surplus to its needs, prior to officers commencing the public notice process.

The site measures 2,172 square metres. It is zoned Residential Growth 1 Zone (GRZ1) and is affected by a Development Contributions Overlay, Parking Overlay and Special Building Overlay.

An initial assessment by Council's building maintenance unit indicates the buildings on site could cost more than \$0.6 m to refurbish to a satisfactory standard.

The Significant Projects Reserve, which is Council's vehicle to deliver new community infrastructure, is fully utilised after funding significant new community facilities such as the Glenroy Hub. In order to fund new community infrastructure, such as the planned new library in Coburg, officers recommend that Council confirms its intention to sell this site to contribute to the cost of the Glenroy Hub and replenish the Fund for upcoming priorities.

Alternative approaches are possible but not recommended, as noted below.

Use	Implications
Affordable housing	<ul style="list-style-type: none"> <li>• There is a need for affordable housing in Glenroy and this site is well located and zoned for residential development.</li> <li>• Council could choose to explore what affordable housing outcomes are possible on this site, for example by asking Merri-bek Affordable Housing to undertake a feasibility analysis. Merri-bek Affordable Housing has indicated their interest in exploring the site for an affordable housing project.</li> <li>• Note that Council has already previously identified two other sites within the Glenroy Activity Centre for potential future use by Merri-bek Affordable Housing. These sites remain available for affordable housing options.</li> </ul>
Lease to a community organisation	<ul style="list-style-type: none"> <li>• Council's use of the site is constrained due to its zoning (which is suited to housing or similar uses) and the considerable cost of either demolishing, refurbishing or expanding buildings for future uses.</li> <li>• Instead of contributing to the Significant Projects Reserve, retention of the site would require additional funding to be identified from the Reserve, delaying the funding of other high priority major community facilities.</li> <li>• If there are community organisations with the capacity to take on the redevelopment and management of this site, they would have the opportunity to make a submission through the community consultation process on the proposed sale, to allow Council to consider this before making a final decision as to whether to sell this site.</li> </ul>

On balance, given the need to replenish the Significant Projects Reserve to create new community facilities, the existing commitment of other central Glenroy sites for potential social and affordable housing, and lack of alternative viable options, officers recommend that Council confirm its longstanding intention to divest this site.

The purpose of this report is to seek endorsement from Council to commence the statutory process in accordance with Section 114 of the *Local Government Act 2020* seeking formal feedback from the community. A further report outlining submissions received during the proposed consultation period, including a summary of proceedings of the Hearing of Submissions Committee and presenting a recommendation regarding whether or not to proceed with the proposed sale of the site will be presented to Council at a later date.

## Officer Recommendation

That Council:

1. Notes that the kindergarten at 10 Murrell Street has been moved into the new purpose-built Glenroy Hub as planned.
2. Notes that the sale of this site has long been identified as part of the funding strategy for building the Glenroy Hub, and that the vacant buildings onsite need extensive repairs and have no identified Council use.
3. Confirms its previous resolution to declare the site surplus because the buildings at 10 Murrell Street, Glenroy are not required for any Council service.
4. Resolves that in accordance with section 114 of the *Local Government Act 2020* to authorise that a public notice be given of its intention to sell the site.
5. Appoints the Mayor and all Councillors to a Committee to hear any submitters requesting to be heard in support of their written submission in relation to the proposed sale of land.

6. Authorises the Chief Executive Officer to set the time, date and place of the meeting of the committee to hear submissions in relation to Council's intention to sell 10 Murrell Street, Glenroy.
7. Receives a further report outlining any submissions received, including a summary of proceedings of the Hearing of Submissions Committee and presenting a recommendation regarding whether or not to proceed with the proposed sale of the site.
8. Notes that if the sale of 10 Murrell Street, Glenroy proceeds that the net proceeds of sale will be allocated to the Significant Projects Reserve for the delivery of future major community infrastructure projects.

## **Motion**

Cr Tapinos moved, Cr Yildiz seconded -

That Council:

1. Notes that the kindergarten at 10 Murrell Street has been moved into the new purpose-built Glenroy Hub as planned.
2. Notes that the sale of this site has long been identified as part of the funding strategy for building the Glenroy Hub, and that the vacant buildings onsite need extensive repairs and have no identified Council use.
3. Confirms its previous resolution to declare the site surplus because the buildings at 10 Murrell Street, Glenroy are not required for any Council service.
4. Resolves that in accordance with section 114 of the *Local Government Act 2020* to authorise that a public notice be given of its intention to sell the site.
5. Appoints the Mayor and all Councillors to a Committee to hear any submitters requesting to be heard in support of their written submission in relation to the proposed sale of land.
6. Authorises the Chief Executive Officer to set the time, date and place of the meeting of the committee to hear submissions in relation to Council's intention to sell 10 Murrell Street, Glenroy.
7. Receives a further report outlining any submissions received, including a summary of proceedings of the Hearing of Submissions Committee and presenting a recommendation regarding whether or not to proceed with the proposed sale of the site.
8. Notes that if the sale of 10 Murrell Street, Glenroy proceeds that the net proceeds of sale will be allocated to the Significant Projects Reserve for the delivery of future major community infrastructure projects.

**Lost on casting vote of the Mayor**

Cr Pulford called for a division.

### **For**

Cr Davidson  
Cr Yildiz  
Cr Pavlidis  
Cr Carli Hannan  
Cr Tapinos

**Total For (5)**

### **Against**

Cr Bolton  
Cr Harte  
Cr Riley  
Cr Pulford  
Cr Panopoulos

**Total Against (5)**

## Resolution

Cr Bolton moved, Cr Pulford seconded -

That Council:

1. Notes that the kindergarten at 10 Murrell Street has been moved into the new purpose-built Glenroy Hub as planned.
2. Retains the site in Council ownership while Council investigates alternative uses for the site including potential uses such as a site for the distribution of emergency relief, crisis housing or social housing, or a Glenroy Men's Shed.
3. Receives a report on this by April 2025, alongside the feasibility study that is underway to determine the accommodation needs of food relief organisations in Merri-bek.

Carried on the casting vote of the Mayor

Cr Pulford called for a division.

### For

Cr Bolton  
Cr Pulford  
Cr Panopoulos  
Cr Riley  
Cr Harte

**Total For (5)**

### Against

Cr Davidson  
Cr Yildiz  
Cr Pavlidis  
Cr Carli Hannan  
Cr Tapinos

**Total Against (5)**

## 7.4 CONSTRUCTION MANAGEMENT AND ENFORCEMENT

### Executive Summary

Construction worksites in Merri-bek are becoming more complex and demanding in highly contested spaces, which requires compliance and enforcement of building sites to become more sophisticated. Consequently, issues with worksites failing to comply with the *Road Management Act 2004* and Merri-bek Local Laws has reportedly escalated in recent years, particularly since the COVID-19 pandemic.

Merri-bek has undertaken a review of internal practices and developed a new compliance and enforcement framework to ensure these practices are applied in a fair and consistent manner. The role of asset protection and enforcement of worksite construction compliance has recently been moved into the Transport Branch in Merri-bek. New management systems protocols and practices are being prepared to help address the challenge of managing worksite developments in Merri-bek, including the expansion of construction management plan requirements.

### Officer Recommendation

That Council:

1. Notes the content of the report regarding the enforcement and management of construction sites in Merri-bek.
2. Receives a briefing from Council officers on the progress of improving compliance and management of worksites in Merri-bek by June 2025.

## Resolution

Cr Bolton moved, Cr Harte seconded -

That Council:

1. **Notes the content of the report regarding the enforcement and management of construction sites in Merri-bek.**
2. **Receives a report on the progress of improving compliance and management of worksites in Merri-bek, including works within the road reserve by June 2025.**

8.23 pm Cr Carli Hannan left the meeting during the debate.

8.23 pm Cr Tapinos left the meeting during the debate.

8.26 pm Cr Carli Hannan returned to the meeting during the debate.

8.26 pm Cr Carli Hannan left the meeting during the debate.

Carried

8.27 pm Cr Yildiz left the meeting.

## 7.5 AMENDMENT C231MBEK - INTRODUCTION OF MOVING AROUND MERRI-BEK TRANSPORT STRATEGY AND THE MERRI-BEK OPEN SPACE STRATEGY - DECISION GATEWAY 2 - CONSIDERATION OF SUBMISSIONS AND REQUEST FOR A PANEL

### Executive Summary

Amendment C231mbek seeks to introduce new policy direction from the endorsed *Moving Around Merri-bek* Transport Strategy and the *Merri-bek Open Space Strategy* into the Merri-bek Planning Scheme.

*Moving Around Merri-bek* is a long-term strategic document that guides the way Council manages and makes changes to Merri-bek's transport system. Council adopted the *Moving Around Merri-bek* strategy at its meeting of 13 March 2024 (Council Report 7.1).

The *Merri-bek Open Space Strategy* will guide the way Council plans, delivers, and maintains open space in Merri-bek. Council adopted the *Merri-bek Open Space Strategy* at its meeting of 10 April 2024 (Council Report 7.2)

Council exhibited Amendment C231mbek from 18 July 2024 to 19 August 2024. The Amendment received a total of five submissions during the exhibition period. This included three submissions supporting the Amendment, and two submissions objecting to the Amendment. The submissions are summarised with an Officer response for each in **Attachment 1**.

This report recommends that Council endorses the changes to the Amendment set out at **Attachment 2**. The report also recommends that Council requests the Minister for Planning appoint an Independent Planning Panel to consider the Amendment and submissions.

### Officer Recommendation

That Council:

1. Using its powers as a planning authority under s23(1) of the *Planning and Environment Act 1987*, requests that the Minister for Planning appoint an Independent Panel to consider all submissions to Merri-bek Planning Scheme Amendment C231mbek.



2. Endorses the responses to submissions as set out in Attachment 1 to this report to form the basis of Council's submission to an Independent Planning Panel.
3. Endorses the proposed changes to the Amendment documentation at Attachment 2 of this report.
4. Refers any late submissions to the Independent Panel.
5. Authorises the Director Place and Environment to consider any late submissions, make minor changes to Merri-bek Planning Scheme Amendment C231mbek and to give direction on issues which arise in the course of the Panel hearing in response to expert evidence and submissions if required.

## Motion

Cr Pavlidis moved, Cr Davidson seconded –

That Council:

1. Resolves to split Planning Scheme Amendment C231mek to the Merri-bek Planning Scheme into two parts as follows:
  - a) Amendment C231mbek Part 1, which introduces new policy direction into the Merri-bek Planning Scheme from the endorsed *Merri-bek Open Space Strategy* by making changes to Clauses 2.03-8, 2.04, and 19.02-6 and the Schedule to Clause 72.08.
  - b) Amendment C231mbek Part 2, which introduces new policy direction into the Merri-bek Planning Scheme from the endorsed *Moving Around Merri-bek Transport Strategy* by making changes to Clauses 2.03-7, 2.04, 18.02-1L, 18.02-2L, and 18.02-3L and the Schedule to Clause 72.08.
2. Defers consideration of Amendment C231mbek Part 2 until the next Council is formed.
3. Using its powers as a planning authority under s23(1) of the *Planning and Environment Act 1987*, requests that the Minister for Planning appoint an Independent Panel to consider Amendment C231mbek Part 1 and all submissions.
4. Endorses the responses to submissions as they relate to Amendment C231mbek Part 1 as set out in Attachment 1 to this report to form the basis of Council's submission to an Independent Planning Panel.
5. Refers any late submissions to the Independent Panel.
6. Authorises the Director Place and Environment to consider any late submissions, make minor changes to Amendment C231mbek Part 1 and to give direction on issues which arise in the course of the Panel hearing in response to expert evidence and submissions if require.

8.29 pm Cr Yildiz returned to the meeting during the debate.

8.33 pm Cr Tapinos returned to the meeting during the debate.

8.33 pm Cr Carli Hannan returned to the meeting during the debate.

**Lost on the casting vote of the Mayor.**

Cr Mayor called for a division.

### For

Cr Davidson  
Cr Yildiz  
Cr Pavlidis  
Cr Harte  
Cr Tapinos

**Total For (5)**

### Against

Cr Bolton  
Cr Riley  
Cr Carli Hannan  
Cr Panopoulos  
Cr Pulford

**Total Against (5)**

## Resolution

Cr Panopoulos moved, Cr Pulford seconded -

That Council:

1. Using its powers as a planning authority under s23(1) of the *Planning and Environment Act 1987*, requests that the Minister for Planning appoint an Independent Panel to consider all submissions to Merri-bek Planning Scheme Amendment C231mbek.
2. Endorses the responses to submissions as set out in Attachment 1 to this report to form the basis of Council's submission to an Independent Planning Panel.
3. Endorses the proposed changes to the Amendment documentation at Attachment 2 of this report.
4. Refers any late submissions to the Independent Panel.
5. Authorises the Director Place and Environment to consider any late submissions, make minor changes to Merri-bek Planning Scheme Amendment C231mbek and to give direction on issues which arise in the course of the Panel hearing in response to expert evidence and submissions if required.

Carried

Cr Mayor called for a division.

### For

Cr Bolton  
Cr Davidson  
Cr Yildiz  
Cr Pulford  
Cr Panopoulos  
Cr Carli Hannan  
Cr Riley  
Cr Tapinos

**Total For (8)**

### Against

Cr Pavlidis

**Total Against (1)**

### Abstained

Cr Harte

**Total Abstained (1)**

## 7.6 RIGHT OF WAY DISCONTINUANCE AND SALE ADJOINING 45 AND 47 CLARENCE STREET, BRUNSWICK EAST

### Executive Summary

Council received a request from the owner of 47 Clarence Street, Brunswick East to acquire a 27m<sup>2</sup> section of right of way (ROW) road, adjoining and enclosed within the rear of the property. This section of right of way has been enclosed within the property of 47 Clarence Street for more than 30 years, providing the property owner with long user rights.

Initial investigations uncovered another section of ROW is occupied at the rear of 45 Clarence Street, Brunswick East. This 15.4m<sup>2</sup> section has been occupied by a shed the last 2-3 years. The owner of 45 Clarence Street has also expressed an interest in purchasing.

Both these sections are included and shown in **Attachment 1**.

These sections of the Right of Way are at a dead-end road, they do not continue beyond 45 Clarence Street and can only be used for the surrounding properties.

On 13 September 2023, Council resolved to commence the statutory procedure for the discontinuance and sale of the subject sections of road and public notice of the proposal was given in *The Age* newspaper and on Council's website on Tuesday 7 May 2024 until Tuesday 4 June 2024.

One submission was received, in support of the proposal. The submitter did not request to be heard in support of their submission and the details of the points raised by the submitter are shown in **Attachment 2**.

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

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

This report recommends that the right of way (road) be formally discontinued and sold by private treaty to the owners of 45 and 47 Clarence Street, Brunswick East in accordance with the *Local Government Act 1989*, the *Local Government Act 2020* and Council's policies.

## **Officer Recommendation**

That Council:

1. Having considered the submission received pursuant to section 223 of the *Local Government Act 1989*, in respect of the proposed discontinuance and sale of the right of way (road) adjoining 45 and 47 Clarence Street, Brunswick East, resolves to discontinue the road in accordance with section 206 and Schedule 10, Clause 3 of the *Local Government Act 1989*.
2. Publishes a notice of this decision in the Victorian Government Gazette.
3. Sells the resultant land to the owners of 45 and 47 Clarence Street, Brunswick East by private treaty in accordance with section 206 and Schedule 10, Clause 3 of the *Local Government Act 1989*, section 114 of the *Local Government Act 2020* and Council's Road Discontinuance and Sale Policy 2024.
4. Authorises the Director Place and Environment to execute the Transfer of Land documents and any other documents required to formalise the sale of the land.
5. Notifies the submitter of Council's decision and the reasons for the decision, as follows:
  - a) The road, in Council's opinion, is not reasonably required for public use; and
  - b) The formal procedures under the *Local Government Act 1989*, the *Local Government Act 2020* and Council's Road Discontinuance and Sale Policy 2024 for the discontinuance and sale of the road have been followed.

## **Resolution**

**Cr Riley moved, Cr Panopoulos seconded -**

**That Council:**

1. **Having considered the submission received pursuant to section 223 of the *Local Government Act 1989*, in respect of the proposed discontinuance and sale of the right of way (road) adjoining 45 and 47 Clarence Street, Brunswick East, resolves to discontinue the road in accordance with section 206 and Schedule 10, Clause 3 of the *Local Government Act 1989*.**
2. **Publishes a notice of this decision in the Victorian Government Gazette.**

3. **Sells the resultant land to the owners of 45 and 47 Clarence Street, Brunswick East by private treaty in accordance with section 206 and Schedule 10, Clause 3 of the *Local Government Act 1989*, section 114 of the *Local Government Act 2020* and Council's Road Discontinuance and Sale Policy 2024.**
4. **Authorises the Director Place and Environment to execute the Transfer of Land documents and any other documents required to formalise the sale of the land.**
5. **Notifies the submitter of Council's decision and the reasons for the decision, as follows:**
  - a) **The road, in Council's opinion, is not reasonably required for public use; and**
  - b) **The formal procedures under the *Local Government Act 1989*, the *Local Government Act 2020* and Council's Road Discontinuance and Sale Policy 2024 for the discontinuance and sale of the road have been followed.**

**Carried unanimously**

## **7.7 SUMMER SPORTS GROUND ALLOCATIONS 2024/2025**

### **Executive Summary**

Council is committed to providing the community with sporting and recreational facilities and opportunities to encourage physical activity and improve community health and wellbeing outcomes.

Council's Allocation and Use of Sporting Facilities, Grounds and Pavilions Policy 2024 (the Policy) provides a framework for the annual and seasonal allocation of sporting grounds and pavilions to clubs through a tenancy agreement.

In line with the Policy, facilities are allocated to clubs with sound governance structures, open membership for men, women and juniors, and a demonstrated commitment to social responsibility, including participation in club development programs.

12 summer seasonal tenancy applications were received from clubs and all requests can be accommodated. This report also provides an update on progress of each club's junior and female participation levels. Several clubs are still in the process of submitting their compliance documentation which is required prior to receiving their summer 2024/2024 sports ground seasonal allocation.

An updated Allocation and Use of Sporting Facilities, Grounds and Pavilions Policy that was endorsed in December 2023 is currently being implemented. Officers are reviewing the allocations and working with the clubs to make sure that they align with the updated policy, particularly around training equity, and support is provided where needed.

### **Officer Recommendation**

That Council:

1. **Allocates sports grounds and pavilions for the 2024/2025 summer season to the clubs shown in Attachment 1 to this report.**
2. **Authorises the Director Community to make any necessary changes to the allocation of facilities for the 2024/2025 summer season if required and to inform Council of any changes.**
3. **Notes any club owing ground and pavilion fees from previous seasons, or owing any other debt to Council, will be informed that no ground allocation will be granted until payment is made, or a payment plan has been agreed to.**

4. Notes current junior and female participation levels at sports clubs contained within this 2024/2025 Summer Sports Ground Tenancy Allocations Report.

## **Resolution**

**Cr Yildiz moved, Cr Riley seconded -**

**That Council:**

1. **Allocates sports grounds and pavilions for the 2024/2025 summer season to the clubs shown in Attachment 1 to this report.**
2. **Authorises the Director Community to make any necessary changes to the allocation of facilities for the 2024/2025 summer season if required and to inform Council of any changes.**
3. **Notes any club owing ground and pavilion fees from previous seasons, or owing any other debt to Council, will be informed that no ground allocation will be granted until payment is made, or a payment plan has been agreed to.**
4. **Notes current junior and female participation levels at sports clubs contained within this 2024/2025 Summer Sports Ground Tenancy Allocations Report.**

**Carried unanimously**

## **7.8 IMPROVING COMMUNITY ENGAGEMENT POLICY FOR OLDER, MULTICULTURAL RESIDENTS**

### **Executive Summary**

Council's Community Engagement Policy (the Policy) supports the requirements of the *Local Government Act 2020*. The Policy sets standards for how Council engages with the Merri-bek community, to involve them in decision-making and in shaping projects and services that are important to them.

At the July 2024 meeting, Council endorsed a draft Community Engagement Policy (2023) with revisions that focus on improving engagement for older, non-English speaking residents to maximise opportunities for them to have their say on decisions that affect their lives. At the same meeting, Council also requested a report back to the September Council meeting that explores options and costs associated with the development of a stakeholder register of cultural and community groups for the purposes of community engagement, and an increase to the size and frequency of Merri-bek Community News, along with an increase in translated materials the publication.

This report recommends the Community Engagement Policy with minor amendments on improving engagement for older, non-English speaking residents be adopted by Council. It also recommends that Council notes the development of the stakeholder register, notes a range of options to expand Merri-bek Community News and refers the costs of a recommended option to the 2025/2026 budget process.

### **Officer Recommendation**

**That Council:**

1. **Adopts the revised Community Engagement Policy at Attachment 1.**
2. **Notes the Community Feedback Report at Attachment 2 and thanks the community for their participation.**
3. **Notes the development of a stakeholder list and privacy restrictions around its use.**

4. Notes the four options to expand and improve Merri-bek Community News and refers \$78,900 to the 2025/2026 budget to progress Option 1 which includes six editions a year and an expansion to 12 pages.

## **Resolution**

**Cr Pavlidis moved, Cr Harte seconded -**

**That Council:**

1. **Adopts the revised Community Engagement Policy at Attachment 1, with the following amendments on page 12 of the revised policy:**
  - ~~During the lifetime of this policy~~ We will find new and innovative ways to better communicate the opportunities.
  - ~~When older residents from multicultural communities, as a cohort, are identified as a key stakeholder for a project, such as a naming project,~~ We will specifically hold and promote in person engagement. We will distribute non-digital information to help with this engagement.
2. **Notes the Community Feedback Report at Attachment 2 and thanks the community for their participation.**
3. **Notes the development of a stakeholder list and privacy restrictions around its use.**
4. **Notes the four options to expand and improve Merri-bek Community News and refers \$78,900 to the 2025/2026 budget to progress Option 1 which includes six editions a year and an expansion to 12 pages.**

**Carried unanimously**

## **7.9 CONTRACT AWARD: RFT-2024-34 ROAD RECONSTRUCTION WORKS AT SOUTH STREET, HADFIELD (WEST STREET TO JENSEN STREET AND CUMBERLAND ROAD TO DICKINSON STREET) AND DRAINAGE IMPROVEMENT WORKS, SOUTH STREET (EVERITT STREET TO HALSBURY STREET)**

### **Executive Summary**

This road reconstruction with major drainage upgrades was identified in the 2024-2025, 2025-2026 and 2026-2027 Capital Works Program within the Roads and Carparks Program. This project includes the drainage improvements works along South Street in the section between Everitt Street to West Street to mitigate the flood risk to 10% AEP. It includes multiple sections and the sections have been designed together for better outcomes. The community has been consulted to incorporate the community and stakeholder requirements. The works involve construction of underground drainage pipes, culverts and associated pits, reconstruction of existing kerb AND channel, vehicle crossings, concrete footpath, reconstruction of existing road pavement with new asphalt surface.

During the tender evaluation process, ADP Constructions Pty Ltd was identified as the preferred tenderer based on their submission. They confirmed their ability and availability to undertake the works with a starting date being the end of September 2024.

ADP Constructions Pty Ltd has previously undertaken projects of similar complexity within Merri-Bek City Council and other councils with very good results. Their construction program is for a 40-week duration, with early start and early completion, which is in accordance with our aim to complete this project within the early of 2025/2026 financial year.

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

## Officer Recommendation

That Council:

1. Authorises the Chief Executive Officer to:
  - a) Make a formal offer to ADP Constructions Pty Ltd ACN: 118 588 097 (Contractor) to award to the Contractor contract RFT-2024-34 for the Road Reconstruction Works at South Street, Hadfield (West Street to Jensen Street and Cumberland Road to Dickinson Street) and Drainage Improvement Works, South Street (Everitt Street to Halsbury Street) (**Contract**) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:
    - i. For the total Contact value of \$2,979,825.45 excluding GST, comprising of fixed lumpsum of \$2,517,238.20 (excl GST) and provisional amount \$462,587.25 (excl GST).
  - b) Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:
    - i. the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and
    - ii. other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;
2. Conditional on acceptance of the Contract by the Contractor in accordance with the terms of this Resolution:
  - a) Authorises the Chief Executive Officer to do all things necessary to execute the Contract and any required documentation for the Contract; and
  - b) Advises all tenderers of Council's decision in relation to the Contract.
3. Refers the following changes totaling \$1,053,860 to the first quarterly financial review for 2024/25:
  - i. Bring forward funding of \$207,750 from the 2025/26 capital works program relating to road reconstruction, South St from Dickinson Street to Everitt Street;
  - ii. Bring forward funding of \$160,080 from the 2025/26 capital works program relating drainage, South Street (Everitt Street to West Street) – Engeny hot spot # 12
  - iii. Bring forward funding of \$686,030 from the 2026/27 capital works program relating to road reconstruction, South Street from Jensen Street to West Street.
4. Notes that the following further adjustment will be made to the 5-year capital works program when the budget is prepared for 2025/26:
  - i. Bring forward funding of \$266,350 from the 2026/27 capital works program relating to road reconstruction, South Street from Jensen Street to West Street.

## **Resolution**

**Cr Yildiz moved, Cr Harte seconded -**

- 1. Authorises the Chief Executive Officer to:**
  - a) Make a formal offer to ADP Constructions Pty Ltd ACN: 118 588 097 (Contractor) to award to the Contractor contract RFT-2024-34 for the Road Reconstruction Works at South Street, Hadfield (West Street to Jensen Street and Cumberland Road to Dickinson Street) and Drainage Improvement Works, South Street (Everitt Street to Halsbury Street) (Contract) on the following terms and otherwise subject to and in accordance with paragraph 1(b) of this Resolution:**
    - i. For the total Contact value of \$2,979,825.45 excluding GST, comprising of fixed lumpsum of \$2,517,238.20 (excl GST) and provisional amount \$462,587.25 (excl GST).**
  - b) Negotiate and finalise the terms of the Contract between Council and the Contractor provided that:**
    - i. the terms specified in paragraph 1(a) of this Resolution shall not be altered without a further Resolution of Council; and**
    - ii. other than terms referred to in paragraph 1(a) of this Resolution, the terms of the Contract are acceptable to the Chief Executive Officer;**
- 2. Conditional on acceptance of the Contract by the Contractor in accordance with the terms of this Resolution:**
  - a) Authorises the Chief Executive Officer to do all things necessary to execute the Contract and any required documentation for the Contract; and**
  - b) Advises all tenderers of Council's decision in relation to the Contract.**
- 3. Refers the following changes totaling \$1,053,860 to the first quarterly financial review for 2024/25:**
  - i. Bring forward funding of \$207,750 from the 2025/26 capital works program relating to road reconstruction, South St from Dickinson Street to Everitt Street;**
  - ii. Bring forward funding of \$160,080 from the 2025/26 capital works program relating drainage, South Street (Everitt Street to West Street) – Engeny hot spot # 12**
  - iii. Bring forward funding of \$686,030 from the 2026/27 capital works program relating to road reconstruction, South Street from Jensen Street to West Street.**
- 4. Notes that the following further adjustment will be made to the 5-year capital works program when the budget is prepared for 2025/26:**
  - i. Bring forward funding of \$266,350 from the 2026/27 capital works program relating to road reconstruction, South Street from Jensen Street to West Street.**

**Carried unanimously**



## **7.10 CONTRACT VARIATION: RFT-2023-409 OAK PARK AND DERBY STREET KINDERGARTEN EXPANSIONS AND IMPROVEMENT PROJECT**

### **Executive Summary**

This report outlines key issues related to the extension of Oak Park Kindergarten and Derby St Kindergarten, part of Council's 2023/24 and 2024/25 capital works program. Council awarded Notion Partners a contract for the construction work at fixed lump sum of \$4,019,100 (GST exclusive).

Post-award, the project was staged to allow the facilities to remain operational, resulting in a staged construction plan with stringent building permit conditions. Unforeseen challenges, including hazardous material removal, rock excavation, stump and roof rectifications, and other latent conditions, led to significant contract variations. Additionally, requests from the kindergarten operators to improve facility operations were addressed.

The Chief Executive Officer has previously approved a contract variation of \$432,840.12 (GST exclusive), representing 10.7 per cent of the original contract sum. This report seeks approval for an additional \$427,889.72 in anticipated variations, which have been reviewed by Council officers. The variation to Contract RFT-2023-409 requires a Council resolution as the proposed variations are anticipated to be in excess of 20 per cent of the original contract sum. The project budget has sufficient funds to cover these additional costs. Adopting the recommendations will ensure the successful completion of the kindergarten extensions without exceeding the budget.

### **Officer Recommendation**

That Council:

1. Allocates a 21.42 per cent contingency of \$860,730 (GST exclusive) in relation to Contract RFT-2023-409 for unforeseen variations that have arose during construction and are anticipated, noting:
  - a) This brings the total expenditure approved for Contract RFT-2023-409 – Oak Park and Derby Street Kindergarten Expansions and Improvement Project to \$4,879,829.84 (GST exclusive),
  - b) Notes previously approved variations of \$432,840.12 (GST exclusive) totaling 10.7 per cent have been executed to date, as approved by the Chief Executive Officer under S5 delegation.
  - c) Noting that this is within the approved budget and does not create a shortfall of funds.
2. Authorises the Chief Executive Officer to do all things necessary to approve the contract variation, extensions and related documentation as identified in point 1.

### **Resolution**

**Cr Yildiz moved, Cr Davidson seconded -**

**That Council:**

1. **Allocates a 21.42 per cent contingency of \$860,730 (GST exclusive) in relation to Contract RFT-2023-409 for unforeseen variations that have arose during construction and are anticipated, noting:**
  - a) **This brings the total expenditure approved for Contract RFT-2023-409 – Oak Park and Derby Street Kindergarten Expansions and Improvement Project to \$4,879,829.84 (GST exclusive),**

- b) **Notes previously approved variations of \$432,840.12 (GST exclusive) totaling 10.7 per cent have been executed to date, as approved by the Chief Executive Officer under S5 delegation.**
  - c) **Noting that this is within the approved budget and does not create a shortfall of funds.**
2. **Authorises the Chief Executive Officer to do all things necessary to approve the contract variation, extensions and related documentation as identified in point 1.**

**Carried unanimously**

## **7.11 2023/24 FINANCIAL STATEMENTS AND PERFORMANCE STATEMENTS**

### **Executive Summary**

Council's Financial and Performance Statements (the Statements) for the 2023/24 financial year have been prepared and reviewed by the Victorian Auditor General Offices appointed auditor, RSD Audit and Council's Audit and Risk Management Committee.

This report seeks Council's 'in principle' approval of the Statements and the appointment of two Councillors and the Chief Executive Officer to sign the 2023/24 Statements in their final form.

Council is reporting an accounting surplus of \$25.761 million for the financial year 2023/24. This accounting surplus includes items such as non-cash contributions, capital grants, loan redemptions and committed capital or operational expenditure for future years.

After excluding non-cash items included in the accounting surplus, capital expenditure and committed funding requirements, Council had an unrestricted surplus of \$1.141 million. It is recommended that Council commits the unrestricted surplus of \$1.141 million to the Significant Projects Reserve.

### **Officer Recommendation**

That Council, in accordance with the recommendations of the Audit and Risk Management Committee, and having considered Council's Financial and Performance Statements for 2023/24 Statements at Attachments 1 and 2 to this report:

1. Approves 'in principle' the Financial and Performance Statements 2023/24.
2. Authorises the Mayor, Cr Adam Pulford, Deputy Mayor, Cr Lambros Tapinos, and the Chief Executive Officer, Cathy Henderson, to certify the Financial and Performance Statements for 2023/24 in their final form.
3. Notes the unrestricted surplus of \$1.141 million transfers to the Significant Projects Reserve.
4. Carries forward the \$536,978 of tied grant funding or contributions that were not spent as of 30 June 2024.
5. Carries forward the \$41.377 million of capital project funds into the 2024/25 Capital Works Program.
  - Noting that this does not include a carry forward for the Brunswick Velodrome community pump track due to the funding source being grant funding which was not successful.

6. Authorises the Principal Accounting Officer to implement any minor administrative changes to the Financial and Performance Statements for 2023/24 if recommended by the Auditor-General upon final review, for approval by the Chief Executive Officer.

## **Resolution**

**Cr Riley moved, Cr Pulford seconded -**

**That Council, in accordance with the recommendations of the Audit and Risk Management Committee, and having considered Council's Financial and Performance Statements for 2023/24 Statements at Attachments 1 and 2 to this report:**

1. Approves 'in principle' the Financial and Performance Statements 2023/24.
2. Authorises the Mayor, Cr Adam Pulford, Deputy Mayor, Cr Lambros Tapinos, and the Chief Executive Officer, Cathy Henderson, to certify the Financial and Performance Statements for 2023/24 in their final form.
3. Notes the unrestricted surplus of \$1.141 million transfers to the Significant Projects Reserve.
4. Carries forward the \$536,978 of tied grant funding or contributions that were not spent as of 30 June 2024.
5. Carries forward the \$41.377 million of capital project funds into the 2024/25 Capital Works Program.
  - Noting that this does not include a carry forward for the Brunswick Velodrome community pump track due to the funding source being grant funding which was not successful.
6. Authorises the Principal Accounting Officer to implement any minor administrative changes to the Financial and Performance Statements for 2023/24 if recommended by the Auditor-General upon final review, for approval by the Chief Executive Officer.

**Carried unanimously**

## **7.12 OPEN COUNCIL RESOLUTIONS REPORT**

### **Executive Summary**

The Open Council Resolutions Report provided as **Attachment 1**, has been prepared to inform Councillors and the community of the actions taken to date to implement Council resolutions that are currently open and not yet finalised.

There is currently 48 Open Resolutions, with 26 of these relating to Council officer reports, 1 relating to responses to Notices of Motion and 21 relating Notices of Motion.

The Open Council Resolutions Report is presented to Council on an ongoing basis, promoting transparency of how Council resolutions are being implemented.

### **Officer Recommendation**

That Council receives and notes the Open Council Resolutions Report provided as Attachment 1 to this report.

## Resolution

Cr Riley moved, Cr Tapinos seconded -

That Council receives and notes the Open Council Resolutions Report provided as Attachment 1 to this report.

Carried unanimously

## 7.13 REVIEW OF INSTRUMENT OF DELEGATION COUNCIL TO COUNCIL STAFF

### Executive Summary

This report proposes the updated instrument of delegation to Council in accordance with section 11 of the *Local Government Act 2020* (the Act).

Instruments of Delegation represent the formal and authorised delegation for powers of Council under the Act and enable the business of Council to be carried out efficiently and in line with Council approved policies. This instrument is essential to enable Council staff to effectively carry out operational duties, particularly in areas that involve enforcement, such as town planning, local laws, environmental health, building enforcement, asset protection, animal management and parking control.

Powers are delegated to a role or position title rather than to a person or name. Where there are changes to organisational titles, roles or responsibilities, or applicable legislation, the delegations require review, and are reviewed and updated biannually.

The proposed instrument provided in **Attachment 1** reflects legislative updates that have occurred since the Instrument was last executed in March 2024 as well as updates to 2 officer position titles.

### Officer Recommendation

That Council, in the exercise of the powers conferred by section 11 of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation:

1. Delegates to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in Attachment 1 to this report, the powers, duties and functions set out in that Instrument subject to the conditions and limitations specified in that Instrument and determines:
  - a) The instrument comes into force immediately on being signed by the Chief Executive Officer.
  - b) On the coming into force of the instrument, the previous delegation to members of Council staff adopted 13 March 2024 is revoked.
  - c) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

## Resolution

Cr Riley moved, Cr Panopoulos seconded -

That Council, in the exercise of the powers conferred by section 11 of the *Local Government Act 2020* and the other legislation referred to in the attached Instrument of Delegation:

1. Delegates to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in Attachment 1 to this report, the powers, duties and functions set out in that Instrument subject to the conditions and limitations specified in that Instrument and determines:
  - a) The instrument comes into force immediately on being signed by the Chief Executive Officer.
  - b) On the coming into force of the instrument, the previous delegation to members of Council staff adopted 13 March 2024 is revoked.
  - c) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

Carried unanimously

## 7.14 GOVERNANCE REPORT - SEPTEMBER 2024 - CYCLICAL REPORT

### Executive Summary

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

This Governance report includes:

- A summary of the minutes of Advisory Committees and Groups.
- The Arts Advisory Committee's recommendation to purchase the art work as listed in the officer recommendation.
- The Arts Advisory Committee's recommendation to defer accepting the donation of the art work as listed in the officer recommendation.
- Records of Meetings, with a recommendation that Council notes the records.
- Responses to Public Question Time items taken on notice at 14 August 2024 Council meeting, with a recommendation that Council notes the responses.
- A recommendation that Council appoints and authorises the Council officers referred to in the Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*).

### Officer Recommendation

That Council:

1. Notes the summary of minutes from Advisory Committee to Council, at Attachment 1 to this report:
  - a) Sustainable Transport Advisory Committee held 3 June 2024

- b) Sustainable Transport Advisory Committee held 27 August 2024
- c) Arts Advisory Committee held 20 August 2024.
- 2. Endorses the recommendation of the Arts Advisory Committee meeting held 20 August 2024 and in accordance with the *Art Acquisition and Collection Development Policy*, and approves the purchase of the following artwork for the Merri-bek Art Collection:
  - a) *The Long Journey Home 8*, 2024, Maree Clark
  - b) *here merri merri lies 8*, 2024, Peta Clancy
  - c) *Learning Whakapapa (Māori Land Court Archives)*, 2023, Renee Cosgrave
  - d) *It's Time*, 2023, Kait James.
- 3. Notes the recommendation that an additional \$8,200 be allocated to the Merri-bek Art Collection budget for 2024/2025 to purchase a second Maree Clarke work, *The Long Journey Home 11* and refers the \$8,200 required, to the first quarterly financial review 2024/25.
- 4. Accepts the recommendation of the Arts Advisory Committee that the decision regarding the donation of a work by Chris Bond be deferred, pending quotes for ongoing storage and maintenance of the work.
- 5. Notes the Records of Meetings, at Attachment 2 to this report.
- 6. Notes responses to questions taken on notice during Public Question Time at 14 August 2024 Council meeting, at Attachment 3 to this report.
- 7. In the exercise of the powers conferred by section 147(4) of the *Planning and Environment Act 1987* and section 313 of the *Local Government Act 2020*:
  - a) Appoints and authorises Council staff referred to in the Instrument at Attachment 4 to this report, as set out in the instrument.
  - b) Determines the instrument comes into force immediately, the common seal of Council is affixed to the instrument, remains in force until Council determines to vary or revoke it, and revokes the previous Instrument executed on 3 June 2024 (D24/168967).
  - c) Authorises the affixing of Council's common seal.

## Resolution

**Cr Pulford moved, Cr Harte seconded -**

**That Council:**

- 1. **Notes the summary of minutes from Advisory Committee to Council, at Attachment 1 to this report:**
  - a) **Sustainable Transport Advisory Committee held 3 June 2024**
  - b) **Sustainable Transport Advisory Committee held 27 August 2024**
  - c) **Arts Advisory Committee held 20 August 2024.**
- 2. **Endorses the recommendation of the Arts Advisory Committee meeting held 20 August 2024 and in accordance with the Art Acquisition and Collection Development Policy, and approves the purchase of the following artwork for the Merri-bek Art Collection:**
  - a) **The Long Journey Home 8, 2024, Maree Clark**
  - b) **here merri merri lies 8, 2024, Peta Clancy**
  - c) **Learning Whakapapa (Māori Land Court Archives), 2023, Renee Cosgrave**

- d) **It's Time, 2023, Kait James.**
3. **Notes the recommendation that an additional \$8,200 be allocated to the Merri-bek Art Collection budget for 2024/2025 to purchase a second Maree Clarke work, The Long Journey Home 11 and refers the \$8,200 required, to the first quarterly financial review 2024/25.**
  4. **Accepts the recommendation of the Arts Advisory Committee that the decision regarding the donation of a work by Chris Bond be deferred, pending quotes for ongoing storage and maintenance of the work.**
  5. **Notes the Records of Meetings, at Attachment 2 to this report.**
  6. **Notes responses to questions taken on notice during Public Question Time at 14 August 2024 Council meeting, at Attachment 3 to this report.**
  7. **In the exercise of the powers conferred by section 147(4) of the *Planning and Environment Act 1987* and section 313 of the *Local Government Act 2020*:**
    - a) **Appoints and authorises Council staff referred to in the Instrument at Attachment 4 to this report, as set out in the instrument.**
    - b) **Determines the instrument comes into force immediately, the common seal of Council is affixed to the instrument, remains in force until Council determines to vary or revoke it, and revokes the previous Instrument executed on 3 June 2024 (D24/168967).**
    - c) **Authorises the affixing of Council's common seal.**

**Carried unanimously**

9.14 pm *Cr Carli Hannan left the meeting and did not return.*

## **NOTICES OF MOTION**

### **8.1 ENDORSING THE METROPOLITAN TRANSPORT FORUM ACCESSIBLE PUBLIC TRANSPORT CAMPAIGN**

#### **Motion**

That Council:

1. **Endorses in principle, an urgent call upon the Victorian Government to commit to a planned rollout that ensures that Melbourne's public transport system becomes accessible for people using wheelchairs or experiencing mobility issues.**
2. **Supports the Metropolitan Transport Forum in their advocacy campaign for a program of works to improve the rollout of accessible tram stop installations leading up to the 2026 state election, and that any program of works addresses the lack of equity to people who are not ambulant.**
3. **Calls on the Government to clearly commit to delivering fully accessible tram routes on an annual basis (noting that some routes are considerably longer than others).**

## **Resolution**

**Cr Riley moved, Cr Pulford seconded -**

**That Council:**

- 1. Endorses in principle, an urgent call upon the Victorian Government to commit to a planned rollout that ensures that Melbourne's public transport system becomes accessible for people using wheelchairs or experiencing mobility issues.**
- 2. Supports the Metropolitan Transport Forum in their advocacy campaign for a program of works to improve the rollout of accessible tram stop installations leading up to the 2026 state election, and that any program of works addresses the lack of equity to people who are not ambulant.**
- 3. Calls on the Government to clearly commit to delivering fully accessible tram routes on an annual basis (noting that some routes are considerably longer than others).**

**Carried unanimously**

## **8.2 FOOTPATH IMPROVEMENT STRATEGY**

### **Motion**

That Council receives a report no later than February 2025 that details a plan for referral to the 2025/26 budget process and to the process for preparing the new Council Plan and Road Management Plan on an improvement strategy for Council in the delivery of footpath renewal and responses to footpath hazards, to improve the safety of pedestrians in Merri-bek, including for consideration:

- 1. Reviewing the prioritisation of footpath renewal spending so that it accounts for usage of the footpath, community feedback, and condition reports as well as option to reconsider footpath allocation budget to match serviceability and condition of the footpath network.**
- 2. Reviewing current demand and capacity for hazard response and inspections and the adequacy of current resources, with a view to recommendations for improved plan, adequate resourcing and budget recommendations.**
- 3. Strategies for improved engagement with the community to respond to differing needs of users and help guide priorities.**

### **Resolution**

**Cr Harte moved, Cr Yildiz seconded -**

**That Council receives a report no later than February 2025 that details a plan for referral to the 2025/26 budget process and to the process for preparing the new Council Plan and Road Management Plan on an improvement strategy for Council in the delivery of footpath renewal and responses to footpath hazards, to improve the safety of pedestrians in Merri-bek, including for consideration:**

- 1. Reviewing the prioritisation of footpath renewal spending so that it accounts for usage of the footpath, community feedback, and condition reports.**
- 2. Review the adequacy of the forecast capital budget for footpath and cycling renewal, to meet renewal need, noting current budget expenditure for current financial year of \$2.112m, which reflects a renewal : depreciation ratio of 48%.**



3. **Reviewing current demand and capacity for hazard response and inspections and the adequacy of current resources, with a view to recommendations for improved plan, adequate resourcing and budget recommendations.**
4. **Strategies for improved engagement with the community to respond to differing needs of users and help guide priorities.**

**Carried unanimously**

### **8.3 UPFIELD TRAIN LINE**

#### **Motion**

That Council:

1. **Receives a report as soon as practicable that identifies the methodology and cost for a survey of people who live north of Batman station who are also current users of the Upfield Line or who have abandoned using the Upfield line. Such a survey would seek to discover:**
  - **why people have abandoned using the Upfield Line**
  - **changes people have made to their public transport usage because of the unreliability of the train service for people who live north of Batman station**
  - **whether people would resume using the Upfield train if it was duplicated to improve frequency and reduce cancellations**
  - **whether people would be attracted to using the Upfield train service if there were one or two extra train stations between Gowrie and Upfield stations.**
2. **Proposes to our partner Councils in the Northern Alliance of Councils (Banyule, Darebin, Hume, Mitchell Shire, Nillumbik and Whittlesea) that we commission this survey to support advocacy efforts for the Upfield Line duplication and extension.**

#### **Resolution**

**Cr Bolton moved, Cr Yildiz seconded -**

**That Council:**

1. **Receives a report as soon as practicable that identifies the methodology and cost for a survey of people who live north of Batman station who are also current users of the Upfield Line or who have abandoned using the Upfield line. Such a survey would seek to discover:**
  - **why people have abandoned using the Upfield Line**
  - **changes people have made to their public transport usage because of the unreliability of the train service for people who live north of Batman station**
  - **whether people would resume using the Upfield train if it was duplicated to improve frequency and reduce cancellations**
  - **whether people would be attracted to using the Upfield train service if there were one or two extra train stations between Gowrie and Upfield stations.**
2. **Proposes to our partner Councils in the Northern Alliance of Councils (Banyule, Darebin, Hume, Mitchell Shire, Nillumbik and Whittlesea) that we commission this survey to support advocacy efforts for the Upfield Line duplication and extension.**

## 8.4 SUPPORT FOR CENTRAL COBURG BUSINESSES AND COMMUNITY

### Motion

That Council:

1. Notes the long-term planning underway to revitalise Central Coburg, as kickstarted by the recent Coburg Conversation community engagement.
2. Notes Council's existing and strengthening relationship with the Central Coburg Business Association, recognising the importance and value of thriving local businesses for economic development, placemaking and creating a sense of community.
3. Notes the complex and intersectional needs of some of the people frequenting the Victoria Street Mall and acknowledges that punitive approaches to managing complex needs does not resolve issues.
4. Organises a meeting for Council officers, local businesses, Victoria Police and the Central Coburg Business Association and any other relevant stakeholders to discuss possible short and medium-term interventions to increase both actual and perceived safety and create a more inviting space for the Coburg community in Victoria Mall and receives a briefing on the outcomes of this meeting and possible next steps in the first half of 2025.

### Resolution

**Cr Panopoulos moved, Cr Pulford seconded -**

That Council:

1. **Notes the long-term planning underway to revitalise Central Coburg, as kickstarted by the recent Coburg Conversation community engagement.**
2. **Notes Council's existing and strengthening relationship with the Central Coburg Business Association, recognising the importance and value of thriving local businesses for economic development, placemaking and creating a sense of community.**
3. **Notes the complex and intersectional needs of some of the people frequenting the Victoria Street Mall and acknowledges that punitive approaches to managing complex needs does not resolve issues.**
4. **Organises a meeting for Council officers, local businesses, Victoria Police and the Central Coburg Business Association and any other relevant stakeholders to discuss possible short and medium-term interventions to increase both actual and perceived safety and create a more inviting space for the Coburg community in Victoria Mall and receives a report on the outcomes of this meeting, officer recommendations and possible next steps in the first half of 2025.**

9.44 pm Cr Yildiz left the meeting during the debate.

9.45 pm Cr Pavlidis left the meeting during the debate.

9.45 pm Cr Pavlidis returned to the meeting during the debate.

9.46 pm Cr Yildiz returned to the meeting during the debate.

9.46 pm Cr Yildiz left the meeting during the debate.

9.48 pm Cr Yildiz returned to the meeting during the debate.

9.49 pm Cr Davidson left the meeting during the debate.

## 8.5 PARK STREET PARKING

### Motion

That Council requests Council Officers to continue monitoring the parking availability on the Park Street service lane and present a report back to council about these matters.

### Resolution

**Cr Tapinos moved, Cr Pulford seconded -**

**That Council requests Council Officers to continue monitoring the parking availability on the Park Street service lane and present a report back to council about these matters.**

Carried unanimously

9.53 pm Cr Pulford vacated the Chair and left the meeting.  
9.53 pm Deputy Mayor, Cr Tapinos assumed the chair.  
9.53 pm Cr Davidson returned to the meeting.

## 8.6 AMEND PROCUREMENT POLICY TO INCLUDE CONSULTANCY ENGAGEMENT

### Motion

That Council amends the Procurement Policy to include a section on Consultancy Engagement and Definition as set out below:

#### **Consultancy Engagement**

*The engagement of Consultancy service involves additional approvals and procurement reporting.*

*Council staff will follow standard procurement practices identified in this Policy for the engagement of Consultancy services.*

*In addition, prior to engaging a supplier to perform a Consultancy service, Council will consider and document:*

- the reasons why the service is required to be performed by a Consultant.*
- whether the skills required for the Consultancy project exist internally; and*
- if the skills required do exist internally, whether Council Staff have the capacity to undertake the Consultancy service and, if not, whether the Consultancy service can be delayed until such time that internal capacity is available.*

*Despite any other delegation to the contrary, where it is considered that the skills required for a Consultancy service do exist internally, the decision to engage a Consultant must be approved by the CEO in advance.*

*All Consultancy engagements greater than \$10,000 must also be listed in a Consultancy Register. As a minimum the Register will record the following information,*

- description of the Consultancy service*
- name of the firm*
- contract value and end cost; and*

- start and completion dates.

*A list of completed and current consultancy engagements for the periods ending 30 June and 31 December every year must be reported to Council biannually.*

### **Definition**

*A service that facilitates decision making through:*

- *provision of expert analysis and advice; or*
- *development of a written report or other intellectual outputs.*

*For clarity, Consultancy does NOT include:*

- *building and works design, construction and related services including fit out.*
- *research or project management where recommendations are not provided.*
- *routine accounting, audit and taxation services that provide advice on day-to-day issues; and*
- *routine legal services (conveyancing, document drafting and litigation services).*

## **Resolution**

**Cr Pavlidis moved, Cr Bolton seconded -**

**That Council receives a report that considers the amendment of its Procurement Policy to include a section on Consultancy Engagement and Definition as set out below:**

### ***Consultancy Engagement***

***The engagement of Consultancy service involves additional approvals and procurement reporting.***

***Council staff will follow standard procurement practices identified in this Policy for the engagement of Consultancy services.***

***In addition, prior to engaging a supplier to perform a Consultancy service, Council will consider and document:***

- ***the reasons why the service is required to be performed by a Consultant.***
- ***whether the skills required for the Consultancy project exist internally; and***
- ***if the skills required do exist internally, whether Council Staff have the capacity to undertake the Consultancy service and, if not, whether the Consultancy service can be delayed until such time that internal capacity is available.***

***Despite any other delegation to the contrary, where it is considered that the skills required for a Consultancy service do exist internally, the decision to engage a Consultant must be approved by the CEO in advance.***

***All Consultancy engagements greater than \$10,000 must also be listed in a Consultancy Register. As a minimum the Register will record the following information,***

- ***description of the Consultancy service***
- ***name of the firm***
- ***contract value and end cost; and***
- ***start and completion dates.***

***A list of completed and current consultancy engagements for the periods ending 30 June and 31 December every year must be reported to Council biannually.***

***Definition***

***A service that facilitates decision making through:***

- ***provision of expert analysis and advice; or***
- ***development of a written report or other intellectual outputs.***

***For clarity, Consultancy does NOT include:***

- ***building and works design, construction and related services including fit out.***
- ***research or project management where recommendations are not provided.***
- ***routine accounting, audit and taxation services that provide advice on day-to-day issues; and***
- ***routine legal services (conveyancing, document drafting and litigation services).***

9.55 pm Mayor Cr Pulford returned to the meeting and resumed the chair, before the vote.

**Carried unanimously**

## **8.7 PUBLICLY AVAILABLE INFORMATION ON WEBSITE**

### **Motion**

That Council receives a report at the March 2025 Council meeting with proposed options/actions to include the following on Council's website:

1. Footpath and road audit reports.
2. Contract information on all projects (from 9 December 2020 onwards) and consolidate projects in one space so it is easier to navigate and access.

### **Resolution**

**Cr Pavlidis moved, Cr Harte seconded -**

**That Council**

1. **Notes that footpath and road audit reports will be placed on Council's website.**
2. **Receives a report at the March 2025 Council meeting with proposed options/actions to include the following on Council's website: Contract information on all projects, excluding the roads and footpath program (from 9 December 2020 onwards) and consolidate projects in one space so it is easier to navigate and access.**

**Carried unanimously**

### **Time Extension**

## Resolution

Cr Riley moved, Cr Yildiz seconded -

That the Council meeting be extended by 30 minutes at 10.00 pm.

Carried

## COUNCILLOR ADDRESSES

Each Councillor present acknowledged their time on this term of Council (2020-2024), highlighting the many successful outcomes achieved for the community and thanking the community, fellow Councillors and Council staff.

10.27 pm Cr Pavlidis left the meeting and did not return.

## NOTICE OF RESCISSION

Nil.

## URGENT BUSINESS REPORTS

Nil.

## CONFIDENTIAL BUSINESS

### Resolution

Cr Davidson moved, Cr Riley seconded –

In accordance with section 66(2) of the *Local Government Act 2020*, this Council meeting be closed to the public to consider this/these report(s):

- **12.1 Contract Award: RFT-2023-542 Shore Reserve Pavilion Upgrade (Modular) because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.**
- **12.2 Contract Award: RFT-2024-37 Use of FOGO Processing Facility because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.**
- **12.3 Contract Variation: 2021-203 Management of Council's Aquatic and Leisure Services - Proposed Variation to Guaranteed Contract Sum Y3 2024-2025 because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.**
- **12.4 Contract Award: RFT-2024-46 Security and Cash Collection Services because it relates to private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.**

Carried

The Council meeting closed to the public at 10.36 pm.

The Council meeting closed at 10.41 pm.

Confirmed

Cr Adam Pulford  
**MAYOR**

**INTERNAL ARBITRATION PROCESS – Merri-bek City Council**

In the matter of an Application by Councillor Mark Riley concerning Councillor  
Oscar Yildiz  
(IAP 2024-34)

**HEARING PURSUANT TO DIVISION 5 OF PART 6 OF THE  
LOCAL GOVERNMENT ACT (2020)**

Applicant: Councillor Mark Riley  
Respondent: Councillor Oscar Yildiz  
Arbiter: Jo-Anne Mazzeo

**DETERMINATION**

At the Directions Hearing in this matter on 2 August 2024 Cr Yildiz conceded that he did use offensive and disrespectful language in a short message service (SMS) exchange via mobile phone between himself and a local Merri-bek resident and indicated his preparedness to provide an unreserved verbal and written apology to the resident after the Directions Hearing.

While the Arbiter is satisfied that Cr Yildiz's behaviour fell short of the standard required by the prescribed standards of conduct, given the contrition Cr Yildiz showed during the Directions Hearing, his openness and willingness to both take accountability for and change his actions, the immediacy of his apology after the Directions Hearing, and his outstanding record as a councillor, the Arbiter has formed the view that a finding of misconduct is not warranted in the circumstances.

Accordingly, pursuant to s147(1) of the *Local Government Act 2020* the Arbiter makes no finding of misconduct against Cr Yildiz.



## STATEMENT OF REASONS FOR DECISION

### The Application

1. The Application dated 2 July 2024 by the applicant sought a finding of misconduct against the respondent relating to comments made by the respondent in a short message service (SMS) exchange via mobile phone on 13 April 2024 between himself and a local Merri-bek resident.
2. In particular, one of the messages sent from the respondent to the local resident (and submitted in evidence supplementary to the Application) read as follows:

"You are such a vile human being!"
3. The Application alleged that the respondent (in his SMS communication) had breached Standards 1 (Treatment of Others) of the prescribed standards of conduct set out in Schedule 1 to the *Local Government (Governance and Integrity) Regulations 2020* (the Regulations) by:
  - (a) Labelling someone as vile, which is a form of verbal abuse and an offensive term that demeans and insults the individual, which constitutes abusive behaviour; and
  - (b) Calling someone vile is in inherently disrespectful, failing to acknowledge the individuals dignity and worth, violating the requirement to treat all persons with respect.
4. The Application went on to state that the applicant had met with the respondent on 27 June 2024 prior to lodging the Application for a finding of misconduct to request he consider apologising to the resident and bringing the matter to a resolution. The respondent declined to make an apology and as such the Application for a finding of misconduct was lodged.

### Evidence provided

5. A Directions Hearing was listed and heard on 2 August 2024. Both parties agreed that an in-person Arbitration hearing was not required and were satisfied with the Arbiter making a decision based on the written evidence presented.
6. The parties both agreed on the facts as presented in the Application regarding the SMS exchange, and the prior request made by the applicant for the respondent to apologise.
7. The respondent conceded at the Directions Hearing that, on reflection, he did use offensive and disrespectful language and requested the applicant consider withdrawing the application on the basis that the respondent would provide an unreserved verbal and written apology immediately after the

Directions Hearing. He reflected his disappointment at his actions and wanted to bring the matter to a resolution without taking up anymore Council time or resources.

8. The applicant did not support the approach proposed by the respondent and requested the Arbiter make a Determination on the matter.
9. The applicant was invited to provide a written submission regarding an appropriate sanction in the event that a finding of misconduct was made.
10. The respondent was invited to provide a written response to the allegations made in the Application, and the submission as to sanction.
11. This Statement of Reasons does not summarise all of the information submitted to the Arbiter but refers to the information relied on by the Arbiter to make her decision.

### **The jurisdiction of the Arbiter in relation to this Application**

12. Section 143 of the *Local Government Act 2020* (the Act) provides that an Arbiter may hear an Application that alleges misconduct by a Councillor.
13. Pursuant to section 147 of the Act an Arbiter may determine whether or not a Councillor has engaged in misconduct.
14. "Misconduct" is defined in section 3 of the Act and is defined as follows:  
"... any breach by a Councillor of the prescribed standards of conduct included in the Councillor Code of Conduct."
15. The standards of conduct are set out in Schedule 1 to the Local Government (Governance and Integrity) Regulations 2020. The standard relevant to this matter provides as follows:

#### **1. Treatment of others**

A Councillor must, in performing the role of a Councillor, treat other Councillors, members of Council staff, the municipal community and members of the public with dignity, fairness, objectivity, courtesy and respect, including by ensuring that the Councillor –

- (c) does not engage in abusive, obscene or threatening behaviour in their dealings with members of the public, Council staff and Councillors; and
- (d) in considering the diversity of interests and needs of the municipal community, treats all persons with respect and has due regard for their opinions, beliefs, rights and responsibilities.

### **Evidence of the Applicant**

16. The applicant alleged that the conduct of the respondent fell short of that expected of a councillor and required by the prescribed standards of conduct.
17. The applicant did not accept the respondent's willingness to resolve the matter immediately following the completion of the Directions Hearing, submitting in his written evidence that a councillor with in excess of 16 years standing as a councillor was invited to resolve the matter before lodging the Application for a finding of misconduct and should have done so.
18. Regarding sanction, the applicant submitted that the Arbiter consider directing the respondent to attend or undergo training and/or counselling specified by the Arbiter.

### **Evidence of the Respondent**

19. In his written submission to the Arbiter, the respondent gave context to his ongoing and somewhat fractured interactions with the Meri-Bek resident who was engaged in the SMS exchange with the respondent. The respondent explained that he felt that he had been subjected to personal attacks by the resident, who in his opinion, has been attempting to destroy both his reputation and political career. The respondent also pointed out that the resident does not reside in his ward, or his area so has no direct need to engage in contact with him.
20. The respondent has blocked the resident on all forms of social media due to their interactions regarding culturally sensitive issues.
21. Regarding his tenure as a councillor, the respondent submitted that in sixteen years as a councillor there had not been one complaint lodged against him, and no prior issues with any residents or councillors.
22. Both at the Directions hearing and in his written submission, the respondent also reiterated that he had offered to apologise both verbally and in written form to the resident for the use of the word "vile", acknowledging it fell below the standard expected of a councillor. The respondent confirmed that at 10.49am on 2 August 2024 (at the completion of the Directions Hearing) he sent a text to the resident apologising for his previous text, and then at 10.57am sent a text to the applicant confirming he had apologised in writing to the resident.

### **Findings of the Arbiter and Reasons for the Arbiter's Decision**

23. The Arbiter is satisfied that the respondent engaged in conduct that fell below the standard expected of a councillor under Standard 1 of the *Local Government (Governance and Integrity) Regulations 2020* by engaging in

behaviour (via SMS) that was abusive, and also failed to afford the recipient of the SMS with dignity or respect.

24. Section 147(1) of the Act states:

“If after completing the internal arbitration process, the arbiter determines that a Councillor has failed to comply with the prescribed standard of conduct, the arbiter may make a finding of misconduct against the Councillor.”

25. Taking into account the particular matters outlined directly below at paragraphs 26 and 27, the arbiter has determined not to make a finding of misconduct in this instance.

26. While the respondent initially declined the applicant’s suggestion that he consider apologising to the resident, at the Directions Hearing the respondent unreservedly acknowledged that an apology was warranted, and sent a text to the resident apologising for his text of 13 April 2024 immediately after the Directions Hearing.

27. Given the contrition which the respondent showed during the Directions Hearing, his openness and willingness to both take accountability for and change his actions, the immediacy of his apology after the Directions Hearing and his outstanding record as a councillor - the Arbiter has determined that it is not appropriate to make a finding of misconduct in this instance, or direct remedial action of any nature. The respondent has already apologised to the resident of his own volition and this is acknowledged by the Arbiter.

**Jo-Anne Mazzeo**

Arbiter

Date: 31 August 2024