



Ordinary Meeting of Council Agenda

**to be held on Tuesday 6 March 2018 at 7.00pm
Collingwood Town Hall**

Arrangements to ensure our meetings are accessible to the public

Council meetings are held at either the Richmond Town Hall or the Fitzroy Town Hall. The following arrangements are in place to ensure they are accessible to the public:

- Entrance ramps and lifts (off Moor Street at Fitzroy, entry foyer at Richmond).
- Interpreting assistance is available by arrangement (*tel. 9205 5110*).
- Auslan interpreting is available by arrangement (*tel. 9205 5110*).
- A hearing loop is available at Richmond only and the receiver accessory is available by arrangement (*tel. 9205 5110*).
- Proposed resolutions are displayed on large screen.
- An electronic sound system amplifies Councillors' debate.
- Disability accessible toilet facilities are available at each venue.

Recording and Publication of Meetings

An audio recording is made of all public Council Meetings and then published on Council's website. By participating in proceedings (including during Public Question Time or in making a submission regarding an item before Council), you agree to this publication. You should be aware that any private information volunteered by you during your participation in a meeting is subject to recording and publication.

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Order of business

- 1. Statement of recognition of Wurundjeri Land**
- 2. Attendance, apologies and requests for leave of absence**
- 3. Declarations of conflict of interest (Councillors and staff)**
- 4. Confidential business reports**
- 5. Confirmation of minutes**
- 6. Petitions and joint letters**
- 7. Public question time**
- 8. General business**
- 9. Delegates' reports**
- 10. Questions without notice**
- 11. Council business reports**
- 12. Notices of motion**
- 13. Urgent business**

1. Statement of Recognition of Wurundjeri Land

“Welcome to the City of Yarra.”

“Yarra City Council acknowledges the Wurundjeri as the Traditional Owners of this country, pays tribute to all Aboriginal and Torres Strait Islander people in Yarra and gives respect to the Elders past and present.”

2. Attendance, apologies and requests for leave of absence

Anticipated attendees:

Councillors

- Cr Daniel Nguyen (Mayor)
- Cr Misha Coleman (Deputy Mayor)
- Cr Mi-Lin Chen Yi Mei
- Cr Jackie Fristacky
- Cr Stephen Jolly
- Cr Mike McEvoy
- Cr James Searle
- Cr Amanda Stone

Council officers

- Vijaya Vaidyanath (Chief Executive Officer)
- Andrew Day (Director - Corporate, Business and Finance)
- Ivan Gilbert (Group Manager - CEO's Office)
- Lucas Gosling (Acting Director - Community Wellbeing)
- Chris Leivers (Director – City Works and Assets)
- Bruce Phillips (Director - Planning and Place Making)
- Jane Waldock (Assistant Director - Planning and Place making)
- Fred Warner (Group Manager – People, Culture and Community)
- Mel Nikou (Governance Officer)

Apology

- Cr Danae Bosler

3. Declarations of conflict of interest (Councillors and staff)

4. Confidential business reports

Item

- 4.1 Contractual matters
- 4.2 Contractual matters
- 4.3 Personnel matters

Confidential business reports

The following items were deemed by the Chief Executive Officer to be suitable for consideration in closed session in accordance with section 89 (2) of the *Local Government Act 1989*. In accordance with that Act, Council may resolve to consider these issues in open or closed session.

RECOMMENDATION

1. That the meeting be closed to members of the public, in accordance with section 89 (2) of the *Local Government Act 1989*, to allow consideration of:
 - (a) contractual matters; and
 - (b) personnel matters.
2. That all information contained within the Confidential Business Reports section of this agenda and reproduced as Council Minutes be treated as being and remaining strictly confidential in accordance with the provisions of sections 77 and 89 of the *Local Government Act 1989* until Council resolves otherwise.

5. Confirmation of minutes

RECOMMENDATION

That the minutes of the Ordinary Council Meeting held on Tuesday 20 February 2018 be confirmed.

6. Petitions and joint letters

7. Public question time

Yarra City Council welcomes questions from members of the community.

Public question time procedure

Ideally, questions should be submitted to Council in writing by midday on the day of the meeting via the form available on our website. Submitting your question in advance helps us to provide a more comprehensive answer. Questions that have been submitted in advance will be answered first.

Public question time is an opportunity to ask questions about issues for which you have not been able to gain a satisfactory response on a matter. As such, public question time is not:

- a time to make statements or engage in debate with Councillors;
- a forum to be used in relation to planning application matters which are required to be submitted and considered as part of the formal planning submission;
- a forum for initially raising operational matters, which should be directed to the administration in the first instance.

If you wish to raise matters in relation to an item on this meeting agenda, Council will consider submissions on these items in conjunction with and prior to debate on that agenda item.

When you are invited by the meeting chairperson to ask your question, please come forward and take a seat at the microphone and:

- state your name clearly for the record;
- direct your questions to the chairperson;
- ask a maximum of two questions;
- speak for a maximum of five minutes;
- refrain from repeating questions that have been asked previously by yourself or others; and
- remain silent following your question unless called upon by the chairperson to make further comment or to clarify any aspects.

8. General business

9. Delegates' reports

10. Questions without notice

11. Council business reports

Item	Page	Rec. Page	Report Presenter
11.1 Edinburgh Gardens North Precinct Update	7	10	Justin Hanrahan – Manager Open Space and Recreation
11.2 Property Strategy	12	16	Ivan Gilbert – Group Manager Chief Executive’s Office
11.3 Submission to the Exposure Draft of the Local Government Bill 2018	17	20	Ivan Gilbert – Group Manager Chief Executive’s Office

The public submission period is an opportunity to provide information to Council, not to ask questions or engage in debate.

Public submissions procedure

When you are invited by the meeting chairperson to make your submission, please come forward and take a seat at the microphone and:

- state your name clearly for the record;
- direct your submission to the chairperson;
- speak for a maximum of five minutes;
- confine your remarks to the matter under consideration;
- refrain from repeating information already provided by previous submitters; and
- remain silent following your submission unless called upon by the chairperson to make further comment.

12. Notices of motion

Item	Page	Rec. Page	Report Presenter
12.1 Notice of Motion No 2 of 2018 - Review Fees for Community Garden Spaces	21	23	Misha Coleman - Councillor

13. Urgent business

Nil

11.1 Edinburgh Gardens North Precinct Update

Trim Record Number: D18/36014

Responsible Officer: Manager Open Space and Recreation

Purpose

1. To update Council on the results of consultation on the final Edinburgh Gardens Northern Precinct Playground Upgrade Plan and to seek endorsement of the final Edinburgh Gardens Northern Precinct Playground Plan.

Background

2. At the Council meeting on 19 December 2017, Council resolved as follows:
 - (a) *notes the officer report in relation to the Edinburgh Gardens North Precinct and playground update;*
 - (b) *notes and thanks the community for their contribution to the discussion on the proposed developments for both the northern precinct and the playground upgrade;*
 - (c) *endorses the final Edinburgh Gardens Northern Precinct Plan as shown in Attachment 4;*
 - (d) *endorses in principle the Edinburgh Gardens Northern Precinct Playground Upgrade Plan as shown in Attachment 5;*
 - (e) *authorises officers to commence detailed design for the playground upgrade works, provide a further report to Council covering how some suggestions raised in the consultation have been incorporated into the detailed design, and advise those who have participated in the consultation process the opportunity to provide further input into that detailed design;*
 - (f) *be advised on how the extensive queuing on weekends and other times of high demand, the existing multiple toilets in the Emely Baker Building and Cricket Pavilion can be re-designed to enable their public use to meet the needs for additional toilets in Edinburgh Gardens, while ensuring security to prevent access to the rest of the buildings when only the toilets need to be available for public toilet use; and*
 - (g) *be advised on proposed timeframes for the redevelopment of the other facilities scoped for the Northern Precinct.*
3. In response to resolution (b) and (e), Council officers prepared a further draft plan for the north precinct playground, thanked previous submitters for their involvement, and provided them the opportunity for to have their say on the revised plan.

External Consultation

4. Community members who participated in the consultation around 'Edinburgh Gardens North' during October 2017 were contacted on 1 February 2018, and invited to provide feedback on the final Edinburgh Gardens Northern Precinct Playground Upgrade Plan by 14th February 2018.
5. Participants were directed to the 'Enhancing Edinburgh Gardens' Your Say Yarra page which contained:
 - (a) a consultation report; outlining the consultation methodology, the key themes that emerged and how the feedback from the consultation influenced the draft plans;
 - (b) a consultation summary report; a one page document capturing the key messages from the report;
 - (c) a link to the Council resolution;
 - (d) an updated Edinburgh Gardens Northern Precinct Plan; and

- (e) a final concept plan for the playground upgrade (Attachment 1).
- 6. The consultation material for the second round of consultation can be found in Attachment 2.
- 7. A total of 6 submissions were received, with most expressing support for the final Edinburgh Gardens Northern Precinct Playground Upgrade Plan. The verbatim responses from the consultation along with the officer response can be viewed in Attachment 3.
- 8. Key changes to the plan in response to feedback from the community includes the following:
 - (a) provision of shade to the playground;
 - (b) additional tree planting;
 - (c) addition of play structures for infants and younger children;
 - (d) removal of equipment deemed to be less popular to accommodate more nature play as requested; and
 - (e) addition of a sand play area.

Public toilets in Edinburgh Gardens

- 9. Having regard to the Council resolution of 19 December 2017, officers have investigated the opportunity to review toilet provision in the Gardens, in particular, utilisation of toilets within the Emely Baker building and the Alfred Crescent pavilion and can advise as follows:
 - (a) provision of public toilets in Edinburgh Gardens is sufficient for the vast majority of days each year and, in order to reduce operating costs, half of the toilets at the northern facility are closed Monday-Friday over winter months;
 - (b) officers understand that in peak periods, the number of permanent toilets do not meet peak demand. For this reason, portable toilets are brought into the Gardens for the period December – March. The installation and hire cost of these temporary facilities is approximately \$8,400 for this period, with additional cleaning and servicing costs of approximately \$340 per week;
 - (c) the general public does not have access to toilet facilities at either the Emely Baker building, or the cricket pavilion. Both buildings are used by community groups through a booking process and the cricket pavilion is in use during the majority of days experiencing peak use (i.e. weekends between October and March);
 - (d) vandalism and misuse of public toilets is one of the most problematic issues facing public land managers and toilet facilities are designed to be robust as a consequence;
 - (e) the internal facilities of these buildings are not adequate for public toilets and the layout is such that to reconfigure the toilets to make them public accessible would make them inadequate for community use; and
 - (f) officers have identified public safety concerns within the sports pavilion if the toilets were publicly accessible due to the presence of cubicles for showers and toilets. As a result, redesigning the cricket pavilion facility would necessitate the removal of partitions and showers and would mean the facilities would not meet the desired service level for organised sport for both genders.

Internal Consultation (One Yarra)

- 10. Internal consultation was undertaken with the following areas:
 - (a) the Advocacy and Engagement unit to work through a plan for community engagement on this project;
 - (b) each of the branches within Recreation and Open Space Branch were involved in the development of the plans; and
 - (c) consideration of options for toilet provision within the Gardens was discussed with the Asset Management and Building Projects teams.

Financial Implications

11. The City of Yarra 2017/18 capital works budget includes \$400,000 for works associated with the design and construction of a new playground in the north of Edinburgh Gardens, as shown in Attachment 1. It is expected that the majority of this budget will be utilised by 30 June 2018.
12. Subject to funding being made available, a preliminary estimate and timeline for the other possible works in the Edinburgh Gardens North Precinct is provided in Table 1 below.

Projects for Edinburgh Gardens North Precinct	Cost estimate	Estimated time for completion
Tree planting	\$10,000	2018/19
Activity precinct consultation and design	\$75,000	2020/21
Basketball half-court construction	\$35,000	2021/22
Relocation of table tennis table	\$5,000	2021/22
Construction of skate and BMX park expansion	\$775,000	2021/22
Park infrastructure and furniture (drinking fountains, seats, etc.)	\$25,000	Ongoing as part of project delivery and regular park upgrade works.
TOTAL	\$925,000	

Table 1 – Project timeline

13. Future projects proposed in the Edinburgh Gardens North Precinct Plan would be subject to available funding applied for as part of the annual capital works bids process.

Economic Implications

14. There are no economic implications associated with this report.

Sustainability Implications

15. The proposal includes new tree planting and this would provide carbon sequestration benefits and contribute to a reduction in the urban heat island effect.
16. Recycled and sustainable materials would be used for the playground works where possible.
17. The existing playground equipment would be recycled and/or repurposed where possible.
18. Other items associated with the playground would be removed and recycled where possible or disposed of in an environmentally responsible way.
19. Excess soil from the project would be re-used on site where possible to minimise the need for disposal.

Social Implications

20. The new playground would provide better play facilities which complement the playground in the south of Edinburgh Gardens and allow increased usage and opportunities for social interaction.

Human Rights Implications

21. There are no human rights implications associated with this project.

Communications with CALD Communities Implications

22. Consultation materials included a translation panel containing advisory text in eight languages: Vietnamese, Greek, Mandarin, Cantonese, Italian, Turkish, Arabic and Spanish.

Council Plan, Strategy and Policy Implications

23. The final Edinburgh Gardens Northern Precinct Playground Upgrade Plan is supported by the following:
 - (a) Council Plan 2017-2021: A Healthy Yarra:

- (i) Strategy 1.1 - *“Maintain and enhance Yarra’s open space network to meet the diverse range of community uses”*;
- (b) Urban Forest Strategy (2017):
 - (i) Target – *“Canopy cover in Yarra will increase by 25% (from 2014 levels) by 2040”*
- (c) Draft Edinburgh Gardens Master Plan (2004):
 - (i) Objective 6.2.2 - Activities and Recreation;
 - (ii) Objective 6.2.3 – Infrastructure and Built Fabric; and
 - (iii) Objective 6.2.4 – Landscape; and
- (d) Draft Edinburgh Gardens Conservation Management Plan (2004):
 - (i) 6.4 - General Conservation Policies, including Use and Public Access; New Buildings and Elements; Skate Park; and, Playgrounds.

Legal Implications

24. Edinburgh Gardens is covered by a Heritage Overlay (HO213), accordingly a town planning permit would be required for removal of existing infrastructure. With regards to construction of new infrastructure, an opinion on whether a planning permit is required would be sought on a case by case basis.

Other Issues

25. No issues.

Options

26. There are two options for consideration by Council:
- (a) Option 1 - Endorse the final Edinburgh Gardens Northern Precinct Playground Upgrade Plan and authorise Officers to proceed to preparation for construction; and
 - (b) Option 2 – Direct officers to review the final Edinburgh Gardens Northern Precinct Playground Upgrade Plan and present the updated plan to Council for endorsement at a future date.

Conclusion

27. There has been support for the revised playground upgrade plan, in particular the addition of shade and the incorporation of more nature play opportunities.
28. Other parts of the Edinburgh Gardens North Precinct Plan (as outlined in paragraph 12 above) could be funded by Council in future budgets.

RECOMMENDATION

1. That Council:
- (a) notes the further officer report regarding the Edinburgh Gardens Northern Precinct Playground Upgrade Plan;
 - (b) notes and thanks the community for their contribution to the discussion on the revised playground upgrade plan;
 - (c) endorses the final Edinburgh Gardens Northern Precinct Playground Upgrade Plan (refer Attachment 1); and
 - (d) notes that \$400,000 in funding is available in the 2017/18 Open Space Capital Works Budget and authorises officers to commence construction works on the upgrade of the Edinburgh Gardens north playground.

CONTACT OFFICER: Julia Mardjuki
TITLE: Open Space Planner
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Attachments

- 1 Edinburgh Gardens North Final Playground Concept Plan
- 2 Edinburgh Gardens North Precinct - consultation material February 2018
- 3 Edinburgh Gardens North Precinct - verbatim responses consultation February 2018

11.2 Property Strategy

Trim Record Number: D18/14546

Responsible Officer: Chief Executive Officer

Purpose

1. To consider and adopt a:
 - (a) **Property Strategy** which will provide an holistic framework for the responsible overarching management of Council's property portfolio; and
 - (b) **Property Strategy Assessment Framework** which will importantly, set the guiding principles for all future assessments of the need for and appropriate use of properties in the portfolio;

in a manner which will both guide ongoing alignment of the portfolio with Council's property management obligations, in a manner which will maximise the community benefit and service delivery opportunities from each property in the portfolio.

Background

2. The 2017/2018 Budget was resolved on 1 August 2017 and a number of items for review and consideration were noted. These items included Council's determination to:

Complete the delivery of a comprehensive property management strategy with targets to increase revenue from more effective use of assets and prudent management of assets surplus to Council needs.

3. The purpose of the Property Strategy is to accord with Council's obligations under the *Local Government Act 1989 (The Act)*, including, "*maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner*"; and thus, to provide a clear charter for guiding and directing the manner in which Council will undertake ongoing management of the property portfolio on behalf of its community.
4. As background I note the presentations:
 - (a) Property Strategy as **Attachment 1**; and
 - (b) Property Strategy Assessment Framework as **Attachment 2**.

Property Strategy:

5. The Property Strategy is founded on the following overarching principles, that:
 - (a) Council is the custodian on behalf of the community, of a wide range of land parcels and buildings, and there is a statutory obligation to manage these assets in a responsible and accountable manner;
 - (b) it will drive the Council's approach to managing property in the context of:
 - (i) the appropriate maintenance of the property's condition and value:
 - a. *(i.e. it is appropriately protected from deterioration in a manner to ensure the asset value is maintained);*
 - (ii) monitoring any risk issues *(i.e. to minimise / mitigate any risks to Council from its properties);*
 - (iii) ensuring the property is both appropriate and fit for purpose:
 - a. *(i.e. is its location and design most appropriate for maximum community benefit, service and delivery?); and*
 - b. *(undertaking periodic inspection to ensure any essential works are carried out to ensure a "fit for purpose status" is maintained); and*

- (iv) overall maximising the efficient use of the property for community benefit / service delivery requirements:
 - a. *(i.e. the property is managed in a manner to achieve this principle); and*
- (c) it will guide any future consideration of the acquisition, disposal or other form of management, of properties within a community infrastructure and service delivery framework.

Property Strategy Assessment Framework:

- 6. The Property Strategy Assessment Framework will separately, provide guidance in the process of undertaking any review and assessment of properties for future consideration and actioning by Council, by taking into account such as:
 - (a) its purpose and objectives;
 - (b) demands for community services in the locality and suitability for providing the dedicated services from that property;
 - (c) the key principles and guidelines;
 - (d) the property classes and types:
 - (i) *open space, roads, buildings, etc.; and*
 - (ii) *freehold ownership, manager, leasee, etc.; and*
 - (e) the makeup and function of a “Property Review Group”;
 - (f) a range of essential “assessment criteria” to be applied;
 - (g) the important nature of the several Phases of assessment and Reporting to Council, including:
 - (i) legislative and statutory requirements;
 - (ii) risk management criteria; and
 - (iii) community engagement.
- 7. The critical aspect arising from the Property Strategy is that **before** any determination is made on the future of any property, it will be necessary to undertake the comprehensive Assessment Framework process, which will include reviewing the range of assessment criteria as noted in this report.
- 8. The Property Strategy Assessment Framework will require particular focus on the properties required for community service delivery.
- 9. The questions of when does a property become suitable for consideration of change. To assist in informing decision making, questions will include such as:
 - (a) Is the building fit for purpose and if not, provide an outline of deficiencies and estimated costs?
 - (b) Are there any sustainability implications and if so, define these?
 - (c) Does the Community Infrastructure Framework advise any relevant issues?
 - (d) Is there a community attachment to the property and if so, define?
 - (e) Capacity and Current Usage data?
 - (f) Are there any Service Delivery implications and if so, outline same?
 - (g) Are there any cost factors involved, and if so, define?
 - (h) Are there any risks to Council and if so, define?
- 10. The Property Strategy Assessment Framework process will also present the following property management information which will provide context for possible future actions and outcomes to be considered by Council:

- (a) possible cooperative arrangements with other organisations to enhance service delivery and/or to maximise return on investment;
- (b) options for generating / increasing value from underperforming assets;
- (c) options for reorganising property assets to maximise portfolio value in terms of improved service delivery potential or decreased maintenance expenses;
- (d) operational efficiencies by creating better operational economies of scale; and
- (e) potential new revenue streams.

External Consultation

11. There has not been external consultation on the Strategy or Assessment Framework. Importantly, the *Local Government Act 1989* does require formal community consultation on a range of specific events, e.g. the leasing of land and the sale of land must be publicly advertised and community submissions invited and formally considered by Council. In the instance that the processes outlined in the Strategy Assessment Framework as Phases 1 to 3 led to Council making a determination to propose a lease or sale, the statutory requirement to undertake external consultation would apply.

Internal Consultation (One Yarra)

12. Preparation of the Strategy and Assessment Framework were projects which have actively engaged all relevant branches of the Executive.

Financial Implications

13. The intention of each of the Property Strategy and the Property Strategy Assessment Framework is to have an over-arching standard process to direct the manner in which overall management of Council's property portfolio shall be undertaken.

Economic Implications

14. The Council on behalf of its community has substantial resources invested in its property portfolio and it is a primary responsibility on Council's to maintain the viability of the Council by ensuring that resources are managed in a responsible and accountable manner. The Strategy and Assessment Framework are framed to formally guide consideration of economic implications.

Sustainability Implications

15. The environmental implications of managing a large portfolio of properties inclusive of many buildings, is captured in the Building Asset Management Plan (2013). Council is successful in addressing ways to reduce carbon emissions, embed climate change adaptation into decision making, minimise waste, etc., into the normal operating processes for managing its properties.

Social Implications

16. Council's property portfolio has a direct connection with Council's service delivery standards and cost implications. The task is desirably for Council's to maximise the public benefit from its property portfolio through such as, the most suitable form, most appropriate location and use to deliver these principles.

Human Rights Implications

17. There are no specific Human Rights Implications associated with this report.

Communications with CALD Communities Implications

18. There are no specific Communications with CALD Communities implications associated with this report.

Council Plan, Strategy and Policy Implications

19. The Proposed Council Plan 2017-2021, provides direction in the first objective: *The City of Yarra, a place where Community, Health, Safety and Wellbeing are a focus in everything we do.*

Legal Implications

20. In terms of managing its property holdings, the *Local Government Act 1989* includes requirements that a Council shall:
- (a) provide and maintain community infrastructure in the municipal district;
 - (b) maintain the viability of the Council by ensuring that resources are managed in a responsible and accountable manner; and
 - (c) publicly advertise any notice of intention to lease or to dispose of land and to seek community submissions prior to making a final determination on leases or sales.
21. Depending upon the nature of any proposed lease, sale, joint venture or other innovative arrangement, there may well be other specific legal implications and costs associated with proposed projects.

Other Issues

22. Nil noted.

Options

23. Nil noted.

Conclusion

24. As noted:
- (a) the adoption of the **Property Strategy** will importantly, set an overarching framework for Council to strategically guide the process for management of its property portfolio;
 - (b) the adoption of the **Property Strategy Assessment Framework** will importantly, set the process for the **later** comprehensive review of individual properties (*proposed to be presented to Council over the next six months*), to assist the Council in its progressive consideration of individual properties in its portfolio, in a manner which will enable Council to:
 - (c) meet its statutory obligations;
 - (d) consider the existing and future needs of the community;
 - (e) take into account the adequacy of current community facilities and community expectations;
 - (f) be aware of any exposure to risk; and
 - (g) consider and assess the most effective and efficient use of its resources.

RECOMMENDATION

1. That Council:
 - (a) adopt the Property Strategy (**Attachment 1**);
 - (b) adopt the Property Strategy Assessment Framework (**Attachment 2**); and
 - (c) note that Officers will progressively present reports prepared in accord with the Property Strategy Assessment Framework, to assist the Council in its progressive consideration of individual properties in its portfolio, in a manner which will enable Council to:
 - (i) effectively meet its statutory obligations;
 - (ii) consider the existing and future needs of the community;
 - (iii) take into account the adequacy of current community facilities and community expectations;
 - (iv) be aware of any exposure to risk; and
 - (v) consider and assess the most effective and efficient use of its resources.

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Attachments

- 1 Property Strategy
- 2 Property Strategy Assessment Framework

11.3 Submission to the Exposure Draft of the Local Government Bill 2018

Trim Record Number: D18/38448

Responsible Officer: Group Manager Chief Executive's Office

Purpose

1. To seek Council endorsement of the draft Yarra City Council submission to the Exposure Draft of the Local Government Bill 2018 (refer to the draft submission attached as **Attachment 1**).

Background

The Review

2. Since late 2015, the State Government has been undertaking a comprehensive review of the *Local Government Act 1989* (the Act). In launching this review, the then Minister for Local Government, Hon Natalie Hutchins said "*we want to build an Act that creates strong, accountable and responsive local government, and an Act that reflects and responds to the needs of our state*" (media release 7 September 2015). The review does not extend to a review of legislation for Acts for which the Minister does not have responsibility.
3. The first stage of the review was the release of a consultation paper which focussed on community feedback, and in particular seeking feedback about what people expect of their local Councils and what they believe the appropriate role of Councils is now and into the future. It also questioned the level of consultation and engagement with communities by Councils about key decisions, and complaint handling.
4. Yarra City Council submitted a formal response to the Discussion Paper in December 2015.
5. In June 2016, a Directions Paper was released, which identified the challenges posed by existing legislative requirements and sets out the reforms proposed in the development of a new Act. The paper (which is available at www.yourcouncilyourcommunity.vic.gov.au) described the following ten major reform directions:
 - (a) **Mayors leading councils:** Enable a mayor to provide greater leadership to their council by having two-year terms and extending their powers and responsibilities;
 - (b) **Consistent representative structures:** Improve the consistency of council representative structures by establishing a consistent formula for determining councillor numbers and having councils either be un-subdivided or consist entirely of uniform multi-member wards;
 - (c) **Consistent, simpler voting arrangements:** Simplify voting arrangements for council elections by using the state roll to determine eligible voters (except in the City of Melbourne), introducing partial preferential voting and having a consistent voting method for all Council elections determined by the Minister;
 - (d) **Deliberative community engagement:** Require councils to undertake a deliberative community engagement process before adopting a four-year Council plan by December of the year after their election;
 - (e) **Integrated, strategic planning and reporting:** Require Councils to have an integrated strategic planning and reporting framework including (as well as the four-year council plan) a 10-year community plan, 10-year financial plan and 10-year asset plan;
 - (f) **Effective Ministerial intervention:** Strengthen the Minister's powers to deal with individual Councillors who are contributing to or causing serious governance failures at a Council;
 - (g) **Transparent CEO employment and performance:** Require all Councils to have a CEO remuneration policy and to have an independent advisory mechanism to guide recruitment, contractual arrangements and performance monitoring of CEOs;

- (h) **Power to innovate and collaborate:** Improve the financial sustainability of Councils and strengthen their capacity to be innovative and to undertake collaborative activities;
 - (i) **A consistent rating system:** Establish a single method for valuing land for rates, modernise exemptions from rates and increase transparency in the levying of differential rates; and
 - (j) **Autonomous decision-making balanced by a principle-based Act:** Extend autonomy to Councils by deregulating Council decision-making processes and replacing them with high-level principles requiring transparency and accountability.
6. Yarra City Council submitted a formal response to the Directions Paper in September 2016.
7. In November 2017, the government released the Exposure Draft of the Local Government Bill 2018, which progressed many of the proposed changes from the Directions Paper (and introduced some additional ones) and set them out in legislation. The purpose of the Exposure Draft is to provide an opportunity to identify inconsistencies, omissions and other problems with the Bill before it is introduced into Parliament.
8. The major reform directions described by the Minister for Local Government are:
- (a) *“Mayors will provide greater leadership to councils by adopting more extensive responsibilities and undertaking a commitment to report progress annually to their communities on the Council Four Year Plan;*
 - (b) *Consistency of council representative structures will be improved by establishing a consistent formula for determining councillor numbers and having councils un-subdivided or comprise uniform councillor numbers per ward;*
 - (c) *We will increase participation, formal voting and fairness in council elections by adopting a consistent voting method for all elections (attendance, postal or electronic);*
 - (d) *Councils will undertake deliberative community engagement processes before adopting a four-year Council Plan and four-year Budget so communities better inform strategic directions and spending priorities of council;*
 - (e) *Councils will integrate strategic planning and reporting and adopt a long-term approach, comprising a four-year Council Plan, a four-year Council Budget, a long-term community vision, 10-year financial plan and 10-year asset plan;*
 - (f) *The Act will strengthen the Minister’s powers to deal with individual councillors who are contributing to or causing serious governance failures at a council;*
 - (g) *All councils will have a CEO employment and remuneration policy and an independent advisory mechanism to guide recruitment, contractual arrangements and performance monitoring of the CEO;*
 - (h) *Councils will have greater autonomy with prescriptive decision-making processes replaced by a requirement to comply with high-level principles requiring transparency, accountability and sound financial management;*
 - (i) *Financial sustainability of councils will be strengthened as the Act reinvigorates their capacity to innovate and collaborate with other councils, other government agencies and the private sector; and*
 - (j) *The new Act will establish a single method for valuing land, clarify exemptions from rates and increase transparency in the levying of differential rates.”*
9. The sector is invited to make submissions on the Exposure Draft until 16 March 2018.
- Our submission
10. The attached draft submission is presented in three parts:
- (a) Part One: responds to the process itself, and expresses concern that the changes are being rushed and that much of the work is unfinished;

- (b) Part Two: builds on the previous submissions and reiterates Council's opposition to four key issues: creating new powers for the Mayor; removal of attendance voting; making CIV valuation mandatory and broadening the Minister's powers to intervene; and
- (c) Part Three: identifies a range of specific implementation problems that would occur if the Exposure Draft became law and suggests some specific improvements to the drafting and identifies some minor administrative matters which should be addressed before the Bill is presented to Parliament.

External Consultation

- 11. No external consultation has been conducted in relation to this stage of the project.

Internal Consultation (One Yarra)

- 12. Preliminary internal consultation has been undertaken, including circulation of relevant information to Yarra's Senior Management Team and key staff.

Financial Implications

- 13. There are no direct financial implications arising from this stage of the review.

Economic Implications

- 14. There are no direct economic implications arising from this stage of the review.

Sustainability Implications

- 15. There are no direct sustainability implications arising from this stage of the review.

Social Implications

- 16. There are no direct social implications arising from this stage of the review.

Human Rights Implications

- 17. The Exposure Draft has been accompanied by the a Statement of Compatibility with the *Charter of Human Rights and Responsibilities Act 2006* which identifies the interaction between the Bill and the Human Rights Charter. These interactions and limitations are all proportionate to the purpose of the legislation and officers have no concerns with the assessment.

Communications with CALD Communities Implications

- 18. As there has not been a need to undertake external consultation, there are no CALD communications implications arising from this stage of the review.

Council Plan, Strategy and Policy Implications

- 19. There are no direct policy implications arising from this stage of the review.

Legal Implications

- 20. While the wholesale review of the Local Government Act will likely have significant legal implications for Council, there are no specific legal issues arising at this stage of the review.

Other Issues

- 21. There are no other identified issues arising from this stage of the review.

Conclusion

- 22. The City of Yarra's submission of a response to the Exposure Draft of the Local Government Bill 2018 provides an opportunity both to influence the review and to signal Council's intention to pursue the policy issues which remain outstanding.

RECOMMENDATION

1. That in response to the Victorian Government's ongoing review of the Local Government Act 1989 and specifically the publication of the Exposure Draft of the Local Government Bill 2018, Council:
 - (a) endorse the *Yarra City Council – Submission to the Exposure Draft of the Local Government Bill 2018* attached to this report as Attachment 1; and
 - (b) submit the endorsed response to the Local Government Act Review Secretariat by 16 March 2018.
2. That the Mayor send copies of Council's submission to:
 - (a) The Hon. Marlene Kairouz MP, Minister for Local Government;
 - (b) David Morris MP, Shadow Minister for Local Government;
 - (c) Samantha Dunn MP, Local Government portfolio holder, Victoria Greens; and
 - (d) Lizzie Blandthorn MP, Chairperson, Scrutiny of Acts and Regulations Committee.

CONTACT OFFICER: Rhys Thomas
TITLE: Senior Governance Advisor
TEL: 9205 5302

Attachments

- 1 Yarra City Council Submission to the Exposure Draft of the Local Government Bill 2018 (draft)

12.1 Notice of Motion No 2 of 2018 - Review Fees for Community Garden Spaces

Trim Record Number: D18/40595

Responsible Officer: Group Manager Chief Executive's Office

I, Councillor Misha Coleman, hereby give notice that it is my intention to move the following motion at the Ordinary Meeting of Council to be held on 6 March 2018:

“That Council revise the adopted fee for community growing spaces to \$0 for 2017/18.”

Purpose

1. To encourage and support urban agriculture and community planting, which is a low-cost, high value activity that is consistent with the City of Yarra’s sustainability agenda and is embedded in a number of strategic plans and strategies across our operations.

Background

2. In 2017 Council introduced an annual fee of \$55 for community growing spaces (planter boxes, nature strips and fruit trees). The purpose of the fee was to:
 - (a) discourage uncommitted or uncertain residents from applying for the program; and
 - (b) raise revenue to offset some of the rising costs of running the program.
3. It was clear from the documentation provided by the City of Yarra to the residents who adopted the planter boxes, that no fees would be incurred to residents. Furthermore, there was no indication that fees would be introduced in the future either.
4. Additionally, it was not made clear to Councillors in the 2017/2018 budget documents that this new fee was being introduced.
5. Therefore, following petitions received and feedback from many of these early adopter residents, a temporary hold on applying the fee was implemented in November 2017. Applications and renewals for 2017/18 are thus not being processed pending a decision on whether or not a fee should be charged and if yes, the level of fee that is appropriate.
6. In 2012, Council introduced urban agriculture guidelines under the “Community Growing Spaces” program to manage ‘guerrilla’ gardening that has occurred on Council-managed land. The program provides an opportunity for the community to work together, building more resilient and liveable neighbourhoods through growing, producing and sharing fresh and healthy food. The program creates small gardens located on public land, supported by Council, tended and cared for by the community. These are an effective means of inspiring and enabling food growing in the city and building social and economic wellbeing in communities. For further information on the program can be found at <https://www.yarracity.vic.gov.au/services/living-sustainably/grow-your-own-food/how-do-i-get-a-planter-box-or-a-laneway-garden#tab-planter-boxes>
7. The ‘growing spaces’ covered by this program include nature strip gardens and planter boxes. Planter boxes provide the vast majority of the growing spaces.
8. The number of planter box applications has risen over the last few years going from 7 in 2012 to 58 in 2017. There are now 120 agreements with 161 planter boxes, which average out to:
 - (a) 24 agreements/year since the commencement of the program of 2012, or;
 - (b) an average of 32 planter boxes/year since the commencement of the program of 2012.
9. Most of the growing spaces are well-cared for, however, there are some ongoing issues which require attention:

- (a) this care and attention is largely provided by the residents in the streets where they are positioned, noting that to date this has been a free program;
 - (b) for the minority that are not actively cared for by residents, it's considered that any care required is a highly worthwhile use of Council funds and that this expenditure is entirely consistent with our Urban Agriculture agenda; and
 - (c) the current annual cost of the material for the boxes is estimated to be \$8500. This cost is likely to grow due to increasing numbers of applications and rising delivery costs.
10. As a result of the temporary hold on the application of a fee, current community growing space users have not yet been invoiced for the 2017/18 year.

Consultation

11. In May 2015, a nominal fee of \$55 for community growing spaces was presented to the Yarra Urban Agriculture Advisory Committee. The Committee did not oppose the then proposed fee.
12. An annual fee of \$55 for community growing spaces was included in the 2017/2018 budget and subsequently adopted.
13. After the approval of the 2017/2018 budget, letters were sent to all participants of the community growing spaces program (120 people). Council received 17 responses to this letter, objecting to the new fee. A petition opposing the fee was tabled at the Council meeting on 6th December 2017. The petition was signed by 32 people, 4 of whom had also written a submission opposing to the fee and 18, who did not own a planter box.

Financial Implications

14. The available budget for materials is \$8500 per annum.
15. A summary of costs is provided below:
- (a) Planter box construction \$135/box
 - (b) Delivery from depot to site \$50/box
 - (c) Robust plaque \$18.50/box
 - (d) Planter box removal \$70/box
 - (e) TOTAL MATERIAL COSTS: \$273.50/box
16. Without a fee, a maximum of 31 new boxes per year could be installed (based upon current material costs). The program popularity (based on attendance numbers at workshops) indicates that demand may exceed this capacity, which would be a desirable outcome in terms of urban agriculture objectives.
17. The projected demand should be considered in terms of budget allocation for 2018/2019 (i.e. consideration as to whether the available budget of \$8500 should be increased or not).

Legal Implications

18. As the community garden spaces are located on public land, the Council is responsible/accountable for ensuring any community safety and public risk management issues are addressed. This will require that the garden spaces are monitored and managed according to the Council's adopted Guidelines and will include that periodic inspections be undertaken by the responsible officer.

Options

19. In a recent briefing paper three options have been presented for consideration:
 - (a) retain the fee at the current budgeted rate of \$55 per year;
 - (b) remove the approved budgeted fee; and
 - (c) retain the \$55 fee and introduce a concession rate of \$27.50 per annum per agreement.

20. For the minority of planter boxes that are not actively cared for residents, it's considered that any care required is a highly worthwhile use of Council funds and that this expenditure is entirely consistent with our Urban Agriculture agenda, as is the provision of a small number of new boxes (31).

RECOMMENDATION

1. That Council revise the adopted fee for community growing spaces to \$0 for 2017/18.