

7.5 Musca Street Reserve - on-lead park

Executive Summary

Purpose

The purpose of this report is to whether there should be any change to the dog on lead designation of Musca Street Reserve in response to community requests. The report explains the origins of the request, which relate to the replacement of incorrect signage at Musca Street Reserve to correctly reflect the reserve's status as 'dog on-lead'. The report provides a review of the suitability of the reserve for off-lead use and concludes the status should continue to be on-lead. Any future reconsideration of the dog on-lead status should wait until the completion of the construction of the North-East Link Project (NELP) in 2027.

Background

Musca Street Reserve, located at 31 Orion Street Balwyn North is a multipurpose shared use facility. It is the site of a designated arboretum and has an area of open green space utilised for unstructured recreational use.

It is one of three reserves located along the Eastern Freeway between Burke and Bulleen Roads including Leonis Avenue Reserve and Columba Street Reserve. None of these small reserves are designated as off-lead areas under Council's Order No.1 Control of Dogs (Order) made under Section 26 of the *Domestic Animals Act 1994* and therefore, dogs must be on-lead.

As a result of an investigation by an Officer regarding an alleged 'dog rush' at Musca Street Reserve in December 2020, contradicting signs were identified as obsolete and in conflict with the Order at one entrance to the reserve and compliant with the Order, at other entrances. Having confirmed Musca Street Reserve was not designated to allow dogs to be exercised off-lead, the incorrect signs were replaced in February 2021 (**Attachment 1**).

Three complaints were subsequently received from local residents regarding the change to the signs advising they had Musca Street Reserve to exercise their dogs off-lead for many years. At the Council meeting on 24 May 2021 during question time, this matter was again raised by one of these residents, where it was asked whether Council will seek to classify Musca Street Reserve as an off-lead dog park. The Director of Urban Living responded that a report will be presented to Council for consideration.

A large section of Musca Street Reserve, approximately 50%, is now under the control of the NELP until it is completed, which is anticipated in 2027 (**Attachment 2**). It is understood the NELP construction and additional large scale infrastructure works will impact the amenity of a large portion of the designated area and potentially the remaining surrounding space as large vehicles move through.

Key Issues

- The Order lists all designated Council parks and reserves where dogs can be exercised off-lead and, details the obligations of dog owners when walking their dog in a reserve or public place both on and off-lead. Musca Street Reserve is not designated and as such dogs can only be exercised on-lead.

- Two signs, one obsolete and the other incorrect, were identified at Musca Street Reserve indicating to a dog owner for example, entering the reserve (*Figure 1*) that it could be used to exercise their dog off-lead. Correct signs were also identified in the reserve indicating it was for on-lead use.
- It is recognised the combination of conflicting signs may have contributed to the potential for confusion on the appropriate (on-lead) use of the reserve by some dog owners and other visitors to the area. Further, that some local residents may have likely relied on the presence of the two incorrect signs at Musca Street Reserve and exercised their dog off-lead for many years.
- Ensuring a balance in shared-access to facilities which are not available for off-lead exercising of dogs, is an important consideration in this assessment. This view was supported in community feedback received during the recent consultation on the Boroondara Community Plan 2021-2031.
- Approximately 50% of Musca Street Reserve is designated for use by the NELP. The reserve is under the exclusive control of the NELP and will potentially be restricted from use by the community for an extended period. The scope, extent and timing of the NELP and the large infrastructure works, remain unclear.
- Residents already have two nearby designated reserves; Hays Paddock and Koonung Creek Reserve, which are located approximately a five-minute and a fifteen-minute walk respectively from Musca Street Reserve (**Attachment 3**).
- A review of the potential for Musca Street Reserve to be utilised as a dog off-lead area has been undertaken having considered the following:
 - o The primary intended purpose of the area
 - o Available neighbouring facilities
 - o Amenity - considering the needs and expectations of all stakeholders
 - o Animal Management Concerns
 - o Sensitive interfaces
 - o Local infrastructure
 - o Occupation by the North East Link Project

Next Steps

Council considers and decides on the Officer's recommendation to maintain Musca Street Reserve as an on-lead park. On the completion of the NELP in 2027, the designation of the park could be reviewed should Council consider this in the public interest.

Officers' recommendation

That Council resolve to maintain Musca Street Reserve as an on-lead park and note that on the completion of the North East Link Project the designation of the park could be reviewed should this be considered in the public interest.

Responsible director: **Scott Walker, Director Urban Living**

1. Purpose

The purpose of this report is to whether there should be any change to the dog on lead designation of Musca Street Reserve in response to community requests. The report explains the origins of the request, which relate to the replacement of incorrect signage at Musca Street Reserve to correctly reflect the reserve's status as 'dog on-lead'. The report provides a review of the suitability of the reserve for off-lead use and concludes the status should continue to be on-lead. Any future reconsideration of the dog on-lead status should wait until the completion of the construction of the North-East Link Project (NELP) in 2027.

2. Policy implications and relevance to community plan and council plan

There are multiple Council strategies, plans, Local Laws and a Council Order which are relevant for consideration in this matter. The key documents include:

Boroondara Community Plan 2021-2031

Addresses the management of all reserves regarding their use, specifically: Theme 2: Parks and Green Spaces, Strategic objective - Green and open spaces are provided, well-utilised and enhanced.

Boroondara Open Space Strategy 2013-2026

This strategy aims to increase and improve public amenities and facilities in open spaces to enhance functionality for a wider range of uses. Musca Street Reserve forms part of the extensive recreational and overstorey habitat corridor connected by the Koonung Creek Trail.

Council Order No.1 Dog Control

Dog off-lead reserves are designated by Council Order No.1 Dog Control (Order) made under Section 26 of the *Domestic Animals Act 1994*. The Order allows for a dog owner to exercise their dog off-lead at a designated facility however, this must be in accordance with prescribed obligations including to maintain effective control of their dog by either voice, hand or lead.

Amenity Local Law 2019 and the Victorian *Domestic Animals Act 1994*

Additional and enforceable obligations of dog owners are prescribed in each document including for example dog owners having to clean up after their dog and having sufficient receptacles to do so and, controlling their dog's behaviour toward other dogs or people.

City of Boroondara *Domestic Animal Management Plan 2017-2021*

Details Council's strategic approach to the delivery of domestic animal management services including meeting its legislative obligations.

3. Background

3.1 Dog off-lead facilities

The City of Boroondara has 245 parks, gardens, reserves, sporting grounds and open spaces of varying sizes and sensitivity. Of these, 46 are designated by the Order allowing dog owners to exercise their dogs off-lead.

These 46 facilities however, represent 53% or the majority, of all open space in the municipality currently designated and available for off-lead use.

In Balwyn North and the adjacent East Kew, there are 36 (of the 245) parks, gardens, reserves, open spaces and sporting grounds comprising approximately 153 hectares of land. Of these, 11 are available to dog owners to exercise their dog off-lead.

These 11 off-lead facilities account for 67% of the available parks reserves, open space and sporting grounds in Balwyn North and East Kew or approximately 103 hectares. Comparatively, a significant proportion of the available open space has been dedicated to off lead use.

Not only is the area of land allocated to dog off-lead use greater than for on-lead within the municipality, but in comparison to our neighbouring Councils, the City of Boroondara has the greatest total number of dog off-lead facilities available to its community.

Municipality	Dog off-lead facilities
Boroondara	46
Whitehorse	22
Stonnington	27
Yarra	30
Monash	31

3.2 Locality

Musca Street Reserve is located at 31 Orion Street Balwyn North and is bound by Old Burke Road, The Boulevard, Musca and Orion Streets with the northern border being the Eastern Freeway as shown in *Figure 1*. It is a multipurpose shared space, utilised by local residents and visitors alike and is used for unstructured exercise, social gatherings and dog walking.

Approximately twenty-nine residential properties adjoin Musca Street Reserve while all other neighbouring properties are separated by a road. The local area is entirely residential.

Located along the entirety of the reserve's northern border is the Koonung Creek Trail which intersects with the Main Yarra Trail in Musca Street Reserve as shown in *Figure 2*. Both trails are subject to high levels of bicycle and pedestrian traffic.

Musca Street Reserve is one of three reserves including Leonis Avenue Reserve and Columba Street Reserve located along the Eastern Freeway between Burke and Bulleen Roads.

None of these small reserves have been designated and are subsequently not listed in the Order which details all Council parks and reserves where dogs can be exercised off-lead and, the obligations of dog owners when in a reserve or public place either on, or off-lead.

Musca Street Reserve is identified for inclusion in an extensive Council plan to restore and improve the amenity and community benefit of its open spaces. The topography of Musca Street Reserve highlights its suitability and subsequent classification as an 'arboretum'.

The area provides an opportunity for growing a diverse range of plants and will be an exemplar of urban tree diversity. Musca Street Reserve also has an area of passive open green space and is utilised for unstructured recreational use.



Figure 1: Site map of Musca Street Reserve Red star locates the signs replaced. Blue stars locate correct signs already in place.



Figure 2 Koonung intersecting bike paths

3.3 Change to signs and complaints

In December 2020 during an investigation of an alleged 'dog rush' complaint, an Officer identified multiple conflicting signs at Musca Street Reserve indicating the area could be used to exercise dogs off-lead and on lead (**Attachment 1**).

Prior to any change to the signage, it was confirmed Musca Street Reserve was not designated by the Order and therefore, not an area where dogs could be exercised off-lead. During February 2021, the incorrect and conflicting signs were removed and replaced with the correct dog on-lead signs in addition, to those already in place.

Complaints from three local residents were received by Council regarding the change to these signs advising they had been exercising their dogs off-lead at Musca Street Reserve and some for many years, requesting Council replace the signs to allow it to be used for off-lead use.

At the Council meeting on 24 May 2021 during question time, the matter was again raised by one of the residents asking whether Council would classify the reserve as an off-lead area by consulting the community. The Director of Urban Living responded the matter would be considered and a report presented to Council for consideration.

Nearby residents are considered to be the most likely and predominant users of Musca Street Reserve as a dog off-lead area and did so, due to the incorrect signs conflicting with the Order. The incorrect signs listed an obsolete Council phone number, suggesting it had been in place for some time while the other was simply an incorrect dog off-lead sign.

3.4 North East Link Project

Approximately 50% of Musca Street Reserve has been declared for use by the North East Link Project in accordance with the Major Transport Projects Facilitation Act 2009 (**Attachment 2**).

This declaration requires that approval must be sought from the NELP and the Victorian Government, should Council propose any change to the use or works (including installation of signage) at Musca Street Reserve. Council's control is heavily restricted and especially regarding any proposal to alter the use of the reserve for dog off-lead use.

Council has been advised, in addition to the NELP construction, there will also be large scale infrastructure works including the construction/upgrade to a major power corridor.

The area is likely to also be used as a storage and set down area for equipment and building materials for use in construction works. The projected completion of the NELP is 2027 at which time the Council will resume control of Musca Street Reserve.

4. Outline of key issues/options

In assessing the recommendation to maintain the on-lead status of Musca Street Reserve, multiple considerations have been made which are outlined below.

4.1 The primary intended purpose of the area

Musca Street Reserve is a multipurpose area consisting of relatively inaccessible, undulating land with large trees and shrubs, open space as well as being home to a busy cycling and walking trail. It is utilised by local residents as well as regular daily visitors walking or riding through the area. Due to neighbouring parks and reserves being designated where dogs can be off-lead, Musca Street Reserve provides a location of choice for those residents and visitors who seek a safe space, free of off-lead dogs.

While a section of Musca Street Reserve will remain for continued shared use, the impact of the construction works associated with the NELP is not fully understood but is considered to have an impact on all users of the reserve.

4.2 Available neighbouring facilities

Two existing off-lead areas are available to the local community and visitors and are within easy access either by foot or car. They are Hays Paddock and Koonung Creek Reserve which are located approximately a five-minute and a fifteen-minute walk respectively, from Musca Street Reserve (Attachment 3). It is considered that local residents who may have used Musca Street Reserve as a dog off-lead area are unlikely to be significantly disadvantaged.

However, for the duration of the construction works associated with the NELP, it is considered this will significantly reduce the suitability and, desirability of Musca Street Reserve as a location of choice for dog owners to exercise their dogs on or off-lead. Due to the proximity and accessibility of existing off-lead facilities, the Musca Street Reserve being unavailable to exercise dogs off lead is not considered to significantly disadvantage local resident dog owners.

4.3 Amenity - Considering the needs and expectations of all stakeholders

Community feedback on the Boroondara Community Plan 2021-2031 suggested a potential concern that too much open space has been dedicated for dogs to be exercised off-lead and, residents are unable to fully enjoy these facilities.

Musca Street Reserve, Leonis Avenue Reserve and Columba Street Reserve are three small reserves, when combined are approximately 15 hectares in size and are not designated for off-lead use. They offer the local community a location where they can enjoy the amenity of an outdoor area without concerning themselves with the intrusion or harassment of an off-lead dog.

The neighbouring Hays Paddock is approximately 16 hectares and Koonung Creek Reserve is 32 hectares and are, designated as dog off-lead areas. Approximately 48 hectares of neighbouring park and open spaces is available for dog owners to exercise their dogs off-lead, either side of Musca Street Reserve.

The combination of the two neighbouring off-lead parks and open spaces complement Musca Street Reserve's current dog on-lead status, providing a balanced offering for those members of the community seeking a safe area free of off-lead dogs and those wanting to exercise their dog on-lead. Consultation with the Animal Management Team within Council has supported the current status as dog on-lead as providing a balanced approach and set of alternatives, in line with neighbouring parks and open spaces.

It is recognised however, some local residents may have relied on the obsolete and the incorrect signs at Musca Street Reserve for many years and, in doing so formed an understanding they could exercise their dog off-lead. This situation was emphasised with the complaints and the advice provided by several local residents.

With the commencement of large scale early construction works associated with the NELP, the space available at Musca Street Reserve is significantly reduced. All users including dog owners, bike riders, people walking or running for example, will be compressed to a significantly smaller area and the potential risk of a dog attack or harassment of other dogs and people by off-lead dogs is increased. It is therefore considered, Musca Street Reserve should not be designated dog off lead at this time. If it is considered there is merit in the area being designated dog off lead, it is considered this should not be pursued as an option until there is a greater understanding of the impact of the NELP and associated construction works.

4.4 Animal Management Compliance concerns

Recorded complaints have been received in recent years for Musca Street Reserve, including the intimidation of adults and small children by off-lead dogs when walking through the park, dog owners showing little responsibility in controlling their dog, the area being unusable by visitors due to excessive dog faeces and, alleged dog attacks.

4.5 Sensitive interfaces

The arboretum at Musca Street Reserve is a place for informal gathering and learning about plants and horticulture. It is an important area which influences urban tree diversity and reinforces biodiversity values. It is intended to be an area accessible for different generations but in particular the elderly.

The impact of off-lead dogs can present an issue in the municipality, especially where for example, there is an interface between high-value areas of biodiversity and off-lead parks. Canine access can be limited through the installation of physical barriers however, this has not stopped dog owners from allowing their dog into sensitive aquatic areas for example and allowing them disrupt the environment. In the case of Musca Street Reserve, this is a risk that needs to be considered.

While the NELP construction works will have a significant and direct impact on this arboretum, by compressing users into a smaller area, the impact is amplified. While there will be a significant program planned for its reinstatement and expansion of the arboretum on the completion of the NELP, to reduce the impact and extent of these works, maintaining dogs on-lead is recommended.

4.6 Local infrastructure

The use of the park is primarily by local residents and visitors who transit through Musca Street Reserve either on foot or by bike. There is on-street parking but no specific infrastructure such as the car parking at Hays Paddock, which would encourage and accommodate wider community attendance. Given the transitory nature of the location, it is observed that there is a higher attendance at the nearby Hays Paddock and Koonung Creek Reserve from dog owners to take up the off-lead Order held by those locations.

4.7 Occupation by the North East Link Project

The declaration of Musca Street Reserve requires that approval must be sought from the NELP and the Victorian Government should Council propose any change to its use or undertake works including installation of signage. Council's control is heavily restricted and in particular regarding any proposal to alter the use of the reserve for dog off-lead use.

Council has been advised, in addition to the NELP construction there will also be large scale infrastructure works including the construction/upgrade to a major power corridor. The area will also likely be used as a storage and set down area for equipment and building materials for use in these construction works. The projected completion of the NELP is 2027 at which time the Council will resume control of Musca Street Reserve.

Having a greater understanding of the extent of construction works associated with the NELP will allow an informed response to the appropriate timing of any proposal regarding the review the dog off-lead use at Musca Street Reserve in the future if it is considered that it has merit. This could then include consideration of public consultation.

5. Consultation/communication

Internal consultation has been undertaken with:

- Civic Services
- Traffic and Transport
- Parks
- Environmental Sustainability and Open Spaces

Officers will provide an update to the three customers who contacted Council expressing their concern regarding the designation of Musca Street Reserve. The correspondence will share the outcome of these considerations.

6. Financial and resource implications

There are no financial and resource implications arising from this proposal. In the future, there will be a cost to Council should there be consideration and agreement of the need for community consultation.

7. Governance issues

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

This report considers a range of social and environmental issues including:

- Impact from the NELP construction works on safety and amenity
- Impacts and safety on dog owners and their dog/s.
- Impacts on other individuals or groups accessing the park including cyclists and other visitors on foot.
- Impacts on the designation of Musca Street Reserve as an arboretum.
- Availability of suitable alternatives within easy access.

9. Conclusion

The assessment undertaken has considered multiple factors as detailed in the body of this report. Ensuring a balance in shared-access to facilities that are not available for off-lead exercising of dogs has been an important guiding principle and a view that was supported in community feedback received during the recent consultation on the Boroondara Community Plan 2021-2031.

To ensure there remains a balance of facilities available for all members of the community in consideration of this assessment, it is considered that Musca Street Reserve should continue as a dog on-lead area.

The extent and timing of the impact of the NELP and associated construction works has yet to be clearly established and while Council regularly liaises with the NELP management, updates are limited, and timeframes and impacts continue to be drawn out and change. It is considered any further consideration of this decision be delayed until the completion of the construction of the NELP in 2027.

There remains an area of open space at the reserve for the community to continue to exercise, socialise and for dog owners to walk their dogs. As it will likely be constricted, it is proposed the on-lead status be retained to maintain the amenity and suitability of the area for all users. Local dog owners who would like to exercise their dog off-lead are unlikely to be significantly disadvantaged as there are two nearby designated facilities.

Manager: Paul Mitchelmore, Manager Civic Services

Report officer: Dianne Yans, Projects and Strategy Officer

Attachment 1

Examples of obsolete and incorrect signs observed and replaced at Musca Street Reserve



An example of the current standard on-lead sign observed at Musca Street Reserve and the type used to replace the obsolete and incorrect signs.



Attachment 2

The area outlined in red making up approximately 50% of Musca Street Reserve, is allocated for use by NELP. This allocation was made in accordance with a declaration under the *Major Transport Projects Facilitation Act 2009*.



Attachment 3

Map showing the proximity of Hays Paddock (shaded in purple) and Koonung Creek Reserve (shaded in blue) to Musca Street Reserve.

